

# ADDRESSING GENDERED VIOLENCE

AN INDIGENOUS LAW WORKBOOK





# Introduction

We know from our oral histories and our own experiences that gendered violence was, and is, a part of Indigenous societies and communities. The historic accounts of and legal responses to such violence provide Indigenous peoples with legal resources for dealing with similar issues of violence today. There are intellectual legal resources that exist within Indigenous legal orders and communities for thinking about and challenging social problems, including gendered violence. However, these resources are made invisible if we talk about the past as if it were free from violence. These legal resources can be used today by Indigenous peoples to collaboratively create standards and criteria for reason, discussion, debate, and action when addressing violence against women. This is not to say that Indigenous laws are perfect or that they will provide easy solutions, but they are a way to solve real problems.<sup>1</sup>

For a long time now, Indigenous women (inclusive of gender diverse and trans) have been concerned about how Indigenous law might apply to their lives in a way that restores safety and dignity. Gendered and sexualized violence is part of Indigenous women's experience. We saw this confirmed with the national Missing and Murdered Indigenous Women and Girls Inquiry.<sup>2</sup>

In 2024, Hadley Friedland, Lana Lowe, Julie Kaye, Val Napoleon, and others secured several grants to bring Indigenous women from within a number of Indigenous legal orders together to discuss the legal resources available to address gendered violence. In 2024, an amazing gathering was held in Parksville with Indigenous women from around the province. This workbook was prepared by our students, Noémie Foley, Kaylea Kray-Domingo, and Kelly Weiling Zou, and was an invaluable resource for the discussions.

The workbook is structured around the Indigenous legal methodology initially developed by Hadley Friedland, which (1) systematically draws law from narratives, and (2) synthesizes and structures the analyses into an accessible form. Part One of the workbook provides a narrative and example analyses from each legal order, and Part Two provides the syntheses, narrative analyses, and stories for each legal order in six sections.

## Dr. Val Napoleon

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1 Emily Snyder, Val Napoleon, and John Borrows, 2015 48:1 "Gendered Violence: Resources from Indigenous Legal Orders" UBC Law Review 593.

2 See the two-volume report, Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls (2019) (MMIWG Report)

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**PART I**  
**NARRATIVE ANALYSES**

# Coast Salish Legal Orders

## Mr. Clookshla and his Family

“Mr. Clookshla and his Family” in Jessica Asch, Tara Williamson, and Leslie-Ann Paige, eds (Indigenous Law Research Unit, NITL TU,O Child and Family Services Society), *Toolkit: Coast Salish Laws Relating to Child and Caregiver Nurturance & Safety* (Victoria: ILRU, 2021) at 29.

Clookshla married the Dog Salmon’s daughter. They had a daughter and lived by a creek. Clookshla would go out every day. Sometimes he would stay out all day. When he found something to eat, he would stay and eat it alone, and wouldn’t bring any home. His daughter was very hungry. One day the mother said to the girl, “Follow your father. See which way he goes.” She followed him all day and watched what he did. She went home and told her mother what she saw.

“All right, we will build a fire.” The little girl didn’t know what her mother was talking about, but she did it anyway. “Now, you see the barbecue stick over there? Bring it to me. And bring me the big platter.”

The mother put her hands in a bucket of water and rubbed them together, singing. A short while later there was something wriggling in the water. It was a dog salmon. The mother killed it and barbecued it. They ate only half of it, they hid the rest. The next day when Clookshla went out they did the same and kept doing it until one day Clookshla got wise to it, his daughter was putting on some weight.

“How come you look so healthy? There is no food in this house. Do you have any food here?” She told him no. Clookshla wanted to know where they were getting the food from. The next day when he went to the beach he went half way and came back to watch them. He caught them and said, “Well, well. This is what I’ve been suspecting. You two have been eating fish all the time. Where have you been getting it from?” Clookshla started staying home every day. He kept asking his wife, “Where do you get the salmon? Tell me, I’ll help you get it. Tell me.” The mother got tired of this and told her daughter to tell him the truth.

“Father, we eat fresh salmon every day. We eat it while you’re away. You never bring anything home. You eat it all yourself. My mother puts her hands in a bucket of water and sings. Then there is fish in the bucket.”

“So that is how you do it. I’m not going to leave this house anymore. We will have fish all the time.”

“If you ever get mad and pull this down,” his wife warned him, “we will all go and leave you. There will be no more fish.” So Clookshla kept his temper and soon there was fish

hanging up all over the house. One day Clookshla was bringing in a load of wood. He stooped under the dried fish and the backbone on one scratched his neck. He got mad and threw the wood down and dragged the fish down and threw it on the floor. The wife said, "All right. We will go. Come everyone." She left with the fish. There was nothing left in the house except Clookshla and his daughter.

## Case Brief

### Mr. Clookshla and his Family

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when a family member does not contribute and is disrespectful to the point of violence in the home?

#### **Facts (Relevant): What facts matter?**

- Raven would leave the house to go and find things to eat, but would not bring anything home.
- So Raven's daughter and his wife, the Dog Salmon's daughter, were malnourished.
- One day his wife instructed the daughter to follow Raven and when they learned of Raven's behaviour, the wife decided to teach her daughter how to summon a dog salmon, kill it and barbecue it.
- After some time, the daughter began to put on some weight and look healthy. Raven became suspicious and spied on them to find out how the two had been feeding themselves.
- He demanded an explanation and the two refused to explain. Eventually the wife got tired of his questions and allowed the daughter to tell him; however, the wife was clear that if Raven didn't want to go out for food anymore and eat the fish she provided, he had to respect the placement of the fish in the house and could not pull them down. She warned him that if he did, "we will all go and leave you. There will be no more fish."
- One day, Raven lost his temper and threw the fish on the floor. In response, the wife left with all of the fish, leaving Raven and the daughter behind in an empty house.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- It is appropriate for family members to abandon the relative who fails to contribute and behaves violently or contrary to the norms that were agreed upon.
- The family member who is left behind with the harmful relative is made vulnerable and continues to live in an unsafe home.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The Dog Salmon's daughter and the fish leave after Raven gives in to their temper and acts contrary to what was agreed upon, leaving the daughter alone in the house with Raven.
- When a family member is not contributing to the household, it is okay to provide for yourself and those in need.

Unsaid:

- To leave the daughter behind is an act of lateral violence, and the daughter did

nothing wrong.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Counter-story.
- Why was Clookshla only concerned that his daughter was looking healthy? Why wasn't he concerned before when she was looking unhealthy? Why did he also not notice his wife's health?
- The fact that the wife specifically asked Clookshla in advance not to throw the fish on the floor - was this something that had happened before that she knew to anticipate?
- When the Dog Salmon's daughter said, "We will all go and leave you. There will be no more fish," did she initially envision taking her daughter when she would leave? Did the daughter expect to leave with her and was surprised to be left behind?

# Cree Legal Orders

## Cannibal Possession

“Cannibal Possession” in Morton I Teicher, “Windigo Psychosis: A Study of a Relationship between Belief and Behavior among the Indians of Northeastern Canada” in Verne F Ray, ed, *Proceedings of the 1960 Annual Spring Meeting of the American Ethnological Society* (Seattle: University of Washington Press, 1960) at 37-38.

Once upon a time, the story goes, there was a woman whose husband was a great hunter. She had supernatural power. Once a war-party asked her for help. They gave her cloth-goods that she might use the medium’s tent; she accepted the gift. They gave her a pipe with a ceremonial offering of tobacco. Then she used the medium’s tent.

“You will take many horses, “ she told them.

Accordingly they set out. The woman was invited to go along. She did not accept the invitation. She moved camp; she moved camp for the purpose of hunting. She camped from place to place in the woods. At last they had nothing to eat. Her two children, her younger sister, her husband, and she; there were five of them. They had nothing to eat. They were nearly dead of hunger.

Then that woman ate her husband. She stayed there; in time she ate his entire body. Then she ate up one of her children; then the other. Her sister alone she spared. Her sister ate only rabbits and left only the fore and hind paws uneaten. These she kept as provisions. Then the woman went from there, with her sister she went from there, to seek other people whom she might eat. She headed for the place where her father and mother and older brothers were staying. Presently she knew that some person was near.

“He will ask you,” she told her sister, “‘Who has been eating here?’ he will ask you. ‘Why, my sister here,’ I will say of you. When I ask you, ‘Isn’t that so?’ you will answer ‘Yes.’ If you do not speak thus, I will kill you.”

She frightened her sister with these words. “Yes,” said she, “I shall speak thus.”

Then they waited on the ice. Presently they saw her sweetheart coming. He arrived. “Who has been eating here?” he asked them. “Why, my sister here,” said the woman. “Isn’t that so, Sister?” she asked the other.

“Yes,” she answered. “But let me see, then,” said that man to his sweetheart, “what supplies are you carrying?” He looked to see what they had: behold, the older sister had a store of human hands, the younger of rabbit’s paws. He took the things.

"As for you, I shall kill you," he said to her; "You have eaten up your children and your husband. You are a horrible being." He took the women home with him; he brought them to his lodge. Then they melted bear's-grease. They made her drink it. In this way they made her vomit repeatedly. They kept her vomiting for a long time. Presently she threw up some ice. Then she came back to her natural self.

When she regained her memory, she spoke thus: "I have eaten my children and my husband. I cannot bear it, please slay me," she said. "No," she was told. "In spite of everything, if you do not slay me, I shall destroy everyone in the village. No one will overcome me." At last, "Very well," she was told.

And so she was slain. Then she was burned up. When in time she had burned up, a search was made. There a beautiful little stone was found. Then they went and placed it in a pit. Thereupon the people moved camp; they left it behind. The next summer they came there again to camp, the band arrived there. They made pemican and held a feast. Then they went to look at the thing; lo, there from out the pit fled a bear. This was none other than the woman who had been slain, she had changed to this form.

That is the way this story goes.

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## Case Brief

### Cannibal Possession

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**Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when someone has killed their spouse and children?

