

Tll yahda: Visions of a Haida justice system

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Abstract. Before contact and colonialism, Indigenous peoples had their own notions of justice and ways of responding to wrongdoing. However, these systems have been repressed through colonial forces and imposed governance. The present research utilized semi-structured interviews with a diverse group of Haida people who shared their insights into visions of a Haida justice system (HJS). The guiding research questions were: What does justice mean to Haida people? What do Haida people envision in terms of Haida justice? What could some potential first steps be towards Haida Justice? Four main themes emerged: Culture is keeping us from collapsing under the weight of colonial oppression; Haida law, values and ways of being; old ways of doing justice; and, visions of tll yahda: Haida Justice. This study provides an examination of Haida culture, law and justice. Results demonstrate the importance of accountability, witnesses, potlatch, culture, community, and resolution. Haida systems of law, governance and justice are still in existence. This research is an important first step towards the formation of a HJS in that it offers a Haida perspective on what justice means. Limitations of this study are also addressed.

Through various colonialist and assimilationist tactics, Canada has been complacent in the subjugation and oppression of the Indigenous peoples who live within its' borders. Through the *Indian Act*, Indigenous social and legal systems were severed. The Truth and Reconciliation Commission [TRC] (2015) suggests that since first contact the colonial goal has been to cause Indigenous peoples "to cease to exist as distinct legal, social, cultural, religious and racial entities" (p. 1). Indigenous peoples' sovereign way of life was attacked. Varied Indigenous nations were conflated, and the Canadian government regulated who could claim 'Indian' status (Lawrence, 2003, pp. 3-6). This regulation of identity has resulted in the displacement of thousands of Indigenous peoples from their families, culture, and ways of life. Moreover, existing property rights and lands were appropriated by the Canadian government and Indigenous peoples were subsequently dispossessed (Alfred, 2009, pp. 44-46; Royal Commission on Aboriginal Peoples[RCAP], 1996a, pp. 395-400). These direct attempts at disempowerment have had complex and intergenerational consequences.

Canada imposed its legal and governmental systems upon Indigenous peoples. Prior to this, Indigenous peoples of the northwest coast had their own complex governmental systems. These systems included hereditary chiefs and matriarchs as well as the potlatch system (RCAP, 1996a,

pp. 74-76). The potlatch ban severed cultural traditions and ceremony and impacted existing legal and social systems (RCAP, 1996a, pp. 267-480; TRC, 2015, pp. 4-7). Indigenous ways of enacting law, governing, and responding to wrong-doing were intentionally and forcefully eroded and replaced (Green, 2011, pp. 15-18). Despite understanding that this system is set up to fail, Indigenous communities are forced to operate within it, in order to receive governmental support. These attempts at assimilation have had severe and lasting impacts. However, pre-existing Indigenous law and governance systems were only silenced, not eliminated.

As a result of the *Indian Act*, Indigenous nationhood is often misunderstood by Canadians as they assume “Indigenous” as a homogenous identity. In fact, the diversity among Indigenous nations is just as distinct as that between Canada and other countries (Stacey, 2018, pp. 676-680). However, the Canadian constitution fails to recognize Indigenous nationhood and sovereignty, compounding existing colonial consequences. This lack of recognition leaves little room for de-colonization and true and meaningful nation-to-nation relationships. The *Constitution Act* (1982) does recognize Indigenous rights and title under s. 35(1); however, the onus is on individual nations to prove their title and distinctiveness as peoples in courts that represent Canada, not the Indigenous nations who precede this country’s existence. Not only does this negate the present cultural identity of Indigenous nations but it asks them to uncover a past presence on land that has been forcefully occupied and stripped of archaeological evidence. The presence of the crown is a constant and over-powering image in Canadian court rooms as Indigenous peoples lay claim to what is rightfully theirs.

Indigenous peoples have an inherent right to decide their own futures. The RCAP (1996b) argues that “no government can be imposed upon a people without their consent; this would be a denial of their right to self-determination,” that has been recognized by international law (p. 4; United Nations, 2007). Canada is a signatory to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which recognizes the right of Indigenous peoples “to maintain and strengthen their distinct political, legal, economic, social and cultural institutions” (United Nations, 2007, pp. 4-9). The government of Canada is known for its public proclamations of support for “Indigenous self-government and laws” (Department of Justice Canada, 2018, pp. 3-4). However, empty apologies, and recognition in government statements and legislation do little to move things forward in terms of Indigenous peoples’ sovereignty. Alfred (2015) explains that

reconciliation basically says, ‘Native people, you’re so poor for what happened. We feel so sorry for you. The residential schools, the racism- they were terrible things that our ancestors did, terrible things that those priests and nuns did. We’re going to help you. We’re going to elevate you by giving you access to money and programs so that you can be just like us.’ That is reconciliation in Canada (p. 8).

