

**Cree legal principles to resolving employment-related issues:
An applied study for the Aseniwuche Winewak Nation**

by

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Abstract

This thesis explores how employment-related issues within an Indigenous organization may be resolved by using principles sourced from the Cree legal tradition. This inquiry is informed by knowledge gathered from interviews completed with Aseniwuche Winewak Elders and knowledge keepers on their Nation's foundational principles as well as supporting secondary documentation. The results of this research reveal that 1. Cree legal principles are understandable and may be congruent with legal principles found within Canadian employment law and, 2. Cree legal principles may better inform and guide the resolution of employment-related issues in the Aseniwuche Winewak Nation's fully-owned and operated companies.

The review of academic research on Indigenous law and governance highlights the lack of scholarship regarding practical applications of Indigenous law despite the richness and enduring relevance of these legal traditions and related governance. This thesis addresses this gap by contributing to the scholarship on practical applications of Cree law as it pertains to resolving employment-related issues within a contemporary Indigenous organizational context.

The research was conducted using *Nehiyawak* Peoplehood methodology (Jobin, 2018), a Cree research approach which allows for the expression of Cree epistemology. This methodology is supported by a strategy of inquiry comprising diverse qualitative methods. Semi-structured interviews were used to gather Elders' and knowledge keepers' knowledge on the Aseniwuche Winewak Nation's foundational principles. Other methods were drawn from the field of Indigenous law, namely the linguistic method, the community embedded/implicit law method and the story analysis method to develop a model and framework for resolving employment-related issues.

After examining interview results, the Nation's foundational principles are compared to those found in legal principles in Canadian employment law, highlighting how the two traditions' inherent responsibilities and obligations may be congruent with each other. Finally, a model for resolving employment-related issues that applies Cree legal principles and reasoning to a hypothetical case study is presented and contrasted with a parallel application using principles from Canadian employment law. Hypothetical outcomes show that using Cree principles and related reasoning, when applied to resolving employment-related issues, may result in better outcomes for the employee, the organization and the community.

The conclusion offers additional ideas for community-based research on Indigenous law with the Aseniwuche Winewak Nation, including the review, implementation and evaluation of the dispute resolution model within the workplace and/or within the Nation's other governance institutions.

Preface

This thesis is an original work by Johanne Johnson. The research project is covered by a Research Agreement for the Wahkohtowin Project: Miyo-wîcêhtowin Principles and Practice, signed between Dr. Shalene Jobin and Dr. Hadley Friedland and the Aseniwuche Winewak Nation on November 9, 2018. Prior to this date, this research was covered by a REO research ethics approval, secured by Drs. Jobin and Friedland, which has covered related research with the Aseniwuche Winewak Nation since 2017.

Dedication

This thesis is dedicated to my life partner, Michael Lehman. I am deeply grateful for your patience and steadfast support while I concentrated time and energy on this research project.

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Prologue

Engaging in Indigenous research implies self-awareness, cultural grounding and clarity of purpose (Kovach, 2009, p. 109). The next paragraphs outline how, through lived experiences and with lingering feelings of uncertainty, I embarked on a research journey in the Faculty of Native Studies of the University of Alberta.

I am a descendant of a family of French colonizers who settled the Gaspé region, the land of the Mi'kmaq people. I was born into a collectivity of settlers who deeply value individuality and economic progress. The fact that the Mi'kmaq people have lived on the land since time immemorial was of no importance to us. We categorized them as “the Other” and rendered them invisible.

Leaving the Gaspé region at the age of 10, my family and I briefly relocated to Nunavut, the land of the Inuit. In Iqaluit where we lived, settler family housing was segregated from those of the Inuit population. White children were taught in separate classrooms. There, I learned English, not Inuktitut, the region's main language.

As I relocated several times in the decades that followed, I remained blind to the impact of my privileged life on local Indigenous peoples. Questions first arose in my mind from contradictions that I observed while working as a newly appointed human resources manager of a civil construction company located in Edmonton, whose shares were controlled by two Inuit associations from Nunavut. My employer supported northern Inuit and other Indigenous hires, and we developed enlightened policies and recruitment approaches. I was initially perplexed by the observation that management ranks were filled almost exclusively by non-Indigenous individuals with little or no personal connection to Indigenous peoples. Within the day-to-day work environment, and despite our company's multiple partnerships with communities in the

Arctic and sub-Arctic, the voices of those holding Indigenous perspectives were absent and Western business practices prevailed. Major industry-related disturbances impacting communities' social fabric and ecological systems were considered external to the company's responsibilities.

After some time on the job, I became aware of other concerning, less apparent, facts. As a sub-contractor to multi-national mining corporations, our company was expected to follow the requirements set out by Impact Benefit Agreements (IBAs) put in place for Inuit shareholders to access some of the benefits of resource development occurring on their land. I saw that the hiring system imposed through IBAs replicated the exclusion, discrimination and other social harms perpetrated by colonization and by the *Indian Act*. I realized that, in my management role, I was complicit in perpetuating these harms. At the same time, I was aware that, for many Indigenous employees who worked as operators or labourers, the resource industry's economic benefits were appealing, as they provided individual lifestyle options and often contributed to the livelihood of family members.

I sought to gain a better understanding of the complex consequences of colonialism in relation to resource development for northern Indigenous peoples and to clarify my settler positionality as well as future purpose within this context.

This thesis is the culmination of this inquiry.

Chapter 1: Introduction

1.1 Elder Adelaide McDonald's Story: Change is Coming.

In my interview with her, Elder Adelaide McDonald told me a story about her son's experience while he was assigned to a work crew labouring near the town of Jasper, on the Aseniwuche Winewak Nation's traditional territory.¹

Carol Wanyandie (translating): He could not sleep all night. (...) A serious problem kept waking him up, but he didn't know what it was. The next day when he went to work, he was tired. (...). At coffee break, when he jumped into his pick-up truck to eat something quick, he fell asleep. Instantly, something came (to him), waking him up. He jumped out of the truck and said, "What is it?" He felt tired again. He looked up at the mountain and saw that the mountain's eyes were open. (...). All these years, the eyes had been closed. Now, the eyes were open. He got scared and he woke up (again). When he got home from work, he went over (to Elder Adelaide's house) immediately. He explained (the events to his mother). Just as he finished sharing his story, he asked what it was (that he had experienced). Right away, a revelation came to her. Elder Adelaide said that it was an awakening for all Aboriginal peoples, it is an awakening because things are going to change (...) for all Aboriginals, right across North America. (Elder Adelaide McDonald, personal communication, April 24, 2018)

¹ The Aseniwuche Winewak are Rocky Mountain people, the inhabitants of territories located in northwestern Alberta and northeastern British Columbia. Other Rocky Mountain peoples who are also part of the Western subarctic and Algonquin linguistic group include the Kelly Lake Cree Nation (*As'in'i'wa'chi Niyawak*), and the Sunchild First Nation. The Small Boy band moved to the Rocky Mountain territory in 1968 and some members still reside on the territory at Small Boy Camp.

peoples are enacting across North America and around the world. This thesis is, in many ways, my contribution to this call to action.

The research completed in my thesis is driven by the direction that I received from the leadership of the Aseniwuche Winewak Nation to gather knowledge on the Nation's seven foundational principles in support of their nation-building initiatives. The Cree principles that have been identified by the Aseniwuche Winewak are as follows:

- ᑭᐱᐱᐱᐱᐱᐱ ᐱᐱᐱᐱᐱᐱᐱᐱ *nehiyaw pimatisiwin*: Cree traditional way of life
- ᑭᐱᐱᐱᐱᐱᐱᐱᐱᐱ *nehiyawewin*: Cree language
- ᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱ *wahkôtowin*: Relatedness or interrelatedness: we are not only related to human beings, we are related to everything in Creation
- ᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱ *miyo-wîcihtowin*: Getting along well: everyone to help each other and to get along well through sharing and good will
- ᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱ *sihtoskâtowin*: Supporting and pulling together to strengthen each other
- ᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱ *manâcihtâwin*: The act of respect or to be considerate, gentle, and mannerly. To mitigate or conserve something for the future
- ᐱᐱᐱᐱᐱᐱᐱᐱᐱᐱ *tapwewin*: Honesty

The ensuing interviews with the community's Elders⁵ and knowledge keepers⁶ allowed me to reach a better understanding of the Aseniwuche Winewak's legal principles, underlying

⁵ Cardinal (2000) characterizes Elders as custodians of deep knowledge of oral history and information pertaining to their peoples (p. 24).

⁶ Cree scholar Sylvia McAdam (2015), uses the word "knowledge holders" to identify those within Cree communities who have been taught Cree knowledge by Elders and who hold the responsibility to share when asked, within defined protocols (p. 41). The term used by the Aseniwuche Winewak Nation for a similar role, is "knowledge keepers". For that reason, in this report, I choose to use the term 'knowledge keeper' when I refer to those holding similar responsibilities.

related responsibilities and obligations, as well as of the Nation's governance structure. During my time spent in the community, I observed how the Aseniwuche Winewak engage in local Cree law,⁷ and how it manifests itself in day-to-day decision making. Such experiences provide the basis for positing that the Aseniwuche Winewak's current governance structure may support a formalized dispute resolution process using the Nation's foundational principles. Building on this assertion, in Chapter 5, I outline a model that supports the practice of Cree legal principles and reasoning processes that may be successfully applied to resolving employment-related disputes at AWN Group of Companies. In positing that Cree reasoning and legal principles may well inform and guide the resolution of employment-related issues, I build on legal scholar Hadley Friedland's (2018) assertions that Cree principles and processes are living legal traditions⁸ and are capable of adapting to changing circumstances (pp. 44-45).

My research aligns with the work already begun across legal orders: that of rearticulating Indigenous legal traditions into Indigenous laws applicable to today's context (Friedland & Napoleon, 2015-2016, p.18). These efforts have been complemented by recommendations made by Canada's Truth and Reconciliation Commission pertaining to the recognition, implementation and understanding of Indigenous law and justice systems, which have provided additional impetus to the revitalization of Indigenous legal orders (Government of Canada, 2015, pp. 4-6).⁹

⁷ In their research on Indigenous legal traditions, Napoleon, Cameron, Arcand and Scott (2008) define local law as a "a language of interaction" or "about how people make decisions and conduct themselves in a social context" (p. 10).

⁸ Distinguishing legal traditions from a nation state's legal system, Anishinaabe legal scholar John Borrows (2010) defines legal traditions as "a set of deeply rooted, historically conditioned attitudes about the nature of law, about the role of law in the society and the polity, about the proper organization and operation of a legal system, and about the ways law is or should be made, applied, studied, perfected, and taught" (p. 7).

⁹ I am referring specifically to *Calls to Action #42 and #50*, written respectively as follows: "We call upon the federal, provincial, and territorial governments to commit to the recognition and implementation of Aboriginal justice systems in a manner consistent with the Treaty and Aboriginal rights of Aboriginal peoples, the *Constitution Act, 1982*, and the *United Nations Declaration on the Rights of Indigenous Peoples*, endorsed by Canada in 2012", and, "In keeping with the *United Nations Declaration on the Rights of Indigenous Peoples*, we call upon the federal government, in collaboration with Aboriginal organizations, to fund the establishment of Indigenous law institutes for the development, use and understanding of Indigenous

Despite this added focus, less emphasis is being placed on research pertaining to practical applications of Indigenous law (Coyle, 2017, p. 9). By developing a practical model for the resolution of employment-related issues in an Indigenous workplace, my thesis seeks to address the gap in the research currently existing within the field of management of human resources in Indigenous organizations.

In completing research as outlined above, I recognize the limitations of my positionality as a settler and a white woman of privilege which has given me access to higher education, good employment opportunities and comfortable lifestyle. I situate myself within the discipline of Indigenous Studies to maintain a self-critical, reflective approach throughout the research. With this approach, my thesis joins the collective discourse surrounding the rebuilding of the relationship between Indigenous and non-Indigenous peoples by imagining alternatives to employment law and governance systems imposed by the Canadian nation state.

The next section provides an overview of the history and current context of Aseniwuche Winewak Nation and AWN Group of Companies, highlighting how some of the Nation's background and experiences converge to support the successful implementation of a dispute resolution system based on Cree legal principles.

1.2 Background

Within the Canadian nation state's colonial history and legacy, the Aseniwuche Winewak's experience is often described as being unique. When the Treaty Eight Commissioners travelled west to secure land for white settlement at the turn of the 20th century, they did not approach the Aseniwuche Winewak to sign Treaty. Instead, in the decades that followed,

laws and access to justice in accordance with the unique cultures of Aboriginal peoples of Canada" (*The Truth and Reconciliation Commission of Canada*, 2015, pp. 4-6).

government made several attempts, through various tactics, at displacing the Aseniwuche Winewak to favour colonization. As documented below, the Aseniwuche Winewak demonstrated their resilience in countering these multiple, and sometimes aggressive, state interventions.

From the mid-1700s to the turn of the 20th century, the Nation's Cree ancestors¹⁰ lived on the eastern slopes of the Rocky Mountains relatively undisturbed by Western colonial expansion (Barman, 2019, p. 183). While some participated in the fur trade economy, the majority practiced a subsistence lifestyle on their traditional land. Their vast territory extended from Beaver Lodge to the north and straddled the Alberta/BC border to the west. It reached south to Sunwapta Falls neighbouring the town of Jasper, and to Medicine Lake to the east. The ancestors' trading activities involved excursions outside their traditional territory,¹¹ and families travelled seasonally to the far-reaches of their territory for hunting, trapping and fishing (pp. 178-197). From the early 1800s, several families centered their seasonal rounds on the fur trade post of Rocky Mountain House,¹² located on the Upper Athabasca River in the foothills of the Rocky Mountains. As with other Nations, there were multiple encounters and inter-marriages with Métis people as well as those from other Indigenous Nations, including Beaver, Sekani, Shuswap, Sioux and Ojibwa Nations (Aseniwuche Winewak Nation, 2018, p. 6). Some of the most significant encounters were with three Mohawk¹³ men, Louis Karakontie, Joachim Tonatunhum

¹⁰ There is very little information on the Aseniwuche Winewak's Cree ancestors, especially the women. This is not surprising given the colonial and, most often, patriarchal and sexist nature of written reports. Brief descriptions of Cree women that are found describe them as being adaptive and strong. In an account by Walter Moberly in 1872 (as cited in Barman, 2019, p. 190), a young woman was described as "a tall and very powerful young woman". What is certain is that the Cree heritage runs deep, as evidenced by the strength of spoken Cree, the Aseniwuche Winewak's mother tongue, as it is still spoken today.

¹¹ Cree scholar Shalene Jobin's reports on the extensive Indigenous trail system existing throughout North America used for various travel purposes including trading between Indigenous Nations and, later, with Europeans (Jobin, 2018, p. 54).

¹² Rocky Mountain House was founded as a trading post by the North West Company (NWC) in 1813 and later became known as Jasper House by its first (settler) head, Jasper Hawes (Barman, 2019, p. 175).

¹³ The term "Iroquois" was originally used by these Mohawk men to describe themselves during their travels. They were originally residents of one of the Jesuit missions of Sault St. Louis (now Kahnawà:ke); St Régis (now Akwesasne) and Lac des Deux Montagnes (now Kanasatake) (Barman, 2019, pp. 14, 235).

and Ignace Nowanionté,¹⁴ all of whom had arrived from the Montreal area in the early 1800s, first under contract with the North West Company and, after 1821, with the Hudson's Bay Company. Eventually they became free agents. Their legacy is evidenced today in the passing down of their names and the use of distinct idioms to enrich the Cree language spoken by the Aseniwuche Winewak. Their influence had other reaches as well. Having lived in very close proximity to French and English colonists for long periods of time, they were very familiar with their institutions and legal practices. In her research on Western Mohawk immigration, scholar Jean Barman cites numerous examples of the astute responses of these men and their descendants in support of their adopted Cree community in the face of hostile government measures. Some of this astuteness is demonstrated when, in 1910, the federal government evicted the Aseniwuche Winewak who lived in the southern portion of their traditional lands to make way for the creation of Jasper National Park. A few received minimal cash compensation for the value of property "improvements" and others faced eviction by police forces. They left the Jasper area after getting the government promise that they could relocate wherever they wanted to move, and that they would not be "bothered" by the Government in future years (Barman, 2019, p. 210). This promise was made in the presence of witnesses, a fact which proved to be very useful in thwarting similar pressures to relocate in the next decades.

Following this eviction, many families relocated to other areas of their territory north of Hinton, near the Pierre Grey Lakes and, in 1911, some families joined relatives already settled at the confluence of the Muskeg and Smoky Rivers and to the Grande Cache area (Aseniwuche Winewak Nation, 2018, p. 4). Over the next twenty-five years, there were three additional

¹⁴ Joachim Tonatunhum's first name became his descendants' surname. Ignace Nowinionté's surname became Wanyandie. These adaptations were not uncommon most likely to facilitate the translation of names into oral and written French or English (Barman, 2019, p. 171).

attempts to undermine the territorial rights and means of subsistence of the Aseniwuche Winewak by various levels of federal and provincial governments. These gestures were met with effective resistance. The first, in 1916, was an eviction notice served by the RCMP and motivated by the 1906 Federal Forestry Reserve Act to conserve forestry lands. Adam Joachim, a descendant of Joachim Tonatunhum, fought against the eviction by engaging the services of a legal law firm in Edmonton. Ewan Moberly, a descendant of Suzanne Karakontie, and a settler named John Moberly, wrote directly to the deputy minister of the Department of Interior. Facing such pressures, the government did not enact the eviction. A second struggle ensued in the 1930s, when trapping rights in the Aseniwuche Winewak territory was offered to Treaty signatories, both Indigenous and non-Indigenous, challenging the Nation's principal means of subsistence. Despite multiple attempts at resolving issues regarding traditional land use and land ownership, it remains an unresolved issue today.¹⁵ Third, in 1939, after the federal government transferred the responsibility of natural resources to the provinces, the Alberta government proposed to move the Aseniwuche Winewak residents of Smoky River and Grande Cache to a planned Métis Settlement at Marlboro, 200 kilometres to the southeast, to make way for white settlement. Again, the residents refused to move, and the government's relocation plans were dropped (Aseniwuche Winewak Nation, 2018, p. 4).

Soon after, the Aseniwuche Winewak began to experience the effects of industrialization. Road construction, which began in the 1940s, opened the door for resource development and white settlement. In the 1960s, they experienced displacement as well as changes to their traditional lifestyle, culture and economy with the opening of a coal mine and the establishment

¹⁵ While the Aseniwuche Winewak have not been subject to the *Indian Act*, they have not been recognized as a band, nor have they received benefits from the federal government, such as tax exemptions (Jobin, Friedland, Beausoleil & Kappo, 2020, p. 6).

of the town of Grande Cache, which was built, according to Morrison, without their consent or consideration for their rights (as cited in Barman, 2019, p. 226). Some Aseniwuche Winewak members remember those times as chaotic and dehumanizing (Jobin et al., 2018, p. 8). This incited strong protests (Aseniwuche Winewak, 2018, p. 4) which led to the government of Alberta offering a total of 4,159 acres fee simple tracts of land to be held in trust for “the Native Settlers of Grande Cache and their descendants” (Jobin et al., 2018, p. 6). There was little choice but to accept the offer (Barman, 2019, p. 11) as it provided some protection from land speculation. Four cooperatives and two enterprises¹⁶ were created recognizing the collective ownership of land according to state law. There were, however, important limitations pertaining to the Aseniwuche Winewak’s ownership rights associated with these agreements and they offered little protection from tax or seizures (Jobin et al., 2018, p. 6). Specifically, the land agreements stipulate that, should the Cooperatives and Enterprises cease to exist, “... the lands will revert to ... the Province of Alberta who hereby undertakes to hold the said lands in trust for the use and benefit of the surviving native settlers ...”. Second, the agreements indicate that the Cooperatives and Enterprises “... shall have no right to convey to anyone any interest in any of the said lands without first obtaining an Order of the Lieutenant Governor in Council...”. Third, membership is limited, through a bylaw, to: “...native settlers who settled in the Grande Cache district before the year 1960, their husbands and wives and natural and lawfully adopted children and their descendants; their lawful husbands, wives and natural and lawfully adopted children from generation to generation” (Aseniwuche Winewak Nation, 2018, p. 10).

There were other effects whose negative implications came to light over an extended period. The offer covered only a small portion of the Aseniwuche Winewak traditional territory,

¹⁶ These communities include Muskeg Seepee Cooperative, Susa Creek Cooperative, Wanyandie Cooperative, Victor Lake Cooperative, Grande Cache Lake Enterprise (Kamisak Development) and Joachim Enterprise.

and it was not enough to fully support a subsistence lifestyle of hunting and trapping for the growing population of descendants. As the Crown had not formally recognized their rights, the Aseniwuche Winewak's ability to hunt, trap and fish was increasingly put in jeopardy (Aseniwuche Winewak Nation, 2018, p. 7). The legal uncertainty regarding their rights has continued to curtail the use of the land.

In 2018, following an invitation from the federal government, the Aseniwuche Winewak Nation signed a Memorandum of Agreement with Canada to establish an exploratory table to “explore the Parties’ respective interests and identify ways to advance reconciliation through the recognition of AWN rights on the basis of mutual respect, rights recognition, cooperation and partnership” (Aseniwuche Winewak Nation, 2018, p. 2). This invitation was prompted by the Supreme Court of Canada’s decision in *Daniels v Canada*, recognizing that non-status Indians were covered by Section 91(24) of the *Constitution Act, 1867*.¹⁷ The Aseniwuche Winewak Nation describes this ongoing process as a mechanism to remedy the uncertainty of their territorial land rights¹⁸ and their traditional lifestyle practices, such as hunting and trapping, as constituting section 35 rights (2018, p. 7).

1.3 Aseniwuche Winewak Nation’s Governance

Many of the Aseniwuche Winewak leaders see the detrimental effects that the division of their Nation into cooperatives and enterprises continues to have on their ability to govern themselves as a unified community. These agreements divide the Nation into separate family groupings, with each member effectively being recognized as belonging exclusively to one cooperative or enterprise. In 1994, the Aseniwuche Winewak incorporated as a not-for-profit

¹⁷ Section 91(24) states that “...it is hereby declared that (...) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated (...) 24. Indians, and Lands reserved for the Indians.”

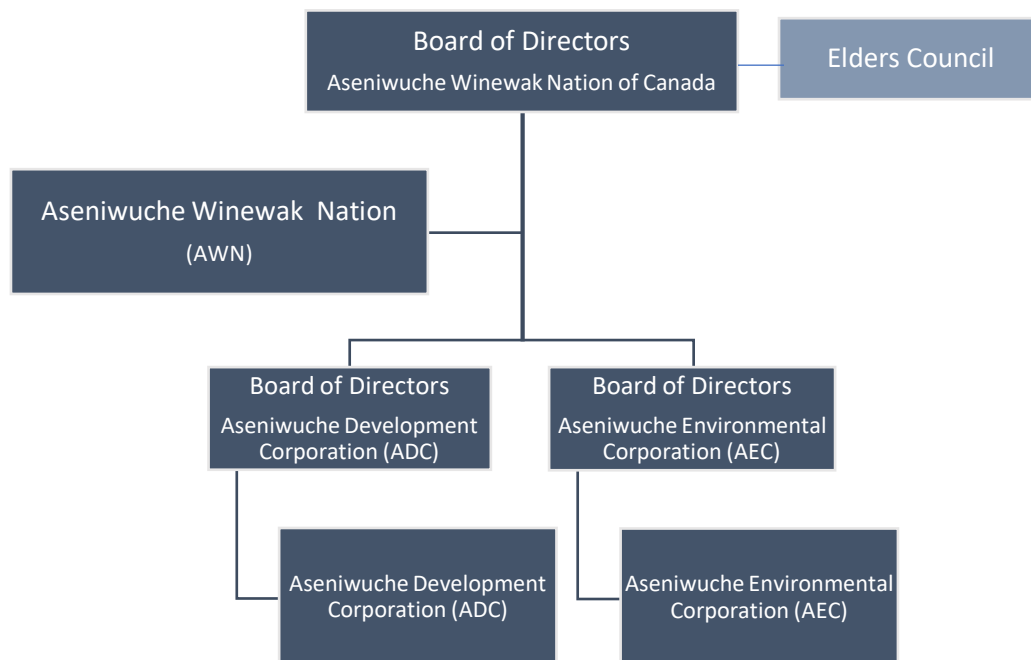
¹⁸ The Aseniwuche Winewak claim recognition of 39,000 km of land (Aseniwuche Winewak Nation, 2018, p. 9).

society called the *Aseniwuche Winewak Nation of Canada, a Fellowship of Aboriginal People* (AWN) as a unified and representative body to advocate for the people as a whole: an organization which continues to function to this day. AWN is structured as a not-for-profit corporation governed by an elected Board of Directors comprised of seven members including a President and a representative for each of the four cooperatives and the two enterprises.¹⁹ As illustrated in Figure 1.1 below, AWN oversees AWN Group of Companies which is composed of two for-profit corporations: Aseniwuche Development Corporation (ADC) and Aseniwuche Environmental Corporation (AEC). They are governed by two autonomous boards whose Directors are appointed by the AWN Board. The overall stated purpose of AWN is to oversee the affairs of the corporation, including policies, programs and services, and to advance Indigenous rights. AWN does not infringe on the authority of each of the four cooperatives and two enterprises. Finally, reflecting the Nation's historical decision-making processes, an Elders Council, comprised of respected and knowledgeable community leaders, was created to act as an advisory body to the Board of Directors on the affairs of the Nation. The Elders Council also assists in resolving disputes between AWN members (Aseniwuche Winewak Nation, 2002).

¹⁹ In 2002, the AWN Board of Directors enacted a significant Bylaw change by providing members of the individual Cooperatives and Enterprises direct membership in AWN and gave the opportunity to any member to be elected to a governing board of one President and six Directors, each intended to represent one of the six communities (Aseniwuche Winewak Nation, 2018, p 14).

Figure 1.1

Governance structure of the Aseniwuche Winewak Nation



Despite creating the best possible system under very difficult circumstances, the new corporate governance structure was responsive to outside pressure rather than organically developed. In 2014, members of the Aseniwuche Winewak Nation convened for a series of constitution-building process workshops. It was generally agreed that a formal written agreement was needed to set out roles and responsibilities, ensure transparency and accountability as well as provide mechanisms to resolve disputes fairly. In the following years, the Nation's core foundational principles were identified, receiving broad support from members. Through this process, many express the belief that the present and the future of AWN rests on the Nation's ability to enact their foundational principles as entrenched within a constitution. They also

express a need to build on their strengths and incorporate the Nation's principles into existing governance structures (Aseniwuche Winewak Nation, 2018, p. 14). The successful implementation of such governance structures necessarily entails an explicit engagement with the Aseniwuche Winewak's reasoning and problem-solving processes drawn from their own legal and governance traditions.

While my research supports the Aseniwuche Winewak's Constitution-building process, it also asserts the importance of formally engaging with local law²⁰ in other aspects of daily life. In this thesis, I argue in favour of recognizing and fully articulating workplace dispute resolution practices based on Cree legal frameworks as they offer better outcomes for employees, the organization, and the community. When local law is not formally recognized over Western-based legal tradition and reasoning processes, it continues to exercise its influence below the surface. Invisible tensions may be felt in decision-making and in resolving disputes, possibly resulting in misunderstandings and/or conflicts. These invisible tensions may have the effect of demoralizing organizational leaders and employees, possibly leading to negative outcomes and harmful impacts on relationships between the Nation's members. My assertions are based on the results of the interviews with some of the Nation's Elders and knowledge keepers, complemented by my personal observations of workplace interactions while providing human resources consulting services to the organizations owned by the Aseniwuche Winewak Nation from July 2018 to September 2019.

²⁰ Recognizing that law is also derived from social interactions rather than only from centralized state legal processes, Napoleon et al. (2008) define local law as the "language of interaction" that is meaningful and predictable which is utilized by people to make decisions and to guide their conduct in a social context (p. 10).

1.4 Purpose of Thesis and Research Questions

Positing that Cree legal principles may better inform and guide employment-related issues at AWN Group of Companies, I formulate the central question of my thesis as follows: How do Aseniwuche Winewak Elders and knowledge keepers explain their Nation's foundational principles? How do these principles and reasoning apply to resolving employment-related issues? This inquiry leads me to the consideration of principles, responsibilities and obligations found in Cree employment law in the context of contemporary human resources issues within a corporation subject to Canadian employment law. Finally, I ask how may these Cree foundational principles create a framework for thinking about new approaches to the resolution of employment-related issues within the governance structure of AWN Group of Companies?

I begin to answer the above research questions by reviewing, in Chapter 2, the literature on the human resources practices of Indigenous organizations today, with an additional focus on how employment-related issues are resolved within these contexts. In Chapter 3, I situate my research questions within critical legal theory and Cree methodologies. Then, in Chapter 4, I report on interviews completed with Aseniwuche Winewak Elders and knowledge keepers on their Nation's foundational principles. In Chapter 5, I first demonstrate how Cree legal principles are understandable and may be congruent with those found in Canadian employment law, and then I outline a model for the application of these Cree legal principles to resolve employment-related issues at AWN Group of Companies.

Chapter 2: Human Resources Management in Indigenous Organizations - Wise Practices and Dispute Resolution

2.1 Introduction

One central challenge for Indigenous peoples is to carve out space in Canada's legal framework so that they may live all aspects of their day-to-day lives according to their respective legal traditions. This chapter reviews the literature highlighting human resources practices in today's Indigenous organizations and existing frameworks for dispute resolution sourced from Indigenous legal traditions.²¹ This emerging literature highlights the unique ways that human resources management is being practiced in Indigenous organizations today and affirms the possibilities of Indigenous legal principles and reasoning being successfully applied to resolving employment-related issues. Notwithstanding this affirmation, sourcing documented human resources practices existing in Indigenous organizations remains a challenge as there is a lack of scholarly material on Indigenous management practices, especially in literature viewed from an Indigenous perspective (Holtbrügge, 2013; Verbos & Humphries, 2014; Kennedy, Harrington, Verbos, Stewart, Scott Gladstone & Clarkson, 2017). This general gap in research on Indigenous management practices may be partly explained by the fact that Western management theories and practices dominate world economies (Holtbrügge, 2013, p. 1). Indigenous management concepts, theories and research methods are context-specific, involving local language, local participation and nation-specific constructs which are not perceived as being of general interest or application (Tsui 2004, p. 501). Practices are often presented as a comparison between

²¹ Given the limited amount of documentation available on Cree organizations, I have expanded my review to include all Indigenous organizations. Examples are sourced from Canada, the United States and Australia. I define an Indigenous organization as one whose majority shareholders (or directors) are members of an Indigenous Nation (or community), who are committed to serving the needs of the community and who employ community members at all levels of the organization.

Indigenous management practices and Western-based practices, portraying Indigenous management practices in a negative light, or within a deficit paradigm²² (Voyageur, Brearly & Calliou, 2015, p. 3). Some research tends to use binary oppositions which may over-simplify and de-contextualize Indigenous management practices (Nkomo, 2011; Smith, 2012).

To offset these limitations, I draw from academic journals and publications from a variety of disciplines as well as from other sources, focusing on literature with a strength-based or appreciative inquiry approach²³ to human resources and privileging practices that highlight relational wisdom within organizations.²⁴ I contend that this perspective is very useful in identifying practices that support long term organizational success.

The first part of the review provides a brief overview of the organizational context of human resources practices today. I then focus on *wise practices* in managing human resources, those practices that build on the wisdom, experience and strengths of respective Indigenous communities, asking: what characterizes wise practices in the field of human resources management within Indigenous organizations (Calliou & Wesley-Esquimaux, 2015, p. 49). Extending my query further, I ask: what principles, responsibilities and obligations are followed to resolve employment-related issues in Indigenous organizations? Underlying this question is the contention that workplace conflicts may be resolved in more positive ways when the resolution process is congruent with respective Nations' legal principles, responsibilities and obligations.

²² In regards to the deficit paradigm exhibited in research in human resources management practices, the focus is often placed on hiring and training practices of Indigenous workers within the Western-based resource industry, highlighting their dismal results (Hewitt, 2001; Crawley & Sinclair, 2003; Focus North, 2013; Keeling & Sandlos, 2015).

²³ In the appreciative inquiry approach, strengths are used as a starting point instead of shortcomings or problems (Bushe, 1998).

²⁴ Küpers (2007) argues in a favour of a relational wisdom paradigm in organizations, explaining that wisdom is shaped not only from what individuals think, but also from how they relate and respond in practice.

