

“Getting to a Better Place”:

***Qwi:qwelstóm*, the Stó:lō and Self-Determination**

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Qwi:qwelstóm, the Stó:lō and Self-Determination¹

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“To be able to practice our own cultural ways and to live and express ourselves within our own worldview is important to our sense of self-worth and well being; it is a vital part of our healing journey”

- Stó:lō Elder Amy Victor, 2005 as told to Wenona Victor

Indigenous Rights and Justice

The contemporary effort by many First Nation communities to regenerate their own justice systems has roots in at least three different aspects of their experience. First and foremost, it is grounded in what many First Nations people and others believe to be an *inherent* right to be self-determining (Monture-Angus, 1999). As an inherent right it is not dependent upon, granted or given by any external source. It is, however, argued by many to be protected by section 35 of the Canadian *Constitution*. The right also is reflected in the fundamental right of self-determination that is guaranteed to all Peoples in Article 1 (section 2) of the *Charter of the United Nations*. More recently, Indigenous Peoples’ right to self-determination has been affirmed in the draft *Declaration on the Rights of Indigenous Peoples* formulated by the United Nations Working Group on Indigenous Populations (1994) in concert with Indigenous delegates who contributed to its drafting and re-drafting over a twelve year period (see Venne, 1998). The

¹ The authors would like to thank Jeffrey Huberman, Joanne Jefferson, Tyrone McNeil, Patricia Monture-Angus, Georges Sioui, Juan Tauri and Amy Victor for their invaluable comments on earlier drafts of this paper.

² Wenona Victor is a member of Stó:lō Nation, and has served for six years as the Manager of the Stó:lō Nation Justice programme. She recently returned to SFU to commence her doctorate in Criminology. Ted, although not always directly involved with the Stó:lō justice programme, has been indirectly influential upon its development through his interactions with Wenona and the Stó:lō Nation over a ten year period and his writings on Aboriginal justice in general. These different and shifting roles and relationships have made it something of a challenge to get all of the “us” and “them” and “we” and “they” references in this paper done in a way that balances these connections. In two instances we quote Wenona from an account of the early development of the programme that she wrote some years ago. Other times she is simply part of the “we” when Stó:lō teachings and perspectives are being described, and is the “I” when the programme goals and processes she played a role in creating and managing are described. When describing the programme and/or the Stó:lō people or Nation in more general terms we have often used “they” for observations regarding persons and events beyond our own experience.

right to create or re-create justice systems reflecting Indigenous tradition is clearly one manifestation of the broader right of self-determination, and is mentioned specifically in three articles within the *Declaration*:

Article 4. Indigenous peoples have the right to maintain and strengthen their distinct political, economic, social and cultural characteristics, as well as their legal systems, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

...

Article 26. Indigenous peoples have the right to own, develop, control and use the lands and territories, including the total environment of the lands, air, waters, coastal seas, sea-ice, flora and fauna and other resources which they have traditionally owned or otherwise occupied or used. This includes the right to the full recognition of their laws, traditions and customs, land-tenure systems and institutions for the development and management of resources, and the right to effective measures by States to prevent any interference with, alienation of or encroachment upon these rights.

...

Article 33. Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive juridical customs, traditions, procedures and practices, in accordance with internationally recognized human rights standards.

A second rationale for First Nation communities to regenerate their own justice “ways” views it as a necessary response to an externally imposed justice system whose *injustice* to and inappropriateness for Aboriginal peoples has been recognized not only by the Supreme Court of Canada (*R. v. Gladue*, 1999), but also by so many Committees and Commissions of Inquiry that it now ranks at the level of a cultural truism. The list of reports detailing the deleterious effects of the criminal justice system on Aboriginal Peoples and their communities begins in the 1960s with a publication by the Canadian Corrections Association entitled *Indians and the Law* (G. Monture, 1967), and has been reaffirmed since then in at least a dozen Commissions and Inquiry reports produced by Provincial authorities (e.g., Manitoba Aboriginal Justice Inquiry, 1991), the federal government (e.g., Canada, Royal Commission on Aboriginal Peoples, 1996) and independent experts (e.g., Law Reform Commission of Canada, 1991).

A third rationale grounds the search for Aboriginal justice in ancestral traditions and values that, after a significant period of suppression, are resurfacing and reconnecting themselves to broader community governance processes. In this view, “Aboriginal justice” is what First Nations people do because it is a fundamental part of who they are. Denying Aboriginal communities the right to practice “justice” in ways that are meaningful to those communities and Peoples is tantamount to denying and suppressing Aboriginal Peoples’ right to be themselves, which is exactly the failed policy of assimilation we all now recognize must be left behind.

Achieving Aboriginal justice is easier said than done, however. Canadian governments have tended not to view Aboriginal Peoples exercising their responsibilities over their own people in the area of justice as “community building,” “healing,” “restoration of balance and harmony” or a part of building a healthier Canada by ensuring that each of its constituent parts thrives. Rather, Canada’s federal and provincial governments appear to have viewed jurisdictional power as a zero-sum game where any Aboriginal jurisdictional gains over justice over their own people must somehow be a threat to federal sovereignty, and thus as something

to be resisted.³ Certainly this would explain the glacially slow progression in the form of “Aboriginal justice” initiatives that have occurred over four decades – from the “indigenization” strategies of the 1970s and 80s, to the “accommodation” strategies of the 1980s and 90s, and, finally, in the late 1990s and early 2000s, the beginnings of what can be called “parallel systems” (see Palys, 1993) – first through the Ministry of the Solicitor General, and more recently through the Department of Justice’s “Aboriginal Justice Directorate” and “Aboriginal Justice Strategy.”

Although each successive strategy is designed to be slightly more palatable to Aboriginal communities than the last, common to every strategy the federal government brings forward is that it is *they* who bring it forward, set the rules, decide what the options will be, and allocate the funds (see Palys, 2004). But, to paraphrase Greschner (1992), it is almost oxymoronic to talk of non-Aboriginal conceptions of Aboriginal justice; if Aboriginal justice is not given its meaning by Aboriginal Peoples, how can it claim to be truly Aboriginal?⁴

The remainder of this paper focuses on the efforts of the Stó:lō government to “*be Stó:lō*” in the area of justice and take responsibility for justice issues in relation to its people. We describe the processes through which and the principles by which the Stó:lō justice programme was developed, including how traditional justice practices and processes were respected and given contemporary form; what was done to ensure community involvement and commitment to the programme; and the lessons that have been learned about what Canada and the Provinces can do to better create space for the Stó:lō and other First Nations who wish to pursue the development of culturally appropriate, meaningful and effective systems of justice in their communities.

The Stó:lō

Traditional Stó:lō territory extends from the Langley area through to Yale, British Columbia along both sides of the Fraser River, and includes twenty-four different Stó:lō communities. The Stó:lō are the Indigenous people to this territory now referred to as the Fraser Valley. To the Stó:lō this land is known as *S’ólh Téméxw* which, like most Halq’eméylem terms, is difficult to translate directly into English without losing invaluable meaning. It means much more than the English words “land” or “territory.” *S’ólh Téméxw* is a holistic phrase that envelopes all that is sacred, referring not only to the soil beneath our feet, but also the air, the earth, the wind, the mountains, the waterways and so on. It includes material resources as well as all the non-physical things we cannot see or touch but are vital to Stó:lō survival.

