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**Indigenous Justice:
Clearing Space and Place for Indigenous Epistemologies**

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INDIGENOUS JUSTICE:

**CLEARING SPACE AND PLACE FOR
INDIGENOUS EPISTEMOLOGIES**

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The realization of Self Determination for Indigenous Peoples is an exhilarating and fascinating movement that encourages human perseverance and an unfaltering belief in human potential and responsibility. It is a multi-dimensional movement that acknowledges and accepts human flaws while becoming aware of one's place in the world. All at once it is both so simple, and yet so complex. Simple because autonomy is a basic human need: to have, not only the ability, but the space and place to self-actualize and experience continuity are fundamental basic human needs. Self determination nurtures human dignity. Yet it becomes extremely complex when its recognition is denied under a colonial regime.

While self determination nurtures human dignity, human responsibility, self and collective actualization and continuity, a colonial regime thrives on its ability to oppress, to maintain hierarchical orderings of power and importance, authority, ignorance and a concept of time that is both linear and extremely short. If time has taught us anything it is that there are no winners under a colonial regime. To oppress human diversity and assert authority without consent is to deny human capability both in terms of individualization and collectivities. Colonial ideologies such as eurocentrism, racism, oppression and hegemonic control are used to promote and sustain a colonial regime that denies equally the colonized and the colonizers of their full human potential.

As Canada moves painfully toward a post colonial era, one can hope that space and place will be created to better explore, understand, and apply Indigenous worldviews to all realms of life. I say painfully because it is. Moving toward a post colonial era means coming to realize the full extent and damage a colonial regime has had on all people now living on Turtle Island. Indigenous people may feel anger, non-Indigenous people may feel defensive; Canada's colonial relationship with Indigenous peoples is far from pretty. Denial and blame work together to stagnate progress.

My own personal (and collective) journey has been honored with the time, space and place to explore and understand certain Indigenous concepts of justice. If I had to describe this journey so far it would be with the words resistance (i.e., the ability to survive oppression and assimilation), recovering (both personal and collective healing), reclaiming (space, place, mind, body, spirit, culture, traditions, and history) and revitalization (breathing life into our communities, returning to the teachings, honoring our ancestors). My journey has been empowering; my desire to better

understand self determination (both personal and collective) has been both challenging and insightful, bringing a depth of understanding I did not expect.

As a Stó:lo woman and mother it was important to me that I come to understand my own culture and identity. There are many Aboriginal people, like me, who for various reasons were removed from their communities to live in the non-Aboriginal world. But the pull back to my Stó:lo community was much stronger and at sixteen I found myself back at home.

I was confused about my identity and traumatized from my removal. My confusion and trauma meant I couldn't always see things clearly. But being home allowed me to begin my healing journey. Looking back I am sure I cried for a decade straight. And if I wasn't crying I was angry. As I came to realize the extent and purposive nature of the colonizing process I became very angry indeed. I pray for understanding. It is slowly coming. By keeping my ears (and heart) open I find many teachers along my path that bring me hope and understanding.

My journey is carefully guided by both oral teachings from many Stó:lo Elders as well as by written words from several Indigenous and non-Indigenous scholars, some of whom I have not even met. My teachers helped me to move beyond anger and brought me clarity and vision on many things. My teachers through written word are Patricia Monture (Mohawk), Sa'ke'j (Chickasaw), Taiaiake (Mohawk), Vine Deloria Jr. (Sioux), Val Napoleon (Cree-Saulteaux-Dunee Zah and adopted member of the Gitanyow House of Luuxhon, Ganeda clan), Poka Laenui (Wai'anae, Hawaii), Leroy Little Bear (Blood tribe), Eduardo Duran (Apache/Tewa), Dr. Joanne Archibald (Stó:lo), George Sioui (Huron Wendat), Ted Palys and Rupert Ross all of whom I highly recommend be on anyone's reading list who is interested in coming to understand Indigenous ways and their importance to our health and well being.

A few of my Stó:lo teachers include my grandparents and father, my husband Tsimalanoxw, Rudy Leon, Ivan McIntyre, Terry Prest, Tixwelatsa, Auntie Helen, Auntie Amy, Eugene Harry (Squamish First Nation), Leonard George (Tseil-waututh First Nation), Gerald George, Yamolot, Ts'ats'elexwot, Edna Douglas and Tillie Guterrez. I am most grateful for the teachings and guidance I have received from my teachers. Learning from them has encouraged me to decolonize my mind. They have taught me time is cyclical. They have showed me how "old" we are as *Xwélmexw* people. This brought me much peace and security. Learning from them has taught me the importance of knowing my own history and culture and its importance to the health and well being of future generations. I am most grateful.

The purpose of this current paper is to share what I have come to understand so far in my exploration and application of Indigenous epistemologies (epistemology, by the way is one of my all time favorite English words. It has to do with the acquisition of knowledge and exploring how it is we know what we know) with respect to the concept of justice. I was asked to write the paper I wish had of been handed to me as I began my work with my Nation in the area of revitalizing our own dispute resolution processes. My first draft was a purely academic paper, I am an academic afterall. The first draft was reviewed by three academic women who for the most part gave it a favorable review, not a rave review but fair.¹ However, something that kept ringing in my ears after the review was the words: “where is your voice in this paper?” Writing academically is a safe place to write from, to write using first person is scary for me. It means putting myself out there. But it is an important part of the web I would like to weave.² Time (man-made time that is) did not afford me the ability to completely rewrite my paper, but what I was able to do was insert my voice into choice places of the paper, especially when I have a good story to share about my experiences. The paper, therefore reads like two papers. One is grounded in academia and slightly “objective,” (if such a thing is even possible), the other is personal and “subjective” grounded in my Stó:lo understanding of the world.

When I began working for my Nation with my criminology and psychology degree in hand, there were several colonial phenomena I was ill-prepared to deal with. My university training did not equip me with the skills and knowledge to address oppression, eurocentrism, colonial relationships and internal racism. My university training as an undergrad did very little, if anything to challenge my own colonial thoughts and opinions. So here are a few of the colonial phenomena that I wish I had of had a better understanding of when I began working for my Nation.

