



From government to governance in forest planning? Lessons from the case of the British Columbia Great Bear Rainforest initiative[☆]

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ARTICLE INFO

Keywords:

Governance
Law and regulation
British Columbia
Land use planning
Institutionalization

ABSTRACT

Much has been written about a supposed shift ‘from government to governance’ in many policy areas, including forest policy. However, the idea remains very much at the level of hypothesis as few empirical studies have confirmed the transition. Part of the problem is the multi-dimensional character of governance itself, which includes traditional ‘government’ as one of many possible governance modes. By providing a three dimensional picture of these potential governance modes, including overlapping institutional, political and regulatory dimensions, this article analyses the complex and incomplete character of moves towards any new governance mode in a high-profile land use planning exercise in British Columbia, that of the “Great Bear Rainforest” protected area strategy on the province’s mid-coast region in 2006. Little evidence of such a shift is uncovered, despite much rhetoric to the contrary.

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1. Introduction

Throughout much of the 1990s, forest policy discourse in British Columbia, and indeed across Canada, was dominated by a noisy clash between the defenders of traditional “command and control” regulation and proponents of alternative approaches more reliant on voluntary, community and market instruments such as certification and community-run forests to secure the goals of sustainable forest management (Tollefson, 1998; Cashore et al., 2001). In previous eras, the clash of ideas about policy direction occurred very much within the mode of traditional hierarchical governance structures – and featured mainly disputes over the extent of government control over various aspects of forest production (Tollefson, 1998). More recent years, however, have been characterized by an emerging clash between ‘government’ and ‘governance’ in which alternative modes of governance to traditional top-down hierarchical government control through laws and regulations have been mooted and, in some cases, actually implemented.

The results of this most recent policy struggle remain inscrutable: to date, neither side had achieved a knock-down victory. The provincial forest sector remains beset by diverse challenges – both familiar (modernization, job loss, global competition, and boom and

bust conditions linked to the rise and fall of the U.S. housing market) and more novel (mountain pine beetle epidemic, and uncertainty surrounding the implications of Aboriginal rights and title) and while BC forest policy has evolved in a variety of new and unfamiliar directions, the governance mode remains unclear.

Some of the policy changes that have been implemented are directly linked to changes in forest policy discourses and the rise of new community-based actors to challenge existing professional experts employed by industry and government. Significant new actors have emerged to contest what has traditionally been a closed forest policy community, dominated by the state and its corporate licensees with a shared discourse of professional forest management for timber production (Wilson, 1998). Prominent among these new actors were First Nations, buoyed by a series of legal victories affirming their aboriginal rights and title over public or Crown forest in BC (Howlett, 2001). Recent years have also seen the emergence of a broad constellation of new forest policy players including those involved in forest certification programs and members of a growing scientific community concerned with issues such as global warming and the role of forests in climate change mitigation and adaptation strategies (Kamieniecki, 2000; Cashore et al., 2003).

The incorporation of these new actors was both a cause and a consequence of a more widespread acceptance of new values and approaches in forest policy discourse, as the sustainable forest management (SFM) planning paradigm, long dominant within international negotiations on resources and the environment (Lieberink, 2006), was increasingly integrated into existing provincial forest policy regimes. This integration process occurred through a variety of vehicles – including the National Forest Strategy (NFS) and through

[☆] The authors acknowledge the research support from the Sustainable Forest Management Network of Centres of Excellence, and the research assistance from Airi Schroff and Tim Thielmann.

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the Corporate Social Responsibility (CSR) and the forest certification movements – consolidating the idea that a central goal of SFM is biodiversity conservation to be achieved through a variety of state and non-state means (Howlett and Rayner, 1995, 2006a; Michaelson et al., 2000).

The appearance of these new actors and ideas corresponded with the appearance of a new on-the-ground mix of policy tools and instruments used to formulate and implement forest policy, as traditional prescriptive regulation and direct subsidies came to be accompanied by new experiments involving performance standards, incentives, codes of conduct, certificates, and various kinds of procedural instruments, including intensive local and regional planning efforts and consultative and participatory policy-making efforts (Purdon, 2003; Hogg, 2002; Howlett and Rayner, 2006a).

Several features of this list are suggestive of an often mooted wider shift from a “government” to “new governance” orientation in resource and environmental policy-making in general (Jordan et al., 2003; Lemos and Agrawal, 2006) and forest policy in particular (Gluck Rayner et al., 2005). Perhaps not surprisingly, the argument that such a shift has occurred in the sector is often asserted by new actors who claim success in altering both policy-making processes and outcomes in the sector. Four arguments are typically advanced in support of such claims:

- First, the internationalization of forest policy is especially significant, since it has been observed in other sectors that globalization has weakened the ability of territorially based jurisdictions to control policy formulation and implementation in traditional ways (Bernstein and Cashore, 2000; Howlett and Rayner, 2006a).
- Second, the emergence of SFM has transformed Canadian forest policy from a matter of predominantly provincial concern, protected by the constitutional right of provinces to exclusive legislative jurisdiction over public lands and resources within their boundaries, into one that directly implicates important areas of federal jurisdiction. The trans-jurisdictional nature of Canadian forest policy has been further complicated by a growing state recognition of Aboriginal rights and title and the correlative need to experiment with multi-level governance arrangements of the type observed in other policy sectors (Howlett, 2001).
- Third, this growing complexity on the state side was exacerbated on the non-state side by developments linked to certification and other non-state regulatory activities. These activities created new roles in the policy process, not only for forest products corporations and forest dependent communities but also “downstream” wholesalers and retailers of wood products and consumers (Elliott and Schlaepfer, 2001). Moreover, they are consistent with the experience of other sectors in which governments have resorted to “new governance” as a management strategy in complex multi-actor policy environments (Citi and Rhodes, 2007).
- Fourth, recent experiments with policy instruments (of the type recommended in National Forest Strategies) suggest that Canadian forest policy may well be moving towards “natural resource new governance arrangements” (NRNGAs) of the type that have emerged in other policy sectors (e.g. Coastal Zone Management), and other jurisdictions (e.g. the European National Forest Programs) (Howlett and Rayner, 2006b). NRNGAs involve a shift towards a mode of coordinating collective action that is neither hierarchical nor market driven but based on information exchange and the use of ‘steering mechanisms’ as a substitute or complement to traditional ‘command and control’-based regulatory regimes.

However, while the idea of a ‘government-to-new governance’ shift is alluring as a means of explaining the evolution of resource policy, this hypothesis remains conceptually ambiguous and largely untested (Klyza and Sousa, 2007; Sousa and Klyza, 2007). Equally plausible is the contention that the virtually simultaneous appearance of new actors, ideas and instruments is largely coincidental and not

causative. As we argue below, while “old” top-down government is itself a mode of governance, what makes “new governance” something new and different is not always clear in accounts provided of the ‘government to governance’ shift, both in general and as applied to the forest sector. We would thus contend that the reality of BC forest policy is a great deal messier than implied by the broad brush sketch of a putative shift offered above. Movement towards the ‘new governance’ orientation in British Columbia is, to put it mildly, uneven.

Many key features of the traditional regulation and subsidy approach to forest policy (for example, centralized control over such important elements of forest production as allowable cuts and land tenure by hierarchical government departments and specialized forest agencies) are deeply entrenched in traditionally closed policy subsectors and have proven highly resistant to change (Rayner et al., 2001). Moreover, any moves towards more participatory regulatory policy-making present in the 1990s has been largely reversed in the last decade when a renewed re-emphasis on market and economic instruments emerged (Tollefson, 1998; Castree, 2008). And, thirdly, it is not at all clear whether any such increased use of economic instruments represents ‘new’ or ‘old’ governance, since various forms of such tools have been commonplace in the sector for decades (Haley and Luckert, 1998). This taxonomical difficulty is exacerbated by the multiplicity of approaches to defining and operationalizing the concepts of “governance” and “new governance” raising serious questions about whether the “government to new governance” hypothesis and the literature on “new governance” is capable of offering a coherent way of understanding overall processes of policy change and evolution (Tenbense, 2005; Hill and Lynn, 2004).

Our skepticism is consistent with a growing body of empirical research (both in other sectors and other jurisdictions) that casts doubts about the validity of the “government to new governance” hypothesis writ large (Bode, 2006; Walters, 2004; Hooghe and Marks, 2003; Goetz, 2008; Janicke and Jorgens, 2006).

In this article we introduce a multi-dimensional conceptualization designed to capture the complexity of the changes involved in any shifts among modes of governance. Within this conception, movement along the *horizontal* ‘hierarchical’ to ‘plurilateral’ axis is seen as being associated with changes along three distinct but overlapping *vertical* dimensions: namely, *institutional structures*, *political practices* and *regulatory techniques* (Tollefson et al., 2008). Discursive practices are significant at all three levels, but are not wholly determinative of transitions in modes of governance which require shifts not only in ideas but in actual on-the-ground practices. Applying this model to case study research from a land use and forest planning process undertaken on the BC mid-coast region in the late 1990s, we argue that it is uncertain whether (a) a transition to “new governance” is in fact underway and, (b) whether any newly emerging mode of governance is any more effective, or legitimate, than the ‘old’ government model it has putatively succeeded (Jordan et al., 2005; Considine and Lewis, 2003; Gunningham, 2007; Smismans, 2008).

We argue that, while in theory we might expect developments along one dimension to map neatly onto the other two in a simple ‘government to new governance’ transition, in practice, much of the messiness of contemporary forest policy in BC and, by implication, elsewhere, can be explained by the failure of policy development to move along all three dimensions both in absolute terms and relative to movements in the other dimensions. Our case study of the 2006 Great Bear Rainforest initiative on the province’s mid-coast reveals that the resulting tensions and dimensional incongruencies can sometimes be managed or mitigated (and discourse and expertise play key roles here in reconciling discrepancies between ‘pure’ governance modes and hybrid variations) but may also eventually set off new rounds of policy change as various actors alter their behaviour in the effort to make governance arrangements more transparent and consistent (Howlett, 2007, Teisman, 2000). After a clarification of the key concept – governance – in the following section, the case of the Great Bear