2.2 Human Resources Management in Indigenous Organizations: Overview

Indigenous organizations today have many forms, from small enterprises to large entities, competing locally and globally in various industries, such as tourism, resources development, arts and culture, professional services and non-profits. For many of these Indigenous organizations, contributing to the economic development of their Nation is only one aspect of their mandate which may generally be defined as nation rebuilding, this includes improving their communities' social conditions as well as members' well being and growth (Centre for First Nations Governance, 2009).²⁵ Within this context, the Western notion of human resources management, stemming from the Western industrialization need to define, control and increase labour force efficiency and productivity, appears incongruent or, at the very least, insufficient to capture such organizational priorities (Spear, 2013, p. 2). Indigenous organizations wishing to situate human resources strategically and with cultural congruence, have begun to develop areas of practice for human resources that reflect their respective world views and priorities. For example, Dwayne Nashkawa, Nipissing First Nation's Executive Director (2013) defines human resource management in terms of capacity-building, or "planning, attracting, placing, developing, evaluating, motivating and rewarding human resources, as well as an evaluation strategy and the maintenance of high performance" (p. 18). While Nipissing First Nation and other Indigenous businesses demonstrate innovative approaches in the area of human resources management in order to achieve organizational success, more research is required to fully

²⁵ In their research on the fundamental elements for effective governance for Indigenous Nations, the Centre for First Nations Governance (2009), an independent Indigenous organization supporting First Nations seeking self-governance, identifies the development of human resources capacity, including the professional development of leaders and managers, as being critical to achieving Indigenous Nation's vision of self-governance. This report is entitled, "The land, the people, institutions laws & jurisdiction and resources: The five pillars of effective governance" (pp. 3, 14).

address theoretical and practical elements within Indigenous organizations that align with their respective worldviews and collective priorities. My study endeavours to address this gap.

2.2.1 Wise Practices

Recognizing the limitations of Western-based governance frameworks and rejecting the universality attributed to Western-based organizational practices in achieving successful outcomes in Indigenous organizations, Calliou and Wesley-Esquimaux (2010) use the term “wise practices” as an alternative to “best practices” which refers to a universal approach or a “proven method, technique, or process for achieving a specific outcome under a specific circumstance in a specific way” (p. 5). They define “wise practices” as “locally-appropriate actions, tools, principles or decisions that contribute significantly to the development of sustainable and equitable conditions”. Rather than being standardized, wise practices recognize the wisdom as well as the unique nature of each Nation or community which is embedded in its respective culture (2015, p. 45).

Calliou and Wesley-Esquimaux (2015) also identify seven elements of success in achieving successful economic development while supporting principles of self-governance. These elements are summarized as follows:

- Identity and culture: grounding in Indigenous culture, traditional knowledge and to the land
- Leadership: action-oriented, ability to transform vision to reality; found at all levels of organization
- Strategic vision and planning: long term vision that inspires and motivates
- Accountability and stewardship: transparency and open reporting; builds trust
- Performance evaluation: assessment of goal attainment and of human resources

- Collaboration, partnerships, and external relationships: good working relationships with external partners
 - Good government and management: essential to carrying out goals and programs; ensure continuity in programs and services despite turnover
- (pp. 46-49)

Arguing that these elements may be used to highlight examples of successful human resources practices, I use them to highlight wise practices currently found in human resources management within Indigenous organizations, as follows:

Identity and Culture. Many Indigenous scholars contend that while Western management and business practices are important, these must be built upon and reconciled with Indigenous communities' world view, traditional knowledge and values (Neilson & Redpath, 1997; Newhouse, 2000; Calliou & Wesley-Esquimaux, 2015; Calliou, 2016; Claw, Verbos & Rosile, 2017). One way to enact this is through the philosophy of interconnectedness.

Interconnectedness is common to Indigenous world view and may be reflected in organizational policies and practices that honor cultural values (Black & Birmingham, 2017, p. 128). In this regard, Claw, Verbos and Rosile (2017) suggest that a 'living code of ethics' which integrates traditional teachings into organizational culture and policies in all functional areas of business, imbues an organization with authentic leadership and ethical values in action (pp. 148, 156-157). After completing interviews with Indigenous business leaders regarding their management style, Julien, Wright and Zinni (2010) make some of the following observations:

(...) Aboriginal leaders we spoke to firmly believe in appreciating and recognizing their employees not merely as employees, but as whole people. Therefore, Aboriginal leaders believe in nurturing the physical, spiritual, mental and emotional well-being of

their employees. (...) Often, storytelling and imagery is used to help the Aboriginal leaders to deliver their message. (pp. 124-125)

The philosophy of Bent Arrow Traditional Healing Society,²⁶ which is based on the Medicine Wheel, or four directions teachings,²⁷ may be conceived as another example. Bent Arrow upholds the principle of ᑭᓴ ᐱᓴᓴᓴᓴᓴ *miyo-wicihtowin* (good relationships) in their governance and service delivery (Bent Arrow Traditional Society Policy and Procedures Manual, 2017, p. 1). Elsewhere, Rodgers and Morris (2017) cite the case example of the Pechanga Band of Luiseño Mission Indians who bring a traditional-values approach to human resources management practices at the Pechanga Resort and Casino. The authors describe it as a way to build a competitive environment where individuals help each other become better and help their peers improve; employees share freely of their time and knowledge, as well as transmit Elders' knowledge. In this context, underperforming employees are treated with patience and respect (pp. 181-186). In different instances of upholding the importance of cultural identity at work, the management team of the Osoyoos Indian Band's championship golf course maintains their community's heritage and culture by showcasing their community's artwork throughout the course, creating a source of cultural pride (Voyageur, Brearley, & Calliou, 2015, pp. 270-271).

Leadership. Central to how many Indigenous organizations approach leadership is the idea that leadership is the property of the group rather than that of an individual leader (Black & Birmingham, 2017, p. 131). Many Indigenous leaders hold a preference for participative decision

²⁶ Bent Arrow Traditional Healing Society is a non-profit Indigenous organization offering programs to the urban Indigenous community of Edmonton.

²⁷ The Medicine Wheel, or the teachings of the four directions, provide beliefs, values and characteristics for many Indigenous nations. At Bent Arrow Traditional Healing Society, the four directions of the Medicine Wheel are defined as follows: Iynewiwin (humanness); Ayamihewâtsowin (spirituality); Kitimâkeyimowin (passion) and Cikâstepekisin (reflection). These practice of the four directions create an environment conducive to ᑭᓴ ᐱᓴᓴᓴᓴᓴ *miyo-wicihtowin* (good relationships) (Jobin, 2005, pp. 13-25).

making and cooperative behavior. They also tend to use a more distributed leadership process, meaning that leadership is shared by a network or a group of individuals (Verbos, Gladstone & Kennedy, 2011, p. 17). Some organizations describe this approach through the symbol of the circle (Julien, Wright & Zinni, 2010; Verbos, Gladstone & Kennedy, 2011; Black & Birmingham, 2017).

In terms of required leadership skills, according to the Banff Centre, effective leaders are action oriented as they are motivated to transform ideas into action, lead change and achieve results. For this to happen, Indigenous leaders display courageous leadership to impact the status quo (Calliou & Wesley-Esquimaux, 2015, p. 47). From another perspective, Shauna Seneca, Co-Founder of Bent Arrow Traditional Healing Society, emphasizes that leadership is about being a good role model and demonstrating the ability to give to others. It is also about being healthy, well-balanced and willing to grow (Jobin, 2005, p. 43).

Strategic Vision and Planning. Strategic planning is a familiar activity for Indigenous leaders as they support long term visions that reflect the community's values (Nashkawa, 2013), and create plans that are inspiring and endeavour to make positive change (Calliou & Wesley-Esquimaux, 2015). The Nipissing First Nation develop strategic goals and lay them out according to the community's Anishinaabe teachings,²⁸ using the holistic perspective of the Medicine Wheel. The plan contains seven broad goals that are shared with senior managers of the First Nation and incorporated into work plans for each of the areas (Nashkawa, 2013, p. 20). As another example, Lance Morgan, CEO and President of Ho-Chunk, Inc. (as cited in Verbos, Gladstone & Kennedy, 2011, p. 17), owned by the Winnebago Tribe of Nebraska, describes the company's long-term strategy as follows:

²⁸ The Anishinaabe teachings are based on the seven principles of respect, wisdom, love, humility, bravery, honesty and truth (Nashkawa, 2013, p. 19).

We define success slightly differently than a non-tribal corporation because we are so much more. We are a means of escaping the cycle of poverty. We are an opportunity for individual growth. We are a chance to put your education to work in a tough and competitive but nurturing environment. But most of all, we are a corporation that cares about people. That is not just some slogan. It is in fact our reason for existence.

In a similar way, the Kitsaki Development Corporation, owned by the Lac La Ronge Indian Band, use the term “capacity-building” in their human resources planning, focusing on developing a supportive business environment controlled by knowledgeable people, with job creation as a secondary goal (Voyageur, Brearley & Calliou, 2017, p. 276).

Accountability and Stewardship. Indigenous business leaders are accountable not only to their employees but to the whole community (Black & Birmingham, 2017, p. 131). In this context, transparency and openness about decision-making builds community and employee trust (Calliou & Wesley-Esquimaux, 2015, p. 48). Taking care of community members, family and relatives may be perceived as being one of the first obligations of a leader. Family and other community members may be prioritized in the hiring process, not always because they are the most skilled or experienced for the job, but because they need jobs and/or additional experience. Training employees is therefore a significant part of a manager’s role and budget allocation (Bryant, 2003; Black & Birmingham, 2017). Such sense of accountability may influence strategic business development decisions, such as those taken by the Lac La Ronge Indian Band. Recognizing their accountability to their community in providing employment, the Band seeks business opportunities that are “labour-intensive” such as a catering company, wild rice and wild mushroom harvesting, hotels and trucking (Voyageur, Brearley & Calliou, 2015, p. 280).

Valuing a relational approach in business also means having a stewardship approach toward the land and all living beings, animate and inanimate. In an illustration of such a wise practice, James Cree hunters and trappers practice an embedded stewardship approach to management in their work. These hunters and trappers identify with and respect the land; practice reciprocity and ecological caretaking as well as actively gather local ecological information. Their approach is passed down and communicated by senior hunters to family members and apprentices, requiring decades of immersion to gain mastery (Jolly, Whiteman, Atkinson & Radu, 2011, p. 30).

Performance Evaluation. Being accountable and evaluating performance in measurable and culturally congruent ways are key to success for Indigenous businesses (Calliou & Wesley-Esquimaux, 2015, p. 48). As an example, the performance management system of the Pechanga Resort and Casino owned by the Pechanga Band of Luiseño Mission Indians, puts emphasis on their organization's values in its evaluations, rather than on quantitative metrics. This emphasis is also reflected in the promotion of leaders who must demonstrate a strong commitment to the organization's values (Rodgers & Morris, 2017, p. 182). In another instance, the Dakota Western Bagging factory, owned by the Sisseton-Wahpeton Oyate Band, implemented the Performance Evaluation Program (PEP), which centers on individuals' abilities to monitor their own and other people's emotions to increase employee wellness. Building on skills such as communication and time management, PEP has a positive impact on employee retention (Centre for First Nations Governance, 2019). Culturally congruent evaluation of human resources thus supports Indigenous organizations in attaining their strategic objectives.

Collaboration, Partnerships, and External Relationships. Indigenous organizations nurture interdependent relationships with other organizations and networks of individuals that are

deemed necessary for healthy business outcomes. Some Maori organizations in New Zealand define the purpose of business as creating relational well-being and wealth, through the ethic of *Kaitiakitanga* (stewardship) from the Maori world view. *Kaitiakitanga*, as a relational approach to business, thus influences such business practices as long-term supplier arrangements and joint venture partnerships (Spiller, Pio, Erakovic & Henare, 2011, pp. 223-224).

Good Government and Management. Graham and Wilson (as cited in Jobin, 2018, p. 175) describe governance as “a process whereby societies or organizations make their important decisions, determine whom they involve in the process and how they render account”. In many Indigenous organizations, elected band or tribal members oversee the organization’s decision-makers, putting an emphasis on both their social mission and on generating profits. Within this context, organizational leaders often assigned to the challenging task of “managing the boundary” between business and politics (Jorgensen, 2015, p. 195). Such governance structures, connecting elected members and the organization’s decision-makers, may influence management practices such as employer/employee relationships and how employment issues are addressed and resolved (Black & Birmingham, 2017, p. 134). To address such challenges, some Indigenous nations have developed clear guidelines in support of good governance practices. For example, the Matsqui First Nation developed a Human Resources Policy clarifying respective roles and responsibilities, including cultural responsibilities and staff practices (Carleton University Centre for Community Innovation, 2005). Similarly, Bent Arrow Traditional Healing Society developed a Peacekeeping Policy, based on the Medicine Wheel reflecting the organization’s values and philosophy, to define clear roles and responsibilities. Recognizing that good decision-making is key to effective governance and management practices, Bent Arrow’s Peacekeeping Policy also addresses grievances with a view to restoring relationships (Jobin, 2005, pp. 47-53). These

human resources policies found in certain Indigenous workplaces, such as the one at Bent Arrow Traditional Healing Society, allude to human resources practices that include clearly articulated dispute resolution processes explicitly sourced from the local community's Indigenous legal principles and reasoning. The last section of this review focuses on the literature documenting such dispute resolution processes enacted within Indigenous organizations today.

2.2.2 Dispute Resolution

In reviewing the literature that pertains to dispute resolution practices within Indigenous organizations, I focus on processes that tap into local Indigenous law, and more specifically into the law's underlying principles and deliberative processes. I contend that culturally congruent dispute resolution processes may contribute to the successful management of human resources in Indigenous organizations by increasing employee engagement and employee retention. As Onondaga scholar Keith James (2017) points out, this may have special significance for the future as Indigenous nations increasingly struggle with holding on to their young people who often leave their communities to join surrounding societies (p. ix).

In relation to research and applications on dispute resolution involving Indigenous peoples, Stó:lō scholar, Wenona Victor (2007), categorized three modes of dispute resolution processes that lie outside the adversarial approach of the Western-based legal system. The first two modes grew from research on alternative dispute resolution (ADR) and the related popular movement from the United States in the 1970s²⁹ which ensued. In Canada, ADR processes have gained in recognition and have now been integrated into most labour agreements across the country. Non-unionized mainstream organizations and HR professional associations offer

²⁹ The research done by Robert Fisher and William Ury of the Harvard Negotiation Project in the 1970s integrated the concepts of negotiation, mediation, arbitration and conciliation into resolving disputes at all levels, from domestic to business to international. Their book entitled, *Getting to Yes: Negotiating agreement without giving in*, first published in 1981, is still widely used today in business and in academia.

training in interest-based dispute resolution methods mostly due to the dissatisfaction with the adversarial arbitration and court systems. The first mode, embedded in Western-based paradigms, integrates processes such as negotiation, conciliation, arbitration and mediation. The second mode involves embedding Indigenous methods, such as the Talking Circle, within Western-based paradigms. While they may share some common principles, Western-based ADR processes are fundamentally different from Indigenous paradigms of dispute resolution as they are rooted in different world views and often ask different types of questions (pp. 3-5). Western-based ADR processes have also been met with criticism in terms of their applicability for Indigenous nations.³⁰ For all these reasons, they are not the focus of this review.³¹ Instead, I focus on the third mode involving the use of Indigenous legal principles for resolving disputes according to Indigenous cultures and practices.

In the next paragraphs, I highlight dispute resolution processes, sourced from four distinct Indigenous legal traditions: the Navajo, the Sto:Lo, the Kainai and the Cree. Although the four dispute resolution processes outlined below are unique to their respective nations, they all highlight the adaptability and responsiveness of each Nation's legal traditions and reasoning processes in addressing a complexity of contemporary disputes. The first two documented examples, from the Navajo Nation and the Stó:lō Nation, reflect the Nations' respective wise practices in resolving community-based disputes. While these processes do not address employment-related issues, they display elements that may be considered of interest when

³⁰ In her criticism of ADR systems, Cree scholar Lorena Sekwan Fontaine (2005) argues that 1. ADR systems are not a legitimate alternative as they are an extension of the dominant legal system which has not served Indigenous peoples well due to core issues such as systemic racism, 2. Indigenous conflicts should be addressed within a separate justice system within respective Indigenous legal traditions and, 3. there is a resurgence of Indigenous legal traditions within self-government agreements, band governance and community processes that makes enforcement of mechanisms inevitable and crucial (pp. 913-921).

³¹ It is important to highlight, however, that Canadian employment and labour legal establishment has created space for (i.e. "alternative") methods of dispute resolution functioning parallel to the court/arbitration system. It is plausible to think that dispute resolution methods stemming from Indigenous legal traditions may also reside in this space.

reflecting on how dispute resolution processes based on local Indigenous law might be successfully implemented in Indigenous organizations. The third and fourth examples outline distinct examples of workplace dispute resolution processes in Indigenous-owned organizations. The process developed by Blood Tribe Administration, an organization owned and operated by the Kainai Nation, taps into their Nation's legal tradition as well as from Canadian employment law. In contrast, Bent Arrow Traditional Healing Society, an Indigenous organization located in an urban setting, utilizes a process that is solely based on the local Cree legal tradition.

Hozhooji Naat'aanii (Peacemaking). *Hozhooji Naat'aanii* is a traditional justice method that has been used within the courts of the Navajo Nation since 1982. Cases addressed by *Hozhooji Naat'aanii* in each of the Navajo's 110 local governments involve disputes over land use, grazing rights, and domestic conflict including child custody, family violence as well as criminal offenses (Nielsen, 1999, p. 110). In his report on Navajo justice to the *Royal Commission on Aboriginal Peoples*, Chief Justice Robert Yazzie (1993) calls *hozhooji Naant'aanii* a "horizontal system of justice" for which the purpose is to allow people to resolve their own problems without the interference of judges and attorneys. The ultimate goal of the peacemaker process is to restore the mind, physical being, spirit, and emotional well-being of each person involved. In the process, ongoing relationships are maintained, and harmony may be restored among the implicated parties (pp. 407- 414).

Hozhooji Naat'aanii uses Navajo language and ceremony to promote a healing or restorative process. Navajo values are expressed in prayers and teachings, with the focus being on doing things in a "good way". The method utilized is essentially "talking things over in groups" with the goal of reaching consensus on both the nature of the issue and the resolution. Focusing on problem-solving rather than punishment allows people to heal and abandon hurt in

favor of plans of action to restore relationships (Yazzie, 1994, pp. 184-185). The process engages participants in a review of the facts of the dispute (including opinions and the emotional impact related to what happened), teachings of Navajo approaches to the problem and plans for future action. The leaders or *naatn'aanii* of *Hozhooji Naat'aanii* may be blood or clan relatives, are described as teachers and planners, and use strong persuasion skills rather than authority. They demonstrate wisdom as well as skills in speaking, planning and spirituality. Support group members such as family, clan or community members may be included as participants ((Nielsen, 1999; Yazzie, 2004).

Stó:lō Qwi:qwelstóm Program. the Stó:lō Nation implemented dispute resolution processes, called the *Qwi:qwelstóm* Program, to provide more meaningful avenues for their legal institutions to resolve conflicts internally rather than through the adversarial Canadian court system. *Qwi:qwelstóm kwelam t'ey (qwi:qwelstóm)* may be roughly translated as, “they are teaching you, moving you toward the good”. Reflecting a way of life that focuses on relationships and the interconnectedness of all life, *qwi:qwelstóm* is centred on the family and contains four core elements: “the role of Elders; the role of family, family ties, and community connections; teachings; and spirituality.” Using the Stó:lō language in the discussions grounds the process in the Stó:lō worldview (Sikka, Wong & Bell, n.d., pp. 6-7).

The *Qwi:qwelstóm* Program deals with disputes that would be categorized as criminal (under Canadian law) as well as conflicts arising between community members and conflicts between community members and institutional employees, such as school staff. The Program’s goal is to “restore the community to harmony rather than just punishing the offender” through healing and peacemaking Circles. The focus of healing Circles is mostly on restoring balance to an individual, whereas peacemaking Circles are mainly concerned with all Circle participants

gaining an understanding of an incident. While participants may vary depending on the nature of the dispute, they always include the parties involved in the dispute, at least one Elder, and a member of the *Smómiyelhtel* (a group of community members who organize and lead the processes). *Smómiyelhtel* may use their personal style but they must follow certain guiding principles which include “building relations and resolving conflict ‘in a good way’, reconnecting ‘family members to their extended family and to their community’, encouraging participants to bring Elders to share in the Circle, and focusing on being responsible and working on the self”. Participants are expected to “share all four sacred parts of being, namely, the physical, the mental, the emotional and the spiritual”. The community member who has caused harm is offered the possibility of taking responsibility within a context that focuses on maintaining family ties and community connections. Circles also provide space for Elders and for teaching (Sikka, Wong & Bell, n.d., pp. 6-10).

While the two dispute resolution processes, as outlined below, are wise practices unique to their respective Nations in resolving community-based disputes, certain common elements may be of interest when considering the development of an institutional dispute resolution process based on Indigenous legal traditions. For example, both processes display a common obligation to restore the individual as well as his/her community to harmony. Another obligation is to maintain and/or enhance relationships by focusing on healing, repairing harms and/or offering support. Central to both Nations’ processes is the emphasis on community participation, with the guidance of Elders or other knowledgeable citizens as well as family members (including the individual(s) at the source of the conflict) in resolving the issues.

The next examples are documented workplace dispute resolution models for resolving employment-related issues which apply Indigenous legal principles sourced from local law. The

first, from the Kainai Nation, incorporates elements from their Nation's legal tradition as well as from Western-based legal principles. The second, from the Bent Arrow Traditional Healing Society, is a peacekeeping circle that exclusively uses Cree legal concepts to resolve employment-related issues.

Appeal Tribunal of Blood Tribe Administration (BTA). BTA, an employer of more than 500 individuals overseeing Kainai Nation's programs and services, developed a dispute resolution process, in response to employees' requests for an independent, fair and unbiased process. As an appeal mechanism, the general goal of the Tribunal is to resolve employment issues and to enhance the employer/employee relationship by interpreting whether the organization's rules and guidelines are applied in a fair and unbiased manner. According to Human Resources Director, Katie Rabbit-Young Pine (2013), it was crucial for BTA to seek and gain community acceptance of the Appeal Tribunal at the onset. To do this, BTA committed to being transparent in the selection process of Tribunal members, based on BTA's Policy and Procedure and Conflict of Interest guidelines. The Tribunal includes representation of the community's Elders, professionals from the surrounding communities, administration employees, as well as an employee representative. Having an Elder present at each hearing is deemed to be helpful in order for calm and respect to prevail, while an external professional is perceived to bring an unbiased perspective to the issues. The employee representative, elected by peers, provides internal work experience and knowledge about BTA policies and procedures (pp. 48-49). BTA's approach, while integrating certain legal concepts of the Kainai Nation (i.e. community and Elder participation; a focus on enhancing relationships) to resolve employment issues, is ultimately guided by Canadian legal principles.

Peacekeeping at Bent Arrow Traditional Healing Society. Bent Arrow Traditional Healing Society's Peacekeeping policy and procedures offer an example of a workplace dispute resolution process solely based on Cree legal principles and practices. The governance model of Bent Arrow, a non-profit Indigenous organization offering programs to an urban Indigenous community, is grounded "in traditional practice, which is crucial for ensuring cultural continuity in a metropolitan place" (Jobin, 2010, pp.151, 154). The Co-Founders of Bent Arrow, Shauna Seneca and Brad Seneca, chose the Medicine Wheel and the four directions as the guiding philosophy for the organization (Jobin, 2005, p. 54). At the core of Bent Arrow's Medicine Wheel is a relationship-based practice founded on the Cree legal principle of ᑭᓴ ᐃᓴᓴᓴᓴ *miyo-wicehtowin*, highlighting the "need for balance within the self as well as in relation to others" (Jobin, 2010, pp. 158-159). Embedded in Cree beliefs, values and guiding principles, roles and responsibilities as defined in the framework of Bent Arrow's governance system reflect those of a traditional Cree system with everyone involved to be considered of equal importance within the circle (p. 41). At the center of the structure is traditional knowledge with defined roles depicted as the spokes of the governance circle, with the *Omeyopayihcikewak* or Peacemaker³² included in these roles (Jobin, 2005, p. 47).

Reflecting the organization's values and philosophy, Bent Arrow's Peacekeeping Policy is in place to assist in resolving employment-related disputes, to restore relationships, restore balance and bring peace back to a situation (p. 48). The *Omeyopayihcikewak* engages in the process of resolving a conflict with humility. As a peacekeeper in both a formal and informal sense, Bent Arrow's Co-Founder, Shauna Seneca, learned an important lesson about creating

³² Additional roles are also included in Bent Arrow's governance model: *Nikânîwin* (leadership); *Iskweskâw Mâmawinitowin* (Womens Society); *Mâciwak* (Hunters); *Maskihkîwiwiniwak* (Medicine Persons); *Mâwasakonewak* (Gatherers) and *Opikiskwestamâkew* (Crier) (Jobin, 2005, pp. 41-48).

internal peace and making peace in relationships with others. Seneca (as cited in Jobin, 2005, p. 47) recounts how she had been guided by her grandmother to reflect daily on whether she had harmed anyone that day, through words or actions, and if she had been a kind and loving person. If she realized that she had hurt someone, she needed to restore that relationship in order to restore peace with herself and with the other person.

The workplace dispute resolution processes from the Blood Tribe Administration and Bent Arrow Healing Society hold elements that may be helpful in considering the creation of a dispute resolution model in an Indigenous workplace. The BTA Tribunal integrates elements of customary practices of the Kainai people, such as the inclusion of Elders but it relies on Western-based legal principles rather than on Kainai's legal principles and obligations to resolve issues. This may have the consequence of the failure of Tribunal decisions to reflect the fundamentally different character of the laws of the Kainai Nation, as well as of its citizens' responsibilities and obligations when enacting their local law. In contrast, the dispute resolution process outlined in the Bent Arrow Traditional Healing Society's Peacekeeping Policy draws solely from the Cree legal tradition. Supported by the teachings of the Medicine Wheel, the *Omeyopayihcikewak* (Peacemaker) applies the legal principle of ᑭᑦ ᑲᑦᑲᑦᑲᑦ *miyo-wicehtowin* with humility to restore relationships and bring back peace. As a relationship-based peacekeeping approach nested in Cree legal tradition, Bent Arrow Traditional Healing Society's workplace dispute resolution framework is congruent with the suggested approach to resolve employment-related issues within organizations owned by the Aseniwuche Winewak Nation, which is discussed more specifically in Chapter 5.

In considering dispute resolution processes in light of all the wise practices outlined in the four illustrations above, some common elements are depicted, such as community

participation in decision-making; Elders and/or wise citizens guiding the process; and healing and/or the restoration of relationships.

Three of the examples cited above use the Nation's original language in dispute resolution terminology and/or processes. The literature on dispute resolution often asks whether the use of Indigenous languages is necessary in dispute resolution processes in order to ascertain the law's correct meanings and nuances (Ghostkeeper, 2004; Yazzie, 2004; Fletcher, 2007; Victor, 2007). This is an important question as linguistic proficiency is not consistent within and across Indigenous Nations. This issue is addressed by Metis Elder Elmer Ghostkeeper (2004) when he writes:

I have learned that when you participate in any type of dispute resolution process, there are some key factors to consider. One factor is the language of negotiations. Will you use an Aboriginal language, and whose concepts are you going to adopt? Aboriginal language may be necessary to communicate Aboriginal concepts (...)"

(p. 173)

I agree with Ghostkeeper when he maintains that it may be important to continue using Indigenous language in dispute resolution to support the expression and understanding of legal concepts found in respective legal traditions.

Another common question is whether it is necessary to ensure a degree of autonomy from Western-based legal systems in order to successfully implement a dispute resolution process using Indigenous legal principles. On *Hozhooji Naat'aanii* (Navajo Peacemaking), Chief Justice Yazzie (2004) notes that greater independence from the Western judicial system would be desirable, allowing for more flexibility and control by the community (p. 108, 110). Echoing parallel concerns, Stó:lō scholar, Wenona Victor (2007) contends that, as long as dispute

resolution systems that operate outside of Western mechanisms are given jurisdiction by an authority other than their own, there remains a colonial legacy of power imbalance and dependence (pp. 10, 11). While there is much work to be done in order to create a space for Indigenous peoples to fully practice their systems of governance and law within the nation state, I agree with Napoleon, Cameron, Arcand and Scott (2008) that local law may be successfully applied with or without the nation state's approval. Practical enactments of local law, such as those illustrated in this chapter, are important steps which allow for practices to be seen by Indigenous people as legitimate law, giving them the opportunity to critically examine them. These may be considered as self-governing acts, integral to the process of changing the nature of the relationships between Indigenous Nations and Canada (pp. 2, 22).

2.3 Conclusion

This chapter reviewed the literature highlighting current human resources practices within Indigenous organizations as well as dispute resolution processes sourced from local Indigenous law. The chapter identified that there is generally a dearth of scholarly literature on Indigenous human resources management, and even less on related dispute resolution practices. Even in those instances when human resources practices are clearly identified, Indigenous people (or scholars documenting these practices) may not be aware that they are engaged in local law when they practice what they may describe as enactments of local traditions or customs (Napoleon et al., 2008, p. 4). For instance, in descriptions of wise practices outlined earlier in this chapter, Indigenous organizations that are described as holding a “philosophy of interconnectedness” or enacting “participatory leadership” may not be explicitly identified in the scholarly literature as manifestations of Indigenous legal principles and related responsibilities and obligations performed in the workplace. By extension, the available scholarly literature on

human resources practices often fails to critically examine existing practices through an intellectual process of legal reasoning and interpretation. Another reason for the gap in literature on human resources is that Indigenous people themselves may not be aware that local Indigenous law is operating simultaneously with Western law when they are performing day-to-day self-governance, often creating tensions in decision-making and dispute resolution (Napoleon et al., 2008, p. 4). My research seeks to address this gap in the scholarship on human resources practices by treating Cree law as *law* and making explicit deeply rooted principle decision making and dispute resolution principles.

In the next chapter, I argue that Indigenous theoretical and methodological approaches may be useful to the development of a dispute resolution process using Indigenous legal principles and reasoning. I first draw on Indigenous legal theory for its insights and then identify a Cree methodology, ᑎᐱᐱᐱᐱᐱ *Nehiyawak* Peoplehood, and detail Indigenous legal methods, including the community embedded/implicit law method, story analysis method and linguistic method, as the basis for my research inquiry.

Chapter 3: Theory and Methodology

*We developed ourselves by listening and looking. These are the tools of our learning. These are the teaching methods that we used over and over. We stored the story in our heads, and we repeated these to ourselves until we had it right. When you have it right, you put it in our heart, and you will never lose it.*³³

3.1 Introduction

In the following pages, I present the theoretical approaches and methodologies sourced from scholarship on Indigenous law and governance to answer the following questions: how do Aseniwuche Winewak Elders and knowledge keepers explain their Nation's foundational principles? How do these legal principles and related reasoning apply to resolving employment-related issues? I argue that these theoretical and methodological approaches may be useful to the development of an employment-related dispute resolution practice which is congruent with existing, and often implicit reasoning processes and dispute resolution principles of the Aseniwuche Winewak.

In the first section of this chapter, I situate my research in relation to Western critical legal theory and Indigenous legal theory. Next, I describe my methodological approach, through *Nehiyawak* Peoplehood, from Cree scholar Shalene Jobin's research. This methodology is supported by a strategy of inquiry, using qualitative methods, to gather Elders' and knowledge keepers' deep knowledge of the Aseniwuche Winewak Nation's seven foundational principles. Next, I highlight methods from legal scholarship to recognize, understand and apply deeply rooted principled decision making to resolve employment-related issues. I draw specifically on

³³ Quote from Cree scholar Leona Makokis' interview with Elder Skywoman from Saddle Lake First Nation (2001, p. 115).

Matthew Fletcher's linguistic method as well as legal scholars Friedland and Napoleon's community embedded/implicit law method and story analysis method. Finally, acknowledging the important concern of displaying ethical conduct in accessing Indigenous knowledge, I detail how I respectfully engage in necessary protocols for the community and for the academy.