For the Stó:lo, I can honestly say that revitalizing our own ways of resolving conflict was the easy part. What I was not prepared for was the negative response it would receive from some of the Eurocanadian criminal justice personnel and even more surprising was the negative response it would receive from some of the Stó:lo people. I now know why, but at the time I was completely unprepared for Stó:lo people who may want anything to do with Stó:lo ways and culture. And I was completely at a lost to understand why criminal justice personnel would resist and even have the gall to tell us we had no right to resolve our conflicts with our own ways! Colonial mentality and eurocentrism were obstacles I was ill equipped to answer back to.

But that was then. I have since achieved a better understanding of colonial ideologies that pervade Canadian society and adversely influence interactions and relations not only between Indigenous and non-Indigenous peoples, but often between Indigenous peoples themselves. I have come to see that the application of an Indigenous worldview to the area of justice has much to offer all Canadians. There are many obstacles in the way of such a realization. It requires a decolonizing process take place, it requires a complete paradigm shift, and most importantly it requires a partnership based upon acceptance and respect for human diversity.

Beginning the Decolonizing Process

An important part of the decolonizing journey is to come to understand the colonial process. This can be painful; at least it was for me. As a third and fourth year undergrad I became painfully aware of what exactly Canada had done to Indigenous peoples. It made me angry and sad. I became painfully aware that my academic pursuits were in fact a colonizing act. I was not reflected in any of my courses, I was all but invisible. On a daily basis I was being reminded that academia promotes the colonial notion that Europeans and Eurocanadians are superior. I was prepared to quit school as I could not ethically be a part of a pursuit that failed to see or hear me. Many times I felt degraded and humiliated, completely surrounded by colonial ignorance. When colonialism is described as a dehumanizing and degrading process, I must agree. As Ania Loomba explains:

“colonialism” [is] “the conquest and control of other people’s land and goods.” This process is one which involves physical invasion of another’s land, the destruction of pre-existing social and cultural structures, an assumption of political and economic control, the establishment of social relations based on racial inferiority, and the weakening of resistance to allow control of society (as cited in McCaslin, 2005:14).

My personal resistance was weakening. I was tired of my academic “double burden” of having to read the required course lists of non-Aboriginal authors and then head to the fourth floor of the library to read Aboriginal authors who were never on the required reading list. I was tired of being a lone voice standing up to professors and course content that outright lied about the world. I was tired of being seen as “inferior” and a second class student. On top of all this I was terribly homesick. I was being starved. I was wilting. Then two things happened. I came across the writings of Patricia Monture (Mohawk) whose ability to write is a gift. Her thoughts and understanding of the world challenge colonial ideologies; she is a great leader and a powerful

woman who is tireless in her ability to move us toward a post colonial era. In her written words I was reflected, in her words I made sense, in her words I was being validated even within a Canadian institution.

The second thing that happened was one day after class I was stopped by a white male professor who asked to speak with me. Normally when a professor singles you out it can instill fear in even the best of us. But the way he asked was with kindness and made me realize he saw me, maybe I wasn't invisible after all. I actually felt a bit of pride: "Me, you want to talk to me?" He was holding my paper outline that I had handed in earlier. "Do you know these women?" he asked, he was referring to Viola Thomas, Jenny Blankinship and Patricia Monture. "No" I said, "but I would like to and I am interested in learning more about them." Then, for the very first time in my academic career I had a respectful conversation with a university professor about the "Indian" world. Not only did he encourage me to pursue my paper interests he was able to contribute to its content. He provided me with more names of Aboriginal women who were currently engaged in a most interesting debate regarding the application of the Charter to Aboriginal self government. It was clear he admired these women and he was truly interested in my paper topic.

I made a friend that day within the institution. He helped create space and place for me to be me. I saw things differently and he was okay with that, in fact he encouraged it. Unlike many professors, he knew the Western worldview was but one way of looking at the world and he did not present it as the *only* worldview. The fact that one of his passions in life is research methodologies is not surprising. He also understood my fascination with the word "epistemology."

Colonialism, on the other hand and to the detriment of human diversity, makes the horrendous mistake of believing there is only one worldview, the Western worldview:

No matter how dominant a worldview is, there are always other ways of interpreting the world. Different ways of interpreting the world are manifest through different cultures, which are often in opposition to one another. One of the problems with colonialism is that it tries to maintain a singular social order by means of force and law, suppressing the diversity of human worldviews (Little Bear, 2000:77).

I hope that by sharing my experience shows how easy it can be to change this. Meeting one Mohawk scholar (even if only via written word) and a white male professor and my worldview was given space and place to revitalize, to breathe and develop with my dignity intact.

Another important aspect of my decolonization was coming to understand colonial ideologies. To do so meant I had to learn about a few rather complex English concepts such as eurocentrism, ethnocentrism, oppression and colonial violence.

COLONIAL VIOLENCE

Colonial ideology and relations work to suppress other worldviews using any means necessary including violence. The very process of colonization is an extremely violent act. Colonial violence takes many forms. It can be obvious such as in racially motivated rapes and murders. Or it can be subtle and difficult to identify as in colonial legislation such as the Indian Act and certain child welfare policies and practices. Oppression is a form of violence just as racism is a form of violence. The use of the negative “Indian” stereotype is a form of violence. Thus part of my decolonization meant I came to see the violence that is inherent to colonial ideologies.

Ethnocentrism

Colonialism is complex, for sure, but it is also simple in that it falsely promotes the superiority of Europeans over Indigenous people. Many scientists, including western scientists are becoming increasingly aware of methodological flaws that are inherent in much of the western research focused on non-Western cultures and customs.³ One such flaw is referred to as the ethnocentric bias, whereby the values and norms of the European culture are used to evaluate and assess another culture. There are many reasons why values and norms for one culture should not be used to explain another.