In other words, reconciliation may be seen as a new form of assimilation. These fallacies serve to alleviate settler guilt at the expense of true support, recognition and de-colonization.

Indigenous laws and legal systems

Borrows (2017) suggests that instead of thinking about Indigenous rights as “historical rights,” they would be more adequately understood as “human rights” (p. 115; Green, 2011). The aforementioned colonial and assimilationist tactics have severely disempowered Indigenous peoples, resulting in their precarious positionality in Canada¹. Borrows (2001) argues that despite Canada’s continual attempts to extinguish or simply ignore Indigenous laws, “Indigenous legal order continues to bubble through the cracks of its overlying cover” (p. 16). Over 20 years ago RCAP (1996) recommended the need to recognize the self-governing powers and sovereignty of Indigenous peoples.

The system that is meant to protect us from harm is the same system that has been directly responsible for our oppression. Monture-Okanee (1994) suggests that “the legal system is at the heart of what we must reject” as Indigenous peoples (p. 223). Canada’s systems have failed to provide justice and instead perpetuate existing harm. The formation of Indigenous justice systems has been linked to the movement for Indigenous sovereignty (La Prairie, 1999, pp. 250-253). The TRC (2015) calls upon all levels of “[government] to commit to the recognition and implementation of Aboriginal justice systems in a manner that is consistent with the treaty and Aboriginal rights of Aboriginal peoples, the Constitution Act, 1982, and the United Nations Declaration on the Rights of Indigenous people” (p. 181). Moreover, Indigenous nations had and have a myriad of ways of doing justice that are reflective of their respective cultural and political identities. As a participant in the present research suggests a *Haida Justice system is a part of our sovereignty...You can’t really implement that sort of a dramatic change when we’re relying on the exact system that is oppressing us* (Rebecca).

¹ As is evidenced by their marginal socio-economic, health and educational status. As well as their overrepresentation in the child welfare and justice systems (Shantz, 2010; TRC, 2015).

The Haida Nation

This paper will focus on the Haida Nation and examine visions of a Haida justice system (HJS). The Council of the Haida Nation (CHN) is the National governing body of all Haida citizens. The CHN's mandate includes striving for the "full independence, sovereignty and self-sufficiency of the Haida Nation" and considerable strides have been made towards this goal (Mandate, 2019). Presently, there is no justice branch of the Haida Nation. Thus, justice (whatever that may mean for the Haida) fits within CHN's mandate as a sovereign self-governing power.

The present exploratory research project sought to examine visions of a Haida justice system. Specifically: What does justice mean to Haida people? What do Haida people envision in terms of Haida justice? After the second interview and ongoing reflection, an additional sub-research question was added: What do you think some potential first steps would be towards Haida Justice? This question allowed participants the opportunity to reflect upon their own experiences and contribute to the next stage of research. I discovered that justice in the Haida language is *ill yahda*², which translates to 'make right,' and I believe this demonstrates a key difference in understanding of wrongdoing. This research utilizes the framework of the impacts of imposed colonial systems to situate and unpack participants' visions of a HJS.

Methods

Although I received ethics approval for this project through SFU,³ I also did my best to abide by the central Haida law of *yahguudang* (respect), to ensure that I was respecting both my place as a Haida citizen and as a researcher. There is a varied and ongoing history of academics taking advantage of Indigenous communities. Thus, there is a distrust of research that I hope to combat through not only my insider status, but attempts to understand my situated position, and other peoples' lived realities. I took steps to ensure that I exercised reflexivity by "checking in" with myself to ensure I was maintaining confidentiality and accurately presenting the findings.

Participants and Interviews

This study included semi-structured interviews with a diverse group of Haida people. The purposive sample of seven people was formed using convenience and snowball sampling

² This translation was taken from the SHIP Xaayda Kil Glossary (2016, p. 448).