**Facts (Relevant): What facts matter?**

- There was a woman who lived with her two children, younger sister, and her husband.
- When they were all starving and almost dead from hunger, the woman ate her husband and two children, sparing only her sister.
- Her sister ate only rabbits and kept the rabbits' paws as provisions.
- While travelling and hunting for humans, the woman detected people nearby. The woman threatened to kill the sister if she warned the nearby people. The younger sister was afraid and agreed to obey.
- When the man approached them, the younger sister obeyed the woman's commands. The man asked to see what supplies they were carrying. The older woman had a store of human hands, the younger sister of rabbit paws.
- The man told the woman that he would kill her as she had eaten her children and husband.
- He brought both women home to his lodge, where they melted bear's grease and forced the woman to drink it. This made her vomit repeatedly for a long time until she threw up ice and came back to her natural self.
- When she regained her memory, she asked the man to kill her because she could not bear having eaten her children and husband. When the man said no, she warned that she would kill everyone in the village and that no one would overcome her.
- The man finally agreed and killed her. She was burned and left behind a beautiful little stone. The people in the village placed the stone in a pit and left it behind when they moved camp.
- The next summer, they returned there to camp. They made pemican (dried meat) and held a feast.
- When they went to look at the stone, a bear ran out of the pit. This bear was the woman who had been slain. She had changed into bear form.

**Decision/Resolution: What is decided or how is the issue resolved?**

- After realizing she is a windigo, the man heals the woman by purging her of the ice inside her.
- When the woman is healed and regains her memory, she asks to be killed for eating her children and husband.
- The man only agrees to kill her after the woman warns that she will bring

widespread and unpreventable harm if she is not killed.

**Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- People who have caused severe harm deserve a chance to heal.
- Once healed, the person can play a role in determining the appropriate repercussions/legal outcome for the harm they caused.
- Incapacitation may be a reasonable response if the person continues to pose a severe threat to the safety of others after repeated attempts at healing.
- People should take steps to warn others of threats and ensure their safety where possible.

Unsaid:

- It is important to respect people's bodily integrity and autonomy.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- What is the significance of the woman being changed into a bear?
- What do bears signify in Cree culture?

# Dene Legal Orders

## Medicine Power Woman

“Medicine Power Woman”, in George Blondin, *Trail of the Spirit: The Mysteries of Medicine Power Revealed*, (Alberta: NeWest Press, 2006) at 67.

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One cold winter, two sisters, Jumping Martin and White Flower, were travelling with their husbands. The women were pulling their toboggan and the men walked ahead searching for game.

Two enemy men barricaded the husbands’ path and detoured the sisters away from the direction their husbands were heading. The two men attacked the women and sexually assaulted them. They made the women cook for them but refused to share their food. The men forced the women to sew moccasins for them, and they slapped the women and yelled at them to work faster.

Jumping Martin heard her sister crying, and she decided to do something about their situation. After the men and her sister fell asleep, she concentrated on her past life. In that life, an old man and woman visited her and gave her medicine power, and they told her how to use it. The old woman said she was Eehsine Unla and, “Anytime you want to make medicine power, think hard and call me. I will come help you. You are a woman and will grow up soon. You will have the choice to use sex in a good way to make children, or to use it only for pleasure. If you have sex with someone, you will have the power to control their mind and make their life miserable if you want to.”

The old man introduced himself as Eehsi Choh and said, “I give you owl medicine and you can use it to help people if you want. There are five different kinds of owls, from very smart to very stupid. You can use their medicine for many different purposes.”

Now Jumping Martin called on Eehsine Unla and Eehsie Choh to help her. They appeared before her and she told them about the abuse of the men. Eehsine Unla said, “We could kill them for you right now, or since they had sex with you, you can control their minds.” Eehsie Choh said, “Yes, with your owl medicine you can make them crazy. Their minds will be taken over by the crazy owl and they won’t even know you are here. They won’t even know how to care for themselves in this cold weather.”

Jumping Martin decided to have the men lose their minds. She told White Flower to pack the toboggan. As they were leaving, she kicked the two men and she looked into their vacant eyes, they were laughing with craziness. She knew they would suffer in the cold and probably die.

Jumping Martin continued to help women who suffered abuse by men. Even though she was considered dangerous by many, she helped many people heal from all kinds of sickness, and she used her medicine to confront people who were abusing their power.

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## Case Brief

### Medicine Power Woman

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**Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when women are kidnapped and abused by men from outside communities, and male relatives do not/can not help them?

**Facts (Relevant): What facts matter?**

- One cold winter, two sisters Jumping Martin and White Flower were traveling with their husbands. The sisters pulled toboggans while their husbands scouted ahead.
- Two enemy men separated the sisters from their husbands and attacked and sexually assaulted them. The men forced the sisters to cook for them and sew moccasins, all the while refusing to feed them, slapping them and yelling at them to work faster.
- Jumping Martin heard her sister crying and decided to do something about the situation. Concentrating on her past life, an old man and woman visited her and gave her medicine power.
- The old woman, Eehsine Unla, told Jumping Martin that she would help her, and to think about her whenever she wanted to make medicine power. Eehsine Unla told Jumping Martin that if she has sex with someone, she will have the power to control their mind and make their life miserable.
- The old man, Eehsi Choh, gave Jumping Martin owl medicine that she could use to help people. Eehsi Choh explained that there are five kinds of owls, from very smart to very stupid, and their medicine can be used for different purposes.
- Jumping Martin asked the old couple to help her and told them about the abuse her and her sister suffered. The couple offered to kill the men for her, but said that since she had sex with the men, she could control their minds and use owl medicine to make them crazy. Jumping Martin chose to do the latter.
- Jumping Martin told White Flower to pack the toboggan, and as they were leaving, she kicked the men, looked into their vacant eyes as they laughed with craziness, and left them knowing they would suffer in the cold and probably die.
- Jumping Martin kept helping women suffering abuse by men, healed many from sicknesses and used her medicine to confront people abusing their power. She was considered dangerous by many.

**Decision/Resolution: What is decided or how is the issue resolved?**

- Jumping Martin turns inwards and asks for help to find a way to overcome her and her sister's abusers. After surviving this experience, Jumping Martin uses her knowledge, experience and gifts to help others that are in similar abusive situations.

**Reason: What is the reason behind the decision or resolution? Is there an explanation**

### **in the story? Said? Unsaid?**

Said:

- Jumping Martin heard her sister cry and decided to do something about their situation.

Unsaid:

- Jumping Martin continued helping women suffering abuse by men because she was given gifts to combat violence against women and abuses of power.

### **Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- What happened to the sisters' husbands? Why did they not come and help them? They were never mentioned again in the story.
- What is the significance of medicine, power, and past lives in this story? Did the old woman and man help Jumping Martin because the kidnappers were breaking laws?

# Gitxsan Legal Orders

## History of the Wars with the Tse-tsaut - How the Village of the Git-an-yow Became Kitwancool

“History of the Wars with the Tse-tsaut - How the Village of the Git-an-yow Became Kitwancool” in Wilson Duff, *Histories, Territories, and Laws of the Kitwancool* (Victoria: British Columbia Provincial Museum Department of Education, 1959) at 27-28.

Also present the second day was Chief Gam-lak-yeltq (Mr. Solomon Good).

The people had arrived here at Git-an-yow, bringing their poles, and the power came with the poles and went into the land.

The chief of Git-kse-dzozqu came to Wens-ga-łgoal to visit his brother Shen-dił. He wanted to marry his brother’s daughter, his own niece. This was against the laws, and Chief Shen-dił refused to give his daughter to her uncle. The latter went back to his own village, but named the day when he would return and renew his request to marry his niece.

When that day approached, Shen-dił took his daughter and went away to the river Gen-meł-gan, which was reached by crossing (the Cranberry) at Ks-gay-gai-net. They travelled up that river to a mountain, where they camped and hunted groundhogs. While they were away, his brother arrived at Wens-ga-łgoal. All he found there was Shen-dił’s wife, who had remained behind. He kidnapped her and took her to Git-kse-dzozqu. She did not want to go, but knew she would be killed if she didn’t.

(According to a former definition, the name of this village was derived from the Tse-tsaut word “zohzqu,” meaning “a place where the people got their spring water for drinking and cooking.”)

Shen-dił arrived back at the village with his daughter and found his wife gone. All he found was a male slave, who told him, “Your brother has taken your wife away to Git-kse-dzozqu.” He told the slave to go and bring his wife back. He was not angry with her or with his brother.

The slave went to Git-kse-dzozqu and told the woman he had come to take her back to her husband. The brother asked him. “What did my brother say when you told him I had taken his wife?”

“He did not say anything. He just bowed his head. But he told me to go and get his wife,” the slave answered. The slave returned home without the woman. Shen-dił then said: “You will go back and I shall go with you.” He took up his club, made of caribou horn and carved

to represent his crest, the Raven. This was the highest weapon used for war, and was used only in the hands of the highest chief.

When Shen-dił opened the door, his brother stood with his head bowed. He hit his brother on the head with the club and he died right there. Then he took his wife, who went willingly with him. As they departed, he sang a “weeping song” for the loss of the brother he had killed. (The name of this [type of] song is lem-mik-oie. Chief Walter Derrick chanted this song for his brother when he died.) A little farther on he sang another song lem-mik-oie. (Both songs have the same name, but one is sung in a sadder way. Every Frog pole has this song; it will be sung at the raising of the pole in 1959, as has always been the custom when raising a Frog pole.) Just as he was nearing Wens-ga-łgoal, Shen-dił sang the third and last song, lem-mik-oie, which is named Ghed-Iqul-hel-len, meaning “loneliness in memory of the ancestors.” Then they reached their village, Wens-ga-Igoal, and lived there.

## Case Brief

### History of the Wars with the Tse-tsaut - How the Village of the Git-an-yow Became Kitwancool

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the proper response when an individual requests to marry someone whom it is illegal to marry, and is willing to cause harm to others in order to make it happen?