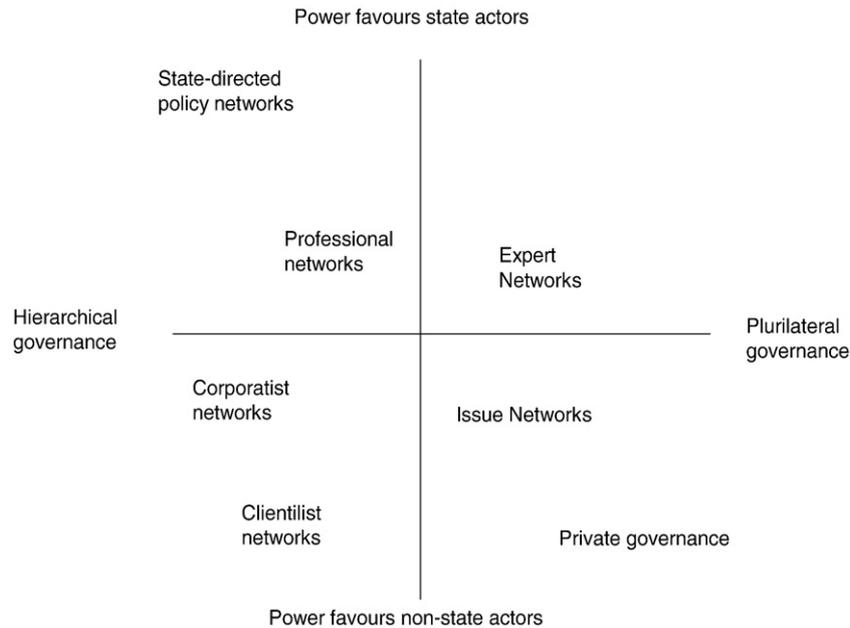


Fig. 1. The political dimension.

Rainforest is examined in Part III drawing on accounts of participants and primary and secondary sources collected by the authors from interviews and correspondence with the key players in that 2006 initiative.

2. From government to governance?

2.1. Defining governance and governance change

Governing is what governments do, that is controlling the allocation of resources between social actors; providing a set of rules and operating a set of institutions setting out 'who gets what, where, when, and how' in society. Governing thus involves the establishment of a basic set of relationships between governments and their citizens which can vary from highly structured and state-controlled hierarchical arrangements to those – 'plurilateral' – society-driven ones that are monitored only loosely and informally, if at all. Thus, in its broadest sense, "governance" is a term used to describe the *mode* of government coordination exercised by state actors in their effort to solve familiar problems of collective action inherent to government and governing (Rhodes, 1996; de Bruijn and Heuvelhof, 1995; Kooiman, 2000; Klijn and Koppenjan, 2000). 'Governance' is all about establishing, promoting and supporting a specific type of relationship between governmental and non-governmental actors in the governing process and a central dimension of any governance mode is its placement on a spectrum of governing arrangements ranging from hierarchical to plurilateral.

However, 'governance' is more than a one-dimensional concept. Many permutations and combinations of possible governance arrangements exist depending not only on the nature of state-societal arrangements present in each sector or jurisdiction under consideration but also depending on the extent to which these arrangements have been institutionalized, the manner in which they reflect existing arrangements of political power, and the types of regulatory instruments they deploy (Van Kersbergen and Van Waarden, 2004).

2.2. Operationalizing and testing transitions towards the "new" governance

Much of the challenge in assessing the nature of any 'government to governance' shift in Canadian forest policy stems from an under-

specification of the key concept. The governance idea may be "a bridge between disciplines" (Van Kersbergen and Van Waarden, 2004) but for that reason alone it has been interpreted in very different and not always entirely consistent ways by scholars of differing disciplines and orientations. While there is general agreement that such a shift involves a move away from governing via hierarchical, imperative coordination ('government') to steering through reflexive self-organization ("governance") (Zielonka, 2007; Cerny, 1993), there is much less agreement on the other dimensions which also comprise a new governance arrangement qualitatively different from hierarchical coordination.

Much of the political science literature on 'new' governance, for example, has focused on trying to clarify and categorize differences in network governance arrangements based the addition of a single additional axis, for example, that of the relative strengths of the public and private actors involved (Knill and Lehmkuhl, 2002). Certainly, politics, represents a second key dimension of a mode of governance and varies in terms of whether political power – that is, the ability to make legitimate, authoritative decisions allocating societal resources – favors state or non-state actors. Both dimensions affect the ability of a governance arrangement to de-centralize or de-concentrate authority to non-state actors, ultimately affecting the choice of policy instruments or regulatory techniques utilized in specific policy contexts (Pontusson, 1995; Haas, 2004; Daugbjerg, 1998; Harrop, 1992). Fig. 1 sets out these variations between and amongst state and non-state actors, identifying whether the locus of power/capacity lies in state or in societal actors and organizations.

But political factors, such as the balance of public and private power, are only one aspect of governance. Other disciplines have focused on two additional dimensions: the broader institutional context in which those political actors operate as well as the instrument choices which they make. Both should be drawn out more clearly if a parsimonious model of governance modes is to be developed.