³ Authority for project review and approval was delegated to the course instructor for Criminology 862.

methods. Diversity of participants is important in purposive sampling in order to ensure high data quality (Guest, Bunce, and Johnson, 2006, p. 79). Data quality and depth were more important within this project than having a large sample. Participants included women and men ranging in age from their early 20's to late 50's. Insider research within small communities can be done in a way that maintains trust, and rigor while protecting participants identities (Heslop, Burns, & Lobo, 2018). In order to ensure participant confidentiality, I cannot provide details about their occupations other than to say they varied considerably. My home community is Skidegate and given the nature of convenience sampling, I was limited in my ability to reach out to the other Indigenous community on Haida Gwaii (Masset).⁴ Interviews averaged about an hour in length.

Analysis

The transcription⁵ process was key to becoming familiar with my data. Coding is a “cyclical act” of data analysis (Saldana, 2016, p. 7). I coded, re-coded and then categorized three times until themes became apparent. Qualitative research is not linear and thus there were multiple points at which I felt overwhelmed and my analysis became “muddled” as a result of the rich data (Chenail, 1997, p. 2). Reflecting on the research questions and stepping away from the data allowed clarity and re-alignment.

Results and Discussion

After intensive analysis four main themes emerged namely: (1) Culture is keeping us from collapsing under the weight of colonial oppression; (2) Haida law, values and ways of being; (3) Old ways of doing justice; and (4) Visions of *tll yahda*: Haida Justice. These themes addressed below, represent the most salient and succinct representation of the findings.

1. Culture is keeping us from collapsing under the weight of Colonial Oppression⁶

Culture has served as a protective force against the devastating impacts of colonialism and it is interrelated with Haida law and justice. As Ben notes: *all of Haida existence is culture*, it is an integral part of Haida identity.

The impacts of colonialism discussed include residential and day schools, the 60's scoop, cultural losses, and ongoing trauma including issues around race and identity, physical and sexual abuse and addiction. As Alfred (2015) explains colonialism is “a process that shapes

⁴ Two of the eight participants were from Massett. Steps will be taken to remedy this issue in further studies.

⁵ Pseudonyms were assigned and used throughout transcription and in file names.

⁶ Rebecca

people,” it has “shaped all of our lives” in different ways (p. 3). George suggested that *there are so many factors to people’s traumatic experiences, it’s not all rooted in residential school.*

Rebecca commented on the impact of colonialism on Haida life:

We didn’t have these issues...pre-European contact. This has been created by the oppressive system- it is due to that lack of culture and intergenerational trauma... This is creating such significant relationship and identity issues that it has led our people to act in ways that are completely separate from our traditional beliefs. I hope that a Haida justice system could really break that down and finally reveal the reasoning behind that- and then implement a way to heal those people.

This statement reveals how interrelated the impacts of colonialism are with the Haida perspective of justice.

***It’s amazing how many people feel like they don’t belong.*⁷**

The effectiveness of colonialism manifests in the ongoing impacts of colonial policies in fracturing the Haida community. Jennifer explains this impact further:

That is one of the greatest success stories of the Canada project... We went from upwards of 30,000 to less than 600 on Island by 1915. These people, the survivors not only survived a biological genocide, they fucking made sure that we survived a cultural genocide... Our identity is still here, we just have to bring people back to it.

The impacts of the *Indian Act* on identity were further exemplified by other participants.

Lawrence (2003) suggests that the impact of legislating ‘Indian’ identity is multi-generational and may compound existing colonial harms. The impact of this reverse racism and misunderstanding in Canadian society is further exemplified by Rebecca’s comment: *I could...title a book, “Sorry I don’t look like Pocahantas”...It’s the outside world that judges us- but it is also our own people.* This impact of the *Indian Act* was noted as an important justice issue that needed to be remedied.

***All of Haida existence is culture*⁸**

Haida way of life is intertwined with culture. *Culture is every little piece of Haida life so fishing, hunting, cooking, weaving are as important as singing, dancing and carving masks* (Ben). Moreover, many participants mentioned their respective journeys towards cultural healing. Ben explained that partaking in culture *is one of the most meditative things* [he does]...

⁷ Jennifer

⁸ Ben

It can ground you. If you're feeling lost. Reflecting on the role of culture in her own life Rebecca explains:

No matter what I've been through I've always agreed to participate in ceremony...there is a strength to it, that you can't really describe... Especially with mask dancing, there is an incredible feeling when you fully surrender to it, you can...feel that supernatural connection and understanding I think of what it means to be Haida.