#### **Facts (Relevant): What facts matter?**

- The people had arrived at Git-an-yow, bringing their poles and the power that came with the poles and went into the land.
- The chief of Git-kse-dzozqu came to Wens-ga-łgoal to visit his brother Shen-dił. The chief of Git-kse-dzozqu wanted to marry Shen-dił's daughter, his niece, but Shen-dił refused, as this was against the laws.
- The chief of Git-kse-dzozqu went back to his village, but named the day he would return to renew his request to marry his niece.
- When that day approached, Shen-dił took his daughter across a river and up a mountain to the river Gen-meł-gan to keep her away from her uncle. The father and daughter camped and hunted groundhogs.
- Shen-dił's brother came to Wens-ga-łgoal and when he saw that his brother and niece were away, Shen-dił's brother kidnapped Shen-dił's wife and took her to Git-kse-dzozqu. Shen-dił's wife did not want to go, but she knew she would be killed if she did not.
- When Shen-dił and his daughter returned to their home, they found Shen-dił's wife missing. Shen-dił sent a slave to get his wife from his brother. Shen-dił was not angry with his wife or his brother.
- The slave tried to bring Shen-dił's wife back, but Shen-dił's brother would not give her back. Shen-dił's brother asked the slave what Shen-dił said when Shen-dił found out that his brother had taken his wife. The slave said that Shen-dił did not say anything, that he just bowed his head and instructed the slave to go and get his wife.
- When the slave returned to Shen-dił's house, Shen-dił told the slave that they would both return to his brother's house to retrieve his wife. Shen-dił brought his club made of caribou horn and carved to represent his Raven crest. The club is the highest weapon used for war, and was used only in the hands of the highest chief.
- When Shen-dił arrived at his brother's house, he opened the door to find his brother standing with his head bowed. Shen-dił hit his brother over the head with his club and he died right there.
- Shen-dił took his wife home. On their departure, Shen-dił sang a "weeping song" lem-mik-oie. A little farther, Shen-dił sang another lem-mik-oie, this one with a sadder way. As they neared Wens-ga-łgoal, Shen-dił sang the third and last song,

a lem-mik-oie named Ghed-lqul-hel-len, meaning “loneliness in memory of the ancestors”.

- Once Shen-dił and his wife reached their village, they continued to live there.

**Decision/Resolution: What is decided or how is the issue resolved?**

- When it becomes clear that Shen-dił’s brother will not respect marriage laws and kidnaps Shen-dił’s wife to try to force Shen-dił and his niece’s hand, Shen-dił kills his brother.

**Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- Shen-dił’s brother would not take no for an answer and when he was given a chance to return Shen-dił’s wife after kidnapping her, he did not express regret nor right his wrong. Shen-dił therefore decided he had to kill his brother to protect his daughter and wife from further harm.

Unsaid:

- There are strict marriage laws involving family members and clan membership under the Gitksan legal order. These laws must be followed and not adhering to these laws can be grounds for a legal response.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Nobody except Shen-dił is named in this story.
- Shen-dił sings three lem-mik-oie after killing his brother. What is the legal purpose of these songs?

# Kwakwaka'wakw Legal Orders

## The Blind Girl

Pamela Whitaker, Chief James Wallace. *Kwakiutl Legends* (Surrey: Hancock House Publishers Ltd., 1981) at 194.

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This story is one that was told by Mr. Wallas's mother. It takes place in the Cape Sutil area where, Mr. Wallas says, a lot of things happened. He remembers a village there where he would go when he was young to camp and fish for halibut.

A young lady, the daughter of the chief of the village, was born blind. She could not see at all. The chief had two servants who would take his daughter where she wanted to go.

One day the blind girl said, "I would like to go to the Cape Scott area. I've never been there before." So she and the two servants went off by canoe.

The chief had a tall totem pole standing beside his fine lodge. There were two eagles that always sat on the totem pole and warned the village if someone approached. From high up on the pole the birds could spot canoes coming long before anyone else. As the blind girl and her two servants moved along in the canoe they could hear the eagles screaming. After a while the blind girl asked, "Will we be there soon? It seems like we have been traveling a long time."

Now the servants that were with the girl had been taken as slaves from another tribe. They had never lost hope of escaping back to their own people and now took the opportunity to try to do so. One of the servants said, "I don't know where we are. It's really foggy here—we seem to be lost."

"Don't worry," said the chief's daughter. "We can turn back now and the eagles' screams will guide us home."

The servants pretended to turn the canoe around but actually headed out to open sea. They paddled and paddled. The blind girl could not tell when night had fallen. When daylight came they could only faintly hear the eagles and by evening of that day they could hear them no longer.

They kept on for two more days. On the evening of the fourth day they reached a strange village. The people of that village met them at the beach and asked, "Where are you from? What are you doing here? You must be from far away—we have not seen canoes like yours before."

"Yes, we come from far away," replied the servants.

"Why did you come here? What do you want?" they were asked. But the servants didn't say much.

One man said to the three, "You'd better come up to the house." He asked the blind girl, "Who are you? What is your name?"

"I am the daughter of a chief," replied the girl. "I don't know how we got here because I can't see. These two servants told me that we were lost in the fog. After two days we could no longer hear the eagles on my father's totem pole. After that we traveled two more days."

"Well, you've come to the right place," said the person who had invited them to his lodge. "I am the chief of this village and I have a son who is of marrying age. You are the daughter of a chief. If you marry my son you may stay here."

Back at the village of the blind girl, her parents were very worried. She had been gone several days and they had not heard of her.

"I fear that our daughter is dead," said the chief to his people. "Perhaps she has drowned, although she had two that can see to help her."

In his grief he ordered, "Fell the totem pole that stands by my lodge for it belonged to my daughter. It will not be raised until I see her again."

When the people cut the tall pole down, it fell into the water toward Hope Island. It is now Nahwitti Bar, a very rough and shallow spot when the tide goes out.

At the strange village, the blind girl married the chief's son and she bore him two strong sons. She waited until their sons were big enough to canoe by themselves and then she told them, "You have grandparents where I come from—I hope they are still alive. Your grandfather was the chief of our village, and I was his only daughter. My father's servants ran away with me one day when they were supposed to take me to Cape Scott. They told me that we were lost in the fog and we ended up here."

"If you find my people," she said to her sons, "and you like it where they are, you may stay."

"We would like to see our grandparents," the boys said. "We will try to find them." So their father made them a sturdy canoe dug out of a cedar tree.

"Paddle south for two days," the mother instructed her sons, "and you will hear the screaming of eagles. Follow the eagles' voices for two more days. When you arrive at the

village, tell my father that I am alright. Tell him your names. He will know who you are, for you are named for him." The two sons of the blind lady set off in the canoe their father had made for them. On the second day of their journey they listened for the eagles but could not hear them. They traveled two more days but still did not hear eagles' voices. They soon came to a village and inquired, "In this village is there a chief who once lost a daughter who was blind?" They were told that there was.

"Where is the big house with the totem pole beside it, the house of the chief, our grandfather?" they asked.

"He lives over there in that small house," the man answered. "He took down his big house and the totem pole when his blind daughter did not return."

The boys went to the small house and knocked on the door. Now some of the villagers had been very cruel to the chief when his blind daughter was lost. They would come to his door and say, "Here is your daughter coming — just landing on the beach," or "There is a big canoe approaching. It must be your daughter!" The chief would go out and look, but there would be nothing.

When his grandsons knocked on his door and said who they were, he chased them away. "We have had enough of this," he shouted.

They knocked again at his door and called, "We are your grandsons. Our mother told us your name. She has given us special names so that you will know us."

"You had better go to the door and talk to them," advised the chief's wife.

Finally the chief relented and went to the door. "What are your names?" he asked the boys.

His grandsons told him their names, and the chief knew that they must be the sons of his lost daughter. "Our mother wanted us to come and see you and tell you she is alright," the boys said. They told their grandfather how their mother had been taken away by the servants.

The chief believed them. He knew that they were his grandsons. "Pick up your things," he said to the boys, "and bring them inside."

"Tomorrow we will get the people together and build a fine lodge again. We are going to have a potlatch to celebrate my daughter's safety and that we have two grandsons. We are going to have a big feast and tell the people your names. I feel good now."

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## Case Brief

### The Blind Girl

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**Problem (Issue): What is the main human problem that the story focuses on?**

- What is the proper response when a vulnerable woman is taken from her community and must make choices to ensure her survival?

**Facts (Relevant): What facts matter?**

- The daughter of a Chief, who was born blind, wanted to go to the Cape Scott area and had two slaves take her in a canoe.
- However, the two slaves wanted to return to their people and so they lied to the Chief's daughter and said that they were lost in the fog, when in reality they paddled deliberately out to open sea. Once she could no longer hear the eagles she had no idea where she was.
- The slaves paddled until they found a strange village far away. When the three of them met the Chief, the girl introduced herself and told the story of how they got lost. The Chief says that she could stay if she married his son.
- She married the son of the Chief and had two sons. When they were big enough to canoe by themselves, she told them to return to her village and tell her parents that she was alive. She also told her children to tell her father their names and that if they liked it there, they could stay.
- The two boys travelled back and discovered that the Chief was deep in grief over the loss of his daughter, and had taken down the big house and totem pole when she did not return.
- The children went to the Chief and told him they were his grandsons, but the Chief initially did not believe them as some people in the village had been cruel to him and misled him to believe multiple times that his daughter had returned.
- When the grandsons told him their names, he believed them and announced that he would hold a potlatch to celebrate his daughter's safety and the two grandsons, and build a fine lodge again.

**Decision/Resolution: What is decided or how is the issue resolved?**

- The woman made the best decisions she could in order to survive, and by sending her sons back to her father there could be closure for the community through public acknowledgment and validation at a feast.

**Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The Chief said that if she married his son, she may stay in the village.
- Once the woman had children of her own, she sent them back to her home village to provide her family and community with closure and the truth of her story.

Unsaid:

- This offer was posed as a choice; however, there was no option to stay without marrying the Chief's son, so she would otherwise need to travel on elsewhere. The woman was robbed of her agency to choose a husband and married out of survival.
- Having a feast added the woman's story to her community's history and legal precedents, and allowed for community members to witness, validate and then be able to recount the story to future generations.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Why does the daughter not head out with her sons back to her village to be with her family, what obligations keep her at the village far away?
- Why did no one in the village offer to carry a message from the daughter to her old village, so her family could know she was alive?
- What happened to the slaves after they arrived at the new village? Did the community accept them or did they leave to try and find their home?
- How did the woman find out that the slaves lied to her and that they had taken her away when they were supposed to take her to Cape Scott?
- What does this story say about citizenship?