³ A programme Director within the federal Department of Justice gave TP exactly that explanation several years ago in a private conversation when asked to explain government intransigence to a proposal that seemed so clearly of benefit to both the federal government and the First Nations (not the Stó:lō) who were involved, i.e., that as an agent of the Crown, he could not agree to anything that might be seen as diminishing its sovereignty.

⁴ The quote from Greschner (1992) we have paraphrased is: “It is almost oxymoronic to talk of non-aboriginal conceptions of aboriginal rights; if aboriginal rights are not given their meaning by aboriginal peoples, they are not truly Aboriginal.” (p.344). An excellent example of this in the justice area is the common mistake of thinking “sentencing circles” are a form of “Aboriginal” justice: as succinctly put by Monture-Angus at a recent justice conference hosted by the Stó:lō: “rearranging the furniture is not Aboriginal justice.”

For the Stó:lō, *S'ólh Téméxw* is embodied with spirit; it brings to mind the past, present and future. As described by *Stelómethet* (Dr. Ethel Gardner):

[H]ow we make meaning of Our World, of “*S'ólh Téméxw*.” It was a great beginning in my exploration of how our land, our language, our culture and we, the People, are interconnected and interrelated. I am discovering that “*S'ólh Téméxw*” is not just words, not simply a representation of the physicality of the World, but a representation of a holistic concept that binds the People spiritually to the physical world, to each other and to all our ancestors, and is expressed best through our Halq'eméylem language. These interrelationships define our culture, define who we are as Stó:lō people, and in other words, define our worldview (2002:56).

It is the connection and relationship to *S'ólh Téméxw* that has guided the Stó:lō and defined their worldview since time immemorial.

Stó:lō basically translates into English as “river,” and so the Stó:lō are also referred to as the “People of the River.” As well, they refer to themselves as *Xwélmexw*, which loosely translates into “those who share a language.” Both terms originate from the Stó:lō as opposed to being terms imposed via the colonial process. There are approximately 5000 Stó:lō people. From 1993 to 2004, governance of the Stó:lō was shared among three Houses:⁵ the *Lalems Ye Siyolexwe* (House of Elders), the *Lalems Ye Sto:lo Sí:yá:m* (House of Leaders) and the House of Justice. The House of Justice is comprised of two members from the *Lalems Ye Siyolexwe*, two members from the *Lalems Ye Stó:lō Sí:yá:m*, the *Stó:lō Yewal Siyá:m* (Chiefs' Representative), the *Tes Ste'a Siyá:m* (Elders' Representative), and is provided with technical support by justice staff members. In 1993 the House of Justice was “empowered with the mandate to develop and implement alternative justice programs to help the Stó:lō Nation re-establish healthy communities and achieve the full potential of all Stó:lō citizens.”

Stó:lō governance was re-organized in 2004 under two Tribal Councils representing 19 of the 24 Stó:lō communities. Five Stó:lō communities remain independent and unaffiliated with either Tribal Council, but receive some of the services. The governance of any one of the 24 Stó:lō Bands is looked after by the community itself, the Stó:lō Tribal Council (STC), Stó:lō Society (SS), or a combination of any of the three. *Qwi:qwelstóm* is one of the few programmes that is available to all 24 communities.

Along with *Xyolhemeylh*, the Child and Family Services, the SS and the STC employ close to 300 people. As the Stó:lō assert more and more independence, the need and use for a Department of Indians Affairs (DIA) has decreased substantially. Over the years, the responsibilities of the Tribal Councils has grown dramatically and now includes delivery of programs and services such as community development, education, economic development, Aboriginal rights and title, health and social services as well as child and family services to the 24 affiliated Bands.

⁵ This governing structure represented an effort to give formal structure to what the Stó:lō envisioned a contemporary self-governing body might look like. It may have been ahead of its time, however, and was dismantled and re-organized in 2004. The Stó:lō continue in their decolonizing journey and will reinstate self-governing structures when ready. The important note is that the “what,” “when” and “how” of Stó:lō governance will, as always, be dictated by the Stó:lō.

False Beginnings, First Lessons

In May of 1999, Wenona Victor was hired by Stó:lō Nation to assist with the development and implementation of an “alternative justice” program for the Stó:lō. This opportunity was timely as it occurred while she also was conducting research for her MA thesis on traditional forms of Stó:lō “justice.” It is noteworthy, however, that her initial job description was not “to implement traditional ways of doing ‘justice,’” but rather to implement a programme called Family Group Conferencing (FGC). Wenona was informed this model of justice was developed by the Maori, the Indigenous people of New Zealand. With that pedigree, it was expected that FGC, or an adaptation thereof, might serve the Stó:lō well. Her job supervisor provided her with contact information for the woman who would be coming to Stó:lō territory to train Wenona and her colleagues in this model of conflict resolution. As Wenona would go on to describe:

Although she was affiliated with the RCMP, I did not notice that anything was out of order. I obediently arranged for her to come and without hesitation paid the few thousand dollars she requested for her fee. I also booked a training room at the local Hotel and recruited some 30 Stó:lō community members and employees to take the three day training course.

On the first day we all eagerly awaited her arrival. We were somewhat surprised to see an extremely “White” looking lady enter the room; however, we have blonde blue-eyed and even red-headed Stó:lō among us, and so, too, we presumed, must the Maori. However, it did not take us long to come to realize this lady was not Maori and was in fact *Xwelitem*.⁶ Ah, the Maori had sent a *Xwelitem*; okay, we do that, too, on occasion. It is one of the many ironies of colonization whereby *Xwelitem* often become our teachers, even in relation to learning about our own culture. There are times when it is a *Xwelitem* who is recognized as the Stó:lō “expert” and therefore, is the one talking even when there are Elders present. But by the end of the three day training course I was convinced the Maori had lost their minds! There was absolutely nothing Indigenous about this model of justice whatsoever!

The irony was compounded when the Stó:lō later learned that not even the Maori believed in the model of Family Group Counselling (FGC) that had been exported and was being sold to other Indigenous peoples in their name! Tauri (2004) explains how this exported model of FGC was effectively appropriated by the State, allegedly in the interests of cultural sensitivity and respect, but in fact did nothing for Maori but take their symbols, undermine their autonomy, and feed them back governmentally-sanitized versions of practices they could no longer recognize as their own.

Back to the drawing board the Stó:lō went, deciding that the next round of training would involve training for Peacemaking Circles that was being offered by Judge Barry Stuart and Mark Wedge. Judge Stuart had become well-known for his decision in the Yukon case of *R. v. Moses* (Stuart, 1992), in which, after determining guilt on charges of possessing a weapon, theft and breach of probation, he took the courageous and then-unprecedented step of asking the community to take part in a sentencing circle. Everyone, including the victim and offender, participated in order to develop community consensus on what to do with Phillip Moses.