3.2 Theoretical approach

As a settler student in the Faculty of Native Studies engaging with theory, I feel compelled to first locate myself within this inquiry. I am aware of the devastation caused by a history of colonizing theoretical research based on Western thought, and non-Indigenous theorists using these theories to oppress and dispossess Indigenous peoples (Smith, 2012, pp. 39 - 41). In this context, I see my work as providing a small contribution to the revitalization of Indigenous legal traditions. It is located within the larger political project of decolonization of the Canadian nation state, which includes a re-thinking of legal and governance structures. I agree with St'exelcém scholar Nancy Sandy (2016) when she describes it as a bi-national project of grieving and healing; Indigenous Nations and Canada "rebuilding from genocidal oppression with mutual recognition, mutual respect, mutual sharing, and mutual responsibility to achieve recognition of a third order of government, (...) as independent, free-thinking, self-governing, and self-determining peoples" (p. 192).

My engagement with theory begins by examining, through Western critical legal theory, how the Canadian legal system has developed and maintained uneven power relations between Indigenous peoples and other citizens of the nation state. Examining the interaction between the Canadian legal system and Indigenous peoples, Anishinaabe legal scholar John Borrows highlights how law in Canada may be perceived differently depending on whether one enjoys its stability and other advantages or whether one lives in an Indigenous community, the victim of

generations of oppression and dispossession (as cited in Christie, 2009, p. 225). In his seminal book, *Recovering Canada*, Borrows (2002/2017) is critical of the application of the rule of law, a fundamental tenet of Canada's legal system, in relation to Indigenous rights and their two interrelated legal principles, described as the preclusion of arbitrary state power and the maintenance of a positive legal order. He is also critical of Canada's assumption of underlying title and sovereignty, qualifying it an arbitrary exercise of power aimed at dismantling Indigenous systems of law and normative order. He further states that Canada's assertion of exclusive sovereignty over Indigenous peoples violates the second cited principle of the rule of law because, in the process of this declaration, the Crown suppressed Indigenous governance and denied Indigenous nations indispensable elements of law and order (p. 113).³⁴

Mohawk scholar Patricia Monture (1999) highlights that Indigenous rights in Canadian law are centered almost exclusively around the right to property, which she describes as “a struggle for the ownership and control of the land” (p. 56), with disputes most often ending with Indigenous peoples' loss. This is supported by the findings of the *Royal Commission of Aboriginal Peoples* (as cited in Borrows, 2002/2017, p. 114): “Aboriginal peoples have often been denied the essential rights in property (title), and contract law (...) that lie at the heart of our private law ordering”. In offering a critical viewpoint of Canadian law in regards to Indigenous peoples, Monture points to the differing ideological roots of law, highlighting the concept of land ownership. She observes that “Canadian law does not have the capacity to hold

³⁴ Borrows (2002/2017) lists how the Crown and the courts' failure to protect Indigenous peoples from arbitrary power has profoundly affected their rights in the most egregious ways. First, a lack of safeguards affecting fundamental human rights and individual freedoms make Indigenous peoples vulnerable to interference from government, resulting in the suppression of Indigenous institutions of government, the denial of land, the forced removal of children, the criminalization of economic pursuits and the negation of religious freedoms, association, due process, and equality. Second, being a vulnerable group, this lack of protection affects Indigenous nations' institutions and rights that are necessary to maintain and promote their identities against assimilation forces. Finally, Borrows calls attention to the effect of the lack of division of political power, which allows the provincial and federal governments to infringe upon Indigenous authority and unilaterally allocate political power to themselves (pp. 132-133).

the holistic view of the land, because ownership in Canadian law is based on the linear notion of the domination of the land. A holistic view of landholding enshrines not only the linear concept of ownership but also, at minimum, spirituality and responsibility” (p. 56).³⁵

Faced with a Canadian legal system that is failing Indigenous peoples, some legal scholars are moving beyond the perspectives from which to critique the law in order to develop a body of scholarship on Indigenous legal theory. For these scholars, the goal is to revitalize the Canadian justice system, decolonize the judicial precedents and renew respect for diversity (Youngblood Henderson, 2002, p. 2).³⁶ These scholars affirm that, within this context, it is necessary to bring to light Indigenous perspectives surrounding the Canadian *Constitution* and to ensure that Indigenous peoples’ laws are taken into account in the rule of law (Borrows, 2002/2017, p. 137). While scholarship on Indigenous legal theory is in its early development, a conceptual space is emerging with distinct theoretical understandings of Indigenous law (Christie, 2009, p. 195). Scholars are tapping into a deep pool of complex teachings since Indigenous legal traditions encased within Indigenous knowledge reach into time immemorial (Zuni Cruz, 2009, p. 316). Legal scholar, James (Sákéj) Youngblood Henderson³⁷ (2002) describes this space as follows:

(...) everything is interrelated and all life forms and forces are in a process of flux or circular interaction. The belief that the ecological order is connected through relationships with the keepers of life is the premise of our worldviews. By knowing

³⁵ Land ownership is not the only aspect of law in which differing world views reflected in respective legal traditions lead to other forms of oppression and dispossession, such as the manner in which Canadian law defines what state responsibilities are public or private. This has led to, for example, the apprehension of Indigenous children which has been considered until recently a private matter (Monture, 1999, p. 58).

³⁶ There are other scholars who do not support the view of working within the Canadian legal system. For example, Dene scholar, Glen Coulthard (2014) is critical of the politics of recognition, describing liberal pluralism and reconciliation as entrenching colonial relationships.

³⁷ James (Sákéj) Youngblood Henderson was born in the Bear Clan of the Chickasaw Nation and has heritage from the Cheyenne Nation.

our relationships with the natural order, our shared relationships can sustain harmony and balance. Coming to know is not located outside one's self but is founded upon the interconnectedness and interdependent relationship one has with the sources of life. (...) We did not see all life forces as natural resources, but as sacred ways of life-giving. Respect of these forms and forces is the key to living a good life. It is through coming to know and working with these relationships that our ancestors came to understand the relationship and laws of the earth. It is through ceremonies, stories and songs that our ancestors were given the gifts of survival. (p. 45)

Expanding on the above perspective, Borrows (2010) asserts that Indigenous law may originate from multiple sources. Referencing the “source of law” methodology, he locates legal principles from five sources of law: sacred, natural, deliberative, positivistic and customary law, underscoring their intellectual, deliberative and inherently social character (pp. 23-58). Borrows also suggests that Indigenous law may be recorded and disseminated in multiple forms (Borrows, 2010; Napoleon, 2009; Friedland, 2012). These sources may be accessed by Elders and knowledge keepers and ordinary citizens through stories, oral histories, ceremonial practices, songs, language, dreams, the land place names, petroglyphs, scrolls, published anthropological and historical documents as well as kinship relations. Indigenous legal traditions may be demonstrated through social experiences involving people communicating with each other as to how to conduct relationships and resolve disputes. They may therefore serve as sources of normative authority in problem solving and in dispute resolution (Borrows, 2002/ 2017, pp. 10-13).

When theorizing on Indigenous conceptions of law, it is important to consider that Indigenous law is specific to the legal tradition of different Indigenous peoples, such as the

Mi'kmaq, the Anishinaabe and the Cree. Cree legal tradition recognizes deeply rooted principled decision-making and dispute resolution processes within the laws of ᐱᐱᐱᐱᐱᐱ *wahkôtowin*, and its subset of laws, defined by Cardinal (2007) as a fundamental Cree doctrine of law governing relationships. He explains that “these laws establish the principles that govern the conduct and behaviour of individuals within their family environment, within their communities, and with others outside their communities” (p. 74). Under such laws, Cree people renew and strengthen relationships between individuals and, on a larger scale, between nations, often through ceremonial practices (2000, pp. 41, 70). Cardinal (2000) highlights another central legal principle, ᐱᐱᐱᐱᐱᐱ *miyo-wîcihtowin*, sourced from Cree law, which he explains as follows: “The term outlines the nature of the relationships that Cree peoples are required to establish. It asks, directs, admonishes, or requires Cree peoples as individuals and as a nation to conduct themselves in a manner such that they create positive or good relations in all relationships, be it individually or collectively with other peoples”. Related to the laws of ᐱᐱᐱᐱᐱᐱ *wahkôtowin* and ᐱᐱᐱᐱᐱᐱ *miyo-wîcihtowin* is the central axiom of the sacredness of the land which was gifted by the Creator. The primary spiritual principle of living with an attitude of respect for the land extends to all those on the land, to family and to relatives. This principle extends to other peoples living on the land as well as to all non-human or spiritual beings connected to it (pp. 14, 70).

Within each Indigenous legal tradition, law is understood and utilized based on the unique local historic and contemporary realities of communities (Napoleon, Cameron, Arcand & Scott, 2008, p. 4), such as, for instance, the understandings of Cree law and related practices of the Aseniwuche Winewak Nation (Friedland & Aseniwuche Winewak Nation, 2013). Just as it is important to consider the specificity of Indigenous traditions when theorizing on Indigenous

conceptions of law, I contend that it is important to hold the same considerations in selecting a research methodology. In the following section, I present the methodology used in my research, which includes Cree-specific research approaches.

3.3 Methodology

In discussing Indigenous methodologies, Cree scholar, Margaret Kovach (as cited in Jobin, 2018, pp. 104-105) identifies four key aspects of an Indigenous epistemology: 1. the experiential as a legitimate way of acquiring knowledge; 2. various methods, like storytelling, as legitimate pedagogical forms; 3. reciprocal relationships between researcher and participants; and, 4. accountability and the collective as important in these relations. Kovach also affirms that Indigenous methodologies include a focus on Indigenous languages and emphasize reciprocal relationships, including those with the land. As a settler student of Indigenous Studies holding a Western-based world view, I posit that, despite the inherent limitations of being an outsider, adopting an Indigenous research methodology, through adherence to Cree epistemology, may lead to greater understanding and more useful knowledge for the community (Wilson, 2008, p. 20).

My methodological approach is also broadly aligned with Maori scholar Linda Tuhiwai Smith's (2012) assertions in *Decolonizing Methodologies*, that the goal of the research agenda is self-determination, as well as the attainment of social justice (pp. 120-121). My contribution corresponds to certain relevant research projects named by Tuhiwai Smith in her book. One of these, "Democratizing and indigenous governance", corresponds with my research because it aims to contribute to the revitalization of Indigenous legal traditions, which is essential to democratization. More specifically, my research on Cree legal principles is in support of the development of contemporary governance approaches embedded in an Indigenous value system

(p. 157). My inquiry also aligns with what Tuhiwai Smith calls “Reframing”, as I address employment-related issues using Cree legal principles identified by the Aseniwuche Winewak, instead of those imposed by the Canadian nation-state. Reframing, in this context, allows for greater control over disputes experienced by those working in an Indigenous organization and for resolving underlying issues (p. 154). Finally, my research includes the perspectives of Elders and women on their Nation’s foundational legal principles, which Tuhiwai Smith considers integral to the research project entitled “Story telling”. This primary research documentation, mainly recorded in the Cree language (and later translated), may be deemed culturally appropriate and useful to the interviewees in passing down their knowledge (pp. 145-146).

The multiple methodologies available to theorize and apply Indigenous law leads Cree legal scholar Darcy Lindberg (2016) to examine the ethics, obligations and methods of accountability in what he terms “instruments of extraction”, thus drawing attention to the necessary violence done by academia in their efforts to revitalize Indigenous legal traditions (pp. 3, 4, 18-19). He argues in favour of adopting an ethic of deep relationality³⁸ and focusing on methodologies that require deep knowledges of the community (pp. 7-8). In fulfilling my research goals and being mindful of the challenges cited by Lindberg, I engage with Jobin’s (2018) ᐅᐱᐱᐱᐱᐱ *Nehiyawak* Peoplehood methodology, a Cree-specific approach. This methodology positions Cree legal traditions as legitimate and distinct, as stand-alone law, outside the narrow confines of Canadian legal traditions. Using it supposes an understanding of Cree people, as self-determining and holding rich legal traditions before the Canadian nation state usurped this Cree Nation’s authority and autonomy (Jobin, 2018, p. 81). Engagement with

³⁸ To support his argument, Lindberg quotes Borrows’ (2016) assertion that there will always be gaps in legal knowledge and that “we need one another when we teach and practice law. Law is practiced relationally” (Lindberg, 2016, p. 10).

ᑭᑦᑎᑦᑎᑦᑎᑦ *Nehiyawak* Peoplehood also requires a deeper understanding of Cree knowledge as it encompasses the four interlocking features of language, territory, ceremonial cycles and sacred living histories (Corntassel, 2012; Jobin, 2018). Jobin connects elements of Cree knowledge as follows: “In the north is *Nehiyawewin*, which is the Cree language. In the east is *Nehiyawaskiy*, or Cree territory. The south represents ceremonies, *kiskinowâcihcikana*. The west is *kasispowicikew*, meaning bringing the past to the future” (p. 11). As Jobin emphasizes, these Cree normative principles only come alive by deliberation processes, where they are reasoned through, debated and applied as a cyclical process (p. 175).

The element of language in ᑭᑦᑎᑦᑎᑦᑎᑦ *Nehiyawak* Peoplehood is congruent with the research request that I received from the President of the Board of Aseniwuche Winewak Nation in March 2018. He asked me to collect knowledge from Elders and knowledge keepers on the Nation’s seven foundational principles in support of his Nation’s Constitution-building process. These foundational principles were signified through Cree terminology. Speaking Cree implies a specific ontology, or set of beliefs about the world, in which reality is reflected in the relationship that one has with the truth (Wilson, 2010, p. 73). It also reflects an epistemology in which knowledge is nested within the social relations of knowledge production (i.e. self-in-relation) (Kovach, 2010, p. 41). I posit that this epistemology is congruent with the way in which most of the Aseniwuche Winewak might see themselves and understand the world, as Cree is the language of the majority.³⁹

In my research, I refer to the foundational principles in the Cree language, as they inherently tell the story of laws, considered as being sacred, as well as life’s purpose and the

³⁹ According to a survey completed by Aseniwuche Winewak Nation over 60% of community members identify Cree as either their first language and/or the primary language used at home ((2020, January). Free Cree Class. *News of the Nation: Aseniwuche Winewak Nation Community Newsletter*, 6).

correct way to live (Jobin, 2005, p. 13).⁴⁰ As an example, using her uncle Winston Wuttunee's teachings (2003), Jobin (2018) highlights how Cree people define their role and responsibilities, as well as their connection to the land, by what they are called in Cree language:

Cree people are called Nehiyawak ᑎᐃᑭᐱᑦ, with the root being newo ᑎᑦ, or the word for four in the Cree language. Askiy ᐱᑎᑭᐱᑦ is the Cree word for the land. He explained that we are the four-spirited people of the land, and that self-determination means that we are able to live out the roles and responsibilities that we have to the air, water, earth, and the animal kingdom. When I use the term land in this study, I am referring to the air, water, earth (including trees, etc.), and animals. Within this view, self-determination is intimately connected to our connections to the land. (p. 8)

The above example also points to how Cree collective identity is seen as being intrinsically connected to relations to the land or territory; how Cree people relate to the land impacts identity as well as the types of rights and responsibilities that are claimed (Jobin, 2018, p. 55). As such, territory is identified as another interlocking element of ᑎᐃᑭᐱᑦ *Nehiyawak* Peoplehood. During the period of 18 months spent in active research activities on the Aseniwuche Winewak's territory, I experienced my connection with the land as a form of decolonization (Dwayne Donald, as cited in Jobin, 2018, p. 69). During this time, I travelled to the Nation's traditional territory for extended stays on a regular basis. In June 2017, I participated in an on-the-land course on AWN's territory, entitled ᐱᑎᑭᐱᑦ ᑎᐃᑭᐱᑦ *wahkohtowin* Project

⁴⁰ My study also includes secondary research, such as documentation on Cree legal principles from academic sources, published accounts of stories and ceremonies, as a complement to the primary sources. Sourced from language, stories from the oral tradition may be useful in informing such different Indigenous governance practices as they are a medium through which rights and jurisdictional boundaries are communicated (Jobin, 2018, p. 13). In a parallel way, Cree legal scholar, Darcy Lindberg posits that stories embedded within ceremonies may be used to draw out legal practices.

Intensive: ᑦᑦᑦᑦᑦᑦᑦᑦ *miyo-wîcêhtowin* Principles and Practice. Learning principles of Cree law and governance through observation of the community's Elders and knowledge keepers tanning a hide allowed me to begin experiencing the land and the people living on the land in a relational way. After I received the direction from the President of the Board of Directors in March 2018, I sought to deepen my connection to the land, to its mountainous landscape and to the beings, human and non-human, that share the land,⁴¹ by taking long, solitary walks on a daily basis.

Another element of ᑦᑦᑦᑦᑦᑦᑦᑦ *Nehiyawak* Peoplehood is living histories. According to Jobin (2018), Indigenous living histories offer citizens knowledge of their roots, as well as a set of principles encompassing roles and responsibilities within the community, including those contained in kinship structures (p.42). I interpret the Nation's request – of collecting the knowledge of Elders and knowledge keepers on the Nation's seven foundational principles – as being directly connected to the community's living histories. Visiting interviewees and other community members in their homes allowed for a deeper relationality to emerge and, by extension, increased the quality of understanding and reporting. The following account of an encounter with Elder Philomene Moberly at her grandson's house explains how a greater understanding and a stronger bond were created by the act of visiting. During the interview, a kitten jumped repeatedly on the kitchen table effectively disturbing the conversation flow. I stopped at one point, and laughing, I asked the name of the kitten. Elder Philomene explained that the kitten's name was Minoosh, and that this name was a very common name for cats in the community. I responded by sharing that Minoosh (i.e. *Minouche*, in French) was my mother's

⁴¹ I often experienced this sense of connection, based on mutuality and reciprocity with other people while I spent time at Aseniwuche Winewak. My experience with non-humans on the land had a similar quality. In the spring, I often encountered deer while walking by myself in the evening. During those times, the deer and I shared the land as equals in a peaceful and unhurried way.

endearing term toward me, and explaining further that, where I came from in French-speaking Quebec, cats were commonly called Minoo (i.e. *Minou*, in French). This led to a very enriching exchange on the connection of the Nation's Cree dialect with the French language, which was spoken by the Nation's Mohawk ancestors who were also originally from Quebec.⁴²

I also spent time on the land with knowledge keepers, learning Cree vocabulary and, at other times, learning about the history of their territory. During the time spent as a student researcher at AWN Group of Companies, I accompanied Elders, AWN Group of Companies employees and industry stakeholders on a site visit to discuss traditional land use (TLU), which included a stop at a historical burial site. Later, when working as a human resources consultant, Elders and other members of the Aseniwuche Winewak shared their family stories, including the legacy of those who had passed on and the community's history, as we spent time on the road driving to meetings on the Nation's territory or onto Edmonton.⁴³

During the time spent on Aseniwuche Winewak territory, the Elders and knowledge keepers included me in some of the community's ceremonial practices, the fourth component of ᓂᐱᓂᓂᓂᓂ *Nehiyawak* Peoplehood. Being a participant in and/or witness to such enactments as the Pipe ceremony and Round Dances involves both the head and the heart (Kovach, 2009, p. 120). This was a transformative learning experience for me: bringing a deeper, more meaningful dimension to my relationships with members of the community as well as to my research. I remain aware, however, to the limits of the knowledge that may be accessible to me related to ceremonial practices due to criteria limiting participation such as community membership, status,

⁴² See interview: Philomene Moberly, 2018.

⁴³ During these conversations, one of the most mentioned and revered ancestors was Elder Lucy Wanyandie, who was the leader of her Nation's Elders Council for 10 years. She was remembered as having the special ability to complete the process of tanning a hide into leather, from start to finish, within a day. She was a woman of strong character who generously imparted her forebearers' teachings to younger generations.

kinship ties, beliefs or gender. I agree with Lindberg (2016) that it is extremely difficult to understand Indigenous legal concepts when they are taken out of context (p. 5). As an outsider and a settler experiencing such barriers, and with no knowledge of the Cree language, the limits of doing such research are exponentially greater.

According to Jobin (2018), the ceremonial cycle, as part of ᐅᐱᐱᐱᐱ *Nehiyawak* Peoplehood, is enacted during the preparation for research (p. 73).⁴⁴ Doing research “in a good way” involves learning and respecting the community’s protocols (Kovach, 2009, pp. 141-155). When I offered a gift of tobacco to each Elder and knowledge keeper prior to the start of the research, I understood that the acceptance of my gift by the interviewee implied respect and reciprocity (p. 127). I became accountable to the newly formed relationships within the community through every aspect of my research: the choice of research topic, methods of data collection, the analytical approach and the presentation of collected information. As a white settler student with almost no knowledge of the Cree language, I accepted this responsibility with humility (Wilson, 2008, pp. 79, 134) as well as a heightened vigilance to ensure accuracy and avoid possible mistakes as well as false assumptions (Mihesuah, 2005, p. 5). I hired a highly qualified, knowledgeable translator⁴⁵ for those Elders and knowledge keepers who wished to be interviewed in Cree, their mother tongue. She facilitated introductions with these highly knowledgeable community members and acted as a highly valuable resource person during my extended stays in the community.

Preparation for research, as described above, is also a process that implies a deep understanding of self-location, cultural grounding and purpose as all these elements influence the

⁴⁴ In communities, ceremonies may be enacted for every aspect of the Cree way of life. Grounded in the story-telling tradition, ceremonies provide a structure for the community (Makokis, 2001, p. 103).

⁴⁵ The translator is Carol Wanyandie, who is a member of the Aseniwuche Winewak, and a knowledge keeper.

researcher's interpretations.⁴⁶ Time is required to integrate the teachings and be of use to the community (Kovach, 2009, pp. 49, 109-111). One of the key aspects of self-location is in being transparent and honest. Kovach (2009) asserts that, "if you don't acknowledge your own self in the research process, then you will always have a piece missing" (p. 108). In order to do this, I positioned myself by engaging with community members through sincere dialogue about all aspects of my life. I also acknowledged that I am not an empty vessel, that I come with life experiences and a certain type of accumulated knowledge and bias. I showed respect by listening intently, acting with consideration, kindness and courtesy to others (Wilson, 2008, pp. 58-59). This last aspect is demonstrated in my research through the application of methods, as outlined in the next section.

3.4 Methods

My research inquiry was conducted using qualitative methods⁴⁷ that support ᑕᐱᐱᐱᐱᐱᐱ *Nehiyawak* Peoplehood methodology. Over the 18-month period of my research project, as per the principles of community-based research projects, I engaged in day-to-day activities with community members in ways that sought to respect and enhance community processes (Smith, 2012, p. 131). Traditional Indigenous research puts an emphasis on learning by watching and doing (Wilson, 2008, p. 40). In this way I listened and had many exchanges formally, through interviews, as well as in many day-to-day activities with the Nation's Elders, knowledge keepers, Board members and employees of AWN Group of Companies. This active engagement allowed for a better understanding and access to a variety of viewpoints on the foundational principles,

⁴⁶ I describe my positionality in more detail in the Prologue section of this thesis.

⁴⁷ Unlike my research methodology, which is predominantly informed by Cree epistemology, my methods are not. According to Cree scholar Shawn Wilson (2008) "as long as the methods fit the ontology, epistemology and axiology of the Indigenous paradigm, they can be borrowed from other suitable research paradigms" (p. 39).

while deepening relationships with community members. Document analysis of secondary research was also used to supplement community-based research methods, including the linguistic method, community embedded/implicit law method and story analysis method. I contend that these methods may be useful in articulating and critically examining implicit Indigenous legal principles underlying current dispute resolution practices in Indigenous owned and operated workplaces (Napoleon et al., 2008, p. 2). The relevance of these methods is explained in the following paragraphs.

In developing a practical workplace dispute resolution process that actively engages the Aseniwuche Winewak with their legal principles, I first draw from the linguistic method articulated by legal scholar Matthew Fletcher (2007) who posits that local law is encoded within Indigenous languages themselves (p. 40).⁴⁸ The strength of this method, as it pertains to the Aseniwuche Winewak Nation, is that it relies on the use of the knowledge of language and may be most useful in a small cohesive community (Friedland, 2012, p. 10). Since the majority of the Aseniwuche Winewak, including Elders and knowledge keepers, are proficient in the Cree language and culture, I contend that this method, which relies on inherent and familiar community knowledge (Friedland, 2012 p. 19), may be helpful in developing a practical workplace dispute resolution model. Used in American Tribal Court, the judge prioritizes a fundamental value (or principle) which is identified by a word or phrase in the Indigenous language (Fletcher, 2007, p. 40). The tribal judge then applies legal theorist H.L.A. Hart's (1994) conception of "primary rules of obligation" and "secondary rules of recognition" (pp. 89-90). A "primary rule of obligation" may be identified within the tribe's customs or traditions, with related obligations, and is considered non-optional or obligatory. Thus, primary rules impose an

⁴⁸ Fletcher is an enrolled Member of Grand Traverse Band of Ottawa and Chippewa Indians.

obligation for community members to adhere to certain behaviors, such as the requirement to being honest (Fletcher, 2007, p. 40). Secondary rules, or “rules of recognition”, are set in place to address the limitations of the primary rules, taking the form of a choice of law statute or court rule or even a common law decision (Hart, 1994; Fletcher, 2007). When applying Hart’s theory to dispute resolution at the Aseniwuche Winewak Nation, the “primary rules of obligation” may be identified as the Nation’s foundational principles, with related obligations considered to be non-optional or obligatory. In this context, secondary rules, or “rules of recognition”, address the limitation of the primary rules by taking the form of Canadian law, statutes and common law decisions (Hart, 1994, pp. 89-95; Fletcher, 2007, pp. 40, 41).

While this approach is helpful, it also holds serious limitations. I agree with Friedland when she notes (2012) that Fletcher’s method does not provide a substantive way to address differing interpretations of legal principles, especially when a principle - such as the case with the Aseniwuche Winewak’s legal principles - is represented by a single word. Friedland adds that using single words rather than locating principles within a comprehensive whole, runs the possibility of oversimplification and related risks of rigidity and fundamentalism (pp. 18-20).

To mitigate the limitations and risks involved in solely relying on Fletcher’s linguistic method, I turn to the community/implicit law method co-developed by legal scholars Hadley Friedland and Val Napoleon. I contend that this method, which uses an adapted form of common-law instrument, case-brief analysis and synthesis to stories to draw out legal traditions’ normative principles and reasoning processes, mitigate the risks in solely relying on legal principles taken in isolation of each other (Friedland, 2012, p. 20). Friedland and Napoleon build on Borrow’s (2010) ground-breaking research drawing out legal principles by analyzing Anishinaabe stories. They assert that the adaptation of the case method and, by extension, the multiple case method is

a relevant and useful intellectual tool which may be applied to Indigenous legal traditions to address present-day problems. Such methods allow for the identification of different themes, or categories of legal decision-making as well as general and common legal principles. Besides addressing important risks, such as oversimplification, they also set boundaries to the interpretive debates (Napoleon, 2009; Friedland, 2012).

Building on the above assertions, Friedland (2018) focuses on one single legal concept by using a structured method of legal analysis and synthesis that includes community participation and deliberation. This approach brings attention to how a community works together in principled ways to respond to harm within their legal traditions.⁴⁹ Relying predominantly on publicly available stories as well as interviews with Elders of the Aseniwuche Winewak Nation, Friedland applies common-law legal reasoning, analysis and synthesis to create a framework for thinking about *wetiko*⁵⁰ stories, drawing out a collective reasoning and problem-solving process as well as obligations and rights (pp. 21, 33, 43). She argues that these processes, such as those found in *wetiko* stories, are embedded in broader legal traditions that serve to inform the resolution of the multiplicity of contemporary issues and conflicts as they arise.

In order to access legal principles and reasoning processes from the many existing and unique Indigenous legal traditions, Friedland and Napoleon co-developed and applied a method for analyzing stories through a national research project called, *Accessing justice and reconciliation (AJR) project* (2013). Using publicly available stories and published material from

⁴⁹ Referring to Borrows, Fletcher and Napoleon's proposed methods, Friedland highlights, i.e. 1. the linguistic method, 2. the source of law method, 3. the single-case analysis method and, 4. the multi-case analysis and legal theory method, Friedland (2012) calls the method of focusing on one intellectual legal concept, as an adapted method of legal analysis and synthesis, the fifth framework (p. 38).

⁵⁰ From her research with the Aseniwuche Winewak Nation, Friedland (2018) describes the *wetiko* as "people who are already or becoming harmful or destructive to themselves and/or others in socially taboo ways" (p. 33).

six Indigenous legal traditions,⁵¹ they use a legal case brief analysis and synthesis to explore the response to harms and conflicts within Indigenous groups. They work with Elders and knowledge keepers to validate the results of their research.

Using this method, Friedland partnered with the Aseniwuche Winewak Nation to complete the *Accessing justice and reconciliation (AJR) project: Cree legal traditions report*, to identify reasoning processes of the Nation's citizens, highlighting respective roles as well as procedural steps in collective decision-making and in addressing harms and conflicts (Friedland & Aseniwuche Winewak Nation, 2013). This research informed the development and application of a framework for a workplace dispute resolution model in my research project with the Aseniwuche Winewak Nation. Though the focus of Friedland's research is broader than employment disputes, those principles for addressing harms and conflicts may be usefully applied in employment disputes. The AJR project report on Cree legal traditions brings to light legal processes by which collective decisions are perceived as being authoritative and legitimate. These decisions are taken in a collective and open manner, while authoritative final decision-makers are leaders, medicine people, and the closest family members (Friedland & Aseniwuche Winewak Nation, 2013, p. 9). The report also explains procedural steps that may guide resolutions taken collectively.⁵² Principles related to legal obligations governing individual and collective responsibility are identified as 1. the responsibility to help as well as the responsibility to give back, and 2. the responsibility to prevent future harms and the responsibility to warn.

⁵¹ Seven communities participated in the AJR Project which respectively presented six legal traditions: Coast Salish, Tshilhqot'in, Northern Secwepemc, Cree, Anishinaabe and Mi'kmaq (Friedland, 2013, p. 59).

⁵² These procedural steps are 1. recognizing warning signals that harm may be developing or has occurred, 2. warning others of the potential harm and taking appropriate safety precautions to keep people within the group as safe as possible, 3. seeking guidance from those with relevant understanding and expertise, 4. observation, and corroborating evidence, 5. public confrontation and deliberation by appropriate decision-makers and, 6. the appropriate decision-makers are identified and implement a response (Friedland & Aseniwuche Winewak Nation, 2013, p. 15).

Substantive rights were highlighted as 1. the right to protection and safety and 2. the right to be helped when incapable and/or vulnerable. Procedural rights were explained as 1. the right to have warning signals supported by observation or evidence before action is taken, 2. the right to be heard and 3. the right for decisions to be made through open, collective deliberation guided by appropriate consultation. Finally, themes and principles which came to light were also synthesized into an analytical framework (Friedland & Aseniwuche Winewak Nation, 2013, pp. 9, 24-58).⁵³

According to Napoleon & Friedland (2016), while the method of adapting common law tools to existing Indigenous resources contributes to the everyday application of Indigenous law today, and it remains supplemental to other methods⁵⁴ (p. 725). The revitalization of Indigenous law may be seen essentially as an act of self-determination resting primarily on the active engagement of Indigenous people in explicitly recognizing their legal principles and interrogating them through their own reasoning processes (Napoleon et al., 2008, p. 20).

3.4.1 Interviews and Protocols

Knowledge from Elders and knowledge keepers was gathered through semi-structured interviews that were held from April to August 2018. I chose the conversational method which, as applied to an Indigenous framework, emphasizes informality and flexibility, as well as collaboration and dialogue. To encourage conversation, I asked the participants how they

⁵³ The analytical framework is outlined as follows: 1. *Legal processes*: Characteristics of legitimate decision-making processes including a. who are the authoritative decision-makers? and b. what procedural steps are involved in determining a legitimate response?, 2. *Legal responses and resolutions*: What principles govern appropriate responses to harms and conflicts between people?, 3. *Legal obligations*: What principles govern individual and collective responsibilities?, 4. *Legal rights*: What should people be able to expect from others? and, 5. *General underlying principles*: What underlying or recurrent themes emerge in the stories and interviews that might not be captured above? (Friedland, 2013, p. 61).

⁵⁴ Other methods stemming from Indigenous methodologies, used by scholars of Indigenous law and governance, include 1. the community-embedded method, which consists of identifying implicit legal principles and practices in local activities and experiences, 2. land-based learning, 3. ceremonial practice method, 4. story-based methods, 5. the IGP method and, 6. the relational governance method (Friedland & Jobin, 2019).

understood their Nation's seven foundational principles within the context of the Nation and within their family⁵⁵ (Kovach, 2010, pp. 42-47). With one exception, all the interviewees chose to speak Cree during the interview, allowing for the expression of Cree epistemology.