# Nisga'a Legal Orders

## The Origin of the Wolf Crest

This case is drawn from the story, "The Origin of the Wolf Crest" by Mrs. Arthur Wellington, Port Simpson, recorded by William Beynan in 1915. See George F. MacDonald & John J. Cove, *Tsimshian Narratives 1: Tricksters, Shamans, and Heroes* (Ottawa: Canadian Museum of Civilization, 1987) 67.

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In olden times, a chief of the Gitlaxdamks on the Nass River would not allow his daughter to marry. All the different suitors failed because the father was not satisfied with them.

One morning, a number of men arrived from the hills. They declared that they had come to gamble. They entered the house of this chief and took off their packs and laid out their gambling equipment. Their bags were finely decorated with the quills. They all sat in a circle around the young prince who was very bright and beautiful to look at. The people of the chief's house were prepared to gamble even though they did not know where the men came from. The chief's daughter admired the young man.

When night came, they stopped gambling, and the young man was the winner. The villagers wanted the visitors to stay. The chief ordered that mats be spread for them to sleep on. A large fire was made, food prepared and they feasted. When everybody was asleep, the young prince woke the chief's daughter asked her to elope with him. She was willing to run away with him even though she did not know who he was or where he came from. She arose and packed her things in a bag. The prince told her to hide her face and he picked her up, threw her on his back, and took her up into the mountains. After passing a number of valleys and mountains, they came to a village at the foot of a large mountain. They arrived at the house of the chief, the father of this young man. When they left the human village the prince and his party had assumed the shape of wolves. Now that they had arrived at their own village, they took off their wolf shapes and took human shapes. The chief married the young couple.

The young woman saw a many women, old and young, some very beautiful. But the skin on their legs was covered in sores from the extreme cold and also burns from the fire. She had not yet found out that her husband was a wolf. He was a good husband and very fond of her. One of the slaves took pity on the young woman, "Don't you know the man you are married to is a wolf? All these women were former wives, now they are slaves. They were all the daughters of chiefs that were too particular about their daughters' marriages. So these wolves enticed them away. The prince was once fond of us just as he is to you, but he put us aside and made slaves of us. When he hears of some other woman, he will do the same thing to you". After the slave explained all this to the young woman, she warned her to be very careful and to try to keep in the prince's good graces.

The wolf people hated the smell of human blood. The young woman became very worried as her period was almost due. One night she told the prince that she was sick. He pushed her from him and cried out to warn the rest of the wolves in the village to hide their noses. This was so that they would not smell the blood because if they smelled human blood, they would devour her.

The young man sent his young wife up the mountain with one of the slaves to a small cedar shelter. The woman was not really sick. Now that she managed to get away from her husband, she made plans to escape with the slave. The slave knew that the young chief would watch them and see if their fire was still burning. They decided to run away after the prince made his visit on the third day. When he left, they started off but they only had one pair of snowshoes.

The slave woman put on the snowshoes and placed the young woman's feet behind her own. In this way they made great headway and they managed to get to the top of the mountain by nightfall. At the break of day, they climbed down the other side of the mountain. They spent the night in the valley. The slave knew that they would soon be missed. When they reached the top of the next mountain, they heard whistling behind them. The slave knew that they were being chased by the wolves. The slave now travelled as fast as her heavy burden would allow her. The slave was using all her strength to escape because if they were caught, it would mean death to her and perhaps the young woman. The wolves were getting very close to them.

The women came to a hemlock tree, and the slave threw the young woman up into it and she climbed into the lower branches. The young woman climbed up into the top branches. The poor slave did not have enough strength left to climb any farther. The wolves dragged her down and tore her to pieces and devoured her. They then surrounded the tree and assumed the forms of human beings. The young man called his wife, but she was afraid. She refused to listen to any of their promises. The wolves assumed their animal shapes and tried to uproot the tree. They cut all the roots and still they could not fell it.

Night came and the wolves settled themselves around the foot of the tree. When morning came, the young woman thought of a plan. She knew that they would hide from the smell of blood so she made her nose bleed and let the drops of blood fall the wolves, seeing the human blood, all hid their heads. The wolf father-in-law called upon the other wolves to turn back. In the morning the young woman came down to escape.

The young woman travelled for two more months. Her moccasins were worn out and her clothes were torn and ragged, but the weather got warmer. "She had wandered so long without food, that she reached a stage of not caring what became of her." She came across an old woman, Loon Woman, the loon spirit, who fed her and kept her until she recovered her health. Loon Woman healed her and clothed her. Finally, Loon Woman said,

“I will send you back to your own people”. Loon Woman took her and painted her face red and made a representation of the sun with smaller suns inside the larger one on her face. Loon Woman told her that her new name would be Yalek and she was to wear the sun. She said that the sun crest would belong to this one woman and her children, generation after generation, as long as the family was alive, together with songs of this design.

The young woman travelled on and finally found her people and her family, and she described everything that happened to her. Her father held a great feast to show his daughter to the world and to name her. The young woman painted her face exactly as Loon Woman taught her and she became Yalek. The young woman was pregnant and she gave birth to a child that resembled a wolf – he had a pointed nose and a small tail. Because of this, the people of this place assumed the wolf crest.

## Case Brief

### The Origin of the Wolf Crest

**Problem (Issue): What is the main human problem that the story focuses on?**

- What are the consequences of being an over-protective parent?
- How does one respond to gender violence, dangerous oppression and perhaps death?

**Facts (Relevant): What facts matter?**

- A chief refuses to let his daughter marry. No suitor was acceptable to him.
- A group of men, including a beautiful prince arrives to gamble. The prince entices the chief's daughter to elope with him even though she knows nothing about him.
- The young woman arrives at the prince's village and finds many abused slave women who were former wives of the prince. She learns that it is likely that she will be made a slave herself once the prince, her husband, hears of another vulnerable woman.
- The young woman escapes with one of the slave women. The slave woman is killed by the wolves, but the young woman manages to escape by using their fear and dislike of human blood against them.
- The young woman is assisted and healed by Loon Woman, who gives her the name Yalek, and the crest and songs that go with the name.
- After several months, the young woman finds her way home. There, she gives birth to a baby with a small pointed nose and tail. This is the origin of the wolf clan.

**Decision/Resolution: What is decided or how is the issue resolved?**

- The young woman decides to survive and is helped to escape first by the slave woman and then by Loon Woman, who gives her the name Yalek.
- The slave woman sacrifices herself so the young woman can escape.

**Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The young woman's experience and the birth of her wolf child are recognized as the origin of the wolf crest.

Unsaid:

- The young woman was vulnerable because her father was over-protective.
- The slave woman knew that she had no real life continuing to live as a slave, so she might as well try to escape with the young woman.
- The name Yalek and the associated crests and songs will be performed at all the pole-raising feasts, and so will always be a reminder about over-protection and vulnerability.
- There will continue to be those who take advantage of those that are vulnerable.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Where was the young woman's mother? Why was she not acting on her responsibilities to the young woman?
- Will the wolf baby be accepted by the young woman's community?

# Secwépemc Legal Orders

## Coyote and his Wives

“Coyote and his Wives” in Jessica Asch, Rebecca Johnson, and Cheyenne Arnold-Cunningham et al, eds (Indigenous Law Research Unit, Shuswap Nation Tribal Council & Secwepemc sna7a Elders Council), *Secwépemc Laws of Kwséltkten and Secwépemc-kt Casebook* (Victoria: Indigenous Law Research Unit, 2023) at 161.

Coyote was living with a friend, who had a very pretty wife. He became enamored of her, and killed his friend, so that he might gain possession of her. When the woman refused to go with him, he said to her, “I have even killed my friend to gain you, then why should I spare you if you do not obey my wishes?” She became afraid and went with him. He said, “To-morrow I will hunt, that you may have fresh meat to eat.” On the next morning he hunted, and in the evening returned with two fawns, — one for her, and one for himself, — but he ate them both. Then he said, “You are only my slave, and not my wife, I will seek a real wife,” and killed her.

Soon afterwards he saw a man and his wife, and, after casting a spell over the man which put him to sleep, he killed him and took possession of the woman. He said to her, “To-morrow I will hunt, that you may have meat to eat.” On the following morning he hunted, and brought back two fawns, which he ate himself. Now he told the woman that she was only his slave, and not his wife, and that he wanted a real wife. Then he killed her.

Again Coyote stole a wife by foul means (my informant had forgotten the exact manner in which he obtained her). He killed two fawns, which he ate himself. Then he said, “To-morrow we will shift camp;” but in the morning the woman had a swelled leg, and could not walk. Again he hunted, and killed two fawns, but on the following morning the woman was still unable to walk. This happened four times; then he said to her, “You are my slave, and not my wife,” and killed her.

Again Coyote got a wife by foul means, and killed her (my informant had forgotten this part of the story).

Now Coyote could find no more people, and at last made up his mind to take a corpse for his wife. He went to a graveyard and dug up the body of a woman. He opened her eyes, but they would shut again. Then he treated her as shamans treat sick people, and she moved a little. He continued to do so, and her eyes opened. He said, “There is sufficient life in her,” and placed her in a sitting posture. He talked to her, and said, “I will go hunting and bring you food.” He returned with two fawns, cooked them, and offered her some meat to eat. Now he made her lie down, saying, “To-morrow we will move camp.” When day came, he said, “Arise, wife, we will shift camp,” but she never moved. Again he said, “Make haste,

wife, and arise, we must shift camp;" and thus he addressed her four times, but she never moved. Now he got angry and struck her with his fist on the cheek, saying, "Thus I treat a disobedient wife." Again he struck her with his fist on the other cheek; but his hand slid off, taking off the rotten flesh, and exposing the bone.