⁶ *Xwelitem* is the Halq'eméylem term used by the Stó:lō to describe the first White people to arrive in their territory. The term translates literally into English as “starving people” or “hungry people.”

“Sentencing circles” were a significant step at the time, but are limited insofar as they represent an accommodation strategy that incorporates some of the vestiges and symbols of Aboriginal justice – the circle, in this instance, along with some community involvement – while still retaining all effective power within the Canadian justice system. Aboriginal Elders and the community are relegated to the role of advisors whose advice may or may not be heeded (e.g., see Palys, 1993). Nevertheless, Peacemaking circles seemed to be more in line with what the Stó:lō were looking for. Again, Wenona was asked to organize the training. As she recalls:

I was pleasantly surprised when Judge Stuart expressed some hesitancy about holding the training session at a local hotel. He asked if there was a more “traditional” building we could use instead. So on the first day of this training session over 50 Stó:lō people gathered at the *Yakweakwioose* Longhouse.

We sat in a circle in the middle of the Longhouse floor and began our round of introductions. This first round took four hours. I was so engrossed with what was being shared I did not even notice the time. At the end of introductions it was time to break for lunch. There were a few grumblings, but for the most part there was a shared feeling about what had just occurred. Circle does not operate according to a linear clock. Circle is guided by spirit. We felt good. What had just happened felt right. We felt connected to one another, a sense of kinship, belonging, caring and sharing. None of this would have occurred sitting in a circle at the Holiday Inn.

Our experience at the Longhouse taught me a valuable lesson – that we have all that we need right here. I mean no disrespect, but we don’t need the Maori, we don’t need a fancy hotel to legitimize what we are learning, and no disrespect, but we don’t need a judge either to “teach” us about circle.⁷ We have our own culture, our own teachers, our own Elders, our own language and our own learning environment. This was a valuable lesson that showed me the degree to which “how” and “what” we learn is influenced by our surroundings. The message was clear: If you are going to revitalize your culture don’t do it in the *Xwelítem* world. Our experience and what we learned was more in-depth, more sincere and more valuable because we were in a Longhouse – at home, surrounded by our ancestors and with Mother Earth under our feet.

This was the beginning of a process of rediscovery and community development for the Stó:lō that continues to this day, and in the process resulted in the formation of the justice programme that is the focus of this paper. At this point the Stó:lō did not know what exactly their own programme would look like but they knew they did not want to mirror the current Canadian justice system. Nor did they want to have their way co-opted (a valuable lesson learned from the Maori experience), and they knew it absolutely had to be their own! So the Stó:lō made a commitment to three principles, i.e., that the Stó:lō programme would:

- (1) be based on Stó:lō culture, customs and traditions;
- (2) be supported by the Stó:lō communities; and
- (3) be driven by the Stó:lō people.

At the heart of the Stó:lō justice programme is the desire that it reflect the Stó:lō peoples’ aspiration to be self-determining and, by implication, to realize their right to experience “justice” according to Stó:lō customs and traditions. Doing so means bringing “justice” back to the people

⁷ Although WV never asked him, Judge Stuart may have known exactly what would happen by moving the training session to a traditional building. It was probably his nice way of re-directing and pointing the Stó:lō in the right direction. For this WV is grateful.

by giving them an opportunity to play meaningful roles not only in the problem, but also in its solution. For the Stó:lō, developing a justice system is about *being responsible* in a number of different ways, which ultimately is what “self-determination” is really all about (e.g., Monture-Angus, 1995, 1999). In general terms, a person who has caused harm is given the opportunity to take responsibility within a forum that focuses on maintaining family ties and community connections. All of this happens in a context in which the community takes responsibility for dealing with the troubles that exist among its people, and in its external relations with other communities. To that extent, the objective is very clear. But how does a Nation get there?

The Role of Language

The important role language plays in directing the development and implementation of traditional⁸ forms of justice cannot be stressed enough. Two separate but related dimensions can be distinguished. The first involves the use of Indigenous languages wherever possible to describe Indigenous programmes, practices, traditions and so on. The second is sensitivity to the way certain English terms and phrases explicitly or implicitly entrench colonial relations that perpetuate Eurocentric notions and simultaneously silence the worldview of Indigenous peoples.

With respect to the first dimension, there currently is a language revival process in place for the Indigenous language of the Stó:lō, which is known as *Xwélmexwqel* or Halq'eméylem. Only a handful of fluent speakers are still alive. The Stó:lō believe that the very essence of who they are as a people is embedded in their language (e.g., see the PhD dissertation by *Stelómethet* entitled “*Tset Híkwstexw Te Sqwéltset*”⁹ – Gardner, 2002). Accordingly, it is important to the Stó:lō to use their own language whenever possible not only to facilitate a realization of self-determination but also to ensure what they do is grounded within the Stó:lō worldview as opposed to simply meeting the demands of the Canadian criminal justice system.

The second dimension was brought to the attention of the justice team in relation to the name of the programme, which originally was the “Stó:lō Nation Alternative Justice Programme.” This seemed reasonable and went unquestioned until the day Elder Amy Victor asked why the programme was being referred to as an “alternative” program when it was clearly *not* an “alternative” to the Stó:lō. Referring to their own cultural way of resolving conflict as “alternative” was a way in which colonial relationships were being reinforced and perpetuated. Recognizing this and asserting the Stó:lō way as “the” way is an important step in freeing minds from the “cognitive prisons” that are one legacy of colonialism (see Henderson, 2002, p.14).

Along these same lines, the Elders requested that the Stó:lō justice staff refrain from using the phrase “mainstream” when referring to the Canadian criminal justice system as this implied that the Stó:lō were not the focus even within their own frame of reference. It was a very concrete reminder of whose eyes they had been looking through and how ingrained the colonial mentality can be. Removing the words “alternative” and “mainstream” represented a small decolonizing step in asserting a Stó:lō point of view.

At the same time, it was noted that “justice” was not a word that had any direct translation in Halq'eméylem and, in order to ensure the community felt a sense of ownership of

⁸ The term “traditional” refers to “the ways of our ancestors.”

⁹ The title means “we hold our language high.”

and belonging to the programme, it was clear it would need a Halq'eméylem name. Elders from the Stó:lō language programme were approached, an explanation of the objectives of the "justice" programme was offered, and a formal request was made for advice on a name that would capture that sense of purpose within a Stó:lō worldview.

As is customary, the Elders took the time they needed to discuss and think things over. The answer was several months in coming, but their patience was rewarded. The Elders came back and began teaching those in the programme about *Qwi:qwelstóm kwelam t'ey*. A close, but incomplete, translation is "they are teaching you, moving you toward the good" (*Yamolot* and *Ts'ats'alexwot*). *Qwi:qwelstóm* reflects a "way of life" that incorporates balance and harmony -- a way of helping one another to survive and to care and share amongst all people; a form of justice that focuses on relationships and the interconnectedness of all living life.

With their Halq'eméylem name in hand, the justice staff embarked upon a journey of discovery and rediscovery -- an exciting journey of coming to understand what exactly *Qwi:qwelstóm kwelam t'ey* means, not only to their ancestors, but to the Stó:lō of today especially in relation to contemporary issues. It was from within this context of rediscovery that Wenona's M.A. thesis on traditional Stó:lō justice would contribute. Her project involved a search through archival materials and, most importantly, interviews with Elders regarding the way that justice was done.