A simple example is the colonial myth that there were no laws among Indigenous people because there were no police or prisons. This is a prevalent colonial myth that works to reinforce and maintain colonial relations. It is completely absurd to think that there were no laws on Turtle Island prior to colonialism as is the myth that Indigenous societies were somehow void of legal reasoning. The Stó:lo for example, are very peaceful people (especially of course prior to colonization). Peace does not just happen. It needs to be nurtured.

We are just now coming to recognize and hopefully accept the depth and diversity of laws that exist among Indigenous peoples. Unfortunately, colonial eyes only looked for prisons and

police and upon seeing none assumed there were no laws. Chief Justice Yazzie from the Navajo Nation wrote:

European explorers often said, “Indians have no law.” Why? They couldn’t see police; they didn’t find courts; they didn’t see uniforms, jails and all the trappings of power. But they also couldn’t see the clan mothers, who are so important to our Native legal institutions.⁴

For the Sto:lo our laws are found “written” throughout our territory in the form of sxwoxwiyám and transformer sites. Our laws are found within the hearts and minds of our grandmothers. They may not follow the European form of being written in esoteric language in rather large criminal codes and volumes with thousands of sections and subsections, but they are laws no less. They are vibrant living laws; natural laws that developed from centuries of interactions and observations of S’ólh Téméxw. Our Stó:lo laws are equally accessible to a five year old child as they are to an Elder. They are accessible to all and belong to no one. They do not require police to enforce or lawyers to interpret.

Oppression

I was not prepared to deal with so much colonial violence. As well, I was not prepared for my emotional reaction to most of it. I now know and understand my emotions better. One of the most difficult lessons for me was learning to identify oppression. I now know that I have a physical response as well as a certain feeling when I am being oppressed. I become very uncomfortable and begin to squirm, I actually have a physiological response to oppression. Before I knew my discomfort was in response to oppression, I thought there was something wrong with me. I would either quickly leave the meeting or sometimes to my complete mortification I would begin to cry, right then and there. Who cries in meetings? I did! Any many times. Today, I am able to recognize my physical response and the feeling I have when oppression is present and now know to identify it.

Oppression can happen so subtly and remain completely invisible to those perpetuating it. When I have a feeling of oppression, I acknowledge it and if I am able to identify it I “gently” bring it to the attention of those I am meeting with (okay, in the beginning I was not always so gentle about it, but I am learning). If I am unable to identify it, I let everyone know that something is not right, not sure what, but something isn’t feeling right and I will put thought into it and be sure to get back to everyone when I am able to identify it. Sometimes, just saying this

provides the space necessary for someone else in the meeting to identify it. This then begins what is referred to as “decolonizing dialogue” or “authentic dialogue.” It allows us to express our feelings and hopefully work through them. It affords us the opportunity to verbalize and name oppression and therefore deflect it rather than internalize it. The ability to express and share feelings and emotions was an important aspect of the decolonizing journey. As shared by John Mohawk and Georges Sioui (Huron Wendat):

Amerindians always say that to attain reason, one must first treat the emotions with honor and respect. To gain someone’s trust or cooperation, or to comfort others so as to have them participate in a shared objective, “it is necessary to deal in the first place with the emotions, to lift up the spirits so as to sit down together and think clearly.” (as cited in Sioui, 1992:5).

Colonial Violence and Aboriginal Women

None suffer more from colonial violence than Aboriginal women and children. The 1971 racially motivated murder of a Cree woman named Helen Betty Osbourne and the fact that it took the criminal justice system over 16 years to prosecute her murderers forms part of the Aboriginal Justice Inquiry of Manitoba. This inquiry clearly found that racism and discrimination not only played a part in why Helen was brutally raped and murdered by three white men, they were also reasons why the criminal justice system failed Helen and her family in prosecuting the men who murdered her. The inquiry found that society’s low regard for women in general, but especially for Aboriginal women played a part in why Helen’s murder was not treated as a heinous crime by criminal justice agents.⁵ The inquiry stated that “there is one fundamental fact: her murder was a racist and sexist act. Betty Osbourne would be alive today had she not been an Aboriginal woman.”⁶

Despite this Inquiry now being 15 years old, not much has changed in either how society views Indigenous women or in how the criminal justice system treats those who offend against us. It is estimated that across Canada 500 Indigenous women have disappeared and have more than likely been murdered.⁷ In the cases of violence perpetuated against young Aboriginal women, MacDonald concluded that “bias, prejudice, and/or hate appear to be strong motivators for the commission of violent crimes against Aboriginal girls.”⁸ Yet there is no public outcry, no systemic changes have been made and there has been nothing done to change the way in which Indigenous women are viewed:

The portrayal of the squaw is one of the most degraded, most despised

and most dehumanized anywhere in the world... Such grotesque dehumanization has rendered all Native women and girls vulnerable to gross physical, psychological and sexual violence... **I believe there is a direct relationship between these horrible racist/sexist stereotypes and violence against Native women and girls.**⁹

Continuing with colonial ideologies translates directly into colonial violence and Aboriginal women and children are the most vulnerable to it.

Like racism, colonial ideologies seeps into every aspect of daily life. Colonization is the process that was and is used to displace Indigenous peoples from our homelands, to erase or oppress Indigenous belief systems including our spiritual beliefs, to erase or oppress social, familial, legal, economic, and political structures and to replace them with Christian belief systems and colonial education, legal, political, social, familial and economic structures. This is furthered along by an aggressive governmental policy of first extermination and later and still today, assimilation. Unless we agree to adopt and internalize European and now Euro-Canadian values and ways of life, we are denied land, education, jobs, resources and even the right to raise our own children.¹⁰

The fact that Aboriginal children continue to be removed from their families and communities to be raised by non-Aboriginal families in disproportionate numbers is a completely colonial maintaining act that is nothing short of cultural genocide. Removing children from their Aboriginal families and communities is a form of colonial violence. This is still one area I have a really hard time being “gentle” with. There is not a single theory or research study that is able to show that removing children from their Aboriginal families and communities has a positive effect or outcome. Despite common sense and a growing mound of empirical evidence that unequivocally points to the detrimental effects of such removals, this practice continues to this day.