## Case Brief

### Coyote and his Wives

**Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when men are possessive and violent towards women?

**Facts (Relevant): What facts matter?**

- Coyote steals four wives by foul means and murders all four.
  - The first wife he steals, he kills his friend and then threatens to kill her when she refuses. She becomes afraid and obeys, and ends up being murdered anyway.
  - Not all four incidents of how the women are stolen are described.
- The murders follow the same pattern:
  - Coyote covets a woman and obtains her by foul means (one example described is that he murders her partner) so he can possess her.
  - The next day after the possession he goes on a hunt, brings back two fawns and eats them in front of her, and does not share any of the meal with her.
  - He tells the woman that she was only his slave and not his wife and justifies the murder of the woman by saying that he wanted a real wife.
- When there are no more people (because he killed them all), Coyote decides to dig up the corpse of a woman and treats her like shamans do so she has a bit of life in her.
- Coyote tries to repeat the pattern of how he treated the other women, but this woman never moves or responds.
- Coyote gets angry and strikes her for being a disobedient wife, but his fists slide off her cheek with the rotten flesh and in doing so exposes the bone.

**Decision/Resolution: What is decided or how is the issue resolved?**

- When women are subjected to this kind of violence, and those who oppose it are eliminated, a deadly pattern ensues. The consequence is that the women lose their lives, and there is no recourse for their murder.

**Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The women are demeaned, abused and murdered by Coyote when he realizes the women do not fit the ideal he built up in his head.
- Coyote murders the women's partners and communities in order to force them to marry him, and there is eventually no one left to address or resist Coyote's violence.
- A woman is free to choose to respond (i.e. not move) as she wishes when she is free from being harmed by the use of fear, hunger, verbal threats or physical violence.

- Coyote decides to dig up a corpse for a wife as he was unsatisfied with all of the previous women he had tried to possess, but she does not comply with his requests even when he physically assaults her.

Unsaid:

- An obedient wife who meets all of your expectations and desires does not exist.
  - None of the women in this story have any choice or opportunity, this is a counter-story to illustrate how women's choices have been taken away.
- It is unacceptable for men to use fear and hunger to subjugate women.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Also a counter-story in that Coyote demonstrates what not to do through his horrific actions.
- Coyote consistently demeans the women before he kills them by saying that they are slaves - given the context of slaves within Secwépemc society, is this part of the counter-story as well? To communicate the value of slaves?
- There are four wives and he strikes the last wife four times - is there significance to the number four?
- After Coyote kills everyone, it is clear that there are no people left. Is this to symbolize that when you murder women, the community is doomed to have no more people in it as they are the ones who bring people into the world?

# PART II

STORIES, ANALYSES,  
& SYNTHESSES





VAL NAPOLEON  
2014

# Coast Salish Legal Orders

## Legal Primer

Coast Salish nations are situated across southern coastal British Columbia and Washington state. Communities stretch from the coast of what is now known as Puget Sound in Washington state to southern Vancouver Island and across the Salish Sea to British Columbia's mainland in the valleys along the Fraser River.<sup>3</sup> While there are many nations spanning this territory, each society is distinct in their histories and traditions, and speak many different languages and dialects.<sup>4</sup>

Coast Salish laws emerged from Coast Salish peoples' and their ancestors' relationships with the land, and are consequently written into the land in the form of landmarks and the enactment and maintenance of Coast Salish relationships to the land and wildlife.<sup>5</sup> The prevalence of the marine environment in the territory means that the waters are integral to all social, cultural and economic aspects of Coast Salish life - so much so that Dr. Nicholas XEMFOLTW Claxton notes that the W̱SÁNEĆ often refer to themselves as the "Saltwater People."<sup>6</sup>

Throughout the Coast Salish area, life followed a seasonal rhythm, which varied between nations due to the variations in economic and social environments.<sup>7</sup> Communities would move between villages, following the movement of fish, such as salmon and herring, throughout the territory.<sup>8</sup> Family groups collectively owned hunting, fishing and gathering grounds, and they shared these with others who adhered to the guidelines set out by those who were considered the custodians of the site.<sup>9</sup> While the Coast Salish nations are unique and distinct, they are not entirely separate - through the networks of legal interactions such as intermarriage, economic trade and ceremonial activities, the whole Coast Salish region is a kind of social continuum.<sup>10</sup>

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3 Sarah Morales, "Snuw'uyulh: Fostering An Understanding of the Hul'qumi'num Legal Tradition" (PhD Dissertation, University of Victoria, 2014) [unpublished] at 10.

4 Jessica Asch, Tara Williamson, and Leslie-Ann Paige (Indigenous Law Research Unit, NĪ TU,O Child and Family Services Society), *Toolkit: Coast Salish Laws Relating to Child and Caregiver Nurturance & Safety* (Victoria: ILRU, 2021) at 13.

5 Sarah Morales, "Locating Oneself in One's Research: Learning and Engaging with Law in the Coast Salish World" (2018) 30:1 Can J Women & L, at 151.

6 Asch, Williamson, and Paige, *supra* note 2 at 15.

7 Diamond Jenness, Barnett Richling, ed., *The W̱SÁNEĆ and their Neighbours* (Oakville: Rock's Mills Press, 2015) at 6.

8 *Ibid* at 8.

9 Russel Lawrence Barsh, "Coast Salish Property Law: An Alternative Paradigm for Environmental Relationships" (2008) 14:1 Hastings W-Nw J Env't L & Poly at 1395.

10 Asch, Williamson, and Paige, *supra* note 2 at 20.

Dr. Sarah Morales (Hul'qumi'num Mustimuhw) asserts that Coast Salish law is more than ideas—it is a practice, an activity.<sup>11</sup> The practice of Coast Salish law is embodied through kinship relations, shared community norms and practices, public declarations, witnessing and approval through community feasts, ceremonies and gatherings.<sup>12</sup> In the Coast Salish world, kinship is central to an individual's wellbeing and participation in the community, as well as for their access to hunting, gathering and fishing territories.<sup>13</sup> Kinship lines denote the legal obligations individuals must uphold towards each other and the natural world. Kinship in the Coast Salish world is broad, including humans, wild and domesticated animals, plants, and invisible beings such as spirits.<sup>14</sup> For example, Coast Salish peoples' relationships to their Ancestors are of central importance to their worldview, and the Coast Salish legal tradition is rich with legal practices which guide the Coast Salish in fulfilling their legal obligations to care for and respect their Ancestors.<sup>15</sup>

Coast Salish stories are the foundation for understanding Coast Salish law, and this is especially true of creation or transformation stories as they tie people to place, each other, and other territories.<sup>16</sup> Stories and oral narratives contain numerous teachings that can be set in different contexts to understand multiple legal rules and principles.<sup>17</sup> The subject matter of these stories, as seen in Puneluxuthh' and Cowichan, are described as sxwi'em, which are set in the ancient past, and syuth, which are the stories of immediate ancestors and are embedded with history and cultural teachings.<sup>18</sup>

Coast Salish stories are tools for teaching, learning and thinking, passed down by Elders on to the next generation.<sup>19</sup> As emphasized by W̱SÁNEĆ scholar Robert YELKÁTŦE Clifford, stories are composed of many voices and are shaped by context, relations and understandings - the practice of learning comes from self-insertion in the stories as an agent.<sup>20</sup> Stories are traditionally an oral practice for the Coast Salish. When they are shared, there is an interrelationship between the story, the storyteller, and the listener.<sup>21</sup> Łaʔamɩn Elder Elsie Paul demonstrates this relationship in sharing how after stories were

11 Morales, *supra* note 1 at 149.

12 *Ibid* at 114.

13 Barsh, *supra* note 7 at 1388.

14 *Ibid*.

15 Morales, *supra* note 3.

16 Asch, Williamson, and Paige, *supra* note 2 at 21.

17 *Ibid* at 33.

18 Beryl Mildred Cryer, and Chris Arnett, *Two Houses Half-Buried in Sand Oral Traditions of the Hul'qumi'num' Coast Salish of Kuper Island and Vancouver Island* (Vancouver: Talon Books, 2007) at 21.

19 Asch, Williamson, and Paige, *supra* note 2 at 24.

20 Jessica Asch, Tara Williamson, and Leslie-Ann Paige (Indigenous Law Research Unit, NIŁ TU,O Child and Family Services Society), *Toolkit: Coast Salish Laws Relating to Child and Caregiver Nurturance & Safety, Abridged Casebook* (Victoria: ILRU, 2021) at 24.

21 *Ibid* at 6.

told night after night, the children would be asked what they learned, illustrating how stories are a teaching tool to help absorb the way of life.<sup>22</sup> The interrelation of Coast Salish stories extends further as they link to other stories, aspects of knowledge, worldview, the land and the language.<sup>23</sup>

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22 Elsie Paul, Paige Raibmon and Harmony Johnson, *Written as I Remember It: Teachings (?Ms Ta?Aw) from the Life of a Sliammon Elder* (Vancouver: UBC Press, 2014) at 148.

23 Asch, Williamson, and Paige, *supra* note 2 at 33.

## Stories & Case Briefs

### The Woman Who Was Made Wrong (Part 1)

Beryl Mildred Cryer, and Chris Arnett, *Two Houses Half-Buried in Sand Oral Traditions of the Hul'q'umi'num' Coast Salish of Kuper Island and Vancouver Island* (Vancouver: Talon Books, 2007) at 120.

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*A short anecdote about facial mutilation segues into a story about the frightening ordeal of a woman with a physical deformity, during the infamous Haida raid on Puneluxutth' in the first half of the nineteenth century. After this story, Mary Rice tells Cryer a Snuneymuxw Creation Story that her son-in-law, Jimmy Joe, gave her "to tell that lady."*

Poor old Siamtunaat has, as usual, a house full to overflowing, with her "relations"—Tommy Pielle, her brother, and four orphaned grandchildren all visiting her.

I was relieved to find that Tommy Pielle and the two bigger boys were just going off to pick cherries, leaving the small Dorothy and Jimmy with their grandmother.

These two chubby, brown-faced imps were very busy trying to shut under a box a small yellow dog of that indeterminate breed seen only amongst the Indians. They were having but little success, and the small girl, losing patience, began hitting the unfortunate dog.

"D'othy!" Siamtunaat called. "Ah, D'othy!"