Asking the Elders

How was peace and harmony achieved and maintained among the Stó:lō? What would happen when someone did not behave properly and hurt another? Prior to the courts, judges and police coming to *S'ólh Témešw*, what did the Stó:lō do to resolve conflict within their communities? In an effort to answer these questions, Wenona approached Elders who either spoke Halq'eméylem, or had been taught by Halq'eméylem speakers in order to try and examine as well as could be ascertained the "uncolonized" forms of conflict resolution that existed among the Stó:lō. This meant trying to access and understand a time when *Xwélmexwqel* was the only language the Stó:lō knew.

Over the next year Wenona set about visiting as many Elders as she could, by using an open-ended interview style that encouraged the Elders to share the information on their minds as opposed to her directing their minds to specific information.¹⁰ Each interview began with the question, "Traditionally, prior to courts coming to our territory, what did we do to resolve conflict within our communities?," and then went in whatever direction the Elder deemed appropriate. Elder after Elder, in interview after interview spoke for hours about one thing around which all else revolved: family.

After each of the first few interviews, Wenona went home deflated. While she had received many teachings that could guide her as a Stó:lō woman, she had received almost nothing to do with "crime" and "punishment." How could she write a thesis on "traditional forms

¹⁰ Prior to beginning her research, Wenona had conversations with those who worked with Elders so she would know how to conduct herself during the interview process. Dr. Joanne Archibald, a member of Stó:lō Nation who had recently completed a dissertation in Education that involved interviews with Elders, was of great assistance in preparing her mentally and spiritually for the time she would spend with the Elders. In large part this meant stating her interests in general terms and then trusting in their ability to teach and guide her.

of justice” when all the Elders kept talking about was “family”? In an entire year spent talking to Elders about Stó:lō justice not once were the words “crime,” “criminal,” or “punishment” used in relation to “justice” for the Stó:lō. Wenona was grateful for all the cultural teachings being passed to her and felt honoured the Elders knew her to be “worthy” of them, but she worried about how she was going to complete her requirements for the M.A. Thankfully, she had Dr. Archibald’s dissertation to guide her and remind her to “trust” in the Elders and how they teach.

Then, one day, that all important paradigm shift occurred, a lesson in decolonizing one’s mind, an epiphany if you will. Justice to the Stó:lō within a Stó:lō worldview does not look anything like the justice one finds within the Canadian criminal justice system. The criminal justice system may focus on “crime,” “prosecution,” “prison” and “punishment,” but to the Stó:lō “justice” is centred upon the family and includes: (1) the role of Elders; (2) the role of family, family ties and connections; (3) teachings; and (4) spirituality (Victor, 2001, p.64). As we describe below, each of these elements is now present in and guides the *Qwi:qwelstóm* process, all of which operate within the context of contemporary Stó:lō governance and in accordance with Stó:lō custom and tradition.

***Qwi:qwelstóm* and the Stó:lō Community**

Qwi:qwelstóm as a programme is accountable to two main bodies within the Stó:lō Nation governance structure: the House of Justice, and the Elders Council for *Qwi:qwelstóm*. In practice, the House of Justice is the entity that provides *Qwi:qwelstóm* with its mandate, while the *Qwi:qwelstóm* Elders Council, is more concerned with the day-to-day operations of the programme and ensuring that Stó:lō culture and tradition is being followed. However, also in keeping with Stó:lō tradition, it was equally important to remain connected to the broader community throughout this process.

Consistent with this priority, one of the first steps Wenona undertook as a Stó:lō Nation Justice worker was to go to each Stó:lō community and share what she had learned at university regarding the Canadian criminal justice system and its inability to deal humanely with Aboriginal people. She also explained that Stó:lō Nation was developing an “alternative” dispute resolution process that would be available to all Aboriginal people living within Stó:lō territory. The importance of community involvement and assistance in developing an Elders’ Council and recruiting Stó:lō to train as *Qwi:qwelstóm ye Smómíyelhtel* was emphasized.

Visiting each Stó:lō community and talking about “justice” and how to deliver justice to community members in a more culturally appropriate manner represented a huge step toward visualizing what it means to be self-determining. The discussions themselves were empowering. Wenona wrote: “In community after community the people seemed to sit taller in their chairs after our discussions; I literally could see their eyes light up right in front of me as we talked about bringing back the ways of our ancestors to help us settle current disputes within our communities.”

Important reservations also were expressed and the ensuing discussions regarding these reservations were and are a vital step in the decolonizing process. These tended to revolve around the following issues and questions: (1) perceptions that the wrong-doer would be seen as “getting off easy”; (2) some Aboriginal people do not want anything to do with their culture; (3) are we even “allowed” to do this?; (4) do we have enough resources and

knowledgeable people to deal with the social issues?; (5) how can we do this when we are not “experts”; and perhaps most importantly, (6) how are we going to ensure the safety of community members, especially Women and children? Not all these concerns were resolved before implementation of the programme, but the discussions were held, concerns were heard and an ongoing dialogue had begun. For many First Nation communities “talking” is huge. Reclaiming voice is vital.

The discussions proved to be enlightening. Questions were raised about what had the “experts” managed to do for the Stó:lō so far? Although a total of 10 prisons and jails are located throughout Stó:lō territory, were our communities any more safe? Discussion also arose regarding what Stó:lō justice processes would look like and what enacting them might produce. Which is easier: Sitting silent before complete strangers, watching them decide your fate, and knowing that, regardless of the outcome, at the end of the day you are not required to change your behaviour? Or sitting in a circle with your close family and Elders while you speak for yourself and take responsibility for what you have done? Is it easier to be punished or to heal? As for being “allowed” -- “allowed” by whom? Do we really have a choice about whether or not to take responsibility for our own lives?

The dialogue continues to this day and includes quarterly community gatherings to discuss *Qwi:qwelstóm* and issues pertinent to Stó:lō community members. Some Stó:lō communities and community members still express some hesitancy and reservations regarding their abilities to deal with more serious offences. Internalized colonial attitudes are evident during some of the discussions.¹¹ Generations have been told that it is up to “others” to fix “us.” Thus, some insist upon the need for outside experts such as lawyers, social workers, counsellors and therapists. Others talk about Stó:lō’s own “experts” and the role that community healers, Elders and teachers can play, saying, “it doesn’t take an ‘expert’ to care.” As mentioned, these discussions are important to have and reflect a healthy diversity.

The fact that *Qwi:qwelstóm* encourages these discussions and does not silence opposing views, concerns and reservations is probably a main reason why all of the communities visited supported the prospective programme. Most importantly, they also supported the idea of requesting that the programme seek permission from the House of Justice to deal with more serious offences than dog bylaws (as is allowed under the *Indian Act*) and first time young offenders who have committed less serious offences such as theft under (as was being offered by Provincial authorities in the context of a protocol agreement). As is the case in many First Nations, Stó:lō communities are plagued with drug and alcohol addictions that are fuelling more serious offences such as assaults, domestic violence and sexual abuse. It also was clear to all that, as is the case in many First Nation communities, these devastating human conditions were going largely unreported. Many community members have no faith in the criminal justice system’s ability to deal with these problems, and in most cases, believe from personal experience that it only makes things worse. The general consensus was that even if the Stó:lō failed miserably, they likely would still do a better job than the Canadian criminal justice system was doing. Certainly they could do no worse.