Eurocentrism

Another colonial phenomenon I was ill prepared to deal with is the internalization of colonial ideology by Indigenous peoples. To me it seemed as though if we wanted to succeed within a colonial society we had to either claim “blissful ignorance” or believe certain ideologies to be true. As a result I think many Indigenous people have internalized oppression, eurocentrism and racism which then explains why we may then oppress and discriminate against ourselves. We actually begin to see ourselves as “other” and dissociate from our Aboriginal identity. We begin

to see our own Indigenous culture through the eyes of the colonizers and begin to see it as “backward,” “inferior” and “less than.” This helped me to understand why many Stó:lo people do not want anything to do with their own culture and why many feverishly promote Eurocanadian methods. In fact eurocentrism is so widely accepted it goes unquestioned and is falsely perpetuated as a universal truth.

Eurocentrism is referred to as the “anti-trickster.”¹¹ Unlike the trickster who brings us valuable lessons in life, eurocentrism brings oppression, silence and stagnation to those being colonized. After several generations of forced and aggressive colonial indoctrination, the colonized begin to adopt, accept and perpetuate colonial thought and mentality.¹² Colonial ideology tricks us into thinking we either do not know our own culture, do not deserve to know our own culture or, worse, we do not need to know our own culture. Many who have internalized eurocentrism may not seek out their Indigenous teachings, but prefer to remain alienated and disconnected from their ancestry; we become a casualty of “collective amnesia.”

[D]ominators believe that they not only maintain a universal discourse but also speak the language of objectivity and impartiality. Typically, to succeed in creating this sense of objectivity, colonizers must obscure Aboriginal memory. To strip Indigenous peoples of their heritage and identity, the colonial education and legal systems induce collective amnesia that alienates Indigenous peoples from their elders, their linguistic consciousness, and their order of the world (Youngblood Henderson, 2000).

To continue with the status quo means to perpetuate colonial ideologies. This makes us complacent and to a large degree accepting of our own lived misery. This alone is impetus for change and transformation.

Eurocentrism coupled with other ingrained colonial ideologies can be a major challenge to those Indigenous communities choosing to revitalize their own Indigenous forms of justice. Eurocentric thought exists within all current colonial institutions, including all *Indian Act* governed communities and works to ensure our “Indigenous” ways are either marginalized or changed in order to meet the values and expectations of non-Indigenous agencies. For example, we tend to value foreign systems of governance over our own Indigenous leadership structures even though the result is disastrous for us.¹³ *Indian Act* election systems ensure our communities remain divided and our leadership is hindered in its ability to effect any meaningful change.

We tend to value foreign systems of healing over our own Indigenous ways even though the majority of our people do not respond well to Eurocanadian forms of therapy and counseling; yet we continue to value psychologists and mental health “professionals” over our own traditional healers and Elders.¹⁴ We continue to value colonial methods of learning over our own despite the fact that over 70% of our children are failing to succeed within Eurocanadian systems of education.¹⁵ We continue to think of books and written histories as somehow more legitimate than our own oral histories, even though written histories are fraught with ethnocentric bias. To think that Indigenous cultures do not adapt, evolve and change over time, just like all other cultures have done worldwide, is eurocentric thought.

To think that Indigenous concepts of justice do not exist is eurocentric thought. It may be that Indigenous concepts of justice are not being practiced in some Indigenous communities. I would argue strongly, however, that they probably are being practiced if there are Elders in the community. It may be that many Indigenous concepts of justice have been put to the side, overshadowed and marginalized by colonial forms of “justice.” But this does not mean they do not exist. The above examples point to several ways in which eurocentrism can hinder our ability to revitalize our own systems of justice.

Internal Colonial Challenges

My personal experience has been that in order for Stó:lo concepts of justice to be legitimate and successful, I had to free my mind from many colonial mental traps and several “colonial shackles.”¹⁶ Indigenous forms of justice require cultural teachings, Elders’ advice and our own sense of spirituality; in other words our own worldview, not an imposed one.¹⁷ Stó:lo justice required that I trust and have confidence in other Stó:lo people. It meant I recognize the necessity of our culture.

Stó:lo justice is dependent upon the rejuvenation of our communities and community members. Like eurocentrism, internal racism is an obstacle and challenge to the success of the revitalization of Indigenous forms of justice. As mentioned above sometimes we can become our own worst enemy. Internal colonialism and internal racism is crippling many Indigenous communities. Lateral violence is endemic. As noted by Lane, Bobb, Bobb, and Norris (2005):

Aboriginal communities that have been traumatized [due to colonial processes] display fairly predictable patterns of collective dysfunction. These patterns include rampant backbiting and gossip; perpetual social and political conflict and infighting; a tendency to pull down the good work of anyone who arises to

serve the community; political corruption; a lack of accountability and transparency in governance; widespread suspicion and mistrust of others; a chronic inability to unite and work together to solve critical human problems; and disengagement from community affairs (a sense of “what’s the use?”); a climate of fear and intimidation surrounding those who hold power; and a general lack of progress and success in community initiatives and enterprises, which often seem to self-destruct (371).

In my own experiences I found that sometimes to our own detriment we think that for something to be legitimate it has to be recognized by outsiders (i.e., federal and/or provincial agents and agencies). Instead of asking our Elders to verify and guide our work we ask lawyers instead, and preferably white lawyers to boot. Instead of listening to our community members on what it is they need and want, we blindly adhere to what government agencies tell us to do. And we do it even if it is in direct conflict with our Stó:lo ways and teachings, and at the end of the day do very little to improve the socioeconomic status of our people.

Internal colonialism tricks us into thinking that in order to achieve “justice” we need to mirror or model the Canadian system. Whether due to our disconnection from our ancestry or our “collective amnesia” we do not see our own Indigenous ways as legitimate and necessary. In some situations, I felt like we were tokenizing and exploiting our own culture.¹⁸ I couldn’t understand why we were hosting honoring ceremonies for treaty officials and child welfare agents. What exactly were we celebrating and honoring? How can we celebrate and honor the continued exploitation of two of our most precious resources - our land and our children? (I still can’t be “gentle” and I hope people understand why). We need to ensure that we do what we do to better the health and well being of our people, not to “tend and befriend” government agents and bureaucrats! Many times I have to turn to our Elders, our ancestral teachings and especially our spiritual beliefs to guide me and give me patience.