She hobbled to the door, and, standing there, read a lecture to the small culprit. As she talked with many gesticulations, I saw a look of absolute horror spread over the child's face; she gave a swift, side-long glance of fear at her small brother, clapped two grubby hands over her nose, and stood listening to her grandmother, dark brown eyes peering unblinkingly from between her fingers.

The lecture finished, Siamtunaat went back to her chair, chuckling. "Now maybe she'll be good," she said. "When D'othy gets bad I always tell her that story, and she's so scared that she keeps good until she forgets it again!"

"What did you tell her?" I asked. "Well, you 'member I told you about that man Qleysuluq who got out of the jail at Nanaimo? Now that woman, his wife, who helped him, was very, very ugly. Such a nose!"

Siamtunaat held up her hands in horror at the recollection of that nose.

"When she was a young girl that woman was very bad; no one liked her, and she had no friends. One day her brothers told her; 'You got to behave, or we'll punish you.' But it was

no good; she just went on doing everything that was wrong. So, what do you think? One day her brothers took her in the house, and they got a sharp knife. Then one held her and the other cut her nose; two cuts on each side of her nose they made. I 'member seeing her when she was an old woman, and, my! She was ugly, the sides of her nose hung down. Oh, my!

“There,’ they told her, ‘now when people see you they will know you have been punished and no one will look at you.’ That’s the story I tell D’othy when she bad. I say, ‘Look out! Or your brothers will cut your little nose, and it will hang loose on your face like Qleysuluq’s wife!’

## Case Brief

### The Woman Who Was Made Wrong (Part 1)

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when a young girl repeatedly refuses to change her problematic behaviour?

#### **Facts (Relevant): What facts matter?**

- A young girl does not behave or conduct herself as expected, so she has no friends, and no one likes her.
- One day, her brothers warned her that if she did not behave, she could expect punishment.
- She continued to do everything wrong, and so her brothers mutilated her face with a knife.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- The young girl ends up alone, living with the lifelong consequence of her mutilation.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The story of this young girl is told to other young girls as a warning that if they behave badly, their brothers will cut their little noses.
- Upon seeing her mutilated face, the community will know that she has been punished for her behaviour.

Unsaid:

- When a young girl acts badly and does not listen to the warning to behave, she is subjected to physical violence in a way that will be a visual reminder for other young girls to behave as expected.
- Seeing the young girl's mutilated face will have a chilling effect on other young girls to behave as expected because they will not want to be physically hurt, and they do not want to be ostracized by the community.

#### **Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- When the story says, "She just went on doing everything that was wrong," it does not specify what the young girl did that was wrong. Would the decision or reasons change if we had specific details about her actions?
- Why does the story immediately leap to physical violence and mutilation only after a single warning? Why are there no other steps to address her behaviour? Why is

the reaction so drastic?

- The story is very specific in that it is the brothers who are to punish their sister who does not behave accordingly. What if a young girl does not have any brothers? Would another family member be expected to cut their nose if they behaved badly, and what family member would that be?

## The Woman Who Was Made Wrong (Part 2)

Beryl Mildred Cryer, and Chris Arnett, *Two Houses Half-Buried in Sand Oral Traditions of the Hul'q'umi'num' Coast Salish of Kuper Island and Vancouver Island* (Vancouver: Talon Books, 2007) at 120.

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She sat laughing and rocking in her chair for some time, then asked:

“Did I ever tell you about that woman with the big head at Puneluxutth? No? Well, I can tell you that story today. You ‘member long ago I told you how the Haidas came down and fought the Cowichans at Puneluxutth’, when my grandfather Xulqalustun, was chief? How all the women and children took food and hid in the woods, and my grandmother swam to another island with her two children, one on her back and the baby held in her teeth? Well, at that time there was a woman living at Puneluxutth’ who was ‘made all wrong.’ She had six fingers on each hand, and each foot had six toes. Her head was two or three times bigger than any other Indian’s head, and her hair was not like our hair; it was curly! She was very, very ugly, but my mother told me she was very kind to all the other women and to the little children.

“Well, when the Puneluxutth’ saw the Haidas coming, as I told you, all their women ran away and hid back in the trees, but this woman had been so busy helping the children get ready that she was the last to leave. The Haidas were getting near the houses, when she crept out of the door and began to crawl up the hill to where the trees were thick and dark. All the other women and their children were out of sight; she was all alone, crawling, crawling up over logs and stones, trying, trying not to be seen. Behind her she could hear the shouts of the fighters, but on she crawled, through the long grass; for, if she was caught, she knew the Haidas would take her back with them to be a slave, and she would never see her people again. It was hard work for her to keep her big head down in the long grass, and very soon there was a great shout close behind her. She lay still, hoping she would not be seen, but up the hill came four Haidas, shouting for joy as they saw her lying there. Suddenly the woman ‘membered how she was made, her big head, her hands and feet! Perhaps they would save her!

“She sat up and waited until the Haidas were quite close, then she held out her arms and spread all her fingers out for them to see. She put out her feet to show all her toes too. ‘See,’ she called to them. ‘Look at me. See my great head! And all my big toes and fingers! No man may kill me, or take me prisoner!’ She laughed at them as she sat there.

“When the Haidas saw such a queer woman they stood and looked at her, and she saw they were afraid. She stood up and held her arms high in the air, and shook her great head at them. The men watched her, and, as they looked she gave a loud cry and took one step to them, and as she came so they went back, back down the hill, never taking their eyes from her face.

“They were nearly down the hill, when the woman caught her foot in a hole and down she fell on her face in the grass. As soon as her eyes were off them, the fear left those men, and with loud shouts they caught her, and while three held her the other one took his knife and cut all around her head, taking away all the skin and hair. They did not kill her; maybe they were still afraid of her, but they left her lying there alone in the grass.

“After a long time the Puneluxutth’ drove the Haidas away, and all the women and children came running down the hill, and there they found that poor woman nearly dead. They carried her down to the big house where she lived, and do you know what they did? They got lots of fish oil, and they put it all over her sore head, and then they got soft, grey, duck feathers— just the soft down that grows under the feathers— and they put lots of these on, patting them into the oil and then putting on more, until all the bleeding had stopped.

“For a long time that poor thing was very sick, often they thought she would die; but she was a very strong woman and bye-and-bye her head got better, a little skin came; but she never had any hair again. She always looked so funny, because she could never get those soft feathers off her head; they stuck all over it like little grey hairs growing, and my mother told me that all the little children would sit listening to her tell them the story of the Haidas taking her scalp and all of the ducks giving her their soft feathers to grow on her head, and keep it warm.”

## Case Brief

### The Woman Who Was Made Wrong (Part 2)

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when a woman is subjected to physical violence for her appearance?

#### **Facts (Relevant): What facts matter?**

- A young woman lived with physical deformities that she was born with.
- When the Haida raided Puneluxuthh', she had been so busy helping the children flee she ended up being the last to leave. And because she was "made all wrong," she could not hide when the Haida arrived.
- Because she could not hide, she tried to challenge the Haida men by saying that no man could kill her or take her prisoner.
- The Haida were afraid of her because of her appearance, and they began to run away; however, when the woman tried to chase them, she fell, and the men physically attacked her when she was vulnerable. They did not kill her because they were still afraid of her but left her alone in the grass.
- When the women and children found her nearly dead, they immediately provided care for her with fish oil and soft grey duck feathers to stop the bleeding and continued to care for her until she got better.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- The community took care of the woman after she was harmed for as long as she needed. The woman continued to be included in the community despite her scars and deformities.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- After the Puneluxuthh' drive the Haida away, the women and children return to find her nearly dead. They all take care of her, and after a long time, she eventually recovers.
- The community allow her to remain even though she lives with many scars and deformities, and the duck feathers remain stuck to her head. The woman also continues to spend time with the children.

Unsaid:

- Even though she was very ugly, the community had an obligation to heal and care for her after she was harmed because she was kind to the women and children in the community, and she sacrificed herself to make sure the children were safe during the raid. The community also has an obligation to continue to include her in

community life and not ostracize her for her scars and deformities.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- The woman tries to embrace what makes her different as protection so she would not be taken as a slave by the Haida. If she had not protected herself in this way and had been kidnapped, would the community have gone looking for her?
- The story specifies that “she was very, very ugly, but [...] she was very kind to all the other women and the little children.” It does not say what the community’s treatment of her or what they thought about her physical deformities before the raid. Would the story’s message differ if we had more details of her life in the community before the raid?
- These two stories are tied together in that the same Elder told one right after the other. Why are these stories told in conjunction with each other, with vastly different community responses? What is the Elder trying to highlight with these stories?

## The Young Man Who Was Stolen By Lion

Thelma Adamson, ed. *Folk-Tales of the Coast Salish* (Lincoln: University of Nebraska Press, 2009) at 83.

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Told by Peter Heck

The people were living together in a village. They were having a big time, a dance. They had invited some outsiders to come. They intended to dance all night. Near morning, they would feed their guests.

One woman, while there, had given birth to a child. She was outside in a shed. She longed to go in and look on. But the people were afraid of her. (They fear a woman who has just given birth to a child.) The woman finally left her baby, went up to the house, and peeped through a crack. She was so absorbed, that she forgot all about her baby. Suddenly, she remembered him, and went back. In the meantime, someone had stolen her child. She wept. Before long, the others heard her and learned what had happened. They suspected that Lion (Xoqwa' Ip) had stolen the child.

Lion had indeed stolen the child. Crane (sq'was) had also been a party to the theft. The two of them intended to rear the child as their own. In the meantime, the big time kept on. Lion went out to look for (what was to her) roots and berries. She carried a basket with a small mouth. When she got back home, she emptied her basket; it was filled with lizards and other such disagreeable things. She squeezed some juice from a lizard over the baby's mouth. The baby did not like this; he shook his head and cried and cried. Next day, Lion went out again. Crane went out also. He got a newly hatched salmon and took it home. He rolled the tiny fish in some leaves and buried it in the ashes. As soon as it was done, he fed it to the baby. The baby liked it.

Everyone was afraid to attempt the child's rescue. Lion would kill them if they went near her. In five days' time the child had grown considerably. Crane made him a bow and arrow and told him what had happened. The boy was already a big fellow (for, in all the stories, children grow up in five days). "If you want to kill Lion, you can," Crane said, "When you start after her, don't creep upon her from behind, for she will see you; she always digs roots with her head down between her legs. Approach her from the front."