Despite this resurgence of Haida culture participants mentioned multiple ways in which cultural losses impact the community. There is *a lot of cultural denial...it is not as intertwined in our lives. A few generations before us it was; well, a few generations before colonialism honestly.* (Ben). These cultural losses are illustrated in violations of Haida and criminal law as Ben further explains *we haven't shed that colonial imprint that leads a lot of people to commit all sorts of crimes against this community.*

2. Haida Law, Values and Ways of Being

Indigenous laws are incredibly diverse; however, there are commonalities among them that can be utilized to illuminate some of the key differences between Indigenous and Canadian law. Firstly, they are largely “unwritten,” and passed down through oral histories, lineages, and stories (RCAP, 1996b, pp. 116-124). Secondly, Indigenous nations place an emphasis on not only the family but the clan and community (RCAP, 1996b, pp. 115-125). Thus, wrongdoings or violations of law do not only impact the individual.

Haida law and culture are interconnected in every way. Haida laws mentioned by participants include: yahguudang (respect), ad kyanang kunGasda (to ask first), listen, interconnectedness, the world is as sharp as the edge of a knife (balance), responsibility and reciprocity, accountability and tll yahda (make things right/justice). The most frequently cited law was yahguudang. Rebecca effectively describes the importance of respect when she said *everything stems from yahguudang. I think that's what separates us from the rest of the world.* Haida laws are interwoven in Haida oral history, culture and values.

All of these laws are further exemplified in Haida worldview and relationship to the land. As Jennifer explains, *we are no better than the smallest grain of sand...you have to respect everything and it is only then that you are worthy of respect yourself.* This reciprocity is illustrated in Haida oral histories. In one story “a little girl gave food to a raven, ...to reward her they gave her a great deal of food...through these things her father became a rich man”

(Swanton, 1905, p. 194). This story demonstrates the Haida worldview and reciprocal relationship between all beings.

Traditional Haida life was regimented, and Haida laws and protocol impacted everyday existence.

There were a lot of little things that you could do that would breach... respect or protocol amongst clans, amongst men and women or eagles and ravens... if you breach those things- that might seem small in today's sense... You had to pay... like restitution I guess, an eye for an eye (Sam).

Violations of Haida law were taken extremely seriously and had a ripple effect. *If you were a nephew and you misbehaved your uncle would have to die, and you would have to carry that with you (Sam).* Maternal uncles and aunties played a key role in children's lives and acted as second parents and mentors for children. In modern day these consequences are still felt, as Rebecca explains *everything depends on everything else, it all circles back to one another. Not just in nature, but in our community, everything comes back to you and your clan. So we all have that responsibility to act and to live in yahguudang.* Haida laws and values are interwoven within the community.

Haida law stems from our ways of being as is exemplified through oral history and potlatch. *Haida law is honouring your ancestors and your descendants in the choices you make... You see law as reflected in every corner of your existence when you're a Haida person (Jack).* Haida stories "reaffirm not only the events of the past, but also a person's place within society... who holds rights, privileges and territories and how they acquired them are maintained through the recounting of these stories in a 'waahlGahl or potlatch'" (Steedman and Collison, 2011, pp. 17-18). Haida law is present in the everyday interactions of Haida peoples and is formalized through the potlatch system.

Without witnesses there is no law; potlatch is the foundation of Haida legal structure⁹

The potlatch system is complex and despite colonial attempts of destruction, it remains intact. Swanton (1905) describes the role of potlatch as "the great event upon which a Haida's social life turned" (p. 155). However, as Jack notes, *our form of governance and legal structure was oppressed by the Canadian occupiers.* Fortunately, these oppressive systems were unsuccessful. *We're very lucky to live in isolation, where we were able to sort of duck behind the*

⁹ Jack

potlatch ban and practice things secretly- and keep so much of it alive (Rebecca). The law of reciprocity is exemplified in potlatch law. Jack notes that through potlatch *everybody is making law together, without witnesses there is no law... Strengthening the potlatch system...is the most efficient, elegant, and beautiful way of administering justice*. This system is not only legal but affects many other areas of life as well including marriages, property, and rights.

***The thing is Canadian law is simply to govern humans on stolen land*¹⁰**

Overall, participants demonstrated a lack of faith in the ability of Canadian law to respond to Haida justice issues. Jennifer explains: *the criminal justice system [CJS] is built to defeat Indigenous people and it is highly racist*. Haida worldview does not always align with Canadians. As Sarah explains

the Canadian system doesn't really do anything to help people. Often things go to court and people have to re-tell their stories and there isn't enough evidence...so nothing gets resolved. If they do get into trouble- that doesn't really resolve anything for the victim and person who harmed them.

There was an overall clear lack of faith in the ability of the CJS to respond effectively.