Indigenous Concepts of Justice

For many Indigenous people¹⁹ justice is a concept that encompasses much more than the legal arena and crime control. Indigenous forms of justice tend to guide almost all aspects of one’s life from the basis of good governance and leadership to the guidance of daily interactions between neighbors. However, within contemporary Canadian society justice tends to be equated with punishment and not much else. Such a simplified conception of justice works to complicate matters for those Indigenous peoples choosing to follow our own Indigenous ways of doing justice. Unlike the justice we seek in the Canadian legal systems, Indigenous concepts of justice

are often an indication of values, norms and principles that may be hidden in traditions, ceremonies and certain “ways of being.” As such, Indigenous concepts of justice are not necessarily conducive to criminal codes, legislative derivative and most definitely go beyond the need to punish. In fact most legal scholars, Aboriginal and non-Aboriginal alike, agree that the justice we seek in the Canadian legal systems is very different from Indigenous concepts of justice.²⁰

Further, most would agree there is not, and hopefully never will be a single definition for Indigenous justice. Canada’s Indigenous peoples are extremely diverse and our languages, cultures, customs, beliefs and traditions can vary dramatically across Nations. Along with this diversity there are also similarities and philosophical beliefs that unite all Indigenous peoples of Turtle Island. However, it is important to avoid and be aware of the colonial habit to pan-Indianize all things Indigenous, including how we practice and experience justice. The promotion of a single pan-Indian model of Indigenous justice would fail to, not only reflect the beautiful diversity found among the Indigenous peoples of Canada, it would also simplify and restrict the realms of possibilities.

A Caution Not to Reinvent the Wheel

For me, the decolonization process requires a cultural revitalization. As a Stó:lo woman I do not think I can fully experience justice until we have reclaimed, revitalized, re-centred and once again become responsible to our Stó:lo ways of “being.” This is easier said than done, I know. It challenges the status quo, and it questions the current trend of assimilation. History and contemporary policy and legislation “encourage” us to model and adopt non-Indigenous systems and methods. Let us set our standards higher than this, we certainly deserve better. Why replicate systems that discriminate and oppress? Why replicate systems that are fundamentally flawed? As I learned from Leonard George (Tsleil-waututh) during a wonderful visit to his beautiful home on the Burrard inlet:

If we are going to try and acquire our rights why are we looking at the rights that are there for the Canadian people right now when all of them, for all intents and purposes are unhappy with a system that doesn’t work anyway. Why do you want to take something that doesn’t work and put it into your own stew kind of thing. We have a chance to make a whole new one here. You could say okay it’s our turn to make

the stew and take all the same old ingredients that are not good for you, this chicken that is processed on a fast track, these vegetables that are grown with pesticides and everything, or else you can grow a whole new garden based on your own values (Leonard, 2000:9, transcript).²¹

Avoid Equating Justice with Punishment

Another caution I have been served well to follow is to not equate justice with punishment. Focusing simply on punishment takes much needed attention away from larger harms such as historical colonial and societal harms. In fact, “alternative” processes to the Canadian legal systems, such as restorative justice programs, are being challenged to take on these larger issues. Without doing so could mean such programs are simply perpetuating the exact same mechanics as the criminal justice system but under a different guise. For example, Breton (forthcoming) argues that if restorative justice programs really want to be “restorative” in nature than they need to address historical harms such as colonialism. Others suggests RJ programs need to be part of the decolonization process and address societal harms and systemic injustices.²² Without doing so restorative justice is nothing more than colonial justice wearing a different colored hat making use of different enforcers.

For Indigenous communities we need to go a step further, as the Stó:lō and other Indigenous Nations²³ have done, and ensure our justice forums are our “own” as opposed to “alternative.”²⁴ Indigenous justice offered by Indigenous people for Indigenous people needs to find ways to not only address colonial harms, but to respect and make use of our own Indigenous teachings and concepts of justice. Reclaiming and revitalizing our own Indigenous ways of doing justice is the only way to go. Canada’s colonial beliefs and history will try to derail such efforts at almost every turn. Our path is strewn with colonial arguments of power and jurisdiction. We need to be mindful of the ever present and often overpowering colonial habit of trying to fit Indigenous concepts of justice into a colonial framework such as diversion programs, alternative measures, sentencing circles, Aboriginal courts and Aboriginal prisons. These “may” (and I say this with much hesitation) be a small step in the right direction, but they are not good enough for our people. We deserve better and much more than this.

Unfortunately Canada’s colonial history is filled with more injustice than justice for its Indigenous peoples. The current over-representation of Indigenous peoples within the criminal justice system, coupled with the under-representation of Indigenous peoples within positions of

power within Canadian institutions and a justice system(s) crippled with colonial ideologies such as racism and discrimination becomes embarrassingly apparent. As the above examples show, the problems indicating a flawed system go way beyond the over-representation of Indigenous peoples within the criminal justice system, the over-representation of Aboriginal youth in custody²⁵ and the over-representation of Aboriginal children in care of the ministry. The problem is rooted within Canadian institutions that adhere to colonial policy and ideology that entrench colonial relations, the “problem” is not Indigenous peoples. But unfortunately to date, most responses to the “problem” have been aimed at changing us instead of legal systems and child welfare practices that do not work.

If we continue to simply equate justice with punishment and choose to continue to ignore our own Indigenous teachings and concepts of justice, than we are forced to remain dependent upon colonial institutions. These institutions have been built upon colonial ideologies of racism and eurocentrism that perpetuate discrimination and oppression. The end result therefore should not be surprising; the colonial power imbalances are maintained and colonial ideologies are legitimized and enforced. Our lived misery will continue.