The youth went out and found a place where there were reptiles and rotten logs. There was a Lion, digging just as Crane had said. He approached her from the front and, when close to her, shot her. Crane had said, "[a]s soon as you hit her, run to my mountain over there: I have a tree there. Climb the tree and she won't be able to get you. Then splice the tree to the end of your bow and climb up to heaven." Lion did not know who had shot her. The youth ran away immediately and was soon some distance away. He climbed the mountain and found Crane's tree. Lion came to the tree, but she did not know how to

climb and had to turn back. She would go home and eat Crane.

In the meantime, Crane made wings so that he could fly. He had some arrows, and as soon as he saw Lion coming he shot her. She jumped at him. Then he flew away from her and shot again. He shot her five times, and the fifth time, he killed her. Then he made a fire and burned her. "This shall never happen again. Whenever a woman gives birth to a child outside, no one shall steal her child." He said to her burning body. When Crane flies, he says, "Sy'as, sq'as, sq'as."

The youth spliced his bow to the tree and climbed up to heaven. He came out on a large prairie covered with grass. He did not know where to go. It was very early in the morning. He took the trail through the open prairie. Before long, he saw a grey dog coming. Then he saw that there were five grey dogs. Behind them was a grey man. "Where did you come from?" the man asked. "I am the one who Lion stole; Crane told me to come here to escape her," the youth answered. "Very well, young man, I have five daughters. Go to my house and stay with them," the man said. The youth felt better after this encounter.

## Case Brief

### The Young Man Who Was Stolen By Lion

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when a woman is in a vulnerable position during isolation after birth?

#### **Facts (Relevant): What facts matter?**

- A woman is isolated in a shed when she gives birth to a baby. At the time, there was a big dance happening in the village, and she longed to be a part of it.
- She decides to leave her baby in the shed and peeks at the dance through a crack in the house.
- While she was gone, Lion stole the child, with Crane being a party to the theft.
- After the child had grown to a youth who could hold a bow and arrow, Crane instructed him on how to escape Lion.
- When the youth escapes, Crane kills Lion and burns her body.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- The community's practices regarding women's isolation after birth were amended to be less extreme for both the mother and child.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- When burning Lion's body, Crane dictates that this shall never happen again and that whenever a woman gives birth to a child outside, no one shall steal her child.

Unsaid:

- When a community's birthing practices can cause harm, they need to change so they do not pose a risk to the mother or child.

#### **Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- It is notable that Lion has she/her pronouns and that Lion is the one who steals the child. What were the circumstances that drove Lion to steal a child? Is Lion supposed to represent lateral violence of women or the lengths women will go to have a child when they cannot have one?
  - And why did Crane kill the Lion and burn her body? Why were there no other alternatives considered? She is a victim of gendered violence here, too; why is there no reference to any consequences of Lion's murder?
- Why are none of the family members or a partner mentioned in relation to the mother?

- Why is it that when the community is described, it is in a state of fear?
  - 1) the community is afraid of a woman who has just given birth to a child, which is why the birthing practice is for the woman to be isolated, and 2) the community is afraid to rescue the child because Lion would kill them.
- Why is the punishment for breaking isolation so severe to the point where the child is stolen? Why is there this leap?
- What changed for Crane? Why is he initially a party to the theft and then becomes the one to help the child escape? Why did he go from being a part of the problem to helping?

## Bear and Grizzly

Thelma Adamson, ed. *Folk-Tales of the Coast Salish* (Lincoln: University of Nebraska Press, 2009) at 211.

Told by Mary Iley, 1926

A young man had two wives, Grizzly and Bear. Bear had five daughters and Grizzly had five young sons. Bear would pick berries and bring back a large basket and a little basket full. She always gave the little basket of berries to her husband to eat. Grizzly would do the same, but the man seldom found any berries in the basket that she gave him, - just a berry here and there among sticks and leaves. Grizzly was a rough picker; she grabbed vines and all. She became jealous of Bear because she was always good to their husband; she gave him nice roots to eat. When Grizzly dug roots she brought up the whole plant, tops and all. Bear always brought home nice, clean roots. "I'd better kill Bear," Grizzly said to herself one day. Bear usually stayed close to camp when she worked, but Grizzly stayed off in the mountains. One day when they were out together, Grizzly said, "Oh, sister, come look for lice on my head; they're biting me." She laid her head in Bear's lap. Bear looked but could not find any lice. Then Grizzly said, "Let me look for yours." She snapped one fingernail against another to make Bear think that she was crushing the lice, and pulled her hair and twisted her head. "She'll be easy to kill," she thought.

The little Bears sometimes killed small deer, elk, and beavers to roast for their aunty Grizzly.

Bear looked for Grizzly's head lice four days in succession but each time found nothing. In turn, Grizzly looked for Bear's head lice and pretended that she had found some. The fifth day Bear said to her husband, "I think she's going to kill me to-day. She always twists my head so hard. You'll soon learn the kind of berries she'll bring you!" Once more, Grizzly asked Bear to look for her head lice. Bear looked and said, "You haven't any, sister." Then Grizzly said that she would look for Bear's. She grabbed her by the hair and twisted her head around until she killed her. She emptied Bear's berries into her own basket and took them home to her husband.

"Evidently these are Bear's berries; she must have killed her," the man thought. "Wonder where sister is? She's been gone a long time. It's getting late," Grizzly kept saying. "Where's your mother? It's quite dark," she said to the children.

Bear had not returned by morning, and so the man decided to leave. "You'd better leave or something will happen. Grizzly will kill you. I'm leaving because she killed your mother," he said to the Bear children. Grizzly had gone out early. The little Bears said, "let's wrestle with the Grizzly bears. We can kill them." They had rocks heating in five different places, planning to cook something as usual for Grizzly. They jumped on the Grizzlies and killed

them. The youngest Bear jumped on the youngest Grizzly, the second Bear on the second Grizzly, and so on. They roasted a dead boy in each one of the five pits. The youngest Grizzly had two fingers of his right hand bent under. The Bear girls owned a big dog. "If Grizzly asks you where we went," they said to the dog, "you mustn't tell her. Point in the opposite direction." They took all their mother's beads and dried lacamas and left.

Grizzly came home late in the evening, tired and hungry. She stopped at the first fire-place and ate, then at the second. She was quite pleased with what she found. "The girls killed something very nice to eat to-day," she said. When she got to the fifth, she thought, "What could they have killed that tastes so good?" Then she recognized her youngest son by his two bent fingers. "Oh, those girls! They've killed their brothers!" she cried. She dropped the piece of meat that she had started to eat and looked around to see where the girls had gone. She beat the dog and cried, "Where are your owners?" The dog pointed in a certain direction and she ran there. She ran and ran but could not find any tracks. Then she came back and beat the dog again. The dog pointed in another direction. She ran there, but still could not find any tracks. She beat the dog four different times and then he showed her the right direction. On the way, the girls had left some lacamas so that Grizzly would stop to eat. At a second place, they left some greens, at a third, some early berries, at a fourth, some later berries, and at a fifth, still later berries. Grizzly stopped at each one of the places. She dug up the plant stuff and ate it, and picked and ate the berries. At last, she remembered that she was looking for the girls. She shouted to her father who lived in the mountains, "Oh, father, the Bear girls have killed all your grandchildren. Kill them when they come." She knew that she was too far behind to catch up with the girls.

The eldest of the girls saw a house and said, "Let's stop here and cook some lacamas." Then Hot Rock, Grizzly's father, killed four of the girls and roast them on hot rocks. The fifth one escaped. She went far away, packing her heavy bundle. Hot Rock finally found her and took her home with him. The girl stayed with him as his wife.

A man finally came and took the girl away. Before he got to Hot Rock's home, the man stumbled on Lark's leg and broke it. He fixed her leg and she said, "Stay here and dig a well. When the five Hot Rock brothers come to the well to drink, shove them in with a stick and drown them." The man dug a well and made it very deep except in one spot. The girl's husband came along and leaned over to take a drink, as he was very thirsty. Then the man shoved him over into the deep part with his long stick and drowned him. Another brother came along and the man did the same to him. He did the same to the third. The fourth one came along and also stopped when he saw the well, as he was terribly thirsty. Then the man pushed him in also and drowned him. The fifth one came but was a little afraid to drink; the well looked rather strange and was almost dry by this time. As he leaned over, hesitating to drink, the man pushed him and drowned him. The man then went to the house and found the woman. The house was filled with dried salmon. He took the woman away with him.

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## Case Brief

### Bear and Grizzly

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**Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response to lateral violence deriving from competition within a family?

**Facts (Relevant): What facts matter?**

- Bear and Grizzly are married to one man, and each has had children with him. Grizzly had five young sons, and Bear had five young daughters.
- Grizzly decided to kill Bear because she was jealous that Bear was the better berry picker. Bear suspected Grizzly would kill her and mentioned this to the husband, saying that it would be noticeable by the quality of berries Grizzly would give him.
- Grizzly killed Bear, and thanks to Bear's warning, the husband recognized the difference in Grizzly's berries, and he decided to leave her.
- Before he left, he warned the children to leave, too, because of what Grizzly had done. In revenge, the female children of Bear killed all five of the male children of Grizzly, and gave Grizzly her children to eat for her next meal.
- In anger, Grizzly pursued the girls, but Bear's daughters outsmarted Grizzly in the chase. So Grizzly appealed to her father, Hot Rock, and he murdered four of the five girls. The fifth was able to escape, but he pursued her, and instead of murdering her, he took her for his wife.
- One day, she was out of Hot Rock's house, and she ran into a man who accidentally broke her leg. After he fixed her leg, she instructed the man to dig a well where she was and how to murder the five Hot Rock brothers. After he successfully killed all five, the man took her away with him.

**Decision/Resolution: What is decided or how is the issue resolved?**

- As the lateral violence is not addressed, the violence escalates.

**Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- Grizzly kills Bear because Grizzly is jealous of Bear. Bear and Grizzly's husband leaves the children to deal with the violence on their own.
- Bear's children and Hot Rock decide to commit subsequent murders out of revenge in response to the previous killings. Only one of the daughters ends up surviving the whole ordeal.