Institutions set the framework for the exercise of power. Differing institutional arrangements within a specific mode of governance can be expressed in terms of the formal and informal nature of the relevant institutions of state and non-state actors, coupled with the ever-present hierarchical to plurilateral spectrum of governance arrangements. These two axes establish the governance framework: determining both the abilities of various state and non-state actors to

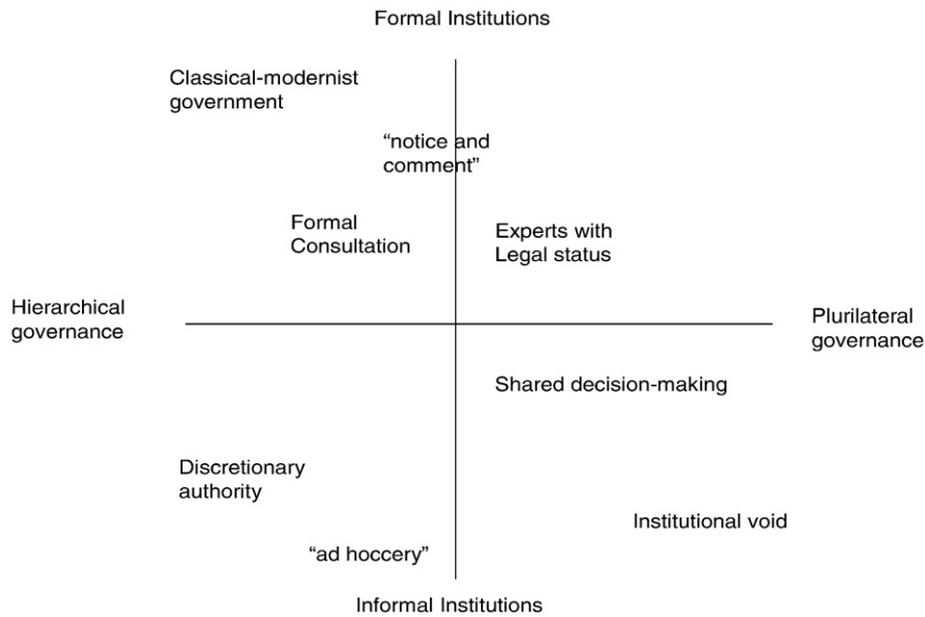


Fig. 2. The institutional dimension.

prevail in policy disputes and decisions, as well as the possibilities for the choice of the policy instruments used to implement the any mode of governance (March and Olsen, 1996; Offe, 2006; Weaver and Rockman, 1993; Scharpf, 1991). Fig. 2 sets out the institutional variations which can occur in different sectors and jurisdictions.

The final, regulatory dimension depicted in Fig. 3 focuses on the nature of the legal instrument deployed in policy implementation. Hard law is typically conceived as synonymous with a state-centric, command and control mode of regulation that imposes generally applicable obligations, articulated with a relatively high degree of precision, that are directly enforceable through the courts. In contrast, soft law represents a weakening (or softening) along these key metrics of obligation, precision and enforceability (Tollefson, 2004). This hard law–soft law axis is closely correlated to the “prescriptiveness” of a given form of law, a term we would define as the extent to which a regulation fetters or constrains action or decision-making at the firm level (Tollefson et al., 2008). However, prescriptiveness is also

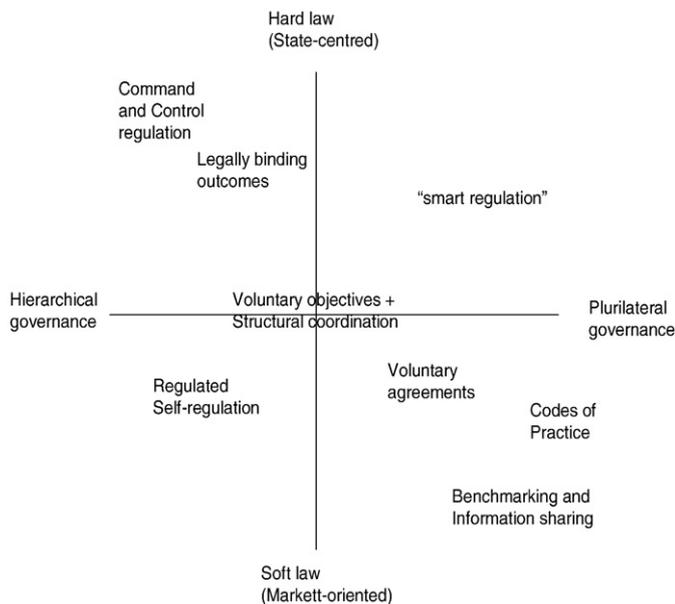


Fig. 3. The regulatory dimension.

a function of the form of regulation (performance, management or technology-based) employed. Thus, while it is commonly supposed that performance-based regulation is less prescriptive, the accuracy of this supposition depends heavily on the precision and enforceability of the regulation in question. Increasingly, both in hierarchical and plurilateral settings, governments are deploying a variety of hard and soft instruments to affect the production and delivery of goods and services and to affect policy processes (Tollefson et al., 2008; Tollefson, 2004; Howlett, 2000; Bressers and O’Toole, 1998; Linder and Peters, 1991).

These three dimensions are related in a nested fashion: institutional structures affect configurations of political power which, in turn, constrain the choices of types of regulatory tools used in specific circumstances. While many early proponents of the new governance simply expected new governance arrangements to shift evenly away from formal institutions, coercive power relations and substantive regulatory tools in hierarchical systems towards the informal institutions, non-coercive relationships of power and a marked preference for procedural instruments and soft law characteristic of plurilateral systems (Kooiman, 1993; Dunsire, 1993), the discussion above shows that the possible variations in governance types and outcomes are a good deal more complicated. As the three diagrams show, there are valid possibilities in each of the other quadrants in each diagram, accounting for a great deal of the “messiness” found in of real life studies of purported ‘government to governance’ shifts.