Once we have a fairly decent understanding of Canada’s history, especially in terms of the process of colonization and what this process has done to us as Indigenous peoples, what next? We rebuild. Not only do we revitalize and recentre our Indigenous cultures and worldviews, we also need to rebuild our Indigenous Nations. I am not referring to the communities or reserves that have been created by the *Indian Act*. If we truly are sovereign Nations, which I believe we are, then we need to start acting like it. For example, the Harvard Project found that those First Nations experiencing success were those that were exercising *de facto sovereignty*.²⁶ We have a right to live according to our own cultural beliefs, traditions and cultures. The right to be self-determining is an inherent right, given to us by our ancestors. Although there is an argument to be made that this right is recognized by the *Canadian Charter of Rights and Freedoms*, it is not derived from this foreign legislation. We had this right long before 1982 and the Charter. Chief Justice Yazzie of the Navajo Nation expresses it as “internal sovereignty:”

We must exercise internal sovereignty, which is nothing more than taking control of our personal lives, our families, our clans, and our communities. To do that, we must return to our traditions, because they speak to right relationships, respect, solidarity, and survival (2000:47).

QWI:QWELSTOM

Qwi:qwelstóm xwelam t'ey is the Halq'eméylem phrase that best describes “justice” according to the Stó:lo worldview. Learning what justice means from a Stó:lo worldview has been both a challenge and a fulfilling experience that has taught me more than I ever hoped for. I understand that *Qwi:qwelstóm xwelam t'ey* is a life long journey. I have come to accept that *Qwi:qwelstóm* can mean different things to different people depending on where the person is in his/her own life and understanding of the world. There is something about *Qwi:qwelstóm* that all Stó:lo share as embedded within the *Qwi:qwelstóm* web are teachings and certain ways of being that have been passed down from generation to generation since time immemorial. All the teachings are there whenever we are ready for them; this tells me how well our ancestors have and do care for us and future generations.

I want to take this opportunity to share a few of the things I have learned so far and a few of my observations as the Stó:lo reclaimed and revitalized another aspect of our culture.²⁷ My lessons are far from over but I want to share a few as they may help others make sense of what can often be confusing relations and misunderstandings. First, as my grandmother used to tell me “I live in two worlds” and the key for me is to learn how to live comfortably in both. There is no doubt that I am by far more comfortable in one than the other, but I have definitely come a long way in feeling comfortable in both. Second, I think at times I may be a bit “Stó:lo-centric” which I have come to realize is okay. I am not challenging the non-Stó:lo worldview or forcing others to live by it, I am simply adhering to my own worldview.

My understanding of Stó:lo justice is shaped by three early experiences which are framed by my innate sense of independence and self-governance (both as an individual and as part of a collective). My first experience occurred when quite by accident I was enrolled in a first year criminology course at the local college. During this course I was told about the over representation of Aboriginal people in jail and I instinctively knew something was wrong. But more importantly, even as a first year student, I knew the problem was systemic and not personal. Today, I understand why most people think the problem is with Aboriginal people – that we drink too much, fight too much and live in poverty which are then somehow translated into reasons why we fill the jail cells. But from my own personal experiences of having lived

going constantly back and forth between two worlds and the stark differences between these two worlds told me there is absolutely no way Aboriginal people should be filling the jails. In my Aboriginal world, yes there was drinking, fighting and poverty but there was also calmness, a quiet, a sense of belonging, self-assurance, acceptance, a sense of caring for one another and an unbelievably funny sense of humor. Quiet calm voices and lots of laughter - definitely not the characteristics one would expect to find in people who are filling the jail cells.

My second and third experiences occurred after I had graduated from university with a Bachelor's degree and returned to my community to work. First, Stó:lo Nation was looking for a justice worker, so with degree in hand I eagerly applied. I did not get the job. Lesson one, we do not always have confidence in each other and our abilities. Although my own people didn't hire me, the non-Stó:lo justice worker that was hired, did. Next experience, I learned that we were developing an alternative justice program for the Stó:lo, but that this "alternative" program would not be dealing with serious community issues such as drugs, alcohol, family violence and sexual assaults. Rather, we would be dealing with certain band by-laws such as dogs barking past curfew. Lesson two, we had a lot of fear and uncertainties about our own capabilities to heal our own people. I immediately appealed to the House of Justice to have them consider allowing us to deal with issues of family violence and sexual assaults.

My appeal to the House of Justice was very positive. The discussion was long and many issues and concerns were raised, but at the end of the day we all agreed that anything would be better than the current situation. Currently family violence and sexual assaults were either not being reported at all or were being sadly mishandled by the criminal justice system. Although we acknowledged that we may not have all the answers and at times may not even know what to do, that this would be okay. We decided from the beginning it would not be our responsibility to "fix" people. Rather, we would approach every situation with care and concern, we would listen to the people, we would ask for help and we would remember that the solutions would need to come from the people themselves, not from us. The very people involved in the conflict are the ones responsible for figuring it out and finding ways to make it better. We would be the helpers, not the judges or master planners.

Next I went to meet with our local crown counsel office to let them know they could refer more serious offences to our "program." If I live to be 100 I doubt I will ever forget this meeting. First I went alone – big mistake. Second, I was not prepared for my reaction. On my drive to the

office of the crown prosecutor I prayed. In the elevator on the way up to his office, I prayed again. As I exited the elevator I felt pretty good and self-assured. I had a university degree backing me and as always I had my innate sense of responsibility to my people and self-determination emanating from me. I met with two very white, very male, very different from me crown prosecutors. The more I tried to explain to them what we were wanting to do and why, the more distance there seemed between us. The more I poured my heart out, the more they wanted to paint me over with the “we are all the same brush.” Lesson three, in one instant I became aware that these two white men could not see me, nor could they hear me. I became acutely and painfully aware of my invisibility in their eyes. This hurt. I immediately stopped talking, what is the point when they could not hear me? Then I felt the tears coming, I could not believe I was about to cry. I was mortified. The tears started to pour down my cheeks, in what I thought was supposed to be a very “professional” meeting.²⁸ I recall saying to them “I can’t believe I am crying, these tears must be for you.”