To select the interviewees, I relied on the community relations of my project's translator, Carol Wanyandie, who was offered payment for her expertise during the interview process.⁵⁶ Using community and kinship relations to make contact with potential participants enforced my accountability as I became responsible not only to myself but to a circle of relations (Wilson, 2008, p. 129). The interviews were held at a location selected by the interviewee. Most participants chose to meet in their home, while some chose the Nation's offices. To display proper ethical conduct prior to starting each interview, I offered a gift of tobacco, as per the Nation's protocols. Participants were offered an honorarium of a \$50.00 gift card, in recognition of their time investment and for any related costs, such as transportation. I then sought consent to satisfy the University of Alberta's ethical guidelines for accessing Indigenous knowledge. This is an important step to ensure proper conduct in accessing Indigenous intellectual (and spiritual) knowledge (Gervais, 2003; Ball & Janyst, 2008). In this regard, my research is covered by a Research Agreement for the *Wahkohtowin* Project: *Miyo-wîcêhtowin* Principles and Practice, signed between Dr. Shalene Jobin and Dr. Hadley Friedland and the Aseniwuche Winewak Nation. A consent form including a summary of the Memorandum of Agreement was read and

⁵⁵ As discussed in Chapter 1, the foundational Cree principles identified by the Elders Council and the President of the Board of Directors of the Aseniwuche Winewak Nation are: ᑭᐱᑦᐱᑦ ᐱᐱᑦᐱᑦ *nehiyaw pimatisiwin* (Cree way of life); ᑭᐱᑦᐱᑦᐱᑦ *nehiyawewin* (Cree language); ᐱᐱᑦᐱᑦ *wahkôtowin* (Relatedness or interrelatedness); ᐱᐱᑦᐱᑦ *miyo-wîcêhtowin* (Getting along well); ᐱᐱᑦᐱᑦ *sihtoskâtowin* (Supporting each other); ᐱᐱᑦᐱᑦ *manâcihtâwin* (Respect, being gentle); ᐱᐱᑦᐱᑦ *tapwewin* (Honesty).

⁵⁶ Although the original version of the interviews, in the Cree language, has not been transcribed, the audio recordings in Cree, along with the English transcripts, are gifted to the interviewees and, with their permission, for the community's archives.

translated in Cree. This document was signed by each interviewee after all questions were answered (See Appendix 1).

All participants agreed to be audio-recorded during the interview. Interviews lasted up to two hours. The English translation portion of each recorded interviews was later transcribed, and each interviewee (or designate) was provided with a written transcript to review and approve before it was included in the study. Written transcripts were colour-coded by theme (i.e. seven foundational principles) and emerging sub-theme categories. Themes and categories were later analyzed and summarized in a written report, which is the subject of Chapter 4. All written transcripts and consent forms are stored in a locked and/or password protected location for five years following the study.

3.5 Conclusion

In this chapter, I first situated my research within Indigenous legal theory and then within ᑭᐱᐱᐱᐱᐱ *Nehiyawak* Peoplehood, a Cree research methodology, reinforcing the legitimacy, distinctness and depth of Cree law. I detailed how I applied this methodology's four interlocking features of language, territory, ceremonial cycles and sacred living histories to my research inquiry. Next, I described the use of methods from primary and secondary sources firstly, to gather local knowledge and secondly, to apply decision making and dispute resolution principles. These methods included semi-structured interviews with Elders and knowledge keepers and the linguistic method, the community-embedded method and the story analysis method. Finally, I highlighted how I respectfully engaged in necessary protocols for the Nation and for the academy. Together, the approach described above provide a road map for a deeper, more critical and respectful engagement with the Aseniwuche Winewak Nation, their legal principles and collective reasoning.

Adopting critical Indigenous legal theory, a Cree research methodology and suitable methods involved a personal engagement beyond the intellectual realm that may be perceived as being above typical academic expectations. In the early stages of my research, as a settler and an outsider, committing to deeper relationality with members of the Aseniwuche Winewak Nation, heightened my sense of uncertainty about the validity and potential of my contribution. My self-location evolved over time, through the multiplicity of lived experiences with the Aseniwuche Winewak and ensuing reflexivity. A renewed sense of purpose and hope developed as I kept a focus on fulfilling the community's research request and began to make a practical contribution to the Aseniwuche Winewak (Stanton, 2014, p. 273). Despite this, I continue to acknowledge the limitations of my self-location, rendering vigilance necessary to avoid possible mistakes and false assumptions.

The next chapter chronicles interview results on the Nation's Cree foundational principles. In this regard, the Elders and knowledge keepers who were interviewed provide useful information as they are amongst the best sources of expertise in regard to the Nation's legal tradition. This collected knowledge serves as a basis in Chapter 5 for the development of a practical and useful model to resolve employment-related issues for the Aseniwuche Winewak's Group of Companies.

Chapter 4: Interview Results – Cree Foundational Principles

4.1 Introduction

In 2017, the Elders Council and the President of the Board of Directors of the Aseniwuche Nation identified the following seven Cree principles⁵⁷ to serve as the foundation in the development of their Constitution:

- ᑎᐢᐃᑦ ᐱᐱᐢᑦᐃᑦ *nehiyaw pimatisiwin*: Cree traditional way of life
- ᑎᐢᐃᑦᑦᐃᑦ *nehiyawewin*: Cree language
- ᐱᐢᑦᑎᐃᑦ *wahkôtowin*: Relatedness or interrelatedness: we are not only related to human beings, we are related to everything in Creation
- ᐢᑦ ᐃᑦᑎᐃᑦ *miyo-wîcihtowin*: Getting along well: everyone to help each other and to get along well through sharing and good will
- ᑦᑎᐃᑦᑎᐃᑦ *sihtoskâtowin*: Supporting and pulling together to strengthen each other
- ᐱᐢᑦᑎᐃᑦ *manâcihtâwin*: The act of respect or to be considerate, gentle, and mannerly. To mitigate or conserve something for the future
- ᑎᐢᐃᑦ *tapwewin*: Honesty

In reporting on the core foundational principles as described by the interviewees, I incorporate knowledge sourced from academic writings, the majority of which originate from Cree knowledge keepers from other communities. The inclusion of these external sources is

⁵⁷ Cardinal (2000) characterizes principles as enduring and operating outside of the constraints of time and holding timeless values. They also suggest that principles may guide future generations (p. 60).

intended to frame the interviewees’ shared knowledge into the larger contextual framework of Cree legal doctrines.

4.2 Principle of ᑕᑦᑭᑦ ᑲᑦᑭᑦ ᑲᑦᑭᑦ *Nehiyaw Pimatisiwin*

ᑕᑦᑭᑦ ᑲᑦᑭᑦ ᑲᑦᑭᑦ *nehiyaw pimatisiwin*, from the literal translation of the words “Cree” and “life” (LeClaire, Cardinal & Waugh, 2011, pp. 110, 166), encompasses the principles and doctrines and related laws connected to the Cree way of life. As expressed by many of the interviewees, ᑕᑦᑭᑦ ᑲᑦᑭᑦ ᑲᑦᑭᑦ *nehiyaw pimatisiwin* may be guided by the principles and related responsibilities and obligations of ᑲᑦᑭᑦ ᑲᑦᑭᑦ ᑲᑦᑭᑦ (doing things the right way) as well as the principles of respect and reciprocity.⁵⁸

ᑕᑦᑭᑦ ᑲᑦᑭᑦ ᑲᑦᑭᑦ *nehiyaw pimatisiwin* may be characterized as a gift from the Creator (Cardinal, 2000; McAdam, 2015). Land, cultures and language may be included in this gift (McAdam, 2015, pp. 27, 35). Jane McDonald (2018), an Elder originally from Susa Creek, shares this perspective as she comments on her perception of language as a sacred gift:

Carol (translating): Our Cree language, our Cree way of life, that is our foundation. That was God’s first gift to us. That is who we are, that is who we are created to be. (...) We cannot separate our point-of-view from (language) because that was God’s first gift to us. We must follow that. (personal communication, July 11, 2018)

⁵⁸ See interviews: Adelaide McDonald, 2018; Jane McDonald, 2018; Tom McDonald, 2018 and Carol Wanyandie, 2018.

As alluded to by Elder Jane, living according to ᑕᐃᓂᓂᓂᓂᓂᓂ *nehiyaw pimatisiwin* and honouring the sacred gifts connected to this way of life may entail upholding life-long responsibilities and obligations. Living in this traditional way is a life-long journey which may also involve personal discipline and determination. As emphasized by Elders interviewed by Cardinal (2000), to fully gain a conceptual and theoretical understanding of ᑕᐃᓂᓂᓂᓂᓂᓂ *nehiyaw pimatisiwin*, along with its principles and doctrines, would require a lifetime of rigorous physical and intellectual training (p. 28).

For some of the interviewees, to live authentically according to ᑕᐃᓂᓂᓂᓂᓂᓂ *nehiyaw pimatisiwin* may be rich and rewarding,⁵⁹ as reflected below by knowledge keeper Tom McDonald, a resident of Grande Cache Lake Enterprise:

ᑕᐃᓂᓂᓂᓂᓂᓂᓂ *nehiyaw pimatisiwin*. It just means so much more than those two words. That is a whole traditional way of life which itself has a lot to teach and that each individual can learn a lot from if you are truly living that way of life. That can be very rewarding. (personal communication, July 23, 2018)

Other dimensions of ᑕᐃᓂᓂᓂᓂᓂᓂᓂ *nehiyaw pimatisiwin*, i.e. land-based lifestyle, spiritual practices as well as responsibilities and obligations, are described in the three subsections below.

4.2.1 Land-Based Lifestyle

The meaning of ᑕᐃᓂᓂᓂᓂᓂᓂᓂ *nehiyaw pimatisiwin* as a way of life may be understood in many ways. Cree epistemology can be embedded in relationships with the land as

⁵⁹ See interviews: Adelaide McDonald, 2018; Jane McDonald, 2018; Tom McDonald, 2018; and Carol Wanyandie, 2018.

the connection to the land may include the spiritual, physical, and economic elements. Jobin (citing Cardinal, 2000) asserts that this connection is rooted in the Cree concept and doctrines related to *pimatisiwin* (life) and *pimâcihowin* (the ability to make a good living). *Askiy* (land) is a critical source of life for it provides those things required for the people's physical, material, and economic survival. In using the word *pimâcihowin*, Elders are describing a holistic concept that includes a spiritual as well as a physical dimension (2014, p. 106). Several Aseniwuche Winewak Elders interviewed, including Adelaide McDonald and Philomene Moberly (2018) understand their relationship to the land as fundamental to their identity and the identity of the Aseniwuche Winewak, highlighting the spiritual dimension of ᑕᐱᐃᐅᐅᐅ ᐱᐱᐱᐱᐱᐱᐱᐱ *nehiyaw pimatisiwin*.⁶⁰

For many of the Elders of the Aseniwuche Winewak Nation who were interviewed, the principle of ᑕᐱᐃᐅᐅᐅ ᐱᐱᐱᐱᐱᐱᐱᐱ *nehiyaw pimatisiwin* remains connected to the historical modes of land-based livelihood related to hunting, trapping and fishing. Most of the interviewees, including Elder Adelaide McDonald, Elder Mabel Wanyandie and Elder Russell Wanyandie, from Susa Creek Cooperative, all speak of their connectedness to some of the elements of the land, particularly to the plants and/or to the animals.⁶¹

Some Elders emphasize new ways of living ᑕᐱᐃᐅᐅᐅ ᐱᐱᐱᐱᐱᐱᐱᐱ *nehiyaw pimatisiwin* by being flexible and adaptable to new ways of making a living. Philomene Moberly, an Elder who also resides at Susa Creek Cooperative, sees the relationship to the land as being central to her life today though she recognizes that it is no longer possible to rely completely on the land for

⁶⁰ See interviews: Adelaide McDonald, 2018; Jane McDonald; Tom McDonald, 2018 and Philomene Moberly, 2018.

⁶¹ See interviews: Adelaide McDonald, 2018; Tom McDonald, 2018; Carol Wanyandie, 2018; Mabel Wanyandie; 2018 and Russell Wanyandie, 2018.

community livelihood. The importance of land-based experiences is highlighted by knowledge keeper, Carol Wanyandie,⁶² who, like Elder Philomene, is a resident of Susa Creek Cooperative:

I said, we do live in two worlds, (...) but we are still leaning more on ᑭᐃᑭᑦ ᐱᐱᑲᑲᑦ *nehiyaw pimatisiwin*. (...) The words, ᑭᐃᑭᑦ ᐱᐱᑲᑲᑦ *nehiyaw pimatisiwin*, what does that mean? (...) When I think of ᑭᐃᑭᑦ ᐱᐱᑲᑲᑦ *nehiyaw pimatisiwin*, I think of growing up (...) on a trap line. I missed a lot of school and that was our life. Fast forward to today, (when) I think of ᑭᐃᑭᑦ ᐱᐱᑲᑲᑦ *nehiyaw pimatisiwin*, I go work on my hides at the creek. After school, when the girls run over and they jump on the hides and start scraping with me or they'll cook meat and eat right there with the Elders by the fire, or (when) my mom takes them around, shows them medicine plants, edible plants and stuff. When I think of ᑭᐃᑭᑦ ᐱᐱᑲᑲᑦ *nehiyaw pimatisiwin*, that's what I see. (...) observing and listening to the Elders speaking (...) of when they were young (...). (Carol Wanyandie & Philomene Moberly, personal communication, April 26, 2018)

Carol Wanyandie's description of her current land-based lifestyle at Susa Creek rests on a long tradition where she feels connected whenever she goes on the land. Elder Jane, who was raised at Susa Creek and who now lives in the neighbouring hamlet of Grande Cache, recounts how, in her youth, a visitor described with great admiration the Aseniwuche Winewak's lifestyle:

Carol (translating): (...) his name was William Cardinal. He's (an Elder) from a different community. (...). And every once in a while, he'd look around and say, "This

⁶² Carol Wanyandie's original role in the interview process was exclusively as the translator from Cree to English. As the interviews were done using a conversational method, Carol became an active participant in the interviews, providing valuable personal input based on the teachings that she had received from Elders as well as from her personal experience. Her input is thus considered in this chapter in her dual role as a translator and a knowledge keeper. To differentiate between these two roles, I cite Carol's personal comments by writing her name first, followed by the name of the Elder with whom she was in conversation.

lifestyle that you guys are living here in this mountain, it is amazing. It is just beautiful because everybody works together, everybody supports each other, everybody lives properly. They are living a good lifestyle.” He said, “The youth, they’re respectful. The youth, they help out, nobody sits around lazing away. Everybody’s just working as a family unit.” He said, “That is an amazing lifestyle (...)”. (Jane McDonald, personal communication, July 11, 2018)

For Elder Russell, who also lives at Susa Creek Cooperative, the experience of “living in two worlds” today gives rise, however, to a fundamental questioning about the importance of a land-based lifestyle within the concept of ᑕᐱᐃᐅᐅ ᐱᐱᐅᐅᐅ *nehiyaw pimatisiwin*. He is cautious about connecting ᑕᐱᐃᐅᐅ ᐱᐱᐅᐅᐅ *nehiyaw pimatisiwin* with a traditional lifestyle as he sees it as being conflated with a reductionist and stereotypical view of the past:

Carol (translating): ...everybody will have their own interpretation of ᑕᐱᐃᐅᐅ ᐱᐱᐅᐅᐅ *nehiyaw pimatisiwin*. With some people, (...) there will be a picture of a tipi out there with an open fire and a little lean-to. (Russell Wanyandie, personal communication, April 25, 2018)

Elder Russell prefers to see ᑕᐱᐃᐅᐅ ᐱᐱᐅᐅᐅ *nehiyaw pimatisiwin* and the Aseniwuche Winewak as having adapted to the industrialization that has gradually occurred on the Aseniwuche Winewak’s traditional territory. Like many others, he perceives some changes as being positive, bringing work opportunities and related benefits to community members.

Elder Philomene, Elder Jane and Carol Wanyandie, however, all express concern regarding the loss of a traditional lifestyle due to colonization and industrialization. Indeed, today the influence of a Western-based mode of living has grown; most members of the

community are working in the wage economy.⁶³ Families have less time to engage in land-based activities as well as in the transmission of traditional knowledge, which includes teaching the Cree language. Carol Wanyandie points out that this may lead to potential losses:

Carol: So, there's just less time. (...) All of a sudden, the Cree culture, the Cree way of life, is taking the back burner. Not only are they not living it, but they're not teaching the children (...) the big thing is the loss of identity. (Carol Wanyandie & Philomene Moberly, personal communication, April 26, 2018)

Despite differing opinions and practices in regard to the relative importance of practicing a land based lifestyle, all interviewees agree that the Aseniwuche Winewak honour ᑕᐱᐃᐅᐅ ᐱᐱᐱᐱᐱᐱᐱᐱ *nehiyaw pimatisiwin*, as a life-giving and life-sustaining force existing in a complexity of forms, which may include spiritual practices.

4.2.2 Spiritual Practices

In Cree culture, spirituality may be practiced through ceremonies and accompanying protocols. These ceremonies are described by some Cree Elders as sacred gifts enabling the maintenance of an on-going relationship with the Creator and with all Creation, including to the land and its life-sustaining forces. It is protocol to offer tobacco and various gifts. When seeking knowledge from spiritual traditions and laws, protocol may be observed (McAdam, 2015, pp. 37-42). Land-based ceremonies may allow for the renewal and strengthening of community members' relationship with one another, with the Creator and His Creation. Ceremonies may offer a tangible way to restore harmony in times of personal and community conflicts. The

⁶³ As discussed in Chapter 1, industrial development and the opening of the town of Grande Cache in the 1960s brought major and sudden external influences on the Aseniwuche Winewak.

circular formation of many ceremonies, such as drumming circles and round dances, serves as a symbol and affirmation of the unity of the community (Cardinal, 2000; Campbell, 2007).

Although traditional spirituality within the Aseniwuche Winewak Nation went underground for a period during the early to mid 20th century, ceremonies are now being practiced more openly. Some of the interviewees offer a glimpse of complex spiritual beliefs existing in the Aseniwuche Winewak Nation. Carol Wanyandie speaks of spirituality as encompassing drumming ceremonies and round dances, and Elder Adelaide describes visions and dreams as connected to beings, human and non-human, including those from other worlds. Elder Mabel expresses beliefs centered on the power of individual healing and forgiveness, rooted in tenets of the Roman Catholic religion.⁶⁴

Carol Wanyandie's description of the revival of the drumming circle offers witness to the growing spiritual and cultural importance of ceremony for the Aseniwuche Winewak. A decade ago, her late husband, James Wanyandie, a well-respected knowledge keeper, inspired a group of boys and adult men to learn traditional drumming and singing. The successful revival of the drumming ceremonial practice, in turn, led to reinitiating yearly round dances within the community. After many years of silence and relative isolation, the drumming and round dances contribute to the strengthening of the community.

Cree scholars Willie Ermine and Lewis Cardinal (as cited in Kovach, 2009, p. 57) suggest that Indigenous knowledge may also be retrieved from the collective unconscious through prayer, ceremony as well as through dreams. Carol Wanyandie recounts how, in her youth, she slowly became aware of ceremonial practices related to ᑕᐱᐱᐱᐱ ᐱᐱᐱᐱᐱᐱ *nehiyaw pimatisiwin* that were being practiced by Elders:

⁶⁴ See interviews: Adelaide McDonald, 2018; Jane McDonald, 2018; Tom McDonald, 2018 and Mabel Wanyandie, 2018.

Carol: (...) my Dad, other adults and the Elders, they had teachings passed down to them (...), how to heal people and how to help the community and (others). That had been taught to them by a few Elders. But a lot of what they know, they started dreaming... That is how they were raised. (...) smudging when she, (Elder Adelaide), was working with medicines. (Carol Wanyandie & Adelaide McDonald, personal communication, April 24, 2018)

The practice of dreaming is documented by Cree knowledge keeper Joseph Dion (1979/1996). He describes the connection to the spirit world through dreaming as a sought-after privilege. The individuals who have the power to derive prophecy from dreams are well respected in the community, as the knowledge sourced from dreams is deemed to be a blessing and worthy of trust (pp. 55 - 58). Similarly, Jobin (2018) highlights the practice of dreaming⁶⁵ as a conduit to the spiritual sphere and a way to access teachings and guidance from spirit beings. She explains that for Cree people, there is ‘a thin veil’ between the two realities experienced when being awake or asleep. Teachings offered through dreaming imply an underlying responsibility of taking the time to understand and acknowledge the spiritual guidance that is offered (pp. 130-132).

Some members of the Aseniwuche Winewak Nation who are dreamers can be perceived by some others as being teachers and prophets. The late Elder Adelaide held such important powers. During her interview, she related a story about her son who, a few years earlier, had a dream of a nearby mountain opening its eyes, which she later interpreted as a prophecy.⁶⁶ She also described her ability to travel beyond the physical dimension, as follows:

⁶⁵ Jobin (2018) refers to dreams in the Cree term: $\llcorner\Gamma^\circ$ pawâmiw (p. 131).

⁶⁶ The prophetic dream of the mountain opening its eyes is explained in Chapter 1.

Carol (translating): ...from when she was very little, (...), it would be her spirit, like in a dream, she would go out and travel, (...), it would be like (being in) space, she would be hovering over the earth; that's how she knew it was round. She knew the exact shape. She even travelled the entire world; she saw things that were not from here, she saw different events, (it was like) she looked at history books. That's kind of the way that she can explain it (...). From leaving her place, travelling the world and checking things out, it takes about 10 minutes. So, it's really hard to explain and make another understand it because (many people) don't see like that. (Adelaide McDonald, personal communication, April 24, 2018)

Although many Aseniwuche Winewak may respect Cree spiritual beliefs, such as those mentioned above, many community members are also practicing Roman Catholics, as witnessed at Sunday service at the Susa Creek chapel and at the church in Grande Cache. Elder Mabel describes how pilgrimages which, up until the 1990s, were locally organized had a positive effect on the Aseniwuche Winewak and other nearby communities.

Carol: (translating) ...different pilgrimages that she went to (and) different communities (also) used to come here. She remembers people from Faust and Grouard and Alexis, they would come in, bring their councillors and leaders. (The pilgrimages) ran (until) the 1990s. (...) They used to go to Grouard and even to Hinton at their retreat house for that. (Mabel Wanyandie, personal communication, April 24, 2018)

Elder Mabel expresses a wish to hold these pilgrimages once again to heal individuals of the ill effects of social dislocation and spiritual alienation.

Many community members, including many youths, refrain from engaging in any active spiritual practice. These views may not be surprising as the Aseniwuche Winewak are as diverse

as any other contemporary community. Some community members recall the Roman Catholic missionaries' efforts to convert the Aseniwuche Winewak to their own religious faith while aggressively discouraging them from practicing their own spiritual beliefs and ceremonies. Carol Wanyandie recounts the effects of the priests' proselytizing efforts during their community visits:

Carol: the teachings kind of stuck with the Elders, I would say. With my grandparents because how when Mom was raised it, it was all Roman Catholic. (...) She was not raised with sweetgrass. They were taught back then that's wrong, that's evil, that's the Devil (...) and they believed it. (Carol Wanyandie & Adelaide McDonald, personal communication, April 24, 2018)

At the present, community members have found a way for their beliefs to co-exist and, in many cases, to practice traditional spirituality as well as engage in Roman Catholic rituals in a meaningful manner. The overall effect and impact of the Roman Catholic Church on the Aseniwuche Winewak is a complex topic which warrants further research beyond the scope of this thesis.

Engaging in traditional spirituality within ᑕᐃᐅᐅ ᐱᐱᐱᐱᐱᐱ *nehiyaw pimatisiwin*, may also be seen as holding the key to other significant cultural practices crucial to the community's health and self-determination. According to Jobin (2014), the enactment of traditional ceremonies may be seen as acts of resistance to pressures created by Western-based neoliberal governance. For example, the redistribution of goods that occurs in the Giveaway ceremonies (ᐱᐱᐱᐱᐱᐱ *mâhtâhito*) and the continuity of various ceremonies throughout each season are ways to maintain relationships in families, in community, with external guests, and with nonhuman beings, as well as with land and territory (p. 305). In a similar way, Métis Elder Maria Campbell (2007) states that spiritual practices, such as drumming, singing and other ceremonies, are

inherent to learning about reciprocal obligations to one another (p. 7). The following section explores the responsibilities and obligations related to ᑭᐱᐱᐱᐱᐱᐱᐱᐱ *nehiyaw pimatisiwin* in relation to the Aseniwuche Winewak.

4.2.3 Responsibilities and Obligations

The notion of respect⁶⁷ within the family and community may be seen as central to ᑭᐱᐱᐱᐱᐱᐱᐱᐱ *nehiyaw pimatisiwin*. Elder Jane describes roles and responsibilities as being well defined:

Carol (translating): She said, within the family (...), the ways of the mother, father, children, a long time ago, it (was) more like respect. (...) the parents could say, “These are the rules, and (...) this is how we’re going to live our life”. There were no questions, no talking back or anything. That (was) the family structure. The children did not talk back. They listened. They respected. They did what the parents said. (Jane McDonald, personal communication, July 11, 2018)

Elder Jane explains how the obligation of showing respect also extended to visitors:

Carol (translating): Even going back to that time (...) when she was a child, she remembers when people came to visit, they were treated very respectfully. And when they came in, (...) the children sat down, and they were quiet. They had to listen to the stories that were being said (...). And if the kids couldn’t sit down, they were sent to go play outside. This was a time for respect and time for listening. They were told, “You’re disrespectful when you’re acting like that”. That was not tolerated. (Jane McDonald, personal communication, July 11, 2018)

⁶⁷ The notion of respect is also included in the Aseniwuche Winewak Nation’s principle of ᑭᐱᐱᐱᐱᐱᐱᐱᐱ *manâcihtâwin*.

According to Elder Mabel and Tom McDonald, the obligation of transmitting certain knowledge to the outside world may be a form of respect extended toward visitors.⁶⁸ This is exemplified by the Elders requesting that a course be developed to teach traditional hide-making to students of the University of Alberta. Despite the overwhelming success of the land-based course held in June 2017, ten months later, Elder Adelaide still felt disappointment at having been impeded from providing proper teachings to the students:

Carol (translating): She's talking about the hide-making. She said it didn't really work out the way they had planned because of the weather. The weather wasn't good then. She wanted the stories right from step one, like exactly how it's done (...). (She) and her sisters, they said, "They're so many pieces missing ... this would not have been the way (...) to teach hide-making, but it was just the (lack of) time". (Adelaide McDonald, personal communication, April 24, 2018)

Teaching people who are not members of the Aseniwuche Winewak Nation is also deemed important for Elder Adelaide and her sisters because it is seen as a way to build respect, one of the cornerstones to honouring ᑕᐱᐱᐱ ᐱᐱᐱᐱᐱᐱ nehiyaw pimatisiwin, even if they themselves have not always been respected. Elder Adelaide describes the sharing of knowledge with non-Indigenous people as follows:

Carol (translating): (...) people came from across the ocean and they thought that we didn't know anything (...). (She said that) if she could write down the stories and teachings they had and the principles, it would be good to give them out (to them). (Adelaide McDonald, personal communication, April 24, 2018)

⁶⁸ See interviews: Adelaide Macdonald, 2018 and Mabel Wanyandie, 2018.

The type of knowledge is passed on according to individual capacity or the potential to understand and, in turn, to use the information responsibly. Sharing teachings, even to those settlers like me whose knowledge is very limited, may be considered appropriate over time. That may explain why that, at the end of the interview, Elder Adelaide invited me to come back for a visit to hear more stories.

While only some express a desire to share knowledge outside the community, all the interviewees express a deep responsibility to pass on their knowledge to the next generations within their family and within their community. The related obligations are met in multiple ways. For example, Elder Jane describes these obligations in the role of parenting:

Carol (translating): So, she said, more of thinking about her own family, her own sons. When, way back, teaching them when they were very young, at an early age, (...) trying to instill respect and how to treat people - into them - just teaching them, teaching them. (Jane McDonald, personal communication, July 11, 2018)

Elder Adelaide alluded to the enormity of the responsibility of passing on knowledge connected to ᑕᐃᐃᐃᐃ ᐱᐱᐱᐱᐱᐱ *nehiyaw pimatisiwin* as well as actively identifying those from the younger generation who will continue to fulfill related obligations:

Carol (translating): Such a big job we're not going to be able to teach them everything. We teach them what we can and how we can. (...) She said, (...) "Such a big job...". (Adelaide McDonald, personal communication, April 24, 2018)

Facing the arduous work of passing on their knowledge to future generations, Elder Jane sees it as necessary for members of the Aseniwuche Winewak Nation to work together as a community. Some Aseniwuche Winewak members already go the extra mile in order to share knowledge with others to strengthen ᑕᐃᐃᐃᐃ ᐱᐱᐱᐱᐱᐱ *nehiyaw pimatisiwin*. Carol Wanyandie

relates how her sister, Vicky, who is a Cree language teacher at the local elementary school, also shares knowledge acquired at conferences with other Aseniwuche Winewak members:

Carol: (My sister) brings a lot of (material) back (for the AWN community) when she goes to Edmonton (...). She keeps in contact with all the other Cree teachers and they learn from each other and they share what they have. It's a great exchange, (...) we're relearning (...), because we're all a community. It's so amazing. (Carol Wanyandie & Russell Wanyandie, personal communication, April 25, 2018)

For many interviewees, linguistic proficiency is indissociable with living in accordance with

ᑕᑦᑲᑦᑲᑦ ᑲᑲᑲᑲᑲᑲ *nehiyaw pimatisiwin* (Cree way of life). It is perhaps for this reason that

ᑕᑦᑲᑦᑲᑦᑲᑦᑲᑲ *nehiyawewin* (Cree language) was identified as a core foundational principle by the AWN Elders Council. The next section focuses on this principle.

4.3 Principle of ᑕᑦᑲᑦᑲᑦᑲᑦᑲᑲ *Nehiyawewin*

ᑕᑦᑲᑦᑲᑦᑲᑦᑲᑲ *nehiyawewin*, or Cree language, is deemed, by some, to be a gift worthy of respect and to be practiced on a daily basis. ᑕᑦᑲᑦᑲᑦᑲᑦᑲᑲ *nehiyawewin*, as a principle, is often evoked by interviewees as being indissociable with ᑕᑦᑲᑦᑲᑦ ᑲᑲᑲᑲᑲᑲ *nehiyaw pimatisiwin*, including related roles and responsibilities.⁶⁹ For many, the Aseniwuche Winewak's identity is shaped by their mother tongue, a Cree dialect which, as mentioned earlier, is still spoken by the majority of the Nation's adults today. Knowledge keeper Carol Wanyandie and Elder Philomene describe the relationship between ᑕᑦᑲᑦᑲᑦ ᑲᑲᑲᑲᑲᑲ *nehiyaw pimatisiwin* and ᑕᑦᑲᑦᑲᑦᑲᑦᑲᑲ *nehiyawewin* as follows:

⁶⁹ See interviews: Mary Delorme, 2018; Jane McDonald, 2018; Tom McDonald, 2018; Philomene Moberly, 2018; Carol Wanyandie, 2018 and Russell Wanyandie, 2018.

Carol Wanyandie: ... when I think of ᑭᐱᐱᐱᐱᐱ ᐱᐱᐱᐱᐱᐱᐱ *nehiyaw pimatisiwin*, I think of our language. (Translating): (We) can converse quickly and we can understand each other (...) for me that's ᑭᐱᐱᐱᐱ ᐱᐱᐱᐱᐱᐱᐱ *nehiyaw pimatisiwin*. (Carol Wanyandie & Elder Philomene Moberly, personal communication, April 26, 2018)

Jobin (2018) contends that ᑭᐱᐱᐱᐱᐱᐱᐱ *nehiyawewin* provides the lens through which Cree people perceive themselves and through which they understand the world around them (2018, p. 8). Stemming from the root word ᑭᐱᐱ *nəwo*, meaning “four”, it is connected to the philosophy of the four directions which is deemed of extreme importance to many Cree people. In the written syllabics form, ᑭᐱᐱᐱᐱᐱᐱᐱᐱ, *nehiyawewin* “pictorially illustrates aspects of the four directions teachings” and has been used to communicate the history of the Cree people, providing knowledge of their roots, and principles which include community members’ roles and responsibilities within the community (Jobin, 2018, pp. 4, 41-42).