Our aim in the remainder of the paper is to examine closely the case of the BC Great Bear Rainforest Agreements, a forest policy and planning outcome often claimed to represent a shift in governance mode from ‘government to new governance’ and to demonstrate that an altogether more complex and tentative series of movements and counter-movements is actually taking place within the sector which has implications for other such analyses in other countries and policy areas.

3. From government to governance in BC forest policy? The Central Coast Land and Resource Management Plan encounters the institutional void

A number of possible examples from recent changes in BC forest policy suggest themselves as potential candidates for case study of the ‘government to new governance’ thesis. These would include BC’s

controversial and much-studied *Forest Practices Code*, introduced as a classic example of prescriptive regulation and later repealed in favour of a less prescriptive “results-” or “outcomes-based” successor known as the *Forest and Range Practices Act*, complete with performance standards and audits and incentives for going “beyond compliance” (Hoberg, 2001). Or, alternatively, the twists and turns of the intersection between forest policy and First Nations rights and title culminating in the famously hyped “New Relationship” between governments in this sector (Howlett, 2001). But we have chosen instead what is, on its face, the clearest case of a possible ‘government-to-new governance’ shift in provincial forest policy-making; the transformation of what originated as very modest government-led planning process on the remote central coast of BC into what is now often-touted as a bold exemplar of plurilateral ‘network governance’; the Great Bear Rainforest initiative.

At one level, the initiative is the story of how a low-key and technical Central Coast Land and Resource Management Plan (LRMP) was transformed by NGOs into a high profile, media-fueled campaign to “save the Great Bear Rainforest”, complete with its rare but photogenic mascot, the white Kermode or “Spirit Bear”. At another level, it is an account of how the BC government, which thought itself comfortably entrenched in the upper left hand quadrant on all three governance dimensions, found itself staring down the void that occupies the very bottom right hand spot on the institutional dimension of governance arrangements. The government moved quickly to prevent such a full-scale transition in governance mode by promoting more state-led, hierarchical policy practices and arrangements. But, at another level still, it also the story of the stickiness of institutional legacies, the difficulties of private governance and a reminder of the not inconsiderable resources that states still possess in the shape of legal governance capacities and centrality in networks.

3.1. Background: forestry and land use planning in BC

In examining the hierarchical versus plurilateral governance dimension it should first be emphasized that slightly over 90% of the land area of BC is publicly-owned Crown land, and about half of this area is forested. From these facts flow several enduring features of the land use planning regime in the province. First, the BC government has constitutionally-protected jurisdiction over the disposition of the resources on and under Crown lands and, as a result, will always be the central actor in land use planning unless it chooses not to exercise its legislative jurisdiction or ownership rights, which however, to date, it has defended vigorously. Second, the extent of the forest resources and the historical importance of the forest industry in the province have meant that land use planning began as forest planning and evolved into “forest planning constrained by other uses”. New initiatives aimed at taking a more integrated or holistic approach to resource management planning have had to contend with significant policy legacies bequeathed from these earlier efforts which reinforce governmental control and hierarchy (Mahoney, 2000; Pierson, 2000; Weir, 1992). Finally, given the huge size of the province and the geographical dispersion of the resource, there has always been a tension between central direction and the centrifugal pull of the regions, especially once local public involvement became a recognized part of land use planning.

With respect to the political, institutional and regulatory dimensions, the late 1980s witnessed the start of a decade-long struggle over the direction of forest policy in BC that became known as the “War in the Woods” (Cashore et al., 2001). At issue was both the amount of land that would be protected from logging and the kinds of forest practices that would be permitted on the rest of the land base. Responding to complaints that the relatively restricted kinds of public consultation then on offer confined non-forestry interests to drafting footnotes to logging plans, successive BC governments began to experiment with more extensive public involvement, first in forest

management plans and later in large-scale planning for multiple resources on public lands. While the objective was clearly to improve the input legitimacy of forest policy, it is important to understand that, from the outset, this was not a unidirectional process of government ceding control to civil society or the origins of a “government to new governance” trajectory. Multiple tracks were followed from the beginning, with significant consequences for future possibilities (Frame et al., 2004; Mascarenhas and Scarce, 2004).

Institutionally, it was a right-of-centre government that originally responded to public criticism about the closed character of forest planning and the dominance of the forestry interests by creating the Land and Resource Management Plan (LRMP) process. It is now clear that the government was also responding to concerns by other departments – tourism and recreation, mining, agriculture – about the Ministry of Forests’ dominant role in land use planning, so that, from the beginning, the LRMP process also had the goal of improving inter-agency cooperation within government. In terms of governance dimensions, it moved planning from the informal (“discretionary authority”) towards a more formal institutionalism (“formal consultation”). Politically, however, the process of planning and involvement, while beginning to acknowledge the importance of local knowledge, remained a technical one where professional networks of foresters and planners with a shared professional discourse dominated and the legal status of the plans themselves remained unclear. On a regulatory level, plan objectives were to provide guidance to agencies but were not legally enforceable or even capable of being implemented without continuing voluntary cooperation between government and resource users. LRMPs were an ambiguous mix of hierarchy at the level of institutions and informality at the level of politics and regulation. The first LRMP processes were undertaken in the BC interior in 1989.