I left their office and returned to my own completely deflated and humiliated. I closed my office door and bawled. At the time I did not completely understand what had just happened, at the time I did not know how to name and identify oppression. But I did know one thing – I was going to quit my job! No job was worth this kind of humiliation and pain. Then my phone rang. It was my husband. Hearing his voice made me cry more. I explained to him what had happened and how humiliated I felt. He said to me “you know Hon, some of the greatest Stó:lo leaders would get up in front of the people and all they could do is cry.” “Really?” I asked, already starting to pick my head up, already starting to feel better. To this day I do not know if what my husband told me is true, it does not matter. I did not quit that day. Instead I called the Regional Crown Counsel office and set up a meeting with the boss. This time, I did not go alone, this time the Elders came with me. They did all the talking, no tears were shed and within the first five minutes of the meeting it was decided that Crown could in fact exercise discretion and refer more serious cases to Qwi:qwelstóm. Done.

Over the next five years I would shed many many more tears. Sometimes all I could do is cry. Sometimes I wondered if I would ever stop crying. I healed and helped myself just as much as I healed and helped others. Lesson four, tears are not a sign of weakness, quite the opposite, tears are a sign of strength. And over the years I have in fact seen several leaders cry in front of the people. That is how powerful we are. We had a lot of work to do, crying was just one part of it.

Many things happened over the years that I had a hard time understanding. I have since come to understand certain things which help explain why sometimes, although we are independent people, we act dependent, and why sometimes even though we have our own ways we rely on the ways of others and why sometimes we do not see the answers that are right in front of us. The things I have since come to understand in some small way are colonialism and its impact upon us, eurocentrism, racism (in various forms), the need to decolonize relations and for lack of finding a better word so far – the need to express and believe in self-determination.

For the Stó:lo we engaged in many “decolonizing dialogues” during countless community visits and over four years worth of monthly *Qwi:qwelstóm Ye Smóyelhtel* meetings. In the beginning I did not realize we were engaged in a very important part of the process, I did not at first realize that many of the lively debates I found myself engaged in were crucial to achieving contemporary understanding of what we were doing and why. At first I just thought we had lost our minds. I recall going home one evening very hurt, the tears would not stop. Then I realized, having to fight crown prosecutors to have our Stó:lo ways recognized and accepted was one thing and perhaps something to be expected. But coming across resistance from my own people was definitely a huge surprise that in the beginning really hurt.

I have since come to understand this resistance by placing it within the colonial framework from which it came. Authentic dialogue at this point helped ensure that people actually continued to talk as opposed to silencing differing opinions or worse simply disengaging and discontinuing the entire process all together.

Achieving understanding for the diversity found among the 25 Stó:lo communities became a focal point and an extremely interesting and foundational piece to revitalizing *Qwi:qwelstóm*. Some communities were way ahead of our justice team and quickly taught us many important aspects to the process, some communities all but chased us away, some upon even hearing the word “Stó:lo” immediately hung up the phone on us. But for the majority the dialogue was absolutely intriguing, sometimes lasting long past anyone’s work day. Lots of laughter, and especially lots of tears as we shared our stories of justice, or rather, injustice, and the ways in which we thought we could make things better.

If I had to pick one universal thread to tie all these communities and all these discussion together, it would be *S’olh Temexw* – “Our World” – came up time and time again – the importance of our culture and ways to bring it back, the varying degrees to which each

community felt they had or had not retained our culture, the importance of our language, our Elders, our land, our river and waterways, the air we breath, the berries we pick, the roots we cherish, the animals we admire, the mountains, our true history books, every story, every teaching carefully etched into the sides of the mountains we were surrounded by.

Like many Stó:lo teachings, understanding *Qwi:qwelstóm xwelam t'ey* is a life long journey. I am honored to carry the name *Qwi:qwelstóm* for the Stó:lo, an honor I share with Elder Joe Alec from Cheam. I can summarize my understanding of *Qwi:qwelstóm* so far as this:

Qwi:qwelstóm is the closest word in our *Halq'eméylem* language that teaches us about “justice” according to our Stó:lo worldview. It teaches us how to learn from our Elders, our shared sense of history, our need for belonging and traditional teachings, and how to relate to one another in a good way. *Qwi:qwelstóm* teaches us conflict is okay and inevitable; conflict is opportunity for change, better understanding and in some cases much needed transformation.

Qwi:qwelstóm is inextricably linked with teachings from *S'ólh Téméxw*.²⁹ A foundational teaching for *Qwi:qwelstóm*, is based upon the inter-relatedness of all living things – this includes our ancestry whether past, present or future as well as our natural environment, plants, animals, trees, mountains, water, birds, rocks etc. As all life is inter-related we are encouraged to strive for peace, balance and harmony. Relationships are paramount, that is how we relate to ourselves, others and our environment is carefully guided and nurtured by most Stó:lo teachings. *Qwi:qwelstóm* encourages us to maintain and respect our relationships with others and to restore any disrupted balance and harmony caused by our actions and/or words.

Naturally, the process that the Stó:lo go through in order to achieve balance, peace and harmony is quite different from the process one would go through in the criminal and family justice systems or a civil litigation. For example, through *Qwi:qwelstóm* teachings the need to be right or wrong is hardly ever the focus, instead we focus on ways in which the disrupted relationship can be restored and balance and peace achieved. The entire process is designed to “pick people up,” to make them feel better and at peace with a situation. Quite often taking responsibility for something you have done within a safe, non-judgmental, non-confrontational forum with your loved ones beside you, tends to make one feel better about oneself and to want to do better next time. The *Qwi:qwelstóm* process is carefully monitored and guided by Elders.

Labeling someone as the “victim” and another as the “offender” is strongly discouraged. When someone is referred to as the “victim” or the “offender” the *Qwi:qwelstóm* process changes as the individual then tends to focus his/her attention on either deflecting the “offender” label and/or ensuring the “victim” label is readily apparent and agreed upon by all. This is energy that could be better spent on moving forward. However, when an individual within the *Qwi:qwelstóm* process claims “I am the victim” or “I am the offender” then these identifiers are accepted as they come directly from the individual and such statements are good indicators of how that individual is feeling which in turn is important for others to acknowledge.