¹¹ This term is used to describe a condition whereby colonized groups of people eventually take on the beliefs and attitudes of the colonizers. Another relevant term is cognitive imperialism, which is a “form of cognitive manipulation used to disclaim other knowledge bases and values,” and thus serves the colonizer’s ability to “deny people their language and cultural integrity by maintaining the legitimacy of only one language, one culture, and one frame of reference” (Battiste, 2000:198).

With the support of the communities, the House of Justice was approached for permission to accept more serious offences than dogs barking past curfew. This request was significant to the extent it signified that the important source of permission was not a foreign voice of authority – the criminal justice system – but from internal Stó:lō governance structures. This shift in “from whom do we gain permission?” is another example of mental decolonization. It challenges yet another colonial-imposed “cognitive prison” whereby Indigenous Peoples, as a result of generations of political, economical and social oppression, question their own ability to be responsible. These cognitive shifts are empowering and, when accomplished, are a way in which “internal sovereignty”¹² can be achieved.

Ultimately, it is community members who decide whether to call *Qwi:qwelstóm* or the RCMP regarding their situation. Quite often both occur.

***Qwi:qwelstóm* and the Canadian Justice System**

Any Stó:lō justice programme must address a wide variety of problem areas identified both within the community and within the Canadian criminal justice system (CJS), especially as they pertain to Aboriginal Peoples. These include:

- the over-representation of Aboriginal people from arrest to incarceration within the CJS;
- the under-representation of Aboriginal people in positions of authority within the CJS;
- the under-reporting of family violence and sexual assaults within Aboriginal communities;
- cultural differences and misunderstandings that often prove to be detrimental to Aboriginal offenders and their ability to be dealt with fairly;
- the ability to provide a safe and effective forum within which healing is encouraged; and
- the need to improve relations between Aboriginal communities and Euro-Canadian agencies such as the RCMP, the Courts, Crown Counsel, legal aid lawyers, provincial corrections and Correctional Services Canada.

None of these problems will be resolved solely by the Stó:lō people, and hence the need for establishing and maintaining protocol agreements and reasonable lines of communication between Stó:lō and Canadian governments and agencies. Accordingly, *Qwi:qwelstóm* works in partnership with Euro-Canadian agencies such as the RCMP, Probation, Corrections, Crown Counsel and the Ministry of Children and Families. That said, bridging the “cultural divide” between Stó:lō justice and Euro-Canadian agencies has often proved a challenging endeavour. When this bridge is approached with mutual respect, the journey is exhilarating and promising. However, there are many times that *Qwi:qwelstóm* workers report having had to endure colonial

¹² The term “internal sovereignty” is used here as explained by Robert Yazzie (2000): “Ultimately, the lesson is that we, as Indigenous peoples, must start within. 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. I cannot beg for political power, because I will not get it. However, I can pray for personal power and work with people around me to achieve internal sovereignty, that is our path to postcolonial existence... (p.47).

attitudes and racist comments that attempt to subjugate, oppress or silence *Qwi:qwelstóm* teachings. The education continues.

***Qwi:qwelstóm*: Getting to a Better Place**

Referrals

Qwi:qwelstóm accepts referrals from seven different sources: (1) the RCMP (pre-charge); (2) Crown Counsel (post-charge); (3) Probation Officers (pre-sentence); (4) Community Members; (5) Self-referrals; and more recently from (6) Department of Fisheries and Oceans; and (7) *Xyolhemeylh* and the Ministry of Children and Families Development.

To date the Stó:lō have signed Protocol Agreements with the Chilliwack, Mission, Hope and Agassiz RCMP as well as with the Abbotsford Police. As an “alternative measures” program, *Qwi:qwelstóm* accepts referrals from the Chilliwack and Abbotsford Crown Counsel offices. Protocols with the Department of Fisheries and Oceans, the Ministry of Children and Family Development, *Xyolhemeylh* and a Historical Sexual Assault protocol are currently underway. The Stó:lō have requested from all referral sources, especially the RCMP and Crown Counsel, that all Aboriginal files being considered for diversion be diverted to *Qwi:qwelstóm*.

Referral sources four and five are unique and especially important for two main reasons: (1) they actively reflect self-determination by the Nation by defining for itself what its “problems” are that require attention – it is not limited simply to “crime” or that subset of “crime” that Canadian agencies decide is appropriate to send to the community; and (2) they reflect the degree of trust the community has in the “justice” that will result.

Acceptance of Cases

Upon receiving a referral to *Qwi:qwelstóm* the first step taken by a Justice Worker or a *Qwi:qwelstóm* ye *Smóyelhtel* is to ensure the following two criteria are met:

- the person who has done the harm is taking responsibility for his/her behaviour; and
- all relevant persons, particularly the victim(s), where there is one, are fully informed of the *Qwi:qwelstóm* process and are offered the opportunity to participate when ready.

Crown Counsel and the RCMP have their own policies as to what types of crimes will be diverted to *Qwi:qwelstóm*. In the beginning, they tended to divert only if the crime was minor and it involved a first-time offender.¹³ The Stó:lō do not feel this adequately captures the profile of the Aboriginal people who will benefit the most from *Qwi:qwelstóm*. Statistics tell us most

¹³ Not surprisingly, some RCMP and Crown Counsel view *Qwi:qwelstóm* as an alternative measures programme where it is common to equate “diversion” with “trivial offences.” This is despite numerous attempts to explain that, as an Aboriginal justice forum, *Qwi:qwelstóm* is much more than this.

Aboriginal people have had some previous contact with the law, which means they will be under-represented in diversion and “alternative” programmes. As such, the stipulation that only first-time offenders can be diverted amounts to systemic discrimination, as mostly non-Aboriginal offenders will benefit from diversion and alternative measures (Griffiths and Belleau, 1998). *Qwi:qwelstóm* does, however, accept more serious cases either in conjunction with a court order or as a referral coming directly from a community member. As well, it should be noted that the types of crimes diverted to *Qwi:qwelstóm* from the criminal justice system are not only dependent upon their own policy, but also on how *Qwi:qwelstóm* is perceived by the referring agent. Some Crown counsel will refer more serious charges while other Crown counsel will not; the same is true of the RCMP.

Acceptance to the *Qwi:qwelstóm* programme is made on a case-by-case basis. For more serious cases, many factors are considered when making this assessment, such as:

- the remorse (i.e., level of awareness) of the person who has caused harm;
- the community’s willingness to deal with the person;
- resources available to the wrong-doer, the person(s) harmed and family members (i.e., are there enough Stó:lō people available to help with the situation?);
- where the wrong-doer is in his/her own journey of healing;
- the thoughts and opinions of the person(s) who has/have been harmed; and
- what positive actions the wrong-doer has taken since the incident.