After 1991, however, a newly elected left-of-centre government, faced with a further deterioration in the political situation in the forest sector, struck out into uncharted waters with a bold experiment in shared decision-making. Taking the three most contentious regions in the province, it created four regional roundtables to be coordinated by an arms-length agency, the Commission on Resources and Environment (CORE), charged with writing regional resource use plans for which government agencies would provide support but otherwise behave as just another interested party. If the parties failed to reach consensus, the government threatened to impose its own plan. For a number of reasons that are beyond the scope of this paper, the CORE process achieved only limited success. One table came close to producing a plan, two others failed to reach consensus but provided some direction for the government, while a fourth collapsed entirely (Rayner, 1996). From a governance perspective, though, the CORE tables represented a clear shift to the right hand side of all three government-governance dimensions. Shared decision-making, even under the considerable shadow of hierarchy in this case (Heritier and Lehmkuhl, 2008), represented a move towards both informality and plurilateralism. A variety of issue networks were caught up in the process (indeed, an inability to steer these loose networks of local activists was one of the chief difficulties of the process), but, once again, the legal status of the land use designations that were to be the principal outcomes remained tantalizingly unclear, coming closest to what we now recognize as a combination of voluntary objectives and structural coordination.

The difficulties of the CORE process were apparent soon after it began, prompting government agencies to continue the LRMP process in parallel with CORE – eight such processes were begun in 1992 and 1993 (Cashore et al., 2001). When CORE was wound up in 1996, the government simply switched horses and, in a move that clearly represents a shift from new governance back to government, made LRMPs once again the main vehicle of land use planning. While the LRMP process was similar to CORE’s regional planning in several respects there were crucial differences. Like CORE, the LRMP process

produced strategic-level – i.e. objective setting – plans intended to provide guidance for more detailed levels of planning by government and the private sector. LRMPs also aimed to provide an integrated plan that balanced environmental capacities and economic opportunities, and involved stakeholder participation at each level of planning. But, unlike CORE's round tables, which funnelled government ministry representatives into a single “sector” and allowed stakeholders to shape the process to suit their own needs, LRMP planning tables were led by government representatives from each of the three major resource ministries: Forests, Energy and Mines, and Environment (Tamblyn and Day, 1998).

In related moves, the government created an internal government coordination agency, the Land Use Coordination Office (LUCO), and enacted legislated reforms that enabled land use plans, or specific ‘objectives’ within them, to gain legal force in select circumstances (statutory decision makers within the Ministry of Forests are obliged to ensure the consistency of proposed forestry plans with specified objectives within land use plans). The transition from CORE to LRMPs thus represents a retreat from new governance to government – a movement away from plurilateral governance and back to hierarchy; away from issue networks towards professional and state-directed networks coordinated by LUCO; and a new commitment to legally binding outcomes.

3.2. The Central Coast LRMP

In this context, in July of 1996, the BC Government commenced the Central Coast LRMP, covering 4.7 million ha in a remote and largely roadless region home to some of the world's largest temperate rainforests and a history of conflict between environmentalists, the forest industry, and local First Nations with unresolved rights and title. Like most LRMPs in the 1990s, it proceeded with minimal support from the region's First Nations communities, who were concerned that involvement with a government -sponsored process would jeopardize their own claims to jurisdiction in the planning area. The LRMP was also boycotted initially by environmental groups who wanted a logging moratorium until LRMP planning for the region was complete (Wilson, 2001, 51).

When the government pressed on, environmental groups responded by pressuring large retailers such as Home Depot, Staples, and Ikea not to buy or sell products logged from the region, which was dubbed the “Great Bear Rainforest”. Companies that refused were beset by a barrage of blockades, shareholders resolutions, and high profile advertising campaigns (Smith et al., 2007, 3–4). The campaign was highly effective, forcing forest companies in the region to negotiate a private agreement with the environmental coalition outside the LRMP process in 2000, conceding an 18 month moratorium on logging in exchange for an end to the international market campaign.

Then, in an unprecedented display of mutual commitment, the forestry and environmental organizations formed the “Joint Solutions Project” (JSP), a forum for continuing negotiations on forest practices and related matters. Meanwhile, local First Nations, who had formerly been acting relatively independently of each other, collaborated to form “Coastal First Nations” (CFN). Throughout 1999 and 2000, a number of agreements were reached between environmental organizations and the CFN on topics such as strategies for promoting ecologically sensitive development, increased local employment, and an enhanced negotiating role with government.

At this point, the BC government, which had taken the position that the JSP had no legal force or official status, was confronting something not unlike the institutional void described by Martin Hajer:

As established institutional arrangements often lack the powers to deliver the required or requested policy results on their own, [actors] take part in transnational, polycentric networks of governance in which power is dispersed. The weakening of the

state here goes hand in hand with the international growth of civil society, the emergence of new citizen-actors and new forms of mobilization. In such cases action takes place in an ‘institutional void’: there are no clear rules and norms according to which politics is to be conducted and policy measures are to be agreed upon. (2003a: 175).