When people violate Haida law, they must ensure that they make things right (tll yahda) in the presence of witnesses. Sam mentioned that given the interconnected nature of Haida community *violations of Haida Law* [and in some cases Canadian law] *have a ripple effect*. Thus, *there is a potential for clans to rebuild or take on a bigger role than they are, to deal with these kinds of violations*. Participants noted that clans and families can hold their own accountable for their actions more effectively than the CJS. Rebecca told a story about someone who did wrong during a community event. After realizing what he had done, he got up and apologized immediately *and that's the way we handle a misstep like that in terms of Haida justice*. She further explains that in olden times, that escalated to a *face-saving potlatch*, noting that *the lengths we will take to correct a wrong is what makes us Haida*.

3. Old ways of Doing Justice

The imposition of governance and law has resulted in an imposed understanding of justice. Indigenous peoples had their own ways of responding to wrong-doing that pre-date Canada and the very notion of criminal law. There is a misconception among the general public that all traditional forms of justice were peaceful and harmonious. However, many Indigenous nations

¹⁰ Ben

had “harsh punitive sanctions,” including the death penalty, banishment and corporal punishment (Milward, 2008, pp. 110-111). This misconception is problematic because it leads the general public to view Indigenous justice systems as too soft to adequately respond to wrongdoing and subsequently to not support such initiatives. Cunneen (2011) argues that overall Indigenous justice programs are more concerned with “individual change as a part of a collective experience,” than settler approaches (pp. 320-321). This collective responsibility and accountability are relatively non-existent within the introduced system. Canadian society ostracizes those who do wrong and offers them little redress. However, Indigenous conceptions of justice are as varied as Indigenous peoples themselves.

A variety of stories were shared about old ways of doing justice, and what that could mean in modern day. All of these stories disrupt notions of peaceful Indigenous peoples and instead present the reality of a strict protocol and law driven society. Sarah described one such story:

A man had sexually assaulted a young woman. And he was taken away by a group of women and whipped with spruce branches... [pause]...on his penis...I bet he never did it again. Definitely more of a direct accountability than what happens today.

The consequences of wrongdoing were much more severe under traditional Haida law. Jack shared the oldest story that he knew from his family: *5 or 6 generations ago, she could remember heads of our enemies floating in the inlet. That’s old school Haida. That’s the oldest tangible memory that has been passed on to me.* However, Jack further explains that

people like to focus on the violence, because violence is fascinating and makes for a really good story. But to me, that violence is exceptional. And that’s why we remember it- it was the exception to the norm- of doing things through feast, potlatch, and conversation, and you can see that reflected in our society today, in the time that we take to talk to one another. And the stories that are so famous, that involve so much violence and bloodshed- Those are the stories that warn us of what happens when we fail to talk with one another. And just fail to show proper respect for each other.

The importance of community dialogue and protocol may be essential to the formation of a HJS.

Haida laws are exemplified in oral histories, some of which were recorded by early ethnographers. The following story was noted by multiple participants as having important lessons regarding Haida justice. Swanton (1905) recalls a story in which a young man was exceptionally good at spearing sea-lions and in turn, “the others...became jealous of him, and

...abandoned him” (p. 195). However, “while he was weeping, the supernatural beings of the place invited him into [their] house” (Swanton, 1905, p. 195). The man was given the power by these supernatural beings to disrupt the lives of those who had abandoned him, except for “his youngest brother in law” who had not wanted to abandon him (Swanton, 1905, p. 195). He further, tricked his “mother in law, who had not been good to him,” and in response to his trickery, she eventually began to “pretend she was a shaman” (Swanton, 1905, p. 195). She “died of shame,” when she learned that it was her son-in-law who had been tricking her (Swanton, 1905, p. 195). The son-in-law “potlatched ten times,” demonstrating his wealth in the community (Swanton, 1905, p. 195). This story is intertwined with Haida laws and values. The men were held accountable for their actions (violation of Haida law in abandoning him) as is demonstrated by the young mans’ direction to have “killer whales upset the canoes of his brothers-in-law”, killing them (Swanton, 1905, p. 195). However, the youngest brother in law who had not wanted to abandon him was saved and rewarded, demonstrating the law of everything depends on everything else.

Banishment and Redemption

The banishment of individuals to isolated areas was repeatedly mentioned. In some cases, participants shared that those who were banished had a chance of redemption. Participants suggested that banishment had its benefits, but that there needed to be a *support system* in place for them when they came back, and that it should involve *something meaningful* such as learning about the land and cultural practices (George; Sarah). This support was demonstrated by Jennifer as she recalled a story of a family deciding to offer support and hold their family member accountable upon return from a term of imprisonment for sex offenses.