One of *Qwi:qwelstóm*’s objectives is to increase the reporting rates of family violence and sexual assaults within Stó:lō communities by providing an “alternative” to the punitive and adversarial criminal justice system. The under-reporting of family violence is largely because Stó:lō communities tend to be under-served by Euro-Canadian agencies, and many Stó:lō in any event do not feel these agencies are adequately equipped to deal with their problems. The high prevalence of violence within Aboriginal communities is nothing short of epidemic; families that have not been touched in some manner by violence are rare. *Qwi:qwelstóm* provides an opportunity to take ownership for this devastating social problem and encourages families to begin a “healing” process that eventually will end the cycle of abuse.

Qwi:qwelstóm ye Smómíyelhtel

The heart and backbone of *Qwi:qwelstóm* is the group of community members who have come forward to assist with the healing journey. There are approximately twenty *Smómíyelhtel*. All undergo an extensive training journey that includes workshops, conferences and training sessions on Peacemaking Circles, other Aboriginal Justice Initiatives, conferences on Foetal Alcohol Syndrome and restorative justice, and training in conflict resolution. Each month a guest is invited to attend the *Qwi:qwelstóm* Monthly Session, which allows the *Smómíyelhtel* to learn about a wide variety of topics relevant to healing within Stó:lō communities. Guests have included Sexual Abuse Counsellors, Family Violence Counsellors, Cultural Advisors, Spiritual Healers, Prison Workers and Elders. As well, the *Smómíyelhtel* are given relevant articles to read that address pertinent concerns and call for a critical analysis of justice in general.

Qwi:qwelstóm ye Smómíyelhtel inform circle participants of the process and what is expected from them during the circle. They also organize and lead the circles and document the

proceedings and, when necessary, the resolution. While there are guiding principles to follow, each *Smóyelhtel* has developed his/her own personal style of circle facilitation. The guiding principles each *Smóyelhtel* is asked to keep in mind are:

- *Qwi:qwelstóm* is about building relations and resolving conflict “in a good way”;¹⁴
- *Qwi:qwelstóm* encourages the reconnection of family members to their extended family and to their community;
- Each participant is asked to bring an Elder from his/her family to share in the circle;
- *Qwi:qwelstóm* is about being responsible; the focus for circle work is the self;
- *Qwi:qwelstóm* workers are reminded to be kind and respectful, and to remember the courage that it takes to ask for help and to change (i.e., to heal).

One of the challenges faced by the *Qwi:qwelstóm ye Smómíyelhtel* is the balancing act that is required in order to meet competing demands when working with referrals from Euro-Canadian agencies. These agencies tend to focus on the act or behaviour, while *Qwi:qwelstóm* focuses on the person. Euro-Canadian agencies focus on individual responsibility and rely heavily on written reports and forms. *Qwi:qwelstóm* places the individual within a familial context and focuses on feelings, relations and restoring the balance and harmony that has been disrupted. This requires one-to-one work that is personalized and not always conducive to report writing or categorized checklists.

For example, an important part of the healing process and therefore of the *Qwi:qwelstóm* process is the telling of personal histories, which quite often involve painful personal testimonies of survival of horrific abuses. This quite often occurs at the very first meeting. Cases involving troubled youth often are found to be symptomatic of a much larger familial problem that includes parenting challenges. The incident-based statistics the Department of Justice and the criminal justice system require presume a specific criminal incident and checklist of dispositions that fail to capture *Qwi:qwelstóm*'s more open-ended and healing-focussed interest, and thereby distort the process.

The emphasis on paper records and “case processing” also can create conflicting demands that are frustrating for *Qwi:qwelstóm ye Smómíyelhtel*. On one occasion, for example, the *Smóyelhtel* was publicly chastised by an Elder for having paper in the circle. The Elder reminded the circle participants that everyone is equal and by having paper the *Smóyelhtel* may, however unintentionally, relay the message that he/she is more important than the others. The *Smóyelhtel* is then put in the challenging position of adhering to the Elder's teaching, while somehow finding a way to document the resolution as requested by the Euro-Canadian referral source.

***Qwi:qwelstóm* Circle Work**

While there is much work that needs to be done to prepare, most of the “work” undertaken during the *Qwi:qwelstóm* process is done in circle. Circle work provides a forum that is most conducive to traditional ways of relating to one another, i.e., circle work is to Stó:lō epistemology what empiricism is to Western epistemology. Circles create the space and the place for meaningful discussion, in-depth interaction, and better understanding. The focus for circle work

¹⁴ “In a good way” is a term commonly used among the Stó:lō to denote the importance of, above all else, maintaining good feelings between people, to avoid relationship-destroying words and confrontations, to be careful and to be respectful.

is “the self,” just as Stó:lō epistemology places the self as the starting point in coming to make sense of the world around us.

When asked to participate in a circle, one is required to come prepared to share all four sacred parts of being, namely the physical, the mental, the emotional and the spiritual. Participants also are expected to come physically prepared, that is, well-rested, fed and to have abstained from drugs and alcohol for at least four days prior to the circle date. Participants also are asked to come mentally prepared, that is, with a strong mind in order to make best use of the words that will be shared.

It is impossible to describe all the dynamics that evolve during circle work. Those who have participated in circles have probably experienced the innate power and spirituality that guide such a process. We will do our best to explain why circle work touches people so deeply, albeit knowing we cannot do it full justice.

The physicality of the circle and of the participants likely plays an important role. Participants are in close proximity to one another with nothing between them so there is a physical connection between all participants. Each participant is an individual that in turn is part of a whole – together they all form a circle. It is impossible to tell where it starts and where it ends, which relays a sense of equality for everyone sitting in the circle. As well, each participant is equally vulnerable as there are no books, papers or desks to hide behind or deflect the in-depth human interaction.

All participants are asked to involve themselves fully by actively listening or verbally sharing or both. The extent to which each participant does so is left up to the individual. There is an understanding that each is to have a strong mind in order to get through the work that needs to be done. Some of the words may seem harsh; people are asked to be strong-minded so they can take the good that is offered to them.

Emotions are welcome. The work does not stop in the event a participant is overcome with strong emotion, whether anger, joy, sorrow or happiness. Rather, the person is encouraged to share the emotion with everyone present; by doing this each participant then takes a part of that emotion. In this sense the strength of the emotion is dispersed among everyone in the circle.

Finally, circle work is inherently spiritual. Circles have always been an extremely sacred entity to the Stó:lō. All of life is best understood to a Stó:lō mind in a circular fashion. Spirituality, especially as it relates to our ancestors, is drawn to circle work. Much like with oral stories, circle work has “the power to protect and to heal,” during circles our “beloved ancestors and family become present with us” (Silko, 1996 when describing oral traditions, as cited in Archibald, 1997:35). This is especially evident when a circle is honoured with the presence of Elders. Elders and “circle work” go hand-in-hand. Elders are especially vibrant and are a powerful presence within a circle. A circle naturally creates space for Elders and invaluable teachings. For the Stó:lō, this forum of relating to others is safe, non-confrontational and provides an equal voice to all participants. It is also inherently spiritual, which often encourages and facilitates healing.