And, significantly enough for the “government to new governance” thesis, far from embracing this situation, the government began a process of reigning in these developments, hauling them back from the extremes of informality and plurilateralism towards a more central point on the modes of governance spectrum.

The government began by drawing the JSP and CFN actors back into the LRMP process by acceding to some key planning principles that were enshrined in a *Framework Agreement* in 2001. There were two significant features of the government's strategy. The first was the creation of a discourse coalition around the idea of *ecosystem-based management* (EBM) for the planning area. The second was a series of protocol agreements between the BC government and each of the Coastal First Nations, specifying that these First Nations could conduct their own land use planning, that their plans would be reconciled with the government-led LRMP through a subsequent stage of government-to-government negotiations, and that participating First Nations would play an ongoing role in the oversight and implementation of land use plans within their traditional territories. By February 7, 2006, government-to-government negotiations were complete, and the parties stood side by side to declare that they had reached the *Coast Land Use Decision*, also called the *Great Bear Rainforest Agreements*. The *Agreements* enacted an expansive network of protected areas, designating over 21,000 km², or approximately one third of the planning region, as protected areas and creating a land use designation system outside protected areas that identified sensitive ecosystem components and instituted a variable retention approach to timber harvesting (Smith et al., 2007, 8).

To achieve this outcome, the participants had first to refine and operationalize the key concept of EBM. Long the holy grail of much of the North American environmental movement, ecosystem- or ecosystem-based management identifies the maintenance of ecosystem integrity or ecosystem health as the key goal of any resource management regime. In principle, at least, EBM dethrones resource extraction, in this case timber production, as the central goal of resource management in favour of a more holistic approach. EBM is firmly grounded on scientific principles and relies heavily on academic disciplines such as conservation biology and applied ecology. However, in practice, the determination of conservation targets and the conceptualization of ecological “integrity” and “health” are realized through negotiation and consensus-building. In this case, drawing on precedent established back in the 1990s in another high-profile coastal region, the Clayoquot Sound area of Vancouver Island, the Central Coast participants agreed that this work would be done by an expert panel, the Coast Information Team (CIT). The CIT was composed of independent scientists and practitioners and traditional and local experts and its products were subject to academic peer review. By appealing to an expert network of this kind, the government effectively removed itself from the politics of the land use decision, trading off the reestablishment of some control, in the shape of the recognition of relevant expertise, against the loss implied by the arms-length operation of the CIT. In addition, the CIT created and legitimated an expert network from which those lacking the necessary expertise were necessarily excluded. The major advantage was to sideline those issue networks whose approach to the planning area could not be reconciled to the expert discourse of EBM. Government also used its resources to provide more than half of the funding needed by the CIT and to provide data and technical assistance from its own structures and archives. Through these efforts, the void was beginning to acquire a shape.

On the institutional dimension, the government had to provide some recognizable institutional form to what was going on. Once the environmental coalition had been brought back into the existing planning process, the principal obstacle to hierarchical institutionalization was the determination of the local First Nations to be recognized as exercising jurisdiction over their traditional territories. The provincial government responded with “government to government negotiations,” placed significant economic development funding on the table, and recognized traditional ecological knowledge in a way that effectively created First Nations as “experts with legal status”. First Nations’ objections to being shut out of the extensive network of protected areas enshrined in the agreements was addressed by the government using its legislative authority to create a new class of protected area – the “conservancy” – within which cultural practices of First Nations received legal protection analogous to ecological resources within these areas. First Nations whose traditional territories fall within conservancies work collaboratively with government staff to develop management plans for the conservancy (Smith et al., 2007, 8).

Oversight of EBM implementation was also vested in a new institutional arrangement that also reflects a “government to government” and not a “government to governance” approach. For each of the main regions that comprise the Central and North Coast, a Land and Resource Forum was established to facilitate collaboration between the BC Government and First Nations aimed at finalizing and implementing land use plans within the traditional territories of participating First Nations in the coastal regions. Each Forum is co-chaired by provincial and First Nations representatives, who meet to provide guidance to the CIT and government ministries on EBM and related issues.

The funding arrangements for First Nations’ economic development were certainly innovative. By 2005, a number of private foundations based in the United States agreed to contribute approximately \$60 million on the condition that at least one third of the region was protected and the rest was governed by EBM. The provincial and federal governments agreed to add another \$30 million each in February 2006 and January 2007 respectively. These investments, \$120 million in total, comprise two distinct “Coast Opportunity Funds”, one of which finances sustainable economic development within Coastal First Nations communities, with the other supporting conservation measures taken by First Nations communities. The effect of these arrangements were, once again, to sideline those issue network members who failed to join the consensus and to paint them as extremists, willing to jeopardize local development opportunities by standing on principle (Lee, 2005).