4. Visions of Tll yahda: Haida Justice

These systems exist¹¹: tll yahda

Many participants brought up the importance of tll yahda (justice, make things right), before being asked. Thus, tll yahda represents an important framework for understanding the Haida perspective on justice. For instance, Sarah shared a story about her son saying

something rude to an Elder, I got mad at him, and explained that what he did was wrong. I made him go and apologize and he chopped wood for days for that person, I then had him go fishing and pay him in fish. I made him continue to pay until he had made enough payment to right his wrong. I know those things do

¹¹ Jennifer

happen, but the impact of colonization has muddied our understanding of Haida law, and impacted our ability to hold ourselves and our children accountable...If your kid does something wrong that reflects poorly on you, but they can make it right through payment and apology.

Moreover, tll yahda also occurs through violations of protocol. Jennifer described one such instance when she pronounced a hereditary leader's name incorrectly. Immediately her mentors jumped up and began singing and her clan members

starting running up and started throwing money in a hat...I did something wrong, that not only reflects on me, but my clan...in accepting the payment, and the acknowledgement, that relieves me of carrying the embarrassment of my clan, and really it never has to be spoken of again.

There were multiple other examples of violations of Haida protocol being made right by payment, apology, and reciprocity. Sam notes that tll yahda or *making things right involves working on navigating conflicts instead of ignoring them*. Addressing both macro and micro level community issues through tll yahda may be essential. Rebecca notes that *you can't quietly apologize to somebody*. This is demonstrative of the aforementioned role of witnesses in potlatch law. Moreover, as Jack explains *when people step too far out of line or do something that doesn't show honour and respect, then their family potlatches to ensure that it is known that that was unacceptable behaviour*.

Indigenous legal systems and governance pre-date Canada and although they were repressed, these systems continued to exist. Jennifer suggests that *some are still practiced today, but it is really about looking deeply into them and thinking about how they can be adapted*. Their existence continues to be challenged through colonial institutions and the dominant legal paradigm under which Canada operates. Moulton (2016) suggests that imposed legal systems force Indigenous peoples to "reconstruct Indigenous legal concepts in a way to accord with dominant legal discourse" (p. 3). This devaluation of Indigenous law exists to ensure the maintenance of "settler dominance," within legal and political arenas (Moulton, 2016, p. 15). In contrast to settler law, Haida law is not limited to the individual but a *common responsibility to look after Haida Gwaii and its waters* (Sam). Maintaining our relationships to each other and to Haida Gwaii *will sustain us during times of severe instability* (Sam). Despite colonial attempts at destroying these ways of being they continue to exist in the shadow of the colonial system.

The impacts of colonialism are further evidenced in the present-day justice needs of the Haida. Haida themselves are not immune to the impact of greed,

I think that colonization has kind of impacted people in that way...people taking too much and violating Haida law. Overfishing and overharvesting and not paying respect to themselves or Haida Gwaii. (Sarah).

Abuse, alcoholism, addiction and mental health issues were mentioned as other important justice issues. However, the notion of families protecting their own was noted as a caveat to making things right as Ben explains *if you're going to hold people accountable there can't be some grey area in terms of who gets held accountable*. This sentiment is evidence of instances in which a family's status in the community results in descendants being granted some form of immunity to being held accountable. Participants suggested that this was problematic and potentially harmful. Although there was support for some aspects of traditional law and justice, there was general disapproval of the notion of familial rank and social clout as protecting people from being held accountable for their actions.

Knowledge and education about Haida history and the impact of contact on the Haida were commonly noted as serving an important protective factor against ongoing harm. *Governance over our lands and waters and recognition by Canada that someone intentionally tried to wipe us out* might be a true start to meaningful justice (Rebecca). There is a need for Haida's to understand our own history so we can defend ourselves against the ignorant and oppressive comments of settlers. *Arming yourself with history* allows for real and meaningful conversations to occur (Jennifer). Historical education was frequently cited as important in the recovery of the community from colonial harm.

We have the rest of eternity to do this work

When asked about whether he thinks forming a Haida justice system is possible Jack responded:

the big thing is that we're living here. And we're never going to move. That's really the reason that it is possible. Establishing a legal system like this, all the healing that we would have to do, it's a lot of work. But the thing is we have time... We have the rest of eternity to do this work... We have demonstrated that it is possible- and that self-government is not only possible but can result in a surplus, an overwhelming bounty of resources for all people in society. We have demonstrated that through potlatch for thousands of years.