It would be impossible to share with you everything about *Qwi:qwelstóm xwelam t’ey* as it is a lifelong journey of understanding. As well, being a Stó:lo concept, I could not possibly do it justice by simply writing about it. It really needs to be experienced. I will, however, try to share a few things that all Indigenous hearts can relate to and readily understand. *Qwi:qwelstóm* according to our Elders means “to care and to share among all people” which of course is in stark contrast to “you do the crime, you do the time” or “he will be prosecuted to the fullest extent of the law.” Rather, *Qwi:qwelstóm* is about a process that brings people together, it provides a means to get to a better place. Anyone who has been in conflict with another knows the discomfort this can bring, *Qwi:qwelstóm* provides an opportunity for people to come together in a good way and achieve a better understanding of one another. Relationships are the most important focus.

The journey for justice for the Stó:lo is far from over, and the revitalization of *Qwi:qwelstóm* is definitely a step in the right direction. *Qwi:qwelstóm* is readily accepted and supported by most of the Stó:lo because it is “ours” and reflects the Stó:lo worldview. As already mentioned it is not without peril and challenge. Stó:lo concepts of justice tend to be holistic and therefore pertinent to all realms of life. This includes leadership and governance, family structures and relations, re-establishing and re-centering the roles and responsibilities of Indigenous women and most importantly, the caring and raising of our children and young people, which includes child welfare issues and education. It is important not to fragment Stó:lo justice especially if only to ensure it is visible and accepted by non-Indigenous people and agencies. Stó:lo forms of justice are pertinent and relevant to all aspects of life. The Stó:lo worldview is holistic as all life is inter-related and the Stó:lo worldview is collective. Therefore, Stó:lo concepts of justice tend to reflect both these principles.

*“Only power that springs from the weakness of the oppressed
will be sufficiently strong to free both”*

(Freire, 1970)

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² See Dewhurst (2004) who shares the story "The Tale of Two Spiders" I also cite story at http://www.chrc-ccdp.ca/research_program_recherche/adr_red/toc_tdm-en.asp

³ See for examples Smith (1999) and Martinez (1992)

⁴ Yazzie (2005:122).

⁵ Report of the Aboriginal Justice Inquiry of Manitoba, vol 2, 1991:52.

⁶ *Supra*

⁷ Native Women's Association of Canada, as cited in McDonald (2005:4)

⁸ MacDonald (2005:7).

⁹ LaRoque as cited in MacDonald (2005:7).

¹⁰ According to provincial data, 30% to 40% of all children in care are Aboriginal (Cindy Blackstock, First Nations Child and Family Caring Society of Canada, as cited by Scarth, 2004). Just as the over-representation of Aboriginal people within the criminal justice system is reflective of systemic discrimination, at least in part if not mainly, so too does the over-representation of Aboriginal children in care point to systemic flaws that remain largely unaddressed.

¹¹ Youngblood Henderson (2000:58).

¹² See for examples Youngblood Henderson, 2000; Smith, 1999.

¹³ For the Stó:lo, our traditional leadership structures required one hundred percent support from the people, today under the *Indian Act* governing structures, a chief can be “elected” into office with less than thirty percent support from the people and/or no support from the council. Yet, we continue to blindly adhere to the *Indian Act* even though it means what used to be a “collective” leader who looked after the well being of all, often ends up leading more like a “dictator” because his/her decisions are not supported by the majority of people.

¹⁴ I am not saying that mental health professionals do not have a place in our healing journey.

¹⁵ SSCAP, 2003 as cited in McPherson (2004:5).

¹⁶ Term used by Monture, 1999

¹⁷ To avoid a common misunderstanding, when I call for the return of our Indigenous philosophies, cultures and worldviews, I am not saying we need to live in the past. I am not a proponent for the “frozen rights” theory in any way. I am not idealizing, nor am I romanticizing. These are colonial arguments steeped in colonial ideology. I am a realistic person, who lives everyday grounded in the harsh realities of “Indian” life – idealistic and romantic are not two words used to describe me (unfortunately). I am a fabulous Stó:lo woman who loves to eat pizza, wear Espirit suits and drive a SUV. I do not live in a pithouse, nor do I know how to canoe pull (yet), but this does not make me less human, or less Stó:lo, than someone who does. I know my ancestry and I respect my culture. Two hundred years ago, my ancestors lived in Longhouses but I do not think they were somehow less “human” or worried that they would be seen as less Stó:lo because they no longer lived in ice caves. It is self-serving colonial ideology that tries to have us believe we are no longer Indigenous because we live in houses and drive cars. We adapt, evolve and change, just like all other cultures, in fact it is precisely our superior skill at adaptation that has ensured our survival on Turtle Island for thousands and thousands of years, and before contact, it was a flourishing life.

¹⁸ See Laenui (2000).

¹⁹ I use the terms Indigenous and Aboriginal interchangeably and use it to refer to all original people of Turtle Island.

²⁰ See for examples Ross (1996); Sinclair (1994); Monture-Angus (1995); Youngblood Henderson (2002)

²¹ Victor, unpublished Master’s thesis (2001:120)

²² See Cuneen (2002) Napolean (2004) and Lofton (2004).

²³ See for examples Ross (1996) and Ross (2005) on the Hollow Water approach and Yazzie (2005) for the Navajo.

²⁴ This is part of removing our colonial blinders and looking at ourselves through our Indigenous eyes – doing justice our way may be “alternative” to non-Indigenous people but not to us.

²⁵ A One-Day Snapshot of Aboriginal Youth in Custody Across Canada, conducted by the Department of Justice in 2004 found that there were 720 Aboriginal youth in custody on snapshot day representing as high as 31% of the total youth in custody. For female youth in custody Aboriginal girls represented approximately 40% of the youth in custody.

²⁶ As cited in Calliou (2005:54).

²⁷ See also Victor (unpublished MA thesis), Victor (2006), Palys and Victor (2007).

²⁸ This is also an example of one of my colonial beliefs being challenged whereby I have since come to redefine what “professional” means so as to respect Stó:lo ways.

²⁹ Halq'eméylem term which denotes our special relationship with all aspects of our environment.