Finally, the government played its strongest card. By bringing the participants back into the Central Coast LRMP process, it was able to draw upon a resource possessed by no other actor: legal authority. While the negotiations on the Central Coast had been taking place, the government undertook a series of reforms to the planning process aimed at strengthening the legal status of plans within a new forest and land use management framework, reforms that are ostensibly intended to hold licencees accountable for ensuring their activities are consistent with designated objectives. These objectives, most notably “land use objectives” have been developed and legislated as amendments to several provincial statutes including the *Land Act* and the *Forest and Range Practices Act*. The amendments require government decision makers (initially District Forest Managers and, later, other resource regulators) to ensure that proposed resource development plans are not inconsistent with these legislated objectives. By establishing land use objectives and other legal designations (which are nearly complete for the entire Coastal Region of BC) the government claims that it has established the legal framework needed to implement EBM.

Unlike the unequivocally hard law-based nature of conservancy designation, however, serious questions arise with respect to the nature and efficacy of these amendments as measured along the hard

law-soft law continuum. While these objectives impose new planning obligations on forest operators to satisfy the Ministry of Forests that their Forest Stewardship Plans are “not inconsistent” with legally designated objectives, the applicable objectives are often framed in relatively imprecise, non-prescriptive outcomes. Compounding these “precision” concerns, are ones that relate to enforceability, another key metric of hard law. By framing the test of compliance in negative terms (avoiding “inconsistency” with amorphous objectives) rather than imposing more specific affirmative requirements, broad discretion is left to the relevant regulator; discretion that will seriously undermine bureaucratic accountability and judicial oversight. Another key weakness is the absence of any formal mechanism to hold licencees legally accountable for subsequent activities that may harm or undermine legislated objectives. In short, a strong argument can be made that notwithstanding the trappings and rhetoric surrounding the implementation of this new regime, in regulatory terms the obligations imposed on the resource development sector tilts strongly towards a soft law, non-prescriptive direction. That this should be the case should, of course, surprise only those with short memories. Less than seven years before, this was the same provincial government that secured a landslide victory on the basis of a platform that prominently featured a commitment to repeal the only prescriptive hard law governing forest practices ever enacted in the province’s history, the *Forest Practices Code*.

4. Conclusion

The Central Coast LRMP was a remarkable and innovative process but not one that can by any means be seen as an exemplar of a broader transition from government to new governance in the provincial forest sector. Faced with a unprecedented challenge to its authority to oversee resource development over a staggeringly large area of Crown lands – a challenge that came as much from forest companies as from dissenters – the government found ways to restore input legitimacy by embracing a discourse coalition composed of ecologists, conservation biologists and the traditional ecological knowledge of local First Nations, a coalition it had formerly rejected as insufficiently expert (in the sense of “unscientific”) and opposed to resource development. It also went further than ever before in recognizing the jurisdiction of First Nations over their traditional territories. On the output side, the final agreement designated approximately one-third of the planning area as protected from resource development, far above the 12% target of early land use planning efforts or the 13.8% currently protected and, instead, close to what were once regarded as the extreme demands of radical conservation biologists (Noss and Cooperrider, 1994).

Although the shift from a strict hierarchy to moderate pluralism involved in the new governance arrangement makes it tempting to see the Central Coast LRMP as a key moment in the transition from “government to new governance” in the BC forest sector, by clarifying the different dimensions along which a shift towards network governance takes place, however, we suggest that the final outcome is much less clear cut than it might first appear.

First, on the institutional dimension, the government retained important structural advantages vis a vis new discourse groups due to its ownership and formal legislative control over forest land disposition. Although this advantage was compromised somewhat in the case of First Nations land and title rights, these too remain formal and legalistic in nature. While the institutional arrangements retained many pluralist features, the government achieved most of its gains by moving upwards away from informality towards more formal structures.

Second, on the political power dimension, the outcome represents a drawing back in the direction of *government* from the tendencies apparent in the original challenge mounted by non-state actors. However, the government’s actions also revealed another critical resource, namely its ability to grant or withhold the recognition of expertise. Essentially sidelined when issue networks predominate

(except to the extent that a government communication strategy might influence a storyline or manipulate a symbol), the state moves closer to the centre of expert networks through its participation in legitimating the boundaries between insiders and outsiders (Hood and Margetts, 2007). In this respect, it becomes a central player in professional networks.

In the regulatory realm several observations can be made of the regime contemplated by this historic agreement. In large measure, we would argue that the conservation area designations are indeed suggestive of a move towards hard law solutions. This, we would argue, speaks to the growing political and legal power of First Nations and the iconic symbolism of the Great Bear Rainforest as one of the province's, indeed North America's, last unspoiled frontiers. While rhetorically the government has deemed it expedient to portray the legal regime governing resource extraction in these areas in hard law terms, on close inspection it is difficult to perceive significant differences between applicable rules and the results-based forest practices legislation (FRPA) brought in to replace the *Forest Practices Code* over the vociferous objections of environmentalists. That the environmental movement should be relatively quiescent in the face of this reality speaks, perhaps, to its reluctant conclusion that this was the *quid pro quo* for securing the Crown's legislative *imprimatur* to the conservation area designations at the core of the larger agreement.

Thus, our case study reveals that movements towards new governance arrangements in the forest sector are complex and multi-dimensional. Even when more extreme kinds of informal network governance appear to have emerged, in our view these may prove to be provisional arrangements that are eventually formalized in subsequent rounds of institutionalization. Before jumping to conclusions about future governance trajectories, we argue, very careful multi-dimensional analysis is required to see exactly how governance in a sector is actually occurring and to understand in which of many possible directions it is moving.

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