This sentiment of Haida pride, nationalism, and political power was reflected by other participants as well.

Accountability and Forgiveness

Accountability was found to be an essential component to visions of a HJS. Sarah shared a personal experience of abuse that she would like to see made right. She noted that she had thought about going through the imposed system but based on her experiences supporting other women was reluctant to do so. Instead, she hopes to have a small gathering of supporters with her so that she could

let him know the harm that he caused me and subsequently my family...I don't know how it would be made right. I think a meaningful apology based on an understanding of the harm that he caused me...would be a good start...It comes down to clans and families holding their own accountable and having them take responsibility.

Sarah further explained that she thinks *that kind of making things right could be useful to a lot of other women in similar situations*. Reflecting on her own experiences Rebecca said that there needs to be accountability fostered in the community,

we continually celebrate these men...and the fact that nobody is admitting to their mistakes. Their family won't admit to it, the community won't admit to it...And...this is impacting a whole generation of matriarchs to be. I think that humbling them in a traditional way, where they sort of have to build themselves back up, and right their wrongs by following ceremony and Haida law

could be effective.

Both of these stories are reflective of the impact colonialism has had on the role of women in Haida society. Jennifer noted the role of forgiveness in her own healing from abuse. Thus, holding offenders accountable was an essential component addressed by participants as necessary for a HJS. This kind of accountability may be essential to the HJS and both these examples would include witnesses. Moreover, these women recognized the limitations of the current system in terms of allowing offenders to return and *tll yahda* (make things right) with the community.

re-matriate.

The role of women in Haida society was reflected in participants' responses. Jack describes matrilineal lineage in saying that *the whole society and all property, rights, names, and everything is passed down through our women*. The traditional role of uncles and aunties was

also passed on through the matrilineal side of the family. Green (2011) suggests that the role of Indigenous women has been assaulted through colonialism and that “women suffer from the magnified impacts of the deterioration of community and culture because of gendered roles...and because of women’s vulnerability to male violence”, as they are frequently targeted (pp. 18-19). Sarah further suggested that women need to be empowered and should play an *active role in forming a Haida Justice system.*

Culture and Community

The community itself may play a vital role in ensuring that tll yahda is done properly. Sarah explained the importance tll yahda could have in the community in terms of *trying to keep that balance between relationships...trying to create a space where you can deal with conflict and come to solutions, and not just sort of let things linger.* An example of two different modern-day potlatches to remedy wrongdoing were mentioned. George noted that there is a potential for potlatch to be used as a part of tll yahda: *Bringing those types of things forward to where we are now – could play a huge role in a Haida justice system.* With Haida justice, there needs to be a *resolution...for Haida justice, both parties need to walk away and know that’s the end”* (Sarah). This kind of resolution was reflected by multiple participants when they noted that once a violation was made right, no-one needed to talk about it again. In one potlatch, things were made right following a violation of Haida law within a clan. Sarah explained the impact of this potlatch, *it was using Haida law, witnesses and payment to move things forward, and resolve disagreements.* Reflecting the salience of the community the main recommendation offered by participants as the first step towards Haida justice was community consultation with key stakeholders.

Haida Gwaii itself was mentioned as vital to healing, culture and an important element of tll yahda. Unfortunately, not all Haida peoples have the means to see all of Haida Gwaii. Moreover, some families have been devastated by the impacts of colonialism and have lost important cultural knowledge in terms of food gathering and processing. Alfred (2015) describes the importance of a land-based cultural program in his own community as “absolutely crucial to the cultural survival and the nationhood of our people” (p. 11). Thus, the importance of culture and the land itself are intricately intertwined.

Discussion and Concluding Thoughts

There is a tendency within the settler state to subjugate Indigenous governance and justice as lesser than, in order to assert colonial systems (Green, 2011, pp. 14-15). As these findings illustrate, Indigenous nations (in this case the Haida) have “found many ways to resist, ignore or overcome restrictions imposed by the federal government” (Coates, 2008, p. 5). The resurgence and strengthening of Haida culture and law have laid the foundation for the re-formation of a HJS. Moreover, as this research suggests some principles from old ways of doing justice may be applicable to modern day. The preceding exploration of Haida law and culture illustrates how intertwined they are with Haida justice. Tll yahda is a Haida law, make it right is Haida justice. You can make it right if you apologize, make payment, and take accountability for your actions in front of witnesses. These concepts along with Haida law and culture are the foundation for a Haida justice system. As Sam *suggested the potential for Haida justice is there, but it has to be done in increments. I think we can build capacity for Haida justice, for sure.*