Tom McDonald explains this in another manner, highlighting the fact that the particular ᑭᐱᐱᐱᐱᐱᐱᐱᐱ *nehiyawewin* dialect spoken by the Aseniwuche Winewak is unique:

Each one of us that belong to our distinct culture groups, we have our own distinct cultural markers—what makes us unique—whether it's our language, the way we live. And a lot of people don't really understand how critical it is for each one of us to understand what our Rocky Mountain Cree cultural markers are. We have our own dialect and we have our own way of doing things and how we get things done. That is really unique to us. The Elders also told us that there are four aspects of self: spiritual, physical, emotional and mental which we must develop equally to attain balance. (personal communication, July 23, 2018)

Accordingly, the choice of the seven concepts selected to be the key foundational principles of the Aseniwuche Winewak Nation were selected from terminology from ᑏᐃᑭᑎᐃᑭᑎ *nehiyawewin*, highlighting the fact that the Nation's principles and laws are ontologically rooted in Cree world view (Jobin, 2014, p. xxii). In conversation with Elder Adelaide, Carol Wanyandie expresses a similar thought from a community member's perspective, when speaking about AWN foundational principles: "These words (...) for us, as related people and AWN members, they are nothing new. They are our way of life. This is us. This is what's inside here". (Carol Wanyandie & Elder Adelaide McDonald, personal communication, April 24, 2018)

All interviewees spoke of their native language as being a core aspect of their life and their identity. Some interviewees, including Tom McDonald, expressed the importance of retaining fluency through regular practice: "(...) it's our first language. (...), some Cree words, when translated into English, don't (express) (...) what we're trying to say. (...) You have to speak it all the time, so you don't lose it." (personal communication, July 23, 2018).⁷⁰

ᑏᐃᑭᑎᐃᑭᑎ *nehiyawewin* may be viewed as reinforcing the principle of ᐱᐃᑭᑏᑎᐃᑭᑎ *wahkôtowin*, which refers to the relatedness or interrelatedness of all of Creation. For example, kinship terms provide guidance on how people in kinship relationships should behave around each other, creating healthy boundaries and discouraging disrespect and abuse. Words are structured in such a way to describe kinship relationships.⁷¹

⁷⁰ See interviews: Adelaide McDonald, 2018; Jane McDonald, 2018; Tom McDonald, 2018; Philomene Moberly, 2018 and Carol Wanyandie, 2018.

⁷¹ For a detailed explanation of Cree kinship terms and their signified order, see Métis activist and blogger Chelsea Vowel's blog entitled, *Cree Kinship Terms*.

In her interview, Elder Jane mentions how terminology from ᑕᐱᐱᐱᐱᐱᐱ *nehiyawewin* is used to highlight the key importance of kinship relationships, the specific roles as well as the centrality of relationships as reinforced in the principle of ᐱᐱᐱᐱᐱᐱ *wahkôtowin* attached to these:

Carol (translating): One thing that came up, she said, she remembers when a person came to visit, they were never referred to by name. (...) It was the relation. “Your sister-in-law is here”, or, “My grandmother (or uncle) is here.” It was that relation term that was announced. It was never the name. She said, “I don’t know the reasons, but it was probably out of respect for their status or their family term”. (Jane McDonald, personal communication, July 11, 2018)

Elder Russell considers that the preservation and practice of ᑕᐱᐱᐱᐱᐱᐱ *nehiyawewin* are important to maintain the relevance of ᑕᐱᐱᐱᐱᐱᐱ *nehiyaw pimatisiwin* as the Aseniwuche Winewak adapt their lifestyle to the external world. All interviewees, who speak ᑕᐱᐱᐱᐱᐱᐱ *nehiyawewin* fluently, noted with concern that the younger generations have increasing difficulty expressing themselves in their mother tongue. The effect of diminishing linguistic fluency is felt on many levels. In the following short anecdote, Elder Adelaide conjured up the emotional and intellectual impacts of observing a young relative losing ᑕᐱᐱᐱᐱᐱᐱ *nehiyawewin*:

Carol (translating): ... but after (he started) going to school, (...), I don’t know where he lost it. Because the Grandmother would speak with him in Cree and he knew what he was going to say, he opened his mouth, but he couldn’t speak it. After a while he’d have tears going down his face because he knew what he was going to say, but he couldn’t say it. (Adelaide McDonald, personal communication, April 24, 2018)

While the interviewees feel a deep personal connection and sense of responsibility toward their language, they are saddened and perplexed by the decreasing ability of the younger generations to communicate in their mother tongue:

Carol (translating): (...) the children are all losing (fluency) because ...we don't know...is it because they go to school in a white environment, where English is the dominant language? (...) we have Cree classes at Susa Creek, but it's just so short and there is so little time (...) to be taught. (...). (Then it) falls on us, parents. We have to teach it at home; it should be our dominant language at home. (Elder Philomene Moberly, personal communication, April 26, 2018)

Elder Mary Delorme and her daughter Delia Moberly,⁷² who live at Victor Lake Cooperative, commented on the feeling of alienation caused by the rapid loss of language proficiency:

Delia (translating): Lots of kids lost their language going to school. They're trying to teach them at Susa Creek, but they don't seem to really understand it. Sometimes you're talking Cree to them and they just look at you, "What are you, an alien?" And then you don't know what to do or how to deal with it. (...) She (Elder Mary) says all her grandkids don't talk Cree or understand it (or) they (only) understand a little bit. (personal communication, August 24, 2018)

According to Elder Jane, the Aseniwuche Winewak cannot separate themselves from ᑕᐱᐱᐱᐱᐱᐱᐱ *nehiyawewin*. Living according to this principle entails responsibilities and obligations because it is a gift from God (personal communication, July 11, 2018).

The next section explores the responsibilities and obligations related to the doctrine of ᑕᐱᐱᐱᐱᐱᐱᐱ *nehiyawewin* that are enacted by the Aseniwuche Winewak.

⁷² Delia Moberly was the translator for Elder Mary Delorme's interview.

4.3.1 Responsibilities and Obligations

Teaching ᐅᐃᐃᐅᐅᐅᐅᐅ *nehiyawewin* to children and other community members may be viewed as a shared responsibility. Carol Wanyandie recounts how, before the advent of public schools, community children learned ᐅᐃᐃᐅᐅᐅᐅᐅ *nehiyawewin* in the course of living a traditional lifestyle, accompanying their parents and other relations on the land while they hunted and trapped, as well as picked berries and medicine plants. The obligations related to teaching ᐅᐃᐃᐅᐅᐅᐅᐅ *nehiyawewin* to children in the right way were dispensed throughout the days' activities (Carol Wanyandie and Philomene Moberly, personal communication, April 26, 2018). Children also listened to Elders' storytelling and to the accounts related by visitors (Jane McDonald, personal communication, July 11, 2018). In this context, despite ᐅᐃᐃᐅᐅᐅᐅᐅ *nehiyawewin* being a complex language, this organic⁷³ way of learning ensured that children were fully conversant in their native tongue and knowledgeable of its cultural referents.

With the opening of the first public schools in the mid 20th century, families adapted their daily life to enable their children to attend public school. By the time that the teaching of ᐅᐃᐃᐅᐅᐅᐅᐅ *nehiyawewin* was integrated into the curriculum of the local elementary schools in the last decade, some language proficiency had been lost, as attested by Elder Philomene in her interview:

Carol (translating) She brought up one of her grandsons. When they were young and growing up, they only spoke Cree. That was their language. Fast forward to today, 30 years later, they can understand it, but they can't speak it. (...) That was their first language and now it's lost (personal communication, April 26, 2018).

⁷³ The term "organic learning" is used by Cree language teacher, Reuben Quinn, in the 2015 video series, *History of the Cree Language, Part I*, to describe the non-linear way of learning ᐅᐃᐃᐅᐅᐅᐅᐅ *nehiyawewin*.

Carol Wanyandie emphasizes that, from her point of view, with increasingly limited interaction time, the responsibility of teaching ᐅᐃᐃᐃᐃᐃᐃ *nehiyawewin* to children now rests more squarely on the parents. As a parent of young children, Carol Wanyandie reflects on how she approaches her obligations:

If I look at the word ᐅᐃᐃᐃᐃᐃᐃ *nehiyawewin*, I think: “Am I teaching my kids Cree words at home?” (...) at home in the evenings, I repeat Cree words (...), until all the (kids) can say them fluently, they can understand what it (means) and how they are used in a sentence. (Carol Wanyandie & Adelaide McDonald, personal communication, April 24, 2018)

Others also expressed a heightened sense of urgency in their responsibility to ensure that ᐅᐃᐃᐃᐃᐃᐃ *nehiyawewin* continues to thrive within their community, or, as Elder Russell puts it, “make it come up again somehow” (personal communication, April 25, 2018). In this regard, Elder Philomene, Elder Russell, Tom McDonald and Carol Wanyandie relate the many resourceful ways that community members have found to honour their obligations regarding ᐅᐃᐃᐃᐃᐃᐃ *nehiyawewin*.⁷⁴

Elder Russell speaks of being a knowledge keeper with regard to the distinct Cree dialect⁷⁵ of the Aseniwuche Winewak Nation: “We have our own words here” (personal communication, April 25, 2018). He also described the felt responsibility as he responds to questions on correct language usage for official documentation used at AWN Group of Companies.

⁷⁴ See interviews: Tom McDonald, 2018; Philomene Moberley, 2018; Carol Wanyandie, 2018 and Russell Wanyandie, 2018.

⁷⁵ A feature of this distinct dialect is in the presence of some French words, such as *fourchette* (fork), *toile* (canvas) and *mélasse* (originally: molasses, now: syrup), spoken by the Nation’s Mohawk ancestors.

Another obligation related to the transmission of ᑕᐱᐃᐅᐅᐅᐅᐅ *nehiyawewin* is that of advocacy in order to ensure that the language is kept alive and thriving with the younger generations. Taking on the role of activists, some members of the community invoke this right with decision-makers within provincial and federal structures to ensure that ᑕᐱᐃᐅᐅᐅᐅᐅ *nehiyawewin* is adequately taught in public school. Carol Wanyandie speaks of the importance of this role:

When we went to meetings at the Northland Board (of Education), with all the heads of Northland (present), I asked why the Cree classes are so short. I asked for more hours (...) we need to go to more meetings, keep at it because it's so important. (Carol Wanyandie & Adelaide McDonald, personal communication, April 24, 2018)

In another way, Elder Philomene promotes a most powerful means of advocating for the transmission of ᑕᐱᐃᐅᐅᐅᐅᐅ *nehiyawewin* and related knowledge by the willful act of speaking to children exclusively in her mother tongue:

Carol (translating): (...) She said, “When I think about it, I don’t speak English, and most of these kids don’t speak Cree. (...) Why don’t we just keep talking Cree to them. Maybe that’s how they could start learning”. (personal communication, April 26, 2018)

Engaging in conversation with others while choosing to speak only ᑕᐱᐃᐅᐅᐅᐅᐅ *nehiyawewin* is an invitation to others to respond in the Nation’s primary language. This act asserts in a gentle and respectful way the prime and critical importance of ᑕᐱᐃᐅᐅᐅᐅᐅ *nehiyawewin* to maintaining the collective identity of the Aseniwuche Winewak. For these reasons, those who choose to speak ᑕᐱᐃᐅᐅᐅᐅᐅ *nehiyawewin* exclusively to the youth and others in the community may be enacting a form of self-determination.

As previously discussed, ᑕᑦᑎᑦᑎᑦᑎᑦ *nehiyawewin* also honours the importance of interconnectedness and it serves as a reflection and a reinforcement of the primacy of relationships found in the doctrine of ᑎᑦᑎᑦᑎᑦᑎᑦ *wahkôtowin*.

4.4 Principle of ᑎᑦᑎᑦᑎᑦᑎᑦ *Wahkôtowin*

ᑎᑦᑎᑦᑎᑦᑎᑦ *wahkôtowin* is described as the set of laws that, according to Cardinal, govern relationships and is established through the principles that govern conduct and behavior (2007, pp. 74-75). Within this concept is the recognition that all beings are related in the world (Campbell, 2007, p. 5). Foundational in nature (Friedland, 2016, p. 188), it encourages all people to respect one another (Indigenous and non-Indigenous) and other beings, animate and inanimate (Campbell, 2005, p. 5). It encompasses the responsibilities and obligations inherent to relations with the rest of Creation such as plants, animals, land, water and air (Jobin, 2014; Jobin et al., 2018). The doctrine of ᑎᑦᑎᑦᑎᑦᑎᑦ *wahkôtowin* may also be understood by some as a sacred relationship between the Creator and all of Creation (Cardinal, 2000).

A narrower definition of ᑎᑦᑎᑦᑎᑦᑎᑦ *wahkôtowin* is found in The Alberta Elders' Cree Dictionary as it defines this concept as “The act of being related to one another, offspring or descendant” (LeClaire & Cardinal, 2011, p. 215). Campbell (2007) notes this epistemic shift:

There is a word in my language that speaks to these issues: “wahkotowin.” Today it is translated to mean kinship, relationship, and family as in human family. But at one time, from our place it meant the whole of creation. And our teachings taught us that all of creation is related and inter-connected to all things within it. (p. 5)

Most interviewees related the doctrine of ᑎᑦᑎᑦᑎᑦᑎᑦ *wahkôtowin* to responsibilities and

obligations attached to family and community relationships.⁷⁶ As evidenced in the next section however, for some, the doctrine may be interpreted as having a wider reach. Elder Adelaide and Tom McDonald speak about the interrelatedness of all things in their expression of a sacred connection to the land, be it their Nation's territory or the earth as one circular whole.⁷⁷

4.4.1 Responsibilities and Obligations

The doctrine of ᑭᓄᓂᓂᓂᓂᓂᓂ *wahkôtowin* may be understood as a sacred relationship with the Creator and all of Creation. If understood as a system resembling a family unit, the roles, responsibilities and obligations apply to each member of the family, guiding conduct. Cardinal (as cited in Napoleon, 2013, p. 241) explains that a person is only required to know where he or she fits; the surrounding relationships will then determine expectations in regard to fulfilling respective responsibilities and obligations in that society, or within each kinship network (2013, p. 241).

At the Aseniwuche Winewak Nation, responsibilities and obligations were historically embedded in a tight family network. In her interview, Elder Jane describes how in the past, from her point of view, her family's roles, responsibilities and obligations were centered around a hierarchical family structure. It was the grandparents who ran the family:

Carol (translating): When the Elders got up, whether it's 4 o'clock or whatever time, everybody got up at the same time and that's when the day started. She said, "It did not matter if it was blowing wind and snow or if it was just pouring rain. The weather didn't matter. You got up at 4 o'clock, you ate your breakfast and you went out checking the traps or the snares and whatnot" (personal communication, July 11,

⁷⁶ See interviews: Mary Delorme, 2018; Jane McDonald, 2018; Tom McDonald, 2018; Philomene Moberly, 2018; Carol Wanyandie, 2018; Mabel Wanyandie, 2018 and Russell Wanyandie, 2018.

⁷⁷ See interviews: Adelaide McDonald, 2018 and Tom McDonald, 2018.

2018).

Elder Jane recalls that when her grandparents were absent daily guidance came from her father. In her view, it was because of that clear structure that things ran so smoothly.

Responsibilities and obligations related to ᐱᐸᐸᐸᐸᐸᐸ *wahkôtowin* as a doctrine of kinship relationships are acknowledged and reinforced by the act of speaking ᐸᐸᐸᐸᐸᐸᐸ *nehiyawewin* with others. Elder Mary states that, when speaking in her mother tongue with her relatives and community members, she enters into a relationship with them (personal communication, August 24, 2018). Kinship roles related to ᐱᐸᐸᐸᐸᐸᐸ *wahkôtowin*, are signified in Cree linguistic terminology that is used to describe kinship. Within ᐸᐸᐸᐸᐸᐸᐸ *nehiyawewin*, the kinship relationship to the speaker and the relative importance of the kinship relationship, is an integral part of the word structure. For example, the word for “my aunt on my mother’s side” is *nikâwîs*. This term has the same root as the word for “my mother”, i.e. *nikâwiy*. These words, which are only differentiated through their suffix, point the speaker to the maternal role and extremely close bond conferred to the relationship with the mother’s sisters (Vowel, 2011, para. 6).

As described earlier, the importance of kinship relationships and the conferred level of respect are also reinforced through vocabulary usage rules in social situations. Elder Jane recalls those times when a relative came to visit. The guest was announced by addressing the person in reference to the kinship relationship with the host, for example, “Your sister-in-law is here”. Elder Jane further commented that this usage, highlighting family status and supported by the demonstration of respect toward the guest, was instilled in children at an early age (personal communication, July 11, 2018).

The doctrine of ᐱᐸᐸᐸᐸᐸᐸ *wahkôhtowin* may be viewed as having a bigger reach. Elder Adelaide and Tom McDonald speak about the interrelatedness of all beings, animate and

inanimate, which may include spirit beings. $\langle \text{ᑭᑦᑲᑦᑲᑦ} \rangle$ *wahkôtowin* encompasses the spiritual, physical, emotional, and mental aspects of ᑎᑦᑲᑦᑲᑦ *nehiyaw* personhood (Jobin, 2018, p. 34).⁷⁸ In commenting on this principle, Tom McDonald describes the relationship with his Nation's traditional territory as a spiritual place, where he goes to restore his balance and a sense of peace:

I go to the land for my own peace of mind, I think, and (for) my spirituality and that's what counts. The land provides everything for us what we need to live, a good quality of life. (...) I can always go somewhere (on the land) after work. When I reestablish the connection that I have with the land then I am at peace with myself, and (I am at peace) with where everything is at in my life. (personal communication, July 23, 2018)

The sacred relationship to the land as evidenced within the doctrine of $\langle \text{ᑭᑦᑲᑦᑲᑦ} \rangle$ *wahkôtowin* may be illustrated in the metaphysical realm, as described by Elder Adelaide when recounting her experience of flying through space when dreaming, as detailed earlier in this chapter. $\langle \text{ᑭᑦᑲᑦᑲᑦ} \rangle$ *wahkôtowin*, as a doctrine of interrelationships, may also be demonstrated by Elder Adelaide's description of dreaming about her forefathers. Gifted with a capacity to forego chronological time, she spoke of an encounter that she had with her grandfather when he was a young man after he arrived from Montreal to engage in the local fur trade. Carol Wanyandie translates Elder Adelaide's description of her ancestor as follows: "(Her) grandfather came close enough, studying her. He didn't say anything (...), and she was looking at him". (personal communication, April 24, 2018)

In 2017, in the closing comments during the land-based course held on AWN territory, Elder Adelaide highlighted the connection between us all, Indigenous and non-Indigenous

⁷⁸ See interviews: Adelaide MacDonald, 2018 and Tom McDonald, 2018.

people, stating that we are all equal. I believe that she was referring to the concept of ᑭᓴ ᐃᑦᑎᐃᐅᐅᐅ *miyo-wîcihtowin* which is discussed in the next section.

4.5 Principle of ᑭᓴ ᐃᑦᑎᐃᐅᐅᐅ Miyo-Wîcihtowin

Stemming from core Cree principles and related doctrines, ᑭᓴ ᐃᑦᑎᐃᐅᐅᐅ *miyo-wîcihtowin* specifies the quality of the relationships that is necessary to establish. According to Cardinal (2000), ᑭᓴ ᐃᑦᑎᐃᐅᐅᐅ *miyo-wîcihtowin* has its origins in the laws and relationships that each Nation has with the Creator. This concept is defined as “having or possessing good relations, ᑭᓴ ᐃᑦᑎᐃᐅᐅᐅ *miyo-wîcihtowin* “asks, directs, admonishes, or requires Cree peoples as individuals and as a nation to conduct themselves in a manner such that they create positive or good relations in all relationships, be it individually or collectively with other peoples” (p. 14).

The Alberta Elders’ Cree Dictionary defines this principle⁷⁹ as “An alliance, amity, cooperative” (LeClaire N. & Cardinal, G., 2011, p. 93). Another definition⁸⁰ is, “Living in harmony together” (Wolvengrey, A., 2001, p. 110). Makokis (2009) translates the word ᐃᑦᑎᐃᐅᐅᐅ *wîcihtowin* as “sharing”, which stems from the Cree word, *wicîh*, meaning “to help” and *towin*, making the word into a noun, which refers to having everyone involved (p. 97).

Cardinal (2000) describes the concept of ᑭᓴ ᐃᑦᑎᐃᐅᐅᐅ *miyo-wîcihtowin* as encompassing “those laws encircling the bonds of human relationships in the ways in which they are created, nourished, reaffirmed, and recreated as a means of strengthening the unity among First Nations people and of the nation itself” (p. 14).

⁷⁹ ᑭᓴ ᐃᑦᑎᐃᐅᐅᐅ *miyo-wîcihtowin* is spelled in different ways such as *miyowicehtowin* in The Alberta Elders Cree Dictionary (p. 93) and *miyo-wicehtowin* in Wolvengrey’s ᑭᓴ ᐃᑦᑎᐃᐅᐅᐅ ᐃᑦᑎᐃᐅᐅᐅ *Néhiyàwêwin: itwewina* (p. 110).

Similarly, as highlighted below, interviewees speak of $\Gamma\text{v}\ \dot{\Delta}\text{v}\text{v}\Delta\text{v}$ *miyo-wîcihtowin*, in relation to their families and communities, often evoking the emotional dimension of this principle. Elder Mabel defines this principle as follows:

Carol (translating) (...) getting along well with each other, getting along well with others through sharing and good will. (...) you have to say it from the mind and from the heart. (personal communication, April 24, 2018)

Elder Mary points to the positive effect of living in accordance with the principle of $\Gamma\text{v}\ \dot{\Delta}\text{v}\text{v}\Delta\text{v}$ *miyo-wîcihtowin* as she describes family members genuinely liking each other and inclined to speak calmly with each other rather than enter into heated discussions. She describes how, when practicing $\Gamma\text{v}\ \dot{\Delta}\text{v}\text{v}\Delta\text{v}$ *miyo-wîcihtowin*, it is important to always show kindness, respect and generosity to others, despite conflicts (personal communication, August 24, 2018). Elder Philomene, defines $\Gamma\text{v}\ \dot{\Delta}\text{v}\text{v}\Delta\text{v}$ *miyo-wîcihtowin* in a similar manner, in reference to the overall community. She views it as everyone acting as one unified family; talking to each other, loving each other and working with each other (personal communication, April 26, 2018). This principle is also demonstrated, according to Elder Mabel, in the full acceptance of others and in corresponding acts of generosity:

Carol (translating): (It's about) the treatment of people and acceptance. When you come to visit, people are so happy, they come and greet you at the door, bring you in, they cook for you right away. At nighttime, (...) they make your bed. The next morning, after you've eaten, you're on your way and everybody's happy and saying goodbye to you. (personal communication, April 24, 2018)

The authentic practice of $\Gamma\text{v}\ \dot{\Delta}\text{v}\text{v}\Delta\text{v}$ *miyo-wîcihtowin*, as stated by Elder Mabel, is done from the mind and from the heart, in one uninterrupted cycle. She reflects on how external relations

with other Indigenous Nations as well as the governance of communities should be structured in such a way as to support and reinforce ᑦᑦᑦᑦᑦᑦ *miyo-wîcihtowin*. She stresses the importance of the Aseniwuche Winewak, including the leadership of AWN Group of Companies, pulling together and supporting each other (personal communication, April 24, 2018).

For many interviewees, including Elder Adelaide, Elder Mabel and Carol Wanyandie, living according to the doctrine of ᑦᑦᑦᑦᑦᑦ *miyo-wîcihtowin* is connected to their experience of going on the land, as per the traditional practices of ᑦᑦᑦᑦᑦᑦ ᑦᑦᑦᑦᑦᑦ *nehiyaw pimatisiwin*.⁸¹ Jobin describes how Cree people's relationship to the land is far broader than that of satisfying subsistence needs. In the Cree culture, individuals hold reciprocal relationships not only with other people, but also with non-human beings, including animals, the landscape and the waterscape. Maintaining a good relationship with the land has intrinsic value in maintaining ᑦᑦᑦᑦᑦᑦᑦ *miyo pimatisiwin*, or a good life. Much can be learned by being present and watching all of Creation, humans as well as non-humans (2018, pp. 8, 20, 26).

Demonstrating the principle of ᑦᑦᑦᑦᑦᑦ *miyo-wîcihtowin* in all of its aspects is also done through spiritual practices as discussed in the next section.

4.5.1 Spiritual Practices

Many members of the Aseniwuche Winewak Nation engage in the gifting of tobacco in ceremony, a practice which is also common in other Cree communities. To explain the meaning of the gifting of tobacco as a way to maintain a good relationship with the land, Makokis cites an Elder from Saddle Lake First Nation (as cited in Jobin, 2018, pp. 123-124): "You have all the gifts that will help you each day to provide for life. These gifts are food, medicine, clothing,

⁸¹ See interviews: Adelaide McDonald, 2018; Carol Wanyandie, 2018 and Mabel Wanyandie, 2018.

shelter, water, air, and fire. All of these are life giving.... For everything you take from the land you must give tobacco.” Offering tobacco is an accepted protocol that transcends all types of relationships and is important in establishing, maintaining, and even restoring broken relationships. $\Gamma\text{ᖃ ᐃᑦᑎᐅᐃᓂ}$ *miyo-wîcihtowin* may therefore be fully understood when it is seen as a doctrine with distinct responsibilities and obligations, as described in the following section.

4.5.2 Responsibilities and Obligations

The doctrine and related laws of $\Gamma\text{ᖃ ᐃᑦᑎᐅᐃᓂ}$ *miyo-wîcihtowin* govern the manner in which relationships are to be conducted internally among Cree people and externally with other peoples (Cardinal, 2000, p. 53). For all of the interviewees, upholding the responsibilities and obligations related to $\Gamma\text{ᖃ ᐃᑦᑎᐅᐃᓂ}$ *miyo-wîcihtowin* is deemed essential in order to live a harmonious and fruitful life within their community as well as with other communities. This principle is viewed as strengthening unity while reaffirming the importance of good communication, kindness and respect which may all be perceived as necessary tenets of nation-building.

As highlighted below, in order to live according to the doctrine of $\Gamma\text{ᖃ ᐃᑦᑎᐅᐃᓂ}$ *miyo-wîcihtowin*, interviewees stress the importance of intentionally engaging in active communication with members of the Aseniwuche Winewak Nation as well as other Indigenous peoples. Elder Jane explains how communication is necessary to strengthen her Nation, to be able to start working together and building up the Nation (personal communication, July 11, 2018).

Many interviewees recall how, in the past, families would visit each other regularly, sometimes travelling great distances in the process.⁸² Visitors were always warmly welcomed and, as detailed earlier, host families practiced strict protocols that served to recognize the relationship as well as encourage acts of reciprocity, as described by Tom McDonald:

From what I recall, the Elders talk about having social gatherings and everybody was invited or if somebody had harvested an animal, the other families would come and get whatever they needed. (...) I think they were very good communicators. Everybody would have known what the expectations were for everyone. There were no surprises.
(personal communication, July 23, 2018)

In the past, living according to ᑦᑦ ᑕᑦᑎᑦᑎᑦ ᑕᑦᑎᑦᑎᑦ *miyo-wícihtowin* may have been crucial for survival and there were clear and well understood expectations for living on the land, as depicted by Tom McDonald below:

It seems that people understood that they needed to cooperate with each other to support one another to, basically, survive together. In order to do that, it was a collective effort, and everybody seemed to understand that. (...) Our Elders talk about having one mind and being on the same page. (...) everybody understands where things are at. There was no miscommunication. I think that in terms of expectations, everybody understands what their circumstances are. And everybody understands how they need to work collectively to get something done, so that nobody is left behind. People are aware of the rules, and responsibilities within that group, of what needs to be accomplished. (personal communication, July 23, 2018)

According to Elder Jane, the long-term success of the Aseniwuche Winewak Nation's

⁸² See interviews: Mary Delorme, 2018; Jane McDonald, 2018; Philomene Moberly, 2018 and Mabel Wanyandie, 2018.

nation-building project is dependent on the people's ability to enact ᑭᓴ ᐃᑦᑎᐃᐃᐃᐃ *miyo-wícihtowin*:

Carol (translating): (...) as an overall community, we have to communicate. We have to get together and start discussing how we're going to (teach) the youth. So, that will be all the visiting. That must start happening. She said, "If we don't visit, we can't communicate, we won't know what the other persons are thinking. So, once we're able to start visiting and get the communication underway, we (will) bring it forward from there". (personal communication, July 11, 2018)

Many interviewees express the opinion that the practices related to ᑭᓴ ᐃᑦᑎᐃᐃᐃᐃ *miyo-wícihtowin* are not as visible as they used to be.⁸³ Elder Mary and Tom McDonald state that the root of this issue may be in the division of the Nation into four cooperatives and two enterprises, each having a separate governing body. They believe that this created a strain between members living in separate locations.⁸⁴

Discussions in community forums abound with ideas on how to take action individually and collectively to enact a community unification process. As mentioned in Chapter 1, interactive constitution-building process workshops were organized in 2014, where there was a general consensus on the Aseniwuche Winewak being one undivided community. It was thus deemed critical to work together to develop a written agreement, building on existing strengths and incorporating traditional principles into governance structures (AWN, 2018, p. 14).

Other community-driven activities have been undertaken, all of which may be seen as reinforcing ᑭᓴ ᐃᑦᑎᐃᐃᐃᐃ *miyo-wícihtowin*. For example, the Nation initiated a community-directed research and development initiative with the University of Alberta to explore the

⁸³ See interviews: Jane McDonald, 2018; Carol Wanyandie, 2018 and Mabel Wanyandie, 2018

⁸⁴ See interviews: Mary Delorme, 2018 and Tom McDonald, 2018.

concepts of of ᐱᐱᐱᐱᐱᐱᐱᐱ *wahkôtowin* and ᐱᐱᐱᐱᐱᐱᐱᐱ *miyo-wîcihtowin* within law and governance.⁸⁵ As explained in an article by Jobin, Friedland, Beausoleil and Kappo (2020) the vision of the project is “to develop a truly mutually respectful research team in which the knowledge and methods of both academic and Indigenous community-based collaborators would be fully recognized as not only equally valid, but also mutually enriching” (pp. 12-15).

Many Nation members are now also engaging in the ceremonial cycle as a way to strengthen ᐱᐱᐱᐱᐱᐱᐱᐱ *miyo-wîcihtowin* within the community. Over the past few years there has been a revival of ceremonies, such as Traditional and Memorial Dances. These address individual purposes as well as serving to fit into and strengthening community governance systems (Jobin, 2018, p. 130).

Elder Philomene and Elder Russell also identify other core foundational principles as strengthening ᐱᐱᐱᐱᐱᐱᐱᐱ *miyo-wîcihtowin*, including ᐱᐱᐱᐱᐱᐱᐱᐱ *sihtoskâtowin* and ᐱᐱᐱᐱᐱᐱᐱᐱ *tapwewin*.⁸⁶ Inversely, according to Elder Philomene, “(if) ᐱᐱᐱᐱᐱᐱᐱᐱ *miyo-wîcihtowin* is not there, ᐱᐱᐱᐱᐱᐱᐱᐱ *sihtoskâtowin* would not be there because they are not helping support (the Nation)” (personal communication, April 26, 2018).

The principle of ᐱᐱᐱᐱᐱᐱᐱᐱ *sihtoskâtowin* is described in the next section, along with examples of daily enactments of this principle at the Aseniwuche Winewak Nation.

4.6 Principle of ᐱᐱᐱᐱᐱᐱᐱᐱ *Sihtoskâtowin*

Understanding that individuals cannot “do it alone”, as mentioned by Elder Russell

⁸⁵ This research and development initiative began in 2017 with an on-the-land course entitled ᐱᐱᐱᐱᐱᐱᐱᐱ *wahkohtowin* Project Intensive: ᐱᐱᐱᐱᐱᐱᐱᐱ *miyo-wîcihtowin* Principles and Practice, in which I was participant. In Chapter 3, I described the exceptional nature of my learning experience. The research for my research is an integral part of this initiative.

⁸⁶ See interviews: Philomene Moberly, 2018 and Russell Wanyandie, 2018.