In relation to referrals received from the criminal justice system, *Qwi:qwelstóm* circles are available for use in four different stages of the prosecuting process. A circle can be arranged: (1) to replace the trial process; (2) to make a sentencing recommendation; (3) to

assist with reintegrating Aboriginal offenders back into their communities following a period of incarceration; and/or (4) to develop a healing plan to be part of sentencing and/or probation orders.

When referrals originate from community members, most circles that result are Healing circles. However, *Qwi:qwelstom* also makes use of Peacemaking circles to assist with family disputes, custody concerns, divorce settlements and improving relationships between a whole host of parties, most notably between social workers and biological parents. Quite often Healing circles and Peacemaking circles are used interchangeably as they share many similarities. There are subtle differences, however, that may be important to the circle participants. For instance, one may prepare oneself differently depending on whether one is to participate in a Healing or a Peacemaking circle. Healing circles are focused almost exclusively on restoring balance to an individual(s) who is out of balance due to past and present hurts. Peacemaking circles, on the other hand, are focused almost exclusively on achieving better understanding by all circle participants regarding a specific incident or event. Peacemaking circles are similar to, but different from, a mediation process. Healing circles are similar to, but different from, counselling sessions.

As well, *Qwi:qwelstóm* is being asked by community members to assist with improving relations between community members and Stó:lō employees, between Stó:lō staff and supervisors, and between community members and institutional staff (e.g., schools and Aboriginal students). The desire to use the *Qwi:qwelstóm* processes in all areas of conflict and dispute settlement, rather than confining it to what is deemed to be “criminal matters” by *Xwelitem* is testament to the success an Aboriginal approach can achieve when it is directed and implemented by Aboriginal people. Unfortunately, meeting these requests is challenging as *Qwi:qwelstóm* is under-funded and therefore, under-staffed, which limits the Stó:lō people’s ability to expand into other areas of conflict resolution.

Elders

Programme personnel often are asked under what circumstances a circle might be cancelled, and the bottom line is that Elder(s) must be present to hold a *Qwi:qwelstóm* circle. In the rare circumstance where the Elder is unable to attend and circle participants are unable to contact another Elder to come, then the circle will be rescheduled. This is the only situation that warrants the delay of a circle. Even in the event that the person who was harmed or the person who did the harm fails to appear, the circle will still be held. Another circle may also be arranged for another time, but the circle everyone else had prepared for and attended would continue as planned. There are several reasons for this. One is the acknowledgement of the inter-relatedness of everything and the equality of all people involved. Another reason is the teaching of the importance of maintaining balance. People mentally, physically, emotionally and spiritually prepare themselves for a circle; to show up only to have it not happen can cause a disruption in one’s balance, which can create friction and disharmony – whether physically, emotionally, spiritually or mentally.

Elders are integral to the process for many different reasons. Stó:lō people tend to listen when Elders speak, especially in sacred places such as the longhouse, a sweat, a circle and so on. Elders also tend to be the best listeners – they really listen and come without their own agenda. They also have a knack for saying things in a way that is readily accepted by circle participants. Most importantly, they know how each person is tied to the community and

thus are able to re-establish these ties and connections. This ensures the people know they belong and reaffirms their place within the community. As well, Elders bring an essential part of the spirituality that guides the entire process.

Family, Family Ties and Connections

Stó:lō people are tied to family in many ways; this includes what non-Indigenous people might distinguish as “extended” family. To the Stó:lō, family includes siblings, parents, Aunties, Uncles, second, third, fourth...cousins, grandparents, great grandparents and great Uncles and great Aunties. “Cousins” are considered siblings. It is an important teaching that one should not place distance between family by using words such as “step,” “in-law,” “half-” etc. These family ties and connections are an important part of the individual’s identity. For example, when being introduced quite often the Stó:lō are acknowledged by their family ties – e.g., “This is the late Gordon Hall’s eldest granddaughter.” In circle, family ties and connections are re-established – you hear things like “my grandfather was your grandmother’s first cousin” – which immediately ties the one who did harm to the person speaking. Re-establishing family ties and connections ensures the one who did harm will actually “listen” to the speaker and provides one more reason for the person who did harm to do better.

If the person has an ancestral name this may be discussed as all ancestral names come with responsibilities and a long history of family ties. In some cases an individual may be “stripped” of their ancestral name until they show they can carry it again with responsibility and respect. So far, however, the majority of people being referred from the criminal justice system tend not to hold ancestral names. This speaks to the importance of re-establishing the ties and connections an individual has to their family, community and Nation. It is much more difficult to offend others when one carries the responsibility of an ancestral name. Those who carry ancestral names tend to do so with much dignity and pride and are careful to behave and carry themselves in a manner reflective of the honour bestowed upon them and mindful of the responsibility their name carries.

The role of family is always recognized and never outgrown -- even as adults people still refer to their “Uncles” and “Aunties” as such as a sign of respect. The recognition of family ties also is important in order for people to understand that when they misbehave, they are putting a bad mark on their entire family, and not just on themselves. And finally, when a young person is having troubles they are often sent to an Uncle or Auntie for help; young people who do not listen to their parents nonetheless often will listen to their Auntie, Uncle and/or Grandparents. This aspect of the *Qwi:qwelstóm* process is especially important in its ability to stop harmful behaviour. Given the importance of family and maintaining good relations, it is much easier to face a stranger such as a judge and sit within a courtroom and say nothing, as opposed to sitting within an intimate circle and directly tell your Aunties, Uncles, Grandparents, sisters, brothers etc. how you caused harm.

Teachings

Teachings are a natural outcome of circle work. Most teachings afford the opportunity to learn more about the Stó:lō worldview and the seven unwritten Stó:lō laws. To receive teachings is an important part of establishing one’s sense of self-worth and identity in all its mental, emotional,

physical and spiritual aspects. The circle provides a natural environment and form of communication that is conducive to the sharing of the teachings.

For example, a talking piece is always used during circle work. This allows participants to practice a few of the “rules” that govern an oral tradition.¹⁵ The talking piece reminds the speaker to be honest and to speak from the heart. Heart talk allows those not speaking to really listen as they do not need to be formulating what they will say next. It also slows the pace of discussion down so speakers do not feel rushed or worried about being interrupted. No one speaks out of turn during a circle and only the one holding the talking piece may speak. Participants speak from an “I” frame of reference that personalizes the interactions of the circle participants. Closeness and subjectivity are encouraged and “silence” is, once again, an important part of communication.

The importance of the passing of teachings during the *Qwi:qwelstóm* process cannot be overstated. The Stó:lō, like most Indigenous peoples, come from a history of oral traditions whereby valuable teachings are verbally passed from generation to generation. This passing is generally from Elders to children and from Elders to young Adults. Our Elders are our “history books”; they are our “computers.” They hold all the teachings future generations need to achieve peace, balance and harmony. Colonial legacy has disrupted this vital flow of information. It is up to us to pick it up and once again place our Elders where they rightfully belong within our Indigenous societies.