The present research illustrates the ways in which Haida conceptualizations of justice differ from the imposed system. Participants noted issues around the *Indian Act*, identity and cultural losses as well as over-harvesting and greed as key justice issues that need to be addressed. Justice to the Haida means not only responding to criminal issues, but also violations of Haida law. The Canadian government was recognized as having violated Haida law and participants’ commentary suggests that Canada should be held accountable for its actions. Green (2011) explains “when Canada is prepared to move from denial and repression to implementation of Indigenous human rights, it will also move from bullying to commitment to post-colonial relationships” (p. 26). The need for Canada to recognize not only Haida title, but self-governance was addressed throughout the majority of the interviews. The over-riding sentiment was that without recognition of Haida rights and title, there can be no justice. In terms of criminal issues, participants noted the importance of addressing trauma, substance use, and both sexual and physical abuse. There was a recognition that the Canadian system does not deal with abuse cases in a way that allows both parties to move forward. The solutions discussed by participants would allow for recognition of harm, punishment, accountability, and reparation that is often not addressed in the Canadian system.

Indigenous communities have complex justice needs. Perhaps, we would be foolish to expect a CJS created by a government that has criminalized Indigenous peoples for hundreds of years to

adequately meet our justice needs. Nevertheless, Canada continues to modify their existing systems through various processes of Indigenization (Guitterez et al., 2018, pp. 323-324; Martel & Brassard, 2008; Roberts and Reid, 2017, pp. 333-335). These changes do little to remedy the fact that the CJS is an imposed system.

There are limitations to the present study that warrant consideration. The quality not the quantity of this data is essential to ensure “data saturation” (Guest et al., 2006, p. 74). I was not concerned with generalizability but instead on exploring the topic of Haida justice. As Guest et al. (2005) explain how many interviews is enough “depends on how you want to use your data and what you want to achieve from your analysis” (p. 76). The interviews and resultant data were more than enough to answer and expand upon the research questions. A further limitation is that I was unable to do the majority of these interviews in person. However, asking questions pertaining to participants cultural practices and background allowed for them to become more open and served as a replacement for the visiting that may occur before an in person interview.

Styres, Zinga, Bennett and Bomberry (2019) suggest that there are challenges to being both an insider and a researcher that necessitate “consistent reflexivity,” to ensure both roles are maintained properly (p. 635). I believe that my insider status was an advantage; however, I did find it difficult to balance the duality of being a researcher and a Haida person. Just because I am an insider does not mean I am immune from the aforementioned distrust of researchers. Building and maintaining that trust while also abiding by institutional (SFU), Haida and my own values and ethics was challenging. In moving forward with this research, I hope to find my place and to demonstrate that the research I am conducting is not part of the problem, but part of the solution. Coburn (2013) suggests that “Indigenous research is a form of resistance to centuries of colonial domination” (p. 52). I believe that I am uniquely situated to conduct this research from both my place in academe and as a member of the Haida community.

The main recommendations from the present study as to first steps towards Haida justice involved extensive research and community consultation. Specifically, consulting key stakeholders and knowledge holders while ensuring that female leaders are also involved. Moreover, Ben (and many other participants) noted the importance of really diving into *stories that have a Haida justice portion to them [to] get a thorough understanding of what those stories are telling you about justice... Then try to adapt them in terms of what they could look like in a modern sense*. By examining these stories, and meeting with key knowledge holders I will be

able to further develop the present research. Alfred (2015) “the concept of native peoples in a nation-to-nation relationship with the government of Canada exists historically and legally” (p. 4). Lastly, the Haida proclamation is representative of how Haida law, culture and sovereignty is intertwined with our very existence. The Haida proclamation is as follows:

The Haida Nation is the rightful heir to Haida Gwaii. Our culture is born of respect; and intimacy with the land and sea and the air around us. Like the forests, the roots of our people are intertwined such that the greatest troubles cannot overcome us. We owe our existence to Haida Gwaii. The living generation accepts the responsibility to ensure that our heritage is passed on to following generations. On these islands our ancestors lived and died and here too, we will make our homes until called away to join them in the great beyond. (Constitution of the Haida Nation, 2018, p. 1).

We must continue to ensure that this legal right is recognized by asserting ourselves as a sovereign, self-governing nation. The present research demonstrates that Haida tll yahda is a necessary and essential component of that sovereignty.

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