(personal communication, April 25, 2018), interviewees generally define ᐱᐱᐱᐱᐱᐱᐱᐱ *sihtoskâtowin* as the act of supporting and of helping each other as well as looking out for one another. Defining ᐱᐱᐱᐱᐱᐱᐱᐱ *sihtoskâtowin* further, Elder Mabel adds the notion of the “community pulling together” to ensure that its members are kept safe:

Carol: (translating) So, the way that she wants to translate that word is, if you get into trouble somehow, it would be the community pulling together to help you get out of your trouble and help you on your way. (personal communication, April 24, 2018)

The term ᐱᐱᐱᐱᐱᐱᐱᐱ *sihtoskâtowin*, spelled here in Roman orthography as *sitoskâkewin* is defined in the Alberta Elders’ Cree Dictionary as “the act of supporting or bracing someone” (LeClaire N. & Cardinal G., 2011, p. 194). Tom McDonald comments on how enacting the principle of ᐱᐱᐱᐱᐱᐱᐱᐱ *sihtoskâtowin* is fundamental to communal living existing amongst the Aseniwuche Winewak:

(...) it requires each one to be responsible in their own way to do their part, to make it work. It requires an individual effort from each one of us, (...) within our family, to do our part as a whole, to function well collectively. (...) And I think it’s that act of supporting - whether it’s just in an emotional way or in a financial way, it’s all good. It’s very hard to measure because that support can come in many different forms. (...) I think the biggest thing is that it’s about caring (...). I think being able to care for your family, relatives, I think that speaks volumes. Just others knowing that you care.

(personal communication, July 23, 2018)

The next section explores the roles, responsibilities and obligations related to ᐱᐱᐱᐱᐱᐱᐱᐱ *sihtoskâtowin*, including the responsibility to protect those who are a danger to themselves and/or

are a danger to the community (Elder Mabel Wanyandie, personal communication, April 24, 2018).

4.6.1 Responsibilities and Obligations

In the past, as explained by Elder Mabel below, when the Aseniwuche Winewak relied on a subsistence lifestyle to ensure their livelihood, the responsibilities and obligations related to the doctrine of ᐱᐱᐱᐱᐱᐱ *sihtoskâtowin* were essential in ensuring the survival and well-being of community members:

Carol: (translating) (...) she always remembers Grandma saying that, a long time ago, people didn't ask if they needed help. (...) when you needed help, they came to offer help, right now. There was no thinking about it, there was no asking, "Oh my God, I have got to do this". They just picked up their things and went...and so, she said, (...) when somebody killed a moose, the very next morning, right after breakfast, all the women would pick up their moose hide scrapers (...) and walk over and (...) start the hide. Everybody worked on it. (Mabel Wanyandie, personal communication, April 24, 2018)

Still today, all interviewees perceived this principle as being of critical importance. It has been adapted to the needs of the community as most members are no longer completely reliant on a subsistence lifestyle. While Elder Philomene comments that the community practice of sharing traditional food is less common today, it is still being enacted by certain members. She notes that her niece's husband drops off meat at her place, after a successful hunt for moose, grouse or a bush chicken. As well, firewood for heating in the wintertime is often supplied by other members of her family (personal communication, April 26, 2018). In recent months, these efforts have

been supplemented through a firewood distribution program set up by the AWN Group of Companies, to ensure that those in need may stay warm throughout the winter.

The role of each family member around ᐱᓂᓂᓂᓂᓂᓂ *sihtoskâtowin* is taught from an early age. Responsibilities and obligations related to this doctrine change over a lifetime depending on individual physical, emotional and mental capabilities. Elder Adelaide, Elder Mabel and Carol Wanyandie speak at length about the collective responsibility of keeping family members out of harm's way.⁸⁷ Expressing their frustrations and powerlessness about the lack of external support, they talked about relying on each other to protect the most vulnerable members of their community. They describe the complex ways with which they use various communication modes to keep track, on a 24-hour basis, of the vulnerable persons' whereabouts. They highlight the multiple attempts made to access various health services, often to no avail.⁸⁸

The contemporary application of the principle of ᐱᓂᓂᓂᓂᓂᓂ *sihtoskâtowin* may also be seen in the way the Aseniwuche Winewak Nation has chosen to structure the fully-owned AWN Group of Companies, including the Aseniwuche Development Corporation (ADC) and the Aseniwuche Environmental Corporation (AEC), with a view to ensuring the survival and economic success of these for-profit organizations. Elder Russell (2018) comments on how the principle of ᐱᓂᓂᓂᓂᓂᓂ *sihtoskâtowin* is demonstrated by the AWN Board of Directors, as they fulfill their obligations in this regard:

(ᐱᓂᓂᓂᓂᓂᓂ *sihtoskâtowin*: that's) how the AWN Board of Directors is going to be supportive of the ADC Board (of Directors) and their decision-making (...). If they

⁸⁷ See Friedland's (2018) book entitled, *The Wetiko legal principles: Cree and Anishinabek responses to violence and victimization*, for a comprehensive overview of this principle in relation to violence and victimization, as well as the failure of the nation state to provide adequate resources.

⁸⁸ See interviews: Adelaide McDonald, 2018; Carol Wanyandie, 2018; Mabel Wanyandie, 2018.

need help of some kind, when some issue that comes up, that's when the (Board and the management of) AWN would be able to offer support and guidance. (personal communication, April 25, 2018)

The enactment of ᓂᓄᓂᓄᓂᓄᓂ *sihtoskâtowin* in the corporate sphere may be perceived as relying on the obligation of reciprocity, with each unit in AWN Group of Companies supporting the success of the other units, ultimately benefitting the overall community:

This is (ᓂᓄᓂᓄᓂᓄᓂ *sihtoskâtowin*): without AWN, ADC would not survive. AWN would probably be able to stand on its own, but with ADC and EAC bringing in some of the revenue, that helps (AWN) go further. (Carol Wanyandie & Elder Russell Wanyandie, personal communication, April 25, 2018)

The concept of support found in ᓂᓄᓂᓄᓂᓄᓂ *sihtoskâtowin* is also present in ᓄᓂᓄᓂᓄᓂᓄᓂ *manâcihtâwin*, which is the focus of the next section.

4.7 Principle of ᓄᓂᓄᓂᓄᓂᓄᓂ *Manâcihtâwin*

Closely tied to the belief of interrelatedness found in the principles of ᓂᓄᓂᓄᓂᓄᓂ *wahkôtowin* and ᓄᓂᓄᓂᓄᓂᓄᓂ *miyo-wîcihtowin*, ᓄᓂᓄᓂᓄᓂᓄᓂ *manâcihtâwin* encompasses the principle and related doctrines of respectful relationships between all beings, animate and inanimate. Jobin (2018) defines ᓄᓂᓄᓂᓄᓂᓄᓂ *manâcihtâwin* as “civility, showing respect to all of creation” (p. 251). Alluding to the doctrine in relation to human relationships, McAdam (2015) defines the root words of ᓄᓂᓄᓂᓄᓂᓄᓂ *manâcihtâwin* in the following way:

manâcim, means to show verbal respect to someone, take care verbally. Another term which is similar, *kistêyihtawowin*, is the physical respecting of someone. This supports the physical and verbal laws which apply to how a person acts and how they speak

appropriately following kinship terms and laws. There is the verbal respecting and the physical respecting of kin. The respect shown is dependent on the terms and roles of each family member. (p. 61)

Some interviewees link this principle to obligations related to the “act of venerating or respecting”, which is the definition found in the Alberta Elders’ Cree Dictionary (LeClaire & Cardinal, 2011, p. 70).⁸⁹ For Elder Mary, ᐱᐱᐱᐱᐱᐱᐱᐱ *manâcihtâwin* is not only demonstrated by showing respect toward Elders, it is also shown in the deferential treatment extended to visitors who are welcomed to the home and offered food as well as shelter. On these occasions, children are expected to demonstrate ᐱᐱᐱᐱᐱᐱᐱ *manâcihtâwin* by sitting quietly as adults converse with each another (personal communication, August 24, 2018). Cardinal (2000) associates this aspect of ᐱᐱᐱᐱᐱᐱᐱ *manâcihtâwin* to the doctrine of ᐱᐱᐱᐱᐱᐱᐱ *wahkôtownin* as it sets out the expected conduct to be maintained with persons that have no kinship affiliation (p. 34).

Another interpretation of ᐱᐱᐱᐱᐱᐱᐱ *manâcihtâwin* highlighted in the interviews refers to the gentle manner with which one handles relationships. Elder Jane explains further by making a comparison to the way one handles a newborn baby:

Carol (translating): She said, “Because you just love and respect this little one and that you just want to be so gentle.” She said, “That’s what that word means to me.” She said, “It’s just in a manner of doing it. (...) More like a gentle spirit, a gentle soul. You are loving things, you are respecting. (personal communication, July 11, 2018)

Living according to the principle of ᐱᐱᐱᐱᐱᐱᐱ *manâcihtâwin* therefore means fulfilling

⁸⁹ See interviews: Mary Delorme, 2018; Jane McDonald, 2018; Philomene Moberly, 2018; Carol Wanyandie, 2018 and Mabel Wanyandie, 2018. (Note that the *Alberta Elders’ Cree Dictionary’s* spelling for ᐱᐱᐱᐱᐱᐱᐱ *manâcihtâwin* is *manâcihitowin*.)

responsibilities and obligations related to the demonstration of respect, not only in words and behaviour towards those who are deserving of special respect like the Elders, but also in the manner in which one may approach all beings within creation.

4.7.1 Responsibilities and Obligations

In choosing ᐱᐱᐱᐱᐱᐱ *manâcihtâwin* as a foundational principle for the Aseniwuche Winewak Nation, the Elders may have wanted to highlight the importance of respecting all of creation, including humans and non-humans. One way to show respect for the land is through the enactment of protocol. McAdam (2009) describes the ceremonial offering of tobacco as a way that supports the principle of ᐱᐱᐱᐱᐱᐱ *manâcihtâwin*: “Every time you pull a plant from Mother Earth, she feels that pull, and you must always make the proper offerings of tobacco and prayers” (p. 17).

Cree scholar, Leona Makokis (as cited in Jobin, 2018, p. 181) explains that reciprocity and respect guide the relationship that Cree people hold with the land. Natural laws dictate that there are consequences to the treatment of the land which have an impact on future generations. Understanding the potential negative consequences, Cree people have been taught from an early age the obligation of not taking more than what is needed.

Maintaining a good relationship with the land is considered by many interviewees as being critical in order to ensure the survival and continued well-being of family and community.⁹⁰ As explained by Tom McDonald, understanding that this relationship is reciprocal, that is, if humans treat the land in the right way, in turn the land will provide for humans and uphold their well-being:

⁹⁰ Adelaide McDonald, 2018; Tom McDonald, 2018; Philomene Moberly, 2018; Carol Wanyandie, 2018 and Russell Wanyandie, 2018.

It is critical that we respect the land. If we don't disturb the land and creatures living on the land, so much good can come of it. For example, it is important that the habitat of the caribou be protected for this animal's survival. (personal communication, July 23, 2018)

As stated below in a conversation between Elder Russell and Carol Wanyandie, honouring ᐱᐱᐱᐱᐱᐱᐱᐱ *manâcihtâwin* in relation to the land, the water and the animals must be considered as being more important than financial returns offered to the community by resource development:

Are we going to be supporting all these pipelines, all these coal mines, all this forestry that's taking all the coal, all the trees, all the gas and oil from the ground? (...) That doesn't tie in with ᐱᐱᐱᐱᐱᐱᐱᐱ *manâcihtâwin* because we are not being gentle with Mother Earth, (..) It totally goes against ᐱᐱᐱᐱᐱᐱᐱᐱ *manâcihtâwin*. (personal communication, April 25, 2018)

Since they live so close to resource development facilities, the protection of land and water as well as that of the animals holds a special resonance for the Aseniwuche Winewak Nation. The Cooperatives and Enterprises are located close to a coal mine and hundreds of oil and gas wells are active on the Nation's territory. Carol Wanyandie comments that at Wanyandie Flats,⁹¹ the community where she raised her children, the Cooperative is so close to the mining operations that her children's toys were all covered in coal dust (personal communication, April 24, 2018). Obligations may therefore involve the monitoring of the effects of resource development and, if necessary, impose limitations on these activities.

⁹¹ Wanyandie Flats is the western section of Wanyandie Cooperative.

The Aseniwuche Winewak, while committed to the principle of $\text{L}\alpha\text{r}^{\text{D}}\Delta^{\cdot\text{P}}$ *manâcihtâwin*, also embrace the responsibilities of $\text{A}\text{L}\text{r}^{\text{D}}\Delta^{\cdot\text{P}}$ *pimâcihowin*, a principle related to earning a good living (Jobin, 2018, p. 253). The Aseniwuche Winewak Nation sees the land in terms of its capacity to enhance the well being of its members by providing opportunities to earn a good living and by increasing their economic wealth. AWN Group of Companies is engaging in resource development on the Nation's traditional land with external industry partners. An array of policies and programs aligned with the principle of $\text{L}\alpha\text{r}^{\text{D}}\Delta^{\cdot\text{P}}$ *manâcihtâwin* are being enacted to balance the effects of resource development. For example, AWN Group of Companies published *Living in Two Worlds: A Balanced Approach to Aboriginal Consultation* (2006), outlining Indigenous consultative mechanisms. More recently, the Nation participated in the development of the Government of Alberta's *Little Smoky and A la Pêche Caribou Range Plan* (2016). A strategy for traditional land use (TLU) has also been created which includes a reclamation strategy for resource-disturbed lands. Elders take an active part in consultation sessions with industry and land maps have been drawn to document and protect traditional lands, waters, animal habitats as well as place-names of significance. The benefits offered to the community regarding resource development on traditional land are measured against the impact on the land, water and animals. The Nation's members are invited to sit on environmental advisory committees organized by industry to ensure that the Nation's obligations toward the land are being considered in decisions that are being taken by external players. The establishment of Aseniwuche Environmental Corporation (AEC)⁹² in 2011 is seen as an important step in fulfilling AWN's obligations toward the land, water and animals. With AEC, the Nation

⁹² For more information on programs and services offered by Aseniwuche Environmental Corporation, see www.aecalberta.com

developed a means to be directly involved in controlling the effects of industry and development on the environment by providing services that monitor environmental impacts (Carol Wanyandie, personal communication, April 24, 2018). With the objective of using both traditional knowledge and scientific data, AEC established the Caribou Patrol Program in partnership with the Foothills Landscape Management Forum as well as multiple levels of government. Its purpose is to support the recovery efforts of caribou in the area. Despite their best efforts and impressive gains in controlling the impacts of industrial activity on their traditional land, the Aseniwuche Winewak, however, face a power imbalance due to a lack of formal recognition of the Aseniwuche Winewak Nation's Aboriginal or Treaty rights. This limits their influence in controlling resource development on their traditional land.

Upholding the principle of $\text{L}\alpha\text{r}^{\text{h}}\text{D}\Delta^{\text{p}}$ *manâcihtâwin* in their relationship with the land, water, and animals, brings a deeply felt sense of accountability both to Mother Earth and to all fellow members of Aseniwuche Winewak Nation. The final section of this chapter discusses the principle of $\text{C}\dot{\text{V}}\cdot\Delta^{\text{p}}$ *tapwewin* which covers the doctrine pertaining to truthfulness and integrity of character.

4.8 Principle of $\text{C}\dot{\text{V}}\cdot\Delta^{\text{p}}$ *Tapwewin*

$\text{C}\dot{\text{V}}\cdot\Delta^{\text{p}}$ *tapwewin* may be defined as meaning “speaking the truth” or “speaking with precision and accuracy” (Cardinal, 2000, p. 48). For the interviewees noted below, the principle of $\text{C}\dot{\text{V}}\cdot\Delta^{\text{p}}$ *tapwewin* implies self-knowledge originating from being aware of “where you come from” (Tom McDonald, personal communication, July 23, 2018). It is also shown by communicating in an honest and transparent manner. According to Elder Mary, Elder Philomene,

Elder Russell and Carol Wanyandie demonstrating $\dot{C}V\cdot\Delta\cdot\supset$ *tapwewin* is rooted in integrity of character, building accountability and trust.⁹³

4.8.1 Responsibilities and Obligations

In speaking about $\dot{C}V\cdot\Delta\cdot\supset$ *tapwewin*, Elder Philomene, Elder Russell as well as Carol Wanyandie referred to the obligation to be honest and transparent in their communications.⁹⁴ This role is adapted to the circumstances and the context. In the event of an unexpected occurrence, such as an accident, it is incumbent on the individuals witnessing the event to gather and relay the information to others in an accurate and reliable way (Russell Wanyandie, personal communication, April 25, 2018). There is also an obligation to maintain a high level of honesty in all exchanges, even though this may not reflect well on the person providing the information. In this regard, Elder Philomene offers her own experience in storytelling as a form of cautionary advice. She describes how she once had to stop telling a story when she realized that her memory was failing her:

Carol (translating): She's honest, this is what it was, she started her story, and this is how it originally was. Then, it started evolving and changing. And then, she was honest (and said), "I forgot, I can't remember the rest". So, that's $\dot{C}V\cdot\Delta\cdot\supset$ *tapwewin*; she was honest in saying that (she forgot the story). (personal communication, April 26, 2018)

Being true to your word is a responsibility that may be connected to this foundational principle. Elder Mary commented on how she and other individuals who uphold the

⁹³ See interviews: Mary Delorme, 2018; Philomene Moberly, 2018, Carol Wanyandie, 2018 and Russell Wanyandie, 2018.

⁹⁴ See interviews: Philomene Moberly, 2018; Carol Wanyandie, 2018 and Russell Wanyandie, 2018.

responsibilities related to $\dot{C}\dot{V}\cdot\Delta\cdot^{\text{p}}$ *tapwewin* enact this foundational principle. “If I say something, I make a promise to somebody, I have to do it. That is honest” (personal communication, August 24, 2018).

As commented by Tom McDonald, the principle of $\dot{C}\dot{V}\cdot\Delta\cdot^{\text{p}}$ *tapwewin*, or of telling the truth, may present unique difficulties in contemporary times with the external influence of Western world view. He adds that $\dot{C}\dot{V}\cdot\Delta\cdot^{\text{p}}$ *tapwewin* may be practiced authentically if one seeks to learn and live according to the principles associated with $\text{ᑎ}^{\text{h}}\Delta\text{ᑎ}^{\text{o}}$ $\wedge\text{L}\text{ᑎ}^{\text{p}}\Delta\cdot^{\text{p}}$ *nehiyaw pimatisiwin*:

I think $\dot{C}\dot{V}\cdot\Delta\cdot^{\text{p}}$ *tapwewin*, honesty - when you talk about two worlds colliding - we have our community and we have the mainstream. And they both have their versions of stories. And when you’re caught in the middle, sometimes it’s hard to differentiate what is true and what isn’t true because you hear it from both sides and the stories are different, so you begin to question what the truth is. (...) But if you are comfortable in your teachings and you understand what they are, then, regardless of mainstream values and principles, I think you’ll understand what works for you. But you need to be honest with yourself to know the difference. (personal communication, July 23, 2018)

Commenting further on the connection between $\dot{C}\dot{V}\cdot\Delta\cdot^{\text{p}}$ *tapwewin* and $\text{ᑎ}^{\text{h}}\Delta\text{ᑎ}^{\text{o}}$ $\wedge\text{L}\text{ᑎ}^{\text{p}}\Delta\cdot^{\text{p}}$ *nehiyaw pimatisiwin*, Elder Jane recalls how, in order to know the truth, she was instructed by her grandmother to listen attentively and respectfully to others when they speak. According to these teachings, it is by listening deeply that you come to recognize intuitively whether the words are spoken according to the principle of $\dot{C}\dot{V}\cdot\Delta\cdot^{\text{p}}$ *tapwewin*:

Carol (translating): (...) When somebody comes and tells you something, you listen. When she stops, and you listen to that person. Whether you know this person or not, you've never seen them, or this is an Elder or even a youth, anybody, you stop, and you listen. (...) If you stop and you listen, you'll be able to know if they're telling you the truth or not. Whether what they're telling you is what you should be doing or should not be doing, you will know deep inside. So, not only will you stop and listen, but you will take the action to do it. So, you already have that in you. Whether your own parents or your grandparents or Elders have taught you what is right and what is wrong - sometimes, that particular thing that this person is telling you - maybe your parents did not teach you about that. So, this could be a very important lesson for you.

(July 11, 2018)

Elder Jane's grandmother's lesson on listening deeply may hold special resonance within a society based on oral teaching practices. The obligation of listening carefully and respectfully to Elders and other knowledge keepers, within the principle of ᑕᖅᐅᐅᐅ *tapwewin*, therefore holds enormous importance in following ᑕᐅᐅᐅ ᐱᐱᐱᐱᐅᐅ *nehiyaw pimatisiwin* and in living in harmony with others.

By extension, Elders Philomene, Elder Russell and Carol Wanyandie see it as the responsibility of the leaders of AWN Group of Companies to demonstrate complete honesty and transparency in their leadership and management styles.⁹⁵ In this regard, the leadership group is deemed to hold the obligation of showing integrity in the way that they conduct their business. They must ensure that objectives found in written documents are followed through in

⁹⁵ See interviews: Philomene Moberly, 2018, Carol Wanyandie, 2018 and Russell Wanyandie, 2018.

corresponding actions and behaviour. If they don't follow through and fail to follow the principle of *ĆV·Δ·ᑭ tapwewin*, the status held by those leaders within the community may be diminished.

Cardinal (2000) states that in Cree legal tradition, the principle and related laws of *ĆV·Δ·ᑭ tapwewin* “require that the obligation to speak the truth be meticulously followed when a subject matter has been considered and dealt with through the spiritual traditions and ceremonies of the nation” (p. 48). In March 2018, the Aseniwuche Winewak Nation and the federal government entered into preliminary negotiations, entitled ‘Recognition of Indigenous Rights and Self Determination’ (RIRSD) as a way to “advance reconciliation through the recognition of AWN rights on the basis of mutual respect, rights recognition, cooperation and partnership” (Aseniwuche Winewak Nation, 2018, p. 2). In the very first discussions with the representatives of the federal government, the Nation’s leaders relied on their foundational principles, including *ĆV·Δ·ᑭ tapwewin*, to guide their actions. Guided by the obligation of transparency toward members of their Nation, a large and diverse delegation of Aseniwuche Winewak Nation members first travelled to Ottawa for a meeting with the federal representatives. When they returned home, they each spoke at an open community gathering about their experience. The Nation’s leaders then extended an invitation to the federal representatives to travel to the Nation’s territory for a traditional on-the-land experience to ensure that they reached a better understanding of the Aseniwuche Winewak culture.⁹⁶

4.9 Conclusion

In this chapter, I reported on the insights of six Elders and two knowledge keepers on the seven Cree principles identified as being foundational to the Aseniwuche Winewak Nation.

⁹⁶ The government representatives initially accepted the Aseniwuche Winewak leaders’ invitation, but they cancelled a few weeks prior to the event.

These findings were drawn from transcriptions of interviews completed mainly in the Cree language, with simultaneous English translation. Secondary documentation, sourced mostly from interviews completed by Cree scholars from other communities, provided complementary knowledge on the principles and related doctrines.

The knowledge shared during the interviews sheds a light on the expertise and wisdom held by the Aseniwuche Winewak Elders and knowledge keepers. These rich conversations informed my research in a multitude of ways. One of these important elements is the concept of the interrelatedness of the seven core principles. Carol Wanyandie uses a simple analogy to emphasize this point: “They don’t separate like Lego (blocks) (...). They can’t be separated and (put back together to) create a whole new thing.”⁹⁷ I draw from such a holistic way of understanding these legal concepts (Napoleon et al., 2008, p. 11) in the next chapter as I apply the core principles to resolving employment-related issues.

Another significant element is the use of ᐅᐱᐃᐅᐃᐅᐃ *nehiyawewin*, or Cree language, in the naming and interpretation of the core principles. I understand the seven ᐅᐱᐃᐅᐃᐅᐃ *nehiyawewin* terms functioning as signposts, or referents, pointing to local law, legal principles, and related responsibilities and obligations of the Aseniwuche Winewak. In contrast, the English translation of these terms (i.e. terms such as “respect” and “honesty”) refer to abstract universal values which may bring misleading interpretations and confusion (Napoleon et al., 2008, p. 14). As clearly expressed by Tom McDonald, “Some Cree words translated into English don’t express what we’re trying to say” (personal communication, July 23, 2018). For those reasons, these terms may not be interchangeable with their English translation.

⁹⁷ See interview: Carol Wanyandie and Jane McDonald, 2018.

Finally, in sharing their knowledge with me, the interviewees revealed the multiple ways in which the principles continue to be enacted within the community today. Interviewees spoke about how they perceived the principles should be enacted within the AWN Group of Companies. In this regard, it is striking to note how many of these work-related examples of the core principles hold close similarities to those found in the literature on human resources management of contemporary Indigenous organizations presented in Chapter 2.⁹⁸

Despite clearly identifying how Aseniwuche Winewak should demonstrate these principles in all spheres of their life, including the workplace, interviewees may not associate these as expressions of law. The application of principles may instead be perceived as an implicit and informal way of doing things, connected to a custom or practice (Napoleon et al., 2008, p. 4). From my experience in working with the Nation's group of companies, I contend that the Nation's core principles, while not being acknowledged as law, may be operating at an implicit level in the organization's decision-making and conflict resolution. Failing to be openly recognized as a legitimate legal framework, predominating over Western law, may lead to misunderstandings and conflicts emerging in decision-making and dispute resolution. In the next chapter, I argue that rendering Aseniwuche Winewak core principles visible and using them to address employment-related issues may offer better outcomes for employees, the organization and the community. In support of my argument, I first apply the information gathered on the Nation's core principles to demonstrate that these Cree legal concepts are understandable and

⁹⁸ For instance, referencing ᓂᓄᓂᓄᓂᓄᓂ *sihtoskâtowin*, Elder Mabel asserted that the leadership teams of the Aseniwuche Winewak group of companies must pull together and support each other (personal communication, April 24, 2018) while Elder Russell and Carol Wanyandie commented that the community expects management to be transparent (personal communication, April 28, 2018). In a similar way, the literature on human resources management of Indigenous organizations, Calliou & Wesley-Esquimaux (2015) refer to wise practices, highlighting accountability, stewardship and transparency as critical elements of organizational success (p. 45). Elsewhere, Black & Birmingham (2017) stress the importance of accountability of Indigenous organizations toward the entire community (p. 131).

congruent with principles found in Canadian employment law. Next, I describe a framework and hypothetical case study, to illustrate how Cree principles, responsibilities and obligations may be practically applied to resolving employment issues at the Aseniwuche Winewak Nation's Group of Companies.

Chapter 5: Applying Cree Legal Principles to Resolving Employment-Related Issues

5.1 Introduction

Positing that Cree legal principles may better inform and guide employment-related issues at AWN Group of Companies, this chapter demonstrates how Cree legal principles and reasoning may be considered in the context of human resources issues currently governed by Canadian employment law and how Cree legal principles may be practically applied to resolving employment issues. The chapter is divided into three parts. First, I highlight the Cree foundational principles of the Aseniwuche Winewak Nation (AWN) and compare them to legal concepts found in Canadian employment law. I then draw on the existing governance framework of AWN Group of Companies to propose a dispute resolution model based on Cree legal principles and reasoning processes. Finally, I present a case study based on a hypothetical employment-related issue at AWN Group of Companies, using the suggested model, to address a dispute and contrasting it to a resolution based on Canadian employment law.

5.2 Cree Legal Principles are Understandable and Congruent with Principles from Canadian Employment Law

In the following pages, I begin by providing a brief overview of the Cree legal principles identified by the Elders Council and the President of the Board as being foundational to the Aseniwuche Winewak Nation, which were examined in depth in the previous chapter. I then compare these principles to legal principles found in Canadian employment law. Underlying this comparison is the general contention that principles, responsibilities and obligations found in the Cree legal tradition are understandable and congruent with legal concepts found in Canadian employment law. I argue that there is space in a contemporary Canadian workplace for the

application of Cree principles in resolving workplace disputes without the need for a constitutional challenge or change in statutes.

As discussed in earlier chapters, the foundational Cree principles identified by the Elders Council and the President of the Board of Directors of the Aseniwuche Winewak Nation are as follows:

- ᑕᐃᐅᐃ ᐱᐱᑕᑦᑕᐃᐅᐃ *nehiyaw pimatisiwin*: Cree traditional way of life
- ᑕᐃᐅᐃᑦᑕᐃᐅᐃ *nehiyawewin*: Cree language
- ᐱᐱᑕᑦᑕᐃᐅᐃ *wahkôtowin*: Relatedness or interrelatedness: we are not only related to human beings, we are related to everything in Creation
- ᑕᐃᐅᐃᐅᐃᐅᐃ *miyo-wîcihtowin*: Getting along well: everyone to help each other and to get along well through sharing and good will
- ᑕᐃᐅᐃᑕᐃᐅᐃ *sihtoskâtowin*: Supporting and pulling together to strengthen each other
- ᐱᐱᑕᑦᑕᐃᐅᐃ *manâcihtâwin*: The act of respect or to be considerate, gentle, and mannerly. To mitigate or conserve something for the future
- ᑕᐃᐅᐃᐅᐃ *tapwewin*: Honesty

In the next few pages, I offer a comparison of some the underlying responsibilities and obligations found in these Cree legal principles with those in Canadian employment law. A comparison of these sets of concepts demonstrates that many aspects of Cree law are cognizable to Canadian employment law, offering the possibility for Cree law to be formally enacted in the workplace without contradicting existing employment law principles.

ᑎᑦᐱᑦᐅ ᐱᐱᐱᑦᐅᑦ *nehiyaw pimatisiwin* (Cree way of life). This principle encompasses the doctrines related to the Cree way of life. As expressed by some of the community members who were interviewed, ᑎᑦᐱᑦᐅ ᐱᐱᐱᑦᐅᑦ *nehiyaw pimatisiwin* (Cree way of life) may be guided by the principle and related responsibilities and obligations of ᑲᑦᐱᑦ ᐃᑕᑕᑦᐅᑦ (doing things the right way) as well as the principle of respect and reciprocity.⁹⁹ Obligations may include respect of a pre-determined social order defined through family/kinship ties, as well respect of the land and all beings. The principle of reciprocity may be enacted by giving back and by being generous toward others in need. Giving back may include the responsibility of passing down traditional teachings.

In Canada, by comparison, statutory employment laws and regulations, which operate alongside common law, impose numerous obligations governing employment relationships, thus acting as a required minimum amount of protection for employees. In the common law of employment, contracts are guided by notions of a reasonable person and reasonable standard,¹⁰⁰ often derived from implied contract terms, such as the requirement for both the employer and the employee to give reasonable notice that they are terminating the employment contract. Often, unwritten terms for employers include the application of the principles of respect, decency and civility and dignity in their treatment of employees (Belcourt, Bohlander & Snell, 2011, p. 514), whereas employees are expected to serve the employer honestly, competently and in good faith (Williams-Whitt, Harris, Begg, Filsinger, 2017, p.139). Most of these rules are derived from case law, and determined by precedents, which are decisions from judges (p. 553).

⁹⁹ See interviews: Adelaide McDonald, 2018; Jane McDonald, 2018; Tom McDonald, 2018 and Carol Wanyandie, 2018.

¹⁰⁰ See *Kieran v Ingram Micro Inc.*, [2004] OJ No 3118 (CA) which is a case dealing with notions of the reasonable person and the reasonable standard (Adam, 2018, pp. 140-145).

As outlined above, the underlying responsibilities and obligations related to ᑕᐃᐅᐅ ᐱᐱᑎᐅᐅᐅ *nehiyaw pimatisiwin* (Cree way of life) are cognizable to many principles found in Canadian law's statutory employment laws and regulations. Both sets of laws promote respect and apply protections to those who do not hold the authority or power. Moreover, the application of principles in both traditions are informed by a collective body of transmitted knowledge supported by past experience. While ᑕᐃᐅᐅ ᐱᐱᑎᐅᐅᐅ *nehiyaw pimatisiwin* may be congruent with Canada employment laws in many aspects as described above, there exists some notable differences. ᑕᐃᐅᐅ ᐱᐱᑎᐅᐅᐅ *nehiyaw pimatisiwin* recognizes the interrelationship of all beings (i.e. ᐱᐱᑎᐅᐅᐅ *wahkôtowin*) as a central tenet, prioritizing the maintenance of good relationships (i.e. ᐅᐅ ᐃᐅᐅᐅ *miyo-wîcihtowin*) and collective well being. By contrast, from its roots in Britain's master and servant law, Canadian employment law bestows uneven powers in employer-employee contractual relationship, prioritizing the economic interests of the employer over the interests of the employee (Law Commission of Canada, 2005).