Spirituality

The spirituality of the circle process has already been noted above. We add here that there is always a prayer, usually done by the Elder, at both the start and finish in order to ground circle participants and acknowledge Stó:lō ancestors. Sharing a meal together is also encouraged as it brings people together and promotes closeness and good feeling. Some circles will smudge, and a sacred talking piece is always used, in accordance with Stó:lō teachings. When staff become anxious about a pending circle and its outcome, or their ability to meet the timeline provided by Crown counsel, they are reminded to have trust in the process and to let “the spirits guide us.” In contrast, telling Crown counsel to “trust in the spirit” doesn’t always go over very well.

Qwi:qwelstóm Challenges

Qwi:qwelstóm as a formal means of dispute resolution and diversion program is too new to do a complete analysis of the program. There are still many kinks to be worked out, especially in “bridging that cultural divide” in order to balance the opposing needs and expectations of two different worlds. The challenges faced by *Qwi:qwelstóm* and the program itself are worthy of study all on their own. We offer only a brief inventory here.

One of the biggest challenges faced by *Qwi:qwelstóm* is the education component. It is to be expected that Euro-Canadians are not familiar with the principles and philosophical

¹⁵ Just as written language has rules of grammar, oral traditions have “rules” of speaking such as who speaks when, who can speak on what etc.

underpinnings that guide *Qwi:qwelstóm*. However, one legacy of colonial policy and practice is that many Stó:lō also are unfamiliar with the cultural teachings that guide *Qwi:qwelstóm* work. Some Stó:lō people have adopted the colonizer's view of justice-as-punishment and still seek to have "justice" meted out by the criminal justice system. The challenge faced by *Qwi:qwelstóm* is to educate the Stó:lō people so they can make decisions informed by their own cultural and spiritual traditions. This is an exciting process for *Qwi:qwelstóm* as part of the "decolonizing" work needed before self-determination can truly be experienced.

A second challenge is for *Qwi:qwelstóm* to remain focused on the Stó:lō people and communities. This is not an easy task for several reasons:

- sometimes the depth of pain and suffering within the communities can become difficult to handle and overwhelming;
- the demands made by the CJS mean staff can quite easily spend all their time within the structures of the CJS;
- lack of resources and support being provided to First Nations communities to deal with the issues of pain and suffering;
- too few healthy people to help leads to burnout and over-working of certain individuals, especially Elders;
- staff burn out;
- inadequate government funding means communities are asked to do ten dollars worth of work for a dollar; this makes it difficult to keep staff, to afford to hire and keep qualified staff, and an inability to provide necessary programs and services;
- Canadian tendency to subordinate and subsume Indigenous "ways of being";
- cutbacks to the Native Courtworkers programme have resulted in justice workers having to spend more time in the courtroom liaising with court staff.

A third challenge is dealing with oppression, which represents two separate challenges faced by *Qwi:qwelstóm*: i.e., dealing with the oppressors, and the oppressed. For the former, *Qwi:qwelstóm* is continually being asked by Euro-Canadian players to "prove" the ability of the Stó:lō to look after themselves. This is colonial thought that perpetuates the false ideology of Western superiority. It blindly ignores that the Stó:lō have looked after their own responsibilities since time immemorial. Asking the Stó:lō to "prove" this responsibility is tantamount to asking them to "prove" they exist as Stó:lō people.

It is a peculiar truism of power that those who wield it can hold others to standards while avoiding asking the same questions of themselves. Can the Canadian justice system live up to its own injunctions? Certainly it cannot do so in relation to its treatment of Indigenous people, with Commission after Commission having shown the criminal justice system to be an abject and total failure. Stó:lō justice can certainly do no worse. But can the Canadian justice system demonstrate its effectiveness even with its own people? The Canadian citizenry seems highly dissatisfied with the way the Canadian justice system works, and the media seem to report weekly on some notorious injustice. The irony of asking Aboriginal people to achieve what Canada has been unable to achieve itself is not overlooked in this situation.

But the challenge of working with oppressed people cannot be dismissed so easily. We can use an analogy to describe this oppression. Imagine the Stó:lō people are birds and the imposition of the Canadian system(s) is a small wire cage that all birds have been forced to live under for quite some time. The right to be Stó:lō is freedom. What if while kept in this cage, the birds are subjected to various forms of indoctrination that lead many of them to believe they are

not worthy of freedom? What if the birds are kept in that cage for so long they begin to forget what freedom feels like? If one day the doors to the cage are opened and the birds are given the option of leaving, what will the birds do? Will they even remember that they have wings?

This is what oppression can do. It can take away not only a bird's flight, but also a people's confidence, their trust in themselves and in each other; it can take away their dreams. Even worse, it can make people feel as though they do not have the right to dream at all.

Encouraging Dreams: What Can Canada Do?

There is much Canada can do to encourage the dreams of Aboriginal people. As a start, we suggest the following:

1. That Canada recognize it is in all our best interests to have healthy and thriving Aboriginal communities that can act in positive and mutually respectfully ways with the non-Aboriginal communities around them.
2. That Canada formally recognize Aboriginal jurisdiction over Aboriginal justice is part of the inherent right to self-determination and to create space for Aboriginal justice. We also suggest they begin negotiation with Provinces and First Nation organizations to create an Aboriginal Justice authority whose mandate would be to support the development of Aboriginal justice programmes in Aboriginal communities. For a budget, we suggest the federal and provincial governments take all the funds that are currently devoted to keeping Aboriginal offenders in prisons and gaols, and add in the funds that it currently allocates to the Aboriginal Justice Strategy.
3. Support First Nation justice initiatives without subsuming and assimilating them into the always more assertive, better funded, adequately staffed criminal justice system.
4. Provide adequate support that includes guidance and assistance as requested and identified by the First Nation community. This does not mean assistance and guidance in helping the community duplicate the current system.
5. Find ways to improve the relationships that need to be established between the two "systems."
6. Accept that each First Nation community, when ready and able, will dictate the "what" and "how many" to be dealt with.

Even with the establishment of separate Aboriginal ways of doing justice, there will always remain points of "convergence" (see, for example, Turpel, 1994). Partnerships and working together are important. This relationship can be strengthened by educating Canadian justice system personnel to view Aboriginal justice from within an Indigenous worldview. This would allow them to understand that First Nations people view "justice" as a "way of being," as a means to heal, a way to restore balance and harmony to their families and communities, a means to be responsible for their own lives.

The resurgence and use of Aboriginal ways of doing "justice" do not call into question the sovereignty of the Crown; they simply provide an opportunity for First Nations to experience justice according to their own customs and traditions:

Aboriginal Peoples do not wish to displace anyone else's right to be governed by the legitimate and properly consented to laws of their nation. To do such a thing would amount to becoming oppressors ourselves. Our challenge is not a challenge to your right

to be in your own unique way, but a simple desire to follow our own ways (Monture-Angus, 1995:251).

To view justice only in terms of the Euro-Canadian definition tends to stalemate discussions and increase the “cultural divide”; this definition quite honestly does not reflect what First Nation communities are doing in their attempts to “get to that better place.”

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