ᑕᐃᐅᐅᐅᐅᐅ *nehiyawewin* (Cree language). ᑕᐃᐅᐅᐅᐅᐅ *nehiyawewin* is critical in understanding the Cree way of being (McAdam, 2015, p. 63). Highlighting its critical importance, some interviewees expressed that an effort should be made to use ᑕᐃᐅᐅᐅᐅᐅ *nehiyawewin* correctly and to speak it daily.¹⁰¹ It is identified as a principle because it is one way that Cree people choose to communicate proper behaviour (Jobin, 2018, pp. 14-15). For example, kinship terms embedded in the language identify the role and respect accorded to each person in the family and, by extension, within the community (McAdam, 2015, p. 59). Teaching of the Cree language may be done through daily lived experiences of ᑕᐃᐅᐅ ᐱᐱᑎᐅᐅᐅ *nehiyaw*

¹⁰¹ See interviews: Tom McDonald, 2018; Philomene Moberly, 2018; and Russell Wanyandie, 2018.

pimatisiwin as well as community practices, such as story-telling and ceremony, which provide guidance passed down through generations (Campbell, 1985; Simpson, 2014).

In Canadian employment law, the English language in written form, is key to the interpretation of case laws, statutes and regulations. All court decisions from common law and statute law are written down (e.g. case reporters, encyclopaedic digests, textbooks, government publications, blogs, newsletters, etc.) and are considered a legitimate reference when preparing employment contracts and corporate policies (Williams-Whitt et al., 2017, pp. 22-25). Language accuracy in contracts is also deemed important. In disputes, if a Court finds that the terms of a contract has ambiguous language, it may apply *contra proferentum*, meaning that the contract is interpreted against the employer who wrote it (p. 163).¹⁰² Employers are expected to learn employment law through accessible written sources to have sufficient understanding of key legal issues and their management role as well as to minimize legal risks and liabilities (p. xi). Since they hold the burden of proof in wrongful dismissal cases, employers are encouraged to “create a paper trail” by documenting problems with employees in a prompt and precise manner to be presented, if needed, as valid evidence in court (p. 513).

The reliance of both traditions on language to interpret their respective laws highlights a congruent perspective in their respective principled approaches. Each linguistic tradition is encoded with their culture’s respective responsibilities and obligations which are communicated through language. Important differences exist however in the respective use of language in the practice of law. By virtue of the orality of its legal tradition, the application and transmission of Cree law relies on knowledgeable and respected citizens. This practice may not be confused with

¹⁰² See *Duxbury v. Training Inc.*, 2002 ABPC 24, for an example of *contra proferentum* where the Court concluded that there was ambiguity in the wording of the contracts and awarded the employees common-law damages (Williams-Whitt et al., 2017, p. 163).

confirms the importance of the principles of respect and dignity in employment relationships. For example, the *Alberta Human Rights Act* states as a fundamental principle “that all persons are equal in dignity, rights and responsibilities (...)” (Government of Alberta, 2018, p. 2).

While it is beneficial to recognize that the notion of interrelationship found in principle of ᐱᐱᐱᐱᐱᐱ *wahkôtowin* is cognizable to the fundamental relational nature of the contract of employment from common law, it is also important to be reminded of the limits of this comparison. In recognizing that all beings are related, ᐱᐱᐱᐱᐱᐱ *wahkôtowin* prioritizes the common good over individual needs; community life and relationships continue to matter before and beyond the employment relationship. By contrast, in Canadian law, the relational nature of the common law contract of employment is essentially individual in nature and is bounded by the utility of the employee to the employer; the employer-employee relationship is extinguished at the end of the contract.

ᐱᐱᐱᐱᐱᐱ *miyo-wîcihtowin* (Getting along well). The principle of ᐱᐱᐱᐱᐱᐱ *miyo-wîcihtowin* refers to “the nature of the relationships that Cree peoples are required to establish” (Cardinal, 2000, pp. 14, 53). For many Cree people, ᐱᐱᐱᐱᐱᐱ *miyo-wîcihtowin* implies reciprocity and a relational way of being including “sharing and generosity, respecting the earth and all inhabitants, working hard, and caring for other people” (Kovach, 2009, p. 63). All interviewees spoke about the crucial importance of maintaining good relationships within the community. Many interviewees described their active and respectful engagement with the land as being a priority in their life.¹⁰⁴ Transgressing the rules related to ᐱᐱᐱᐱᐱᐱ *miyo-wîcihtowin*, which are passed down from generation to generation, may be seen as bringing negativity to the

¹⁰⁴ See interviews: Adelaide McDonald, 2018; Tom McDonald, 2018; Carol Wanyandie, 2018 and Mabel Wanyandie, 2018.

community (LaBoucane-Benson, Gibson, Benson & Miller, 2012, p. 6). Many interviewees described the negative impacts within the AWN community when $\Gamma\text{v}\ \dot{\Delta}\text{v}^{\text{w}}\text{D}\Delta^{\text{p}}$ *miyo-wîcihtowin* is not followed consistently.¹⁰⁵

Legislation in Canadian employment law has established responsibilities and obligations to mitigate the power imbalance of the employer-employee relationship. Employers are required to demonstrate good faith and have an obligation to act fairly towards employees.¹⁰⁶ In turn, employees have the obligation to serve the employer with loyalty and fidelity.¹⁰⁷ In instances when employers wish to terminate the employment contract without providing notice, general damages are paid by the employer in lieu of statutory or contractual entitlements. Employers who have been proven to operate with a lack of good faith in the manner of terminating employees may experience financial consequences as they may be ordered by the court to pay for aggravated damages for incurred distress.¹⁰⁸

The application of the principle of $\Gamma\text{v}\ \dot{\Delta}\text{v}^{\text{w}}\text{D}\Delta^{\text{p}}$ *miyo-wîcihtowin*, and related obligation of caring and reciprocity may be seen as cognizable to the employer's obligation of good faith and the employee's obligation of loyalty found in Canadian employment law. In $\Gamma\text{v}\ \dot{\Delta}\text{v}^{\text{w}}\text{D}\Delta^{\text{p}}$ *miyo-wîcihtowin*, however, the maintenance of good relationships and the underlying implication of care and reciprocity, is a central tenet of Cree law and cannot be replaced by financial compensation (or anything else), as is possible to do in Canadian employment law.

¹⁰⁵ See interviews: Jane McDonald, 2018; Philomene Moberly, 2018; Carol Wanyandie, 2018 and Mabel Wanyandie, 2018.

¹⁰⁶ See the case of *Potter v. New Brunswick Legal Aid Services Commission*, 2015 SCC 10, where the judge concludes that the employee was constructively dismissed, thus supporting the principles of the employer's duty of good faith and duty to act fairly (Adam, 2018, pp. 123-135).

¹⁰⁷ In *Poliquin v. Devon Canada*, [2009] AJ No 626 (CA), the Court agrees that the employee's serious breach of the employer's code of conduct justified termination (Adam, 2018, pp. 64-75).

¹⁰⁸ The case of *Honda Canada Inc. v. Keays*, [2008], SCJ No 40, demonstrates the employer's obligation of good faith and fair dealing as well as the obligation to be candid, honest and forthright when dismissing an employee.

The responsibilities and obligations evoked in both the Cree and Canadian legal traditions show a great degree of congruence as it relates to ensuring the safety of all individuals as well as the protection of vulnerable people. Within the underlying holistic perspective of the Cree legal tradition, the duty of maintaining the safety and protection of individuals in ᓂᓄᓂᓄᓂᓄᓂᓄᓂ *sihtoskâtowin* extends far beyond the protections afforded in Canadian employment law, however, and includes duty of care for family, community, and other living beings.

ᓂᓄᓂᓄᓂᓄᓂᓄᓂ *manâcihtâwin* (Respect). Applying to all of Creation, ᓂᓄᓂᓄᓂᓄᓂᓄᓂ *manâcihtâwin* is the principle associated with showing respect and civility and treating others with care (Jobin, 2018, p. 251). Some interviewees described this principle in relation to the show of respect toward family members and members of the community.¹¹¹ This principle may also relate to how Cree people treat each other through their actions and words, following kinship terms and laws. The respect shown is dependent upon the terms and roles of each family member (McAdam, 2009, p. 62). ᓂᓄᓂᓄᓂᓄᓂᓄᓂ *manâcihtâwin* may apply to having a reciprocal relationship with Mother Nature. It is connected to a philosophy of human sustenance, of living with the land, in which food is a gift that is freely exchanged and shared. It may serve as a guide to conserving and mitigating the effects of human impact (Jobin, 2018, pp. 107-108). Some interviewees described ways of deriving spiritual and/or physical sustenance from the land while others spoke of their personal as well as their community's responsibility of treating Mother Nature with respect.¹¹²

¹¹¹ See interviews: Mary Delorme, 2018; Adelaide McDonald, 2018; Tom McDonald, 2018 and Carol Wanyandie, 2018.

¹¹² See interviews: Adelaide McDonald, 2018; Jane McDonald, 2018; Tom McDonald, 2018 and Philomene Moberly, 2018.

In the Canadian workplace, employers and employees are required to treat each other respectfully. For employers, this translates into the obligation of the employer to avoid “sharp dealings”¹¹³ and treat employees with “decency, civility, respect, and dignity” while employees are expected to “avoid insubordination and insolence” (Belcourt et al., 2011, p. 513). The common law of contracts also contains the core principle of consideration, which is defined as “a mutual exchange of promises required, along with an offer and acceptance, to create an enforceable contract”. A promise of payment is made in exchange for a promise to perform the work (Williams-Whitt et al., 2017, p. 553). Consideration also applies when contractual terms are modified during the course of employment, in which case, an employer must compensate an employee whenever a substantive change in the employment contract is enacted.¹¹⁴ As outlined in every provincial *Employment Standards Code*, employers are required to provide compensated time off to employees during their employment based on the number of years of service. Provisions for banking time for vacation and for working extra hours (lieu time) for future use by the employee are included in the legislation (Government of Alberta, 2018, pp. 16-44).

The application of the principle of ᐱᐱᐱᐱᐱᐱᐱᐱ *manâcihtâwin* and related obligations of respect, civility and treating others with care may be seen as cognizable to the employer’s similar obligations of respect and civility toward the employee found in Canadian employment law. The employee’s obligation to avoid insubordination of loyalty is also found in Canadian employment law. As mentioned earlier, the adherence to the principle of ᐱᐱᐱᐱᐱᐱᐱᐱ *manâcihtâwin* cannot be replaced by financial compensation, such as it is done in Canadian employment law in situations

¹¹³ See *Hobbs v TDI Canada Ltd.*, [2004] OJ No 4876 (CA), on how the Courts frown on the high pressure caused by employers who use “sharp dealings” (Adams, 2018, pp. 12-17).

¹¹⁴ See *Wronko v. Western Inventory Service Ltd.*, [2008] OJ No 1589 (ONCA) which is a decision awarding damages to an employee whose contractual terms had been substantially changed without proper consideration (Adams, 2018, pp. 25-31).

where the employer demonstrates “sharp dealings” toward the employee or when the employer does not apply the related principle of consideration.

ĆV·Δ·ᑭ tapwewin (Honesty). The principle of ĆV·Δ·ᑭ *tapwewin* may be understood in relation to the responsibilities and obligations related to “speaking the truth or speaking with precision and accuracy” (Cardinal and Hildebrandt, 2002, p. 48). This principle may also be connected to obligations related to the sacred gift of *pimâtisiwin* (life) which entails following strict truths (McAdam, 2009, p. 27). Some interviewees described that following obligations related to ĆV·Δ·ᑭ *tapwewin* demonstrates integrity of character as well as the notion of personal and collective accountability.¹¹⁵

Implicit to the principle of good faith in Canadian employment law are the obligations of honesty and trust. Employment contracts and legal statutes support this principle implicitly and explicitly through several provisions addressing such obligations as fiduciary responsibilities, confidentiality, honest performance and termination notice. Employment contracts must be written with accuracy. Both the employee and employer are free to break the employment contract, but they must provide reasonable notice of this intention.

As outlined above, the underlying responsibilities and obligations related to ĆV·Δ·ᑭ *tapwewin* may be considered cognizable to many principles found in Canadian employment law. Both sets of laws promote honesty and trust as well the obligation of precision and accuracy in transmitting information. The Cree legal tradition, however, is not cognizable to Canadian employment law in its obligation of demonstrating integrity of character and accountability.

¹¹⁵ See interviews: Mary Delorme, 2018; Philomene Moberly, 2018 and Russell Wanyandie, 2018.

While these may be touted as assets within the context of Canadian employment law and the court system, they are not considered to be obligations.

In conclusion, this brief comparative review of principles found in both Cree and Canadian legal traditions supports my assertion that Cree legal principles are recognizable and congruent with concepts found in Canadian employment law. The comparison also marks out, however, limits to how Cree law may be rendered cognizable to Canadian employment law. Simply stated, the two legal traditions are distinct. Inherent differences may be traced back to the roots of each legal tradition. Cree law is rooted in a holistic way of understanding which puts primacy on relationships while Canadian employment law, derived from Britain's master and servant law, is based on uneven power relations. Despite these distinctions, I argue that on their face, the Cree legal principles discussed appear to have multiple points of convergence with those found in Canadian employment law (Friedland & Napoleon, 2016, p. 41), which would allow outsiders to understand their value within employment relationships. In support of this argument, I turn next to the practical application of Cree legal principles to resolving employment-related issues.

5.3 Applying Cree Legal Principles to Resolving Employment-Related Issues

In this section, building on Friedland's (2018, pp. 44-45) assertions that Cree principles and processes are living legal traditions, I argue that Cree principles and processes may successfully inform and guide the resolution of employment-related issues within the contemporary context of AWN Group of Companies. In proposing a dispute resolution model using Cree principles, I further contend that the Nation's Elders Council, as currently defined within AWN Group of Companies' existing governance structure, may be well-positioned to resolve employment-related issues with legitimacy and authority.

In the next pages, I first document the current governance structure of AWN Group of Companies, highlighting the mandate of the Elders Council. Then, I propose a framework connected to the Elders Council to resolve employment-related issues which I call the Employment Peace Circle.¹¹⁶ To outline this model, I draw on Cree foundational principles; substantive results from the Access to Justice and Reconciliation (AJR) Report developed by Friedland & Napoleon (2011/2015, p. 8) and the Aseniwuche Winewak Nation's current governance structure. In attempting to create a contemporary adaptation of dispute resolution processes based on Indigenous law, I also draw from documentation on the peacemaking process from other Indigenous nations and organizations, as outlined in Chapter 2. When creating a model to be used within a Cree legal context, it is crucial to acknowledge the inherent differences between Indigenous legal traditions: they are not interchangeable. However, at a time when Indigenous legal processes have not been publicly recognized as law, Indigenous peoples and scholars of different Indigenous legal orders are finding processes from other traditions to draw from as a useful avenue to the development of contemporary applications.

5.3.1 AWN Group of Companies' Governance Structure

In proposing a dispute resolution model using Cree principles and reasoning processes, I argue that AWN's Elders Council, as it is currently defined within the existing governance structure of the Aseniwuche Winewak Nation may be positioned to address employment-related issues legitimately and authoritatively. In the next few paragraphs, I highlight the current

¹¹⁶ It is understood that the proposed model and related assumptions are merely a suggestion and must be submitted to the leadership of the Aseniwuche Winewak Nation, including the Elders Council, the Board of Directors and senior management of AWN Group of Companies, for discussion and feedback on applicability. Before implementation of the Employment Peace Circle, modifications to AWN's *Policy and Procedures Manual* would have to be completed followed by implementation and training throughout the organization.

governance structure of AWN Group of Companies, focusing on the mandate of the Elders Council.

As outlined in Chapter 1, *Aseniwuche Winewak Nation of Canada, a Fellowship of Aboriginal People* (AWN), was created in 1994 to oversee the affairs of the community including policies, programs and services, and to advance Indigenous rights. It is structured as a not-for-profit corporation governed by an elected Board of Directors comprised of seven members including a President and a representative for each of the four cooperatives and the two enterprises where most members of the Aseniwuche Winewak Nation reside. AWN oversees AWN Group of Companies which is composed of two for-profit corporations: Aseniwuche Development Corporation (ADC) and Aseniwuche Environmental Corporation (AEC). Finally, AWN is also comprised of an Elders Council, holding a formal advisory role for the AWN Board and AWN members (see Figure 1.1).

As outlined in *Aseniwuche Winewak Nation Society: By-laws*, the purpose of the Elders Council is “To provide advice to the Board on the affairs of the Society”, and, “To assist in resolving disputes between Members and within the Society in a manner it considers appropriate and with the consent of the parties involved” (June 26, 2002). In the following pages, contending that the Society may consider as “appropriate” the formation of a dispute resolution structure to resolve employment-related issues, I propose that such an entity be made available to all employees of AWN Group of Companies.¹¹⁷ I call the proposed dispute resolution model, the Employment Peace Circle. The next section describes the goals, the membership and the process of the Employment Peace Circle.

¹¹⁷ The proposed process is non-binding. This element of choice provides the initiator of the grievance or complaint with the option of accessing the legal procedures contained in Canadian employment law. It also implies that the Elders Council may refuse to hear the grievance or complaint after a preliminary review.

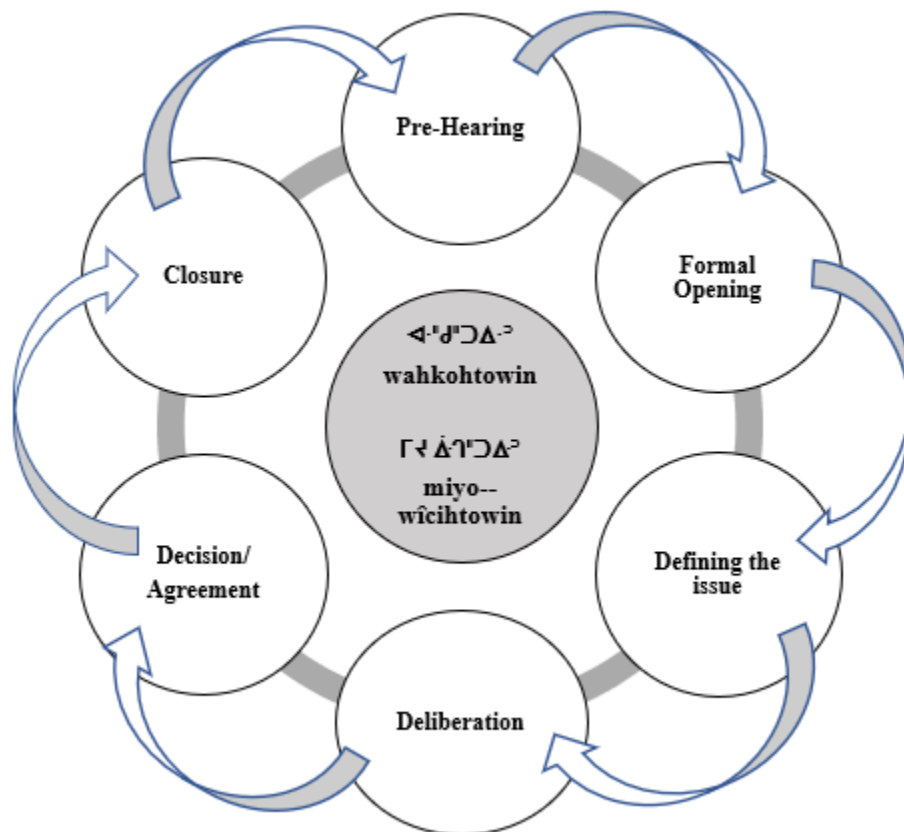
5.3.2 Employment Peace Circle

Guided by the principle of ᑦᑦᑦᑦᑦᑦ *miyo-wîcihtowin* (getting along well), the ideal outcome sought by the Employment Peace Circle is the resolution of employment-related issue(s) by consensus. While the goal and process used in the Employment Peace Circle holds similarities to those found in dealing with grievances or issues under Canadian employment law, they differ in significant ways. Whereas the Canadian legal tradition seeks to resolve the grievance fairly for the organization and for the employee(s), the goal of the Employment Peace Circle is the restoration and/or enhancement of relationships, whether or not the employment-related dispute is resolved. Acknowledging the interrelationships of all beings, under the doctrine of ᑦᑦᑦᑦᑦᑦ *wahkôtowin*, members of the Employment Peace Circle attempt to resolve the issue(s) by considering the well being of the employee(s) in relation to family, the organization and the community. There are also differences in the processes stemming from two distinct legal traditions. In Canadian employment law, the process is unidirectional: a manager (or an external third party, for ADR processes) typically hears the grievance or issue and renders a decision after listening to the perspectives of the parties involved. In contrast, problem-solving and decisions made during an Employment Peace Circle are achieved through a participatory decision-making process by participants who belong to the community and/or organization. All participants of the Employment Peace Circle have a role in resolving the dispute. The process, as illustrated in Figure 5.1 below, guided by the doctrines of ᑦᑦᑦᑦᑦᑦ *wahkôtowin* and ᑦᑦᑦᑦᑦᑦ *miyo-wîcihtowin* is depicted by a circle: stages of the process allow for discussions to go back and forth between them, taking into account interpretive differences to achieve a deeper common understanding of the grievance or issue and arrive at a decision. If deemed necessary to facilitate meaningful decision-making among the participants, the Elders may instigate a second hearing.

Participation in the Employment Peace Circle is also guided by the doctrines of ᐱᐱᐱᐱᐱᐱ *wahkôtowin* and ᐱᐱᐱᐱᐱᐱ *miyo-wîcihtowin*. Under the auspices of the Elders Council of the Aseniwuche Winewak Nation, membership to the Employment Peace Circle includes Elders, the grieving employee(s), a family member and/or the employee(s)' representative, a member of the AWN Board of Directors and a management representative. In addition, a Peace Circle Liaison is responsible for the administration of the Employment Peace Circle such as coordinating sessions and required training as well as follow up documentation (Zion & Nielsen, 2005, p. 26).

In defining the role, responsibilities and obligations of each participant of the Employment Peace Circle, consideration is given to both the historical characteristics of the Nation's legitimate decision-makers and the contemporary context of AWN Group of Companies. Elders are the main source of guidance and authoritative action in the Employment Peace Circle in the same way that the Aseniwuche Winewak have historically sought their wisdom in resolving a conflict.¹¹⁸ Those Elders who have the relevant understanding and expertise required to address the topic of a particular dispute are appointed by their peers. Aligned with the principles and doctrines related to ᐱᐱᐱᐱᐱᐱ *miyo-wîcihtowin* (getting along well), their role includes “direct(ing) action to prevent harm and protect(ing) people” or, in the case of an interpersonal conflict, taking “on a more persuasive role”. Elders may choose to participate collectively in resolving a dispute; offering different perspectives to the disputant(s) may facilitate the problem-resolution process (Friedland & Aseniwuche Winewak Nation, 2013, pp. 9, 11, 12, 19, 23).

¹¹⁸ Historically, the Aseniwuche Winewak did not always rely on Elders' final say to resolve all disputes. For example, research on problem-resolution processes indicate that “important decisions for community safety are made collectively by a group” (Friedland & Aseniwuche Winewak Nation, 2013, p. 13).

Figure 5.1*Process of the Employment Peace Circle*

The stages in the process of the Employment Peace Circle are described as follows:¹¹⁹

¹¹⁹ To outline this process of the Employment Peace Circle, I drew inspiration from Navajo scholar, Jeanmarie Pinto in her article describing the Navajo Nation's *hozhooji naant'aanii*. These steps are 1. laying the groundwork, 2. the opening prayer, 3. defining the problem, 4. creating problem-solving statements, 5. summarizing the session, 6. commitment and solidarity and, 7. the closing prayer (2016, pp. 175-178).

Pre-hearing: Once an employee has been advised by their manager of a disciplinary or corrective measure to be taken under the terms of Canadian employment law, the employee(s)¹²⁰ may ask for a hearing with the Employment Peace Circle. The Liaison of the Employment Peace Circle meets with the employee(s) to confirm the employee(s)' understanding of the overall goal of the Circle, the Nation's foundational principles as well as respective rights, responsibilities and protocols (Pinto, 2016, p. 174). The Liaison may also offer support in writing down the facts related to the grievance or complaint (Rabbit-Young Pine, 2013, p. 48) to be submitted to the appointed Elders for consideration. After the grievance or complaint has been submitted, the Elders review the employee's report, which may be augmented by additional fact-finding. In their research, Elders may uncover extra facts that corroborate the evidence presented (Friedland & Aseniwuche Winewak Nation, 2013, p. 15).¹²¹ If the grievance or complaint is accepted, the participating Elders are selected, based on their understanding and expertise (Friedland & Aseniwuche Winewak Nation, 2013, p. 15), to provide guidance during the Employment Peace Circle. A session of the Employment Peace Circle is then promptly called by the Liaison.

Formal opening. Once all the participants are gathered for the beginning of the Circle hearing, they are asked to respect the protocols involved in the formal opening of the Circle. These may include an offer by the employee of a gift of tobacco to the Elders leading the Circle hearings. A designated Elder may formally open the Circle hearings with a prayer. The inclusion of prayer may be interpreted as quiet time to reflect on the issue at hand. Prayer may also be a

¹²⁰ I have added the plural as the dispute may involve more than one employee, either seeking redress directly or indirectly.

¹²¹ Their decision to accept or reject the grievance or complaint is thereafter communicated to the employee. This process may not be relevant or appropriate for all grievances or complaints that may be submitted, including, but not limited to, issues pertaining to criminal law, such as acts of extreme violence at work. Other considerations, besides the ones offered above, may have to be clarified before an Employment Peace Circle is convened.

reminder of the sacredness of the process that is being initiated, and of the doctrines of ᐱᐱᐱᐱᐱᐱ *wahkôtowin* and of ᐱᐱᐱᐱᐱᐱ *miyo-wîcihtowin*.

Prior to the formal opening, a few points may be communicated to ensure understanding of the process. One designated Circle participant: 1) gives the history of the Employment Peace Circle and explains how it may assist in finding a solution to the issue at hand, 2) reviews the stages of the process as well as the underlying principles, and 3) stresses the importance of confidentiality to allow participants to speak freely.

Defining the issue(s). Much emphasis is placed on clearly defining all facets of the issue(s) in the dispute that, as a complex human problem, may include strong emotions. The goal is to arrive at a consensus on defining the issue and related problems (Yazzie, 1994, p. 185). As a participant of the Employment Peace Circle, the AWN employee(s) instigating the hearing of the Employment Peace Circle exercise(s) the legal right to be heard (Napoleon & Friedland, 2011/2015, p. 8). The Elders allow time for the disputant(s) to describe the issue(s) from the report completed in the pre-hearing. The employee(s) may come to the hearing accompanied by a family member for extra support in the same way as, historically, family members may have taken a pro-active role in preventing harm or in resolving an interpersonal conflict (Friedland & Aseniwuche Winewak Nation, 2013, pp. 12-13). A designated co-worker may also be available to represent the employee at the hearing to provide extra knowledge and experience about AWN Group of Companies' policies and procedures (Rabbit-Young Pine, 2013, p. 49). Looking out for family and other community members, as enacted in the Employment Peace Circle, is described by many interviewees as being linked to the principle of ᐱᐱᐱᐱᐱᐱ *sihtoskâtowin* (supporting

each other).¹²² Support is also offered by one representative of the Board of Directors as well as a member of the management team of AWN Group of Companies, who are also included in the Employment Peace Circle. Their respective knowledge of the Nation's by-laws and organizational responsibilities with respect to the issue(s) being resolved may assist in evaluating the positive or negative effects of the dispute as well as the proposed responses or actions.

Once the original report is communicated by the employee(s) or the employee(s)' representative, the Elders may assist in channelling these expressions into a more positive understanding of the situation. For example, the Elders may remind the participant(s) of the importance of the notion of responsibility and accountability for one's actions based on the Cree principle of ᑕᑦᑕᑦᑕᑦᑕᑦ *tapwewin* (honesty). In another instance, the principle of ᑦᑦᑦᑦᑦᑦᑦ *sihtoskâtowin* (supporting each other) may be invoked to remind the participant(s) of the support available within the family and the community. The Elders may reframe the issues through storytelling or other modes, which may better situate the issues within ᑦᑦᑦᑦᑦᑦᑦ *nehiyaw pimatisiwin* (Cree way of life).¹²³ Everyone at the Circle hearing has the opportunity to be heard (Yazzie, 1994, p. 182). Other participants are invited to give advice and provide suggestions to assist in further clarifying the issues and their impacts. Ideas may also be introduced for potential problem-solving.

Deliberation. In an effort to find the most constructive solution for all involved, Elders encourage the employee (and other parties involved) to formulate their own solutions to resolving the grievance or issue in a positive, respectful manner. Other participants may provide

¹²² See interviews: Mary Delorme, 2018; Jane McDonald, 2018; Tom McDonald, 2018; Philomene Moberly, 2018; Carol Wanyandie, 2018 and Mabel Wanyandie, 2018.

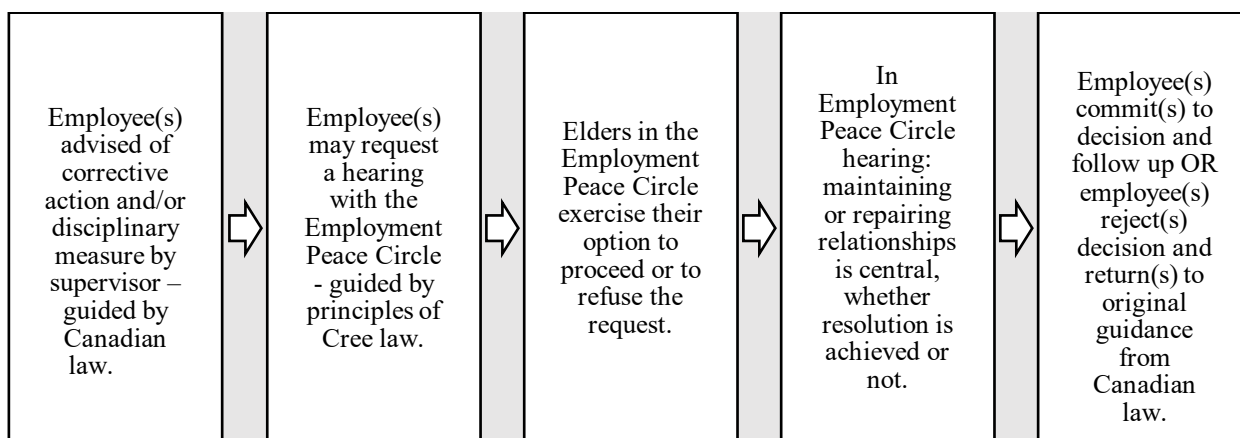
¹²³ Some interviewees spoke of the importance of relating the facts of a situation through their own stories. See interviews: Adelaide McDonald, 2018 and Mabel Wanyandie, 2018.

feedback and/or objections to proposed solutions, shedding light on the potential effects of the suggested solutions. Those aspects impacting the community and organization are given consideration. If solutions are found that are acceptable to all the Circle participants, they are recorded on a designated form. If no consensus is reached on finding a solution, the Elders may, after some private deliberation, make recommendations for a possible solution.

Decision/Resolution. If a solution has been reached by consensus or by accepting the Elders' recommendations, the written version of the agreement is read to all Circle participants to ensure common understanding.

Closure. A designated Elder explains the importance of the Employment Peace Circle in supporting AWN employees and the community as a whole. He/she thanks all the participants for their involvement and assistance. A designated Elder may close the Circle with a prayer. If an agreement was reached by consensus during the Employment Peace Circle, a follow up is planned. This may lead to providing additional support to ensure a successful outcome.

In some cases, even if an agreement is reached by consensus, the employee may opt to reject this agreement and choose instead to abide by the decision based on Canadian employment law. The employee initiates the follow up and communicates his/her decision to a designate of the Employment Peace Circle. The graphic below summarizes how the Employment Peace Circle, sourced from Cree legal traditions, harmonizes with the Canadian employment legal system (see Figure 5.2).

Figure 5.2*Harmonizing the Employment Peace Circle with the Canadian Legal System*

I have just provided an outline of the legal processes and related resolutions/responses as well as obligations, responsibilities and rights that may be used in AWN's Employment Peace Circle. In the next part of this chapter, I present one case study, based on one hypothetical employment-related issue at AWN Group of Companies. I present two approaches in attempting to resolve the issue. The first is based on Canadian employment law and the second is based on Cree legal principles. In using Cree legal principles, I present two outcomes.

5.3.4 Case study: Termination of Employment Following a Breach of the Safety Policy

The case study I have developed is explored through two approaches. In the first instance, I describe the grievance process utilized by the parties and a hypothetical outcome through the lens of the Canadian employment legal tradition. In the second instance, the same elements of the case study are reviewed from a Cree legal perspective, through the dispute resolution process and two potential outcomes offered by the Employment Peace Circle.

Background. M. was hired as a heavy equipment operator by the Aseniwuche Environmental Corporation (AEC). Although she signed her latest employment contract with AEC only six months ago, M. is a loyal employee who has worked for AWN Group of Companies for most of the past 10 years. She is always willing to work even when she is scheduled on the night shift. M. is proud to work for AEC as she is a member of the Aseniwuche Winewak Nation. She resides in one of AWN's Cooperatives and is the sole support of two children and her mother, who is a community Elder.

M. filed a grievance¹²⁴ for unfair treatment following her recent termination for causing a serious accident and incurring extensive damages to heavy equipment owned by the Company. In her internal grievance report, she explains that a few days prior to the termination, the grader that she was operating had slid on the soft shoulder and slipped into the ditch. She believes that many elements are not being considered in the decision made by management to terminate her employment. She argues that the conditions for driving a grader are challenging due the rough condition of the gravel road, including its soft shoulder. She further argues that since she works the night shift, it is sometimes difficult to remain fully attentive while operating heavy equipment on a very dark road. While she understands that the grader incurred costly repairs due to the accident, she emphasizes that no one was hurt. She feels that she should not have been fired because she is a loyal employee who simply experienced a moment of distraction. She adds that others who have had safety incidents were not terminated on their first mishap. She concludes by stating that she needs to work to support her family.

Decision/Resolution Based on Canadian Employment Law. As per AWN policies and procedures, before meeting with M. to discuss the grievance, the report is reviewed by the

¹²⁴ AWN Group of Companies has a non-unionized workforce. The Company has implemented an internal policy and related procedures which includes a mechanism for employees to file a grievance report.

Manager overseeing AEC operations and by M.'s supervisor. From the perspective of AEC management, M.'s accident is a serious breach as it put her safety and the safety of others at risk. Also, the cost of repairing the equipment and the loss of productivity for AWN Group of Companies exceeded \$15,000.00. Upon reviewing the safety investigation report, the Manager is satisfied that the investigation has been thorough and indicated that M. had driven carelessly. The Manager reflects on the strategic importance of work safety to the Aseniwuche Winewak Nation, to the AWN Group of Companies, to the employees and to Company clients.

During the meeting held with M. to discuss her grievance, the Manager first listens carefully to M.'s assertions that she was treated unfairly. M. argues that she should not have been terminated because of a momentary distraction where no one was hurt. She adds that others with more serious mishaps were not terminated and that, given her 10 years of service to AWN, she should be given at least one more chance. The Manager responds that, according to employment law regulations, each incident must be reviewed on a case-by-case basis. When deciding on the application of discipline following a safety incident, consideration is given to the severity of the incident or "near-miss", as well as to the frequency of incidents previously incurred. The Manager also explains to M. that the cost of the equipment damage to the Company is also considered as an important factor in the decision. In this situation, the incident is deemed to be both severe and costly. It is made clear to her that while M. had worked for AWN for 10 years, she had not worked on a continuous basis. The Manager referred to M.'s last employment contract which was signed only six months ago.

In concluding the meeting, the Manager tells M. that the decision previously taken by Management had considered all the factors and dealt with them in a fair manner, in concordance with current safety regulations as well as AWN's Health and Safety Policy and Procedures. The

Manager also emphasizes that the Company considered employee safety as top priority. She reminds M. that she had received all the necessary training to ensure her safety as well as the safety of others, as attested by the signed training documents in her HR file. Given, the serious and costly nature of M.'s incident, the Manager tells M. that she supports Management's initial decision of dismissal for careless driving and rejects M.'s grievance.

A few days later, M. calls the Government of Alberta's Employment Standards Branch to see if she can appeal the decision. Since she had been actively employed at AEC for only six continuous months, she was informed that there would be little chance of winning an appeal. M. decided not to appeal Management's decision to terminate her employment.

As outlined above, the hypothetical employment issue presented is relatively straightforward. It elicited a management response, based on Canadian employment law, that may be viewed as being reasonable and fair to both the company and the employee. In addressing the issue, AEC management demonstrated the principle of respect and dignity toward M., providing a fair process for hearing M.'s point of view on the events leading up to her termination. Since the issue is related to an area covered by the *Alberta Occupational Health and Safety Act*, AEC management was able to demonstrate, through signed training documents that reasonable care was taken to protect the safety of M. and her fellow employees through on-going training. Finally, the terms for the termination of M.'s written employment contract were taken into account, as per the core legal principle of consideration found in Canadian employment law.

AEC's decision, while being correct and quite justifiable in terms of Canadian employment law, may be deemed, however, as unsatisfactory to both parties. In terminating M., the Company loses a loyal and hard-working employee. From the employee's perspective, in being terminated, M. loses her source of income and the means to provide for her family who are

dependent upon her. As a member of the Aseniwuche Winewak Nation, M. may no longer directly contribute to and benefit from AWN Group of Companies, which is fully owned by the Nation to which she belongs. Her dismissal may cause long-term strain to the relationship that she and her family have with the AWN leaders who were involved in the termination decision. Without an alternative process, there would be little possibility of resolving this issue in a way that addresses both parties' concerns and achieves a better outcome.

In the following paragraphs, I present alternatives to the above response allowing Cree principles and reasoning processes, rather than those of Canadian employment law, to guide the resolution of an employment-related issue. Two different outcomes for the same case study are detailed using the Aseniwuche Winewak Nation's foundational Cree principles as the primary rules of obligation and principles of Canadian employment law as secondary rules of recognition (Hart, 1994; Fletcher, 2007). In Decision/Resolution #1, a problem-solving process is outlined, concluding in a positive employment-related outcome while Decision/Resolution #2, a problem-solving process is depicted that results in a negative employment-related outcome. In both examples, however, the application of Cree legal principles and reasoning processes support M.'s well being and the maintenance of a good relationship between M. and the leadership of AWN Group of Companies.

Decision/Resolution #1 Based on Cree Legal Principles and Reasoning. Embedded in the principle of ᐱᐱᐱᐱᐱᐱᐱᐱ *wahkôtowin* (interrelatedness), placing primacy on kinship and community relationships, the Employment Peace Circle allows for new facts to emerge. In the pre-hearing phase, the Elders discuss amongst themselves the possibility that M.'s incident is linked to the serious health issues that she had experienced in the past few years. One Elder describes how he had observed M. falling asleep during community meetings held over the past

few months and had heard others talking about similar past occurrences. The Elder brings up the possibility that M. had fallen asleep while operating the Company's equipment. Based on the information about M. received from management, the link between M.'s incident and her precarious health had not been discussed or documented during the safety inspection or the disciplinary meeting.

During the hearing of the Employment Peace Circle, the Elders demonstrate the principles of $\text{L}\alpha\text{r}^{\text{D}}\Delta^{\text{D}}$ *manâcihtâwin* (respect, gentleness) and $\text{C}\dot{\text{V}}\cdot\Delta^{\text{D}}$ *tapwewin* (honesty), first, by listening carefully to M. and then, in an attempt to resolve the dispute, by asking her in a gentle and frank tone (Friedland & Aseniwuche Winewak Nation, 2013, p. 15) whether her health issues may have impacted her driving ability. Speaking on the principle of $\text{r}^{\text{D}}\text{D}^{\text{b}}\text{D}\Delta^{\text{D}}$ *sihtoskâtowin* (supporting one another), the Elders reminded M. that she, like everyone else in the community, must work safely to ensure that no one gets injured at work. Understanding her obligation to be truthful and transparent with the Elders, as per the principle of $\text{C}\dot{\text{V}}\cdot\Delta^{\text{D}}$ *tapwewin*, M. concedes that she may have fallen asleep while operating the Company's equipment, thus possibly causing the incident. She explains that she suffers from chronic pain that sometimes affects her sleep. She adds that she didn't bring this issue up because she wasn't certain that she had fallen asleep at the time of the incident.

After some deliberation amongst themselves, the Elders return to the Circle. From the principle of $\text{C}\dot{\text{V}}\cdot\Delta^{\text{D}}$ *tapwewin*, they emphasize to M. that she is personally accountable for causing a serious and costly incident. They express concern to M. about her capacity to run equipment safely and without incurring another serious incident, with more costly repairs. They add that M. should have told management about her health issues during the post-incident investigation.

Given the new information, and under the principle $\Gamma \Delta \cdot \Gamma \supset \Delta \supset$ *miyo-wícihitowin* (getting along well), the Elders invite M. and the management representative to come up with some possible resolutions. After some discussion, M. agrees with the management representative's suggestion to see a doctor for a full medical evaluation to assess whether medical issues are affecting her work. A consensus is then achieved to turn the termination into a suspension, given M.'s admission that her poor health may be the incident's root cause or, at the very least, contributing factor. It is also agreed that the medical evaluation will assist Management in determining whether M. is fit to operate equipment and whether, under the Canadian legal principle of accommodation, her tasks must be adapted to fit her condition. This way, M. can continue to contribute to AWN Group of Companies either as a heavy equipment operator or in another capacity and continue providing for her family.

The Employment Peace Circle is reconvened a week later at M.'s request as she has received additional information following a medical assessment. M. reads the medical assessment which confirms that she suffers from recurring bouts of fibromyalgia, a chronic pain disorder, which may sometimes impact her ability to sleep. The assessment recommends that M. refrain from operating equipment when her sleep is affected by a flare up of this syndrome. To mitigate the effects of the disorder, the assessment also suggests that M. follow a training program on pain management which is offered by the local health authority. Upon hearing this information, the management representative proposes that M. call her supervisor in advance of her shift to inform him that she is incapacitated. She also suggests that a six-month monitoring and follow up plan, including medical monitoring, be developed. The follow up plan ensures management's support in accommodating M.'s health limitations and ensuring safe work practices while monitoring the possibility of undue hardship suffered by AWN Group of

Companies. M. agrees with management's recommendations. All participants sign an agreement outlining the plan of action as well as their respective responsibilities.

The case outlined above outlines a positive outcome when applying Cree legal principles and reasoning processes in resolving a contemporary workplace issue. Guided by Elders, a resolution is achieved through deliberations that put primacy on Cree foundational principles, and which allows for additional key information to emerge. With these new facts, the principle of accommodation from Canadian employment law is recognized as being useful in bringing the issue to a positive employment-related outcome for both the employee and AWN Group of Companies.

In the following paragraphs, using the same facts from the investigation, Cree principles and reasoning processes, I outline a negative employment-related outcome, one that results in the end of the employment relationship between M. and AWN Group of Companies.

Decision/Resolution #2 Based on Cree Legal Principles and Reasoning. In the pre-hearing stage, in the same way as described in the first case, the Elders discuss amongst themselves their knowledge of M.'s recent history of poor health. The observation is also brought up from an Elder that M. had fallen asleep during a recent daytime community meeting. Others comment on observing similar occurrences. A review of the documentation on the case supplied by Management does not show that M.'s poor health had been questioned as a potential cause for the incident. Elders agree to ask M. about the possibility that she fell asleep while operating the Company's equipment.

During the hearing stage of the Employment Peace Circle, in the same way as outlined in the first case, the Elders listen carefully to M. and then, to resolve the dispute, gently ask her about her health issues impacting her driving ability. As before, the Elders emphasize to M. that

she holds the obligation, like all other employees, to work safely to ensure that no one gets injured at work, including herself. Understanding her obligations under the principle of $\dot{C}\dot{V}\cdot\Delta\cdot^2$ *tapwewin*, M. is open to the possibility that she may have caused the incident by falling asleep while operating the Company's equipment. She adds that she suffers from chronic pain which sometimes impedes her sleep.

In the same way as before, based on the principle of $\dot{C}\dot{V}\cdot\Delta\cdot^2$ *tapwewin*, the Elders express concern to M. about her accountability in causing the incident as well as her capacity to run equipment safely and without incurring another serious incident, with more costly repairs. They emphasize that it was M.'s obligation to let management know about her health issues during the investigation. Using, as in the earlier case, the principle $\Gamma\dot{V}\cdot\Delta\cdot^2$ *miyo-wicihitowin* (getting along well), the Elders invite M. and the management representative to come up with possible solutions and M agrees to seek a medical evaluation to determine whether medical issues are affecting her work. By consensus, the participants of the Employment Peace Circle turn the termination into a suspension and agree to suspend the hearing until M. receives the results of the medical assessment.

As in the previous example, the Employment Peace Circle is reconvened a week later at M.'s request as she has received additional information following a medical assessment. M. reads the medical assessment which, this time, states that M. is physically fit to operate heavy equipment. Given the information confirming her good health, M. reiterates her conviction that the incident was caused by poor road conditions. She repeats that she should not have been fired as she has always been a good employee ever since she started working with AWN ten years ago.

Upon hearing this assessment and M.'s assertions, the Elders reach out to other hearing participants for any information, based on their observation or expertise, that may be relevant to

further the understanding of the issue being discussed (Friedland & Aseniwuche Winewak Nation, 2013, p. 15). First, guided by the principle of ᑕᖅᐃᑦ *tapwewin* (honesty), the Elders ask the management representative for more information regarding M.'s performance over the past 10 years. The management representative confirms that M.'s file does not contain any records of past disciplinary actions, nor is there any evidence of absenteeism. By all accounts, M.'s assessment of her performance is correct and truthful: she was a good employee until the recent incident. To ascertain the condition of the road, the Elders ask if there have been any other accidents on the road where the incident occurred. The management representative confirms that there have not been any incidents on that road in the past five years and there is no evidence suggesting, as M. does, that the road is unsafe.

Speaking next, the Board member highlights how the loss of \$15,000.00 of Company revenue has affected the Company's ability to provide funding for much-needed community projects. She adds that equipment damage by employee negligence has doubled over the past two years. This is a great cause for concern to the Board and must be addressed firmly to send a strong message to other employees that they are accountable to the Company and to the community for their actions.

As in the first decision, the Elders take some time to deliberate amongst themselves and later return to the Circle. They emphasize to M. her personal accountability in causing a serious and costly incident and they express concern to M. about her capacity to run equipment safely. Given these safety concerns, as well as the heavy cost of repairing the grader, they express their understanding and support for management's decision.

The Elders, however, guided by the responsibilities and obligations related to ᑭᑦᐃᑦᐃᑦ *sihtoskâtowin* (supporting each other), turn to the hearing participants to express their concerns

for the welfare of M.'s mother and children who depend on her wages. The Elders ask the management representative whether M. could be placed in another position within AWN Group of Companies, in which she would not pose a safety risk to herself and to others (Friedland & Aseniwuche Winewak Nation, 2013, pp. 15, 19, 22). Guided by the legal principles of respect and dignity found in Canadian employment law, the management representative responds that this would likely be possible, as M. has experience in office work and is known to be a hard worker. He adds that M. would have to take a pay cut and be subject to a three-month probation period, during which time her performance would be closely observed and assessed.

Turning to M., the Elders ask her if she would be willing to accept another position within AWN Group of Companies even if it implies accepting a lesser wage. M. responds that while she did not think that she was responsible for the incident, she would accept another position because of her obligations related to the principle of ᓱᓄᓂᓄᓄᓄ *sihtoskâtowin* (supporting each other) toward her family. She expresses concern, however, about having enough money to cover all of her expenses. After asking for ideas from hearing participants on other sources of funding to cover M.'s expenses, it was agreed that M. could be given priority to access AWN's Wood for Warmth Program,¹²⁵ and be supplied wood to heat her house throughout the year. Reflecting on the high cost of food to feed her family, one of the Elders offers to ask her nephew, who is also M.'s cousin, to share his traditional yearly harvest with M. and her family. M. thanks the Elders and requests a few days to reflect on the offer.

A few days after the hearing, M. contacts the Employment Peace Circle Liaison to inform AWN that she is turning down AWN's offer. She adds that she has accepted work with the local

¹²⁵ The AWN Board of Directors created the Wood for Warmth Program in 2018. Wood is supplied "on a priority basis starting with Elders, widows, single-parent families, people with disabilities, and junior Elders" (Aseniwuche Winewak Nation, 2019, p. 10).

competitor as a heavy equipment operator at a higher rate of pay than what AWN is offering to pay her. She expresses her gratitude to the Liaison for the efforts made by AWN Elders and leaders in attempting to find an alternative to her termination.

Despite the application of Cree legal principles and reasoning processes, in decision/resolution #2 M.'s employment with AWN Group of Companies comes to an end. It is a negative outcome inasmuch as the organization loses a loyal and hard-working employee and the employee no longer benefits directly from being employed by her Nation. In using Cree principles and reasoning processes, regardless of the employment-related issue being resolved in a positive or negative way, the relationship between M. and AWN leaders is maintained. Since the maintenance of good relationships is seen as being core to the beliefs¹²⁶ of the Aseniwuche Winewak Nation, this positive consequence may be of significance.

5.4 Conclusion

In this chapter, I first argued that Cree legal principles are understandable and congruent with legal principles in Canadian employment law and that, consequentially, there is space in Canada for the application of Cree principles in Indigenous organizations. Then, I proposed an alternative framework sourced from Cree law that offers a flexible and culturally congruent approach. While the framework may not address all the complexities of employment-related issues in Indigenous organizations today, it does present some promising aspects. The grieving employee(s) hold(s) the right to be heard as well as the right to accept or reject recommendations from the Employment Peace Circle in favour of Canadian employment law. In a similar way, the Elders of the Employment Peace Circle have the right to accept or reject the hearing of the

¹²⁶ As highlighted earlier in this chapter, the maintenance of good relationships, fundamental to the principle of ᑭᑦ ᐃᑦᑭᑦᑭᑦᑭᑦ *miyo-wicihtowin*, was identified by all interviewees as being important to them.

grievance, in support of responsible and independent decision-making. Although reaching an agreement by consensus may be perceived as the most desirable outcome, the power of the Employment Peace Circle process may be best appreciated in its capacity to mend and/or maintain relationships in the workplace and in the community, whether the employment-related issue has been successfully resolved or not.

Conclusion

*Because of the presence of Canadian law, and the lies and efforts to stop Indigenous law, some Indigenous laws are sleeping. It is time to awaken them.*¹²⁷

In this thesis, I proposed that it is possible for the Aseniwuche Winewak to formally apply their Nation's foundational principles and reasoning to resolve current employment-related issues. Through a case study, I showed how the application of the Nation's legal principles to resolve workplace disputes may offer better outcomes for employees, the organization and the community. These findings were informed by knowledge gathered from Aseniwuche Winewak Elders and knowledge keepers on their Nation's foundational principles, complemented by secondary documentation as well as personal and professional observations. This research uncovered that 1. local Cree law may be operating at an implicit level in the Nation's workplaces and, when left unacknowledged, may be exercising its influence in dispute resolution, leading to potential misunderstandings and/or increased conflicts, 2. local Cree law may be congruent with Canadian employment law and there is space in the nation state's legal system for the application of Cree legal principles in Indigenous organizations such as AWN Group of Companies and, 3. Cree legal principles and reasoning may be successfully applied today to resolve employment-related issues using the governance structure of the Aseniwuche Winewak Nation.

The following research questions served to document the Nation's principles as legal concepts and then applied, with adaptations, to resolving employment-related issues. First, I asked how Aseniwuche Winewak Elders and knowledge keepers explain their Nation's

¹²⁷ Quote from legal scholar Hadley Friedland (2009, pp. 15-16).

foundational principles? Next, I queried how the Aseniwuche Winewak Nation's legal principles and reasoning may be applied to resolving employment-related issues in an Indigenous-owned and operated organization?

From an academic perspective, this research is valuable because it contributes to filling an important gap in scholarly research identifying engagement with Indigenous law in human resources practices within Indigenous organizations. As revealed in Chapter 2, existing documentation points out that wise human resources practices and Indigenous dispute resolution processes are more often perceived as connected to a local custom or practice, rather than to an application of local Indigenous law. My research addressed this gap in human resources practices by treating Cree law as *law* and making explicit deeply rooted decision making and dispute resolution principles. The theoretical and methodological approaches detailed in Chapter 3 reinforced the position that Cree law is legitimate and distinct, supporting the view of Cree people as self-determining and having rich legal traditions (Jobin, 2018, p. 81). A road map for the research was presented that, together with respecting necessary protocols, allowed for a deeper, more critical and respectful engagement with the Aseniwuche Winewak Nation, their legal principles and reasoning. More specifically, I detailed the relevance and application of ᓂᓄᓂᓄᓂᓄ *Nehiyawak* Peoplehood, a Cree methodological research approach as well the linguistic method, the community embedded/implicit law method and the story analysis method. Having thus situated my research, I proceeded to answering my original questions. In Chapter 4, I reported on knowledge shared by Elders and knowledge keepers on their Nation's foundational principles which, supported by secondary documentation, provided rich insights into the Aseniwuche Winewak's foundational principles. This collective knowledge was applied in Chapter 5, initially to demonstrate how these Cree legal principles were understandable and

congruent with principles found in Canadian employment law. Next, I outlined a model and framework, using the Aseniwuche Winewak’s legal principles and reasoning, to resolve a hypothetical dispute through a case study approach. Using the same dispute, I compared possible decisions from Canadian law with those sourced from Cree law, demonstrating that better outcomes may be attained for the employee, the organization and the community through the application of Cree law.

The suggested model and framework to resolve employment-related issues presents some promising avenues for further research. An in-depth review of the proposed Employment Peace Circle may be completed to fully assess its current feasibility. If this review is deemed positive, it may be followed by research on the implementation phase of the Employment Peace Circle and its subsequent evaluation. In support of a broader articulation of Indigenous law, other avenues of study may include the application of Cree law to an appeal process for the Employment Peace Circle possibly by examining cooperative arrangements with other Indigenous nations (Napoleon et al., 2008, pp. 2, 22). Future research may also explore tools to reinvigorate deliberation practices and dispute resolution within other governance structures of the Aseniwuche Winewak Nation to formally engage with local law in other aspects of daily life (Napoleon & Friedland, 2016, p. 747).

When the Aseniwuche Winewak Nation entrusted me with their research mandate in March 2018, I endeavoured to fulfill this commitment by learning through listening and engaging in respectful conversations about the Nation’s legal tradition. In her keynote address at the *Reconciliation: Wahkohtowin Conference* in September 2017, Cree legal scholar Lorena Sekwan Fontaine spoke about reconciliation within the Cree legal framework as $\text{b}^{\cdot}\text{4}^{\circ}\text{b}^{\circ}\text{D}\text{r}\Delta^{\text{p}}$ *kwayeskastasowin* (set things right). She noted that, according to this doctrine, it is the

responsibility of the wrong doer to develop protocols to repair broken relationships (p. 5). As a settler and Canadian citizen, I hope that my thesis is received in the spirit of ᑲᑦᑦᑲᑦᑲᑦᑲᑦᑲᑦ *kwayeskastasowin* as a small contribution to the Aseniwuche Winewak Nation's constitution building initiatives and, more importantly, as a meaningful step to building a respectful, reciprocal and enduring relationship.

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Appendix 1. Sample Information Sheet/Consent Form Signed by Interviewees

Information Sheet for Participants: Wahkotowin/Miyo-wichitowin Project

Study Title: Wahkotowin Project: Miyo-wîcêhtowin Principles and Practice

Research Investigators:

Shalene is an Associate Professor and Director of the Aboriginal Governance Program at the University of Alberta Faculty of Native Studies. She can be reached by phone at 780-492-8063 or 780-953-9206, or by email: Shalene.jobin@ualberta.ca

Hadley is an Assistant Professor at the University of Alberta Faculty of Law. Hadley can be reached by phone at 780-492-7417 or 780-868-1686 (cell), or by email:

Hadley.friedland@ualberta.ca

Background:

As team members, we have been having conversations all year/you said something important/interesting at/about [one or more of the following]:

1. The Cree concepts of:
 - a. Nehiyaw Pimatisiwin: “Indigenous Traditional way of life”
 - b. Nehiyawewin: “Cree language”
 - c. Wahkôtowin: ‘relatedness or interrelatedness’ We are not only related to human beings, we are related to everything in Creation.
 - d. Miyo-wîcihtowin; ‘getting along well’. Everyone to help each other and to get along well with others through sharing and good will.
 - e. Sihtoskâtowin: ‘supporting and pulling together to strengthen each other’
 - f. Manâcihtâwin: The act of respect or to be considerate, gentle, and mannerly ‘to mitigate or conserve something for the future’.
 - g. Tapwewin: Honesty
2. How these concepts work together, and how they may apply today in the following contexts:
 - a. Overall Aseniwuche Winewak Nation constitutional or governance structures and
 - b. Within the governance and day to day operations of the AWN organization.
3. How to teach students about the above concepts, about making a hide and/or about learning Cree or other skills.
4. How we should conduct ourselves or what we need to learn as university professors/students coming into community and/or being out on the land.
AND/OR
5. You asked us to record or write down something you specifically want others to know or learn about [i.e. stories, teachings, etc.]

Purpose:

I want to go a little more into depth about some of the things we learned and talked about in this past year, to make sure I understand what you shared correctly and to be able explain more when I write about it.

AWN is also in an exciting time of renewal and reflection, and we are collaboratively working on ways to apply Cree values and principles, and community-based knowledge, to governance and organizational matters.

Study Procedures/Conversation Purpose:

I want to make sure what I am saying properly reflects my recollection of what you have said, in our meetings or at the camp, and you know and can comment on your words. It should take about half an hour of your time. I won't record it (unless you want me to), but I will take research notes, which you are welcome to review.

Benefits:

You will not benefit from having this conversation with me. Honorarium is offered.

Risk:

This conversation will take about a half hour to an hour of your time. None of the subjects are meant to upset you. Still, I know that if you have had certain experiences in your life, thinking about law and governance can remind you of painful experiences of disrespect, dismissal, community conflict, or the justice system, so may bring up strong feelings. That is normal.

- If you are feeling upset, or find yourself feeling strong emotions, we can stop the conversation. I am here anytime to talk afterwards if you want to. You and how you are is way more important to me than this conversation or publication.
- There are also numbers you can call for support. These are on the **"Accessible Resource Handout"** (attached).

Voluntary Participation:

You don't have to talk about this with me if you don't want to. If you do want to, feel free to skip any question you don't want to answer. It is totally up to you. I definitely appreciate and value your input, which is why I am asking you to have this conversation.

Because we work at the university, it is important to take this step, and for you to know that even if you agree for something to be published or public, EVEN if it was YOUR idea to begin with, you can withdraw your consent/change your mind at ANY time up until the it actually is published or made public. It is your choice. We will respect whatever you decide. It won't hurt us in any way, personally or in our jobs.

- If you change your mind and don't want to finish our conversation, you can stop at any time. If you feel upset or bothered, please tell me, or again, feel free to stop at any time.

- Once we are finished our conversation, you can review my research notes if you want to. I will show you how I have incorporated your comments and you can still change your mind or withdraw consent any time prior to publication.
- **After publication, you can't change your mind/withdraw your consent, because this will be published and publically available.**
- You will receive a copy of any research notes, transcripts or recordings of our conversation.
- **We will only share and store information from our conversation based on what you agree to in the consent form.**
- **The final results may be used or included in other academic work and publications if you consent to this.**

Confidentiality and Anonymity:

- I will take research notes of our conversation. I will keep your information confidential. I won't talk about it to anyone, or say it was you, unless you want me to.
- My research notes from our conversation will be kept in a locked filing cabinet at the University of Alberta or my home office for at least five years. No one will see them or be able to access them except for one of us [Shalene or Hadley] or the Research Ethics Board except for you and AWN if you give permission for AWN to store it.
- If you spoke at the camp, I will still keep your identity anonymous in written work unless you specifically tell me you want me to use your name.
- I may use the information from our conversation in future research, but if I do this I will check with you and **AWN** first and future uses will have to be approved by a Research Ethics Board. You and **AWN** will be provided with an opportunity to review and comment on any future uses of this information prior to publication. You can also just say no if you don't want your information used in the future, and we will respect that. You are in control of what you want shared and how it is being used in any future academic work or publications.
- You and **AWN** will received a copy of anything produced from this project, such as video, photo-story, academic publication, news article or social media/website articles.

Further Information:

- If you have any questions about this process or the project at any time I are happy to answer them.
- The plan for this study has been reviewed for its adherence to ethical guidelines by a Research Ethics Board at the University of Alberta. For questions regarding participant rights and ethical conduct of research, contact the Research Ethics Office at (780) 492-2615.

Grande Cache Area Accessible Resources Handout**Crisis Lines** (these are available 24 hours a day and are free to call):

Mental Health Help Line: 1-877-303-2642

AADAC Help Line: 1-866-332-2322

Kids Help Phone: 1-800-668-6868

Parent Help Line: 1-888-603-9100

PACE Sexual Assault Centre Crisis Line: 1-888-377-3222

National Residential School Crisis Hotline: 1-866-925-4419

Women's Shelters

Grande Cache Transition House Society Crisis Line: 780-827-1791

Grande Prairie Odyssey House Crisis Line: 780- 532-2672

Hinton Yellowhead Emergency Shelter for Women Crisis Line: 780- 865- 5133 or
1-800-611-0937.

Counselling:**Grande Cache/ Hinton:**

Grande Cache Mental Health Services (walk-in on Tuesdays): 780-827-4998

Mamowichihitowin Community Wellness Program: 780-817-4000 (Hinton & Grande Cache)

Grande Prairie:

Grande Prairie Mental Health Services (walk-in on Thursdays): 780-539-5160

PACE Sexual Assault Centre: 780-539-6692; website: <http://grandeprairie.aasac.ca/>

Family Support:

Grande Cache Family and Community Support Services (FCSS): 780-827-2296

Tawow (Parentlink) Centre: 780-827-3324.

Participant Consent Form: Wahkotowin/Miyo-wichitowin Project

Date:

Interviewee Name:

Contact Information:

As the Interviewee, the Information Sheet (attached) has been given to me and, if necessary, read and/or translated into Cree. I have been fully informed of the following points before proceeding with the interview:

1. I understand the intent and purpose of this research.
2. I will receive a copy of this consent form and the researcher will keep a copy.

Consent and Voluntariness:

3. My participation is voluntary and can be withdrawn at any time. I understand that I can decline to answer any question. I can withdraw from the study, at any time, without negative consequences. If I withdraw from the study, the researchers will not use the information that I provided.

Attribution or Anonymity:

4. On my request, information I provide will either be attributed to me or my participation will be kept anonymous. If I wish to remain anonymous, the interviewer shall take all reasonable steps to record and publish the information I provide without links to any identifying information.

*** yes, I want my information attributed to me by name.**

If yes:

I agree to be identified by name / credited in the results of the study: _____ (initials)

I agree to have my responses attributed to me by name in the outcomes: _____ (initials)

*** no, I do not want to my information to be attributed to me. I want to remain anonymous.**

If NO: I am aware that due to the small size of some communities, it is possible that if someone knows the community well they might be able to figure out who the participants were. I understand that if I am concerned about this I can withdraw participation at any time without negative consequences. _____ (initials)

Confidentiality, Use and Storage of Interview Materials:

5. I am aware that notes and video or audio recordings of my interview may be made. With the present consent form, I am giving permission to use the following materials as part of the Project.

- interview/s [date _____, place _____]
- video or audio recording/s
- other

(specify: _____)

6. I understand the information I provide in this interview may eventually be published. The information that I provide may also be used in the development of curriculum and educational materials. I understand that once this information is published, I can no longer withdraw my consent for its use.
7. The research shall be kept confidential, except for the purposes indicated above, or when required to be disclosed by professional codes of ethics or law.
8. The researcher(s) will maintain records of the interview in a secure location accessible only by the researcher(s) and the records shall be preserved until publication and a reasonable time thereafter, in accordance with scholarly practice and University regulations. Records will be kept in a locked academic office at the University of Alberta.
9. You will receive a copy of all records or recordings of information you share with the researchers. If you want, AWN will also receive copies to store as they see fit. This is your choice.
- ✗ YES, I want AWN to receive a copy of all records of information I share to store as they see fit.
- ✗ NO, I do not want AWN to receive a copy of all records of information I share to store as they see fit.

Future Use:

10. If I agree, the research information may be analyzed, now or in future, by the researcher(s) for purposes other than this research project and the purposes described here.

- ✗ yes, I agree that the information I share may be used for future projects.

Please check all that apply:

- Please contact me prior to any future use for consent ✗
- Please contact AWN prior to any future use for consent ✗
- I do not want to be contacted prior to future use ✗
- Other (e.g. you may want to restrict future use of specific topics or stories):

_____ ✗

* no, I do not want the information to be used for future projects.

Signature of Interviewee _____