Unsaid:

- Violence creates more violence. Grizzly's decision to solve her problem with murder created a chain of further killings.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- What were the prior circumstances for Grizzly to feel like she needed to murder and steal from Bear, that Bear being good at berry picking was such a threat to Grizzly? What kind of environment had the husband created at home?
- Why did the husband not take any of the children with him?
- What happened to Grizzly after she asked her father for help in her quest for revenge for the death of her sons?
- Why is every decision to leap to commit murder? Why are there no other solutions or approaches proposed at all?
- Why did the husband only tell Bear's children about the death of Bear - would Grizzly's children not deserve to know that their family member had died?

## Xáls Makes Raven a Bird

Jessica Asch, Tara Williamson, and Leslie-Ann Paige, eds (Indigenous Law Research Unit, NĪŁ TU,O Child and Family Services Society), *Toolkit: Coast Salish Laws Relating to Child and Caregiver Nurturance & Safety* (Victoria: ILRU, 2021) at 17.

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Satitc, the north wind, blew so hard that Raven, who was a big man with many children, could not keep his house warm. His children suffered from the cold. He said to Mink, who lived with him, "I am going over to the home of Satitc (SOTEC) to steal one of his children." They paddled until they reached Satitc's home, which was covered with ice outside, though warm within.

Raven snatched up Satitc's little daughter and fled with her to his home, where he seated her near a fire and told one of his boys to poke her with a lighted stick every time the wind blew strong. The boy poked her in the stomach with the stick and she screamed. After a time, the wind died down, and Satitc came over with his people to rescue his daughter. Raven and Mink kept in the house and did not go out to meet them. Satitc called out "We'll give you anything you want if you will give me back my daughter. We'll make you very rich." Raven said to his son "Poke her in the stomach again." The boy did so and the girl screamed while her father and his people wept. Satitc called again "What is it you want? We'll give you anything you wish if you restore her to us." Raven said "I want refuse." They gave it to him, but Xe.Is was so disgusted that he changed Raven into a bird. Mink said to Satitc "I want the box that produces calm weather." They gave it to Mink, who placed it in the bow of his canoe and went out fishing. As he was looking down into the water Satitc sent his followers to steal the box from him. Just as they were rushing to spear him, Mink dived. That is why Mink dives after fish.

When Xe.Is turned Raven to a bird he said "Hereafter everyone who uses bad words shall be called by your name." So now when any one uses bad words the people say "He must be Spa.I (Raven/ SPOOL)."

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## Case Brief

### Xáls Makes Raven a Bird

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#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when a young girl is kidnapped and tortured?

#### **Facts (Relevant): What facts matter?**

- Raven decides to steal one of the North Wind's (also known as Satitc) children as it blew so hard that it was too cold for Raven and his children.
- Raven steals the North Wind's little daughter and takes her back to his home.
- He instructs one of his boys to torture Satitc's daughter every time the wind blew strong.
- When the North Wind heard her cries, he showed up at Raven's house with his people to rescue his daughter, saying that he would do anything to get his daughter back.
- Even though Satitc made that statement, Raven instructed his son to keep torturing her, and her father and the people wept when hearing her screams.
- Raven demanded refuse, and Satitc and his people gave it to him, but Xe.Is was so disgusted that he changed Raven into a bird and deemed that everyone who uses bad words shall be called by Raven's name.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- Family members and the community must come together to find the wrongdoer, try and rescue the young girl and hold the perpetrator accountable.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The North Wind and the community gathered and travelled to Raven's house to rescue the young girl. They offered whatever Raven wanted to get her back.
- Raven is punished with supernatural consequences for his actions because torturing a young girl evokes feelings of disgust.

Unsaid:

- To kidnap and torture someone who is in a vulnerable position, such as a young child, is not an appropriate method to get what you want.
- To provide care for your own family does not mean you can abuse and hurt another family.
- The punishment for Raven is ongoing - feelings of shame will continue to follow Raven because Xe.Is decreed a negative mental association with Raven's name.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Why is there no resolution about what happens to the daughter? The story provides no details specifically about her after her torture and when/if she was indeed returned to Satitc. This is emblematic of so many women going missing, and knowing exactly what happened to them is seen as inconsequential.
- Of all of the North Wind's children, why did Raven take Satitc's little daughter?
- Raven had many children, so why did Raven specifically instruct one of his boys to be the one to torture Satitc's little daughter?
- Why did Raven jump immediately to kidnap and torture? Why was no other tactic or method considered?

## Clookshla and his Sister Crow

Jessica Asch, Tara Williamson, and Leslie-Ann Paige, eds (Indigenous Law Research Unit, NITL TU,O Child and Family Services Society), *Toolkit: Coast Salish Laws Relating to Child and Caregiver Nurturance & Safety* (Victoria: ILRU, 2021) at 29.

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Raven had a sister, Chagh-hatgh (crow). She had a big family. She told her children, "You children stay home, don't go out. Don't leave the house. I'm going to the beach." She went and took her basket with her.

She went a long way. She found a little bullhead on the beach. She kicked it and said, "I'm not looking for you. I'm looking for something bigger. A seal." Further on she found a large seal. Now that's what I want," she said to herself. She put down the blanket and rolled it in. She just managed to put it in her basket and stood up and walked.

It was very heavy walking home. Somewhere she stopped so she could put the weight on a rock or something to have a rest. She had a long way to go home. She came to where Raven was busy making a paddle. Raven said, "Sister, what are you packing it looks heavy?"

"I've got a seal on my back. It's for my family."

"You sure look tired. Take a rest. Put your basket here, and take a rest. I'll put it in your basket when you're ready to leave."

"All right." She put the basket down and sat down. A while later she said, "I've got to go home now my children are at home, hungry."

"Give me your basket, I'll put it on your back." Instead of putting the seal into her basket, he put the sandstone he had been shaping the paddle on. It was a bit heavier.

"This seems heavier."

"It must be because you're tired." She agreed and started walking home. Raven got ready to eat the seal. When Chagh-hatgh got home she heard her children calling out to her.

"Mother! Mother! What have you got? You're packing something. Something heavy." The children were happy. They thought she must have something good. The eldest ran to her, "Mamma what've you got in the basket?" She ran behind to look, "Mamma, you've got a rock in your basket!"

"No, it's a seal!"

"But mama, what're we going to do with a rock?"

“Nonsense, it’s a seal. If I knew it was a rock I wouldn’t bother to pack it home.” She took her basket in the house and told two of her children to get a platter. She dumped the basket onto the platter and the platter shattered into pieces. The children laughed and said, “Why did you pack a rock home? You must have known not to put a rock in your basket!”

“It’s my brother’s fault. He stopped me where he was working with THIS sandstone. I know it now. He changed the seal with the rock. Now you go to your uncle’s, he can feed you with my seal.” She sent them to her brother’s. They saw him cooking the seal. They said, “We came here to eat the seal that our mother got for us.”

“Oh, okay. You’ll have to wait though. It’s not done yet.” He was smart. “You kids go sing and dance around the fire. Hold your heads up high.” While the children were dancing Raven was eating the seal and putting the bones back in the pot. When he was finished he told the children to come and eat. But, when the children looked into the pot there was nothing but bones. Raven had eaten it all.

## Case Brief

### Clookshla and his Sister Crow

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when a relative steals from another?

#### **Facts (Relevant): What facts matter?**

- Raven steals from his sister Crow, who had a big family and had found a large seal to feed all of her hungry children.
- He switches the seal in her basket for a rock and she discovers this when she tries to feed her children.
- When she realizes what Raven has done, she sends her children over to Raven's to eat.
- When Crow's children approach Raven for food, he tricks all of the children by instructing them to dance and sing around the fire. As they do so, he eats all of the seal but leaves the bones in the pot for the children to discover.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- When a relative steals from another and there is no accountability, vulnerable family members are subject to an unsafe environment.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- This is a counter-story, instructing that it is wrong to steal from family members who are in need. Continual theft means that kids suffer the consequences. When kids are not provided for, they go hungry.
- Failure to support family members and not contributing in ways such as labour, and maintaining unfair control over resources causes harm to relatives.

Unsaid:

- Abuse of control over resources is harmful, particularly towards those in a vulnerable position (i.e. children).
- Stealing resources has a broader impact - it's theft of time, effort and labour.

#### **Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Is there potentially a message here about not trusting those known to trick you? Like how even though Crow knew that Raven had tricked her and taken the seal, she still sent her children to his place, thinking he would feed them?
- Would the depth of the violation remain the same if Raven and Crow were not related? Or if Raven was stealing to provide for others, as opposed to himself?

## The Haida Slave

Beryl Mildred Cryer, and Chris Arnett, *Two Houses Half-Buried in Sand Oral Traditions of the Hul'q'umi'num' Coast Salish of Kuper Island and Vancouver Island* (Vancouver: Talon Books, 2007) at 149.

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*When Beryl Cryer calls on Mary Rice for another story, she finds her grieving the death of a grandchild. The deceased child's physical deformity reminds her of the slave, Agnes, who cared for her as a child. Among the Central Coast Salish, slaves, skw'ukw'iyuth, were uncommon, and were only found in wealthy households. Mary Rice continues working as she narrates the story. Near the end of the visit, Tommy Pielle arrives and contributes a narrative about Raven, which is overlaid with Christian symbolism.*

When I knocked at Siamtunaat's door this afternoon, it was opened by her small granddaughter, Dorothy. Siamtunaat called a welcome from her corner beside the stove, where she was busily carding wool.

"Come in! Come in!" she invited, and, reaching forward, swept a pile of wool from the chair near her. "Sit here," she said, "where I can talk to you while I work. Oh, how glad I am to see you!" She sighed deeply.

"What's the trouble, Siamtunaat?" I asked, for I had noticed at once that things were not right with her. Her hair, usually so neatly tied away under her handkerchief, was hanging in long, white wisps about her old face, and her eyes had lost their twinkle—looked, in fact, as though tears were not far away.

"Oh, such trouble!" She laid down her carders and clasped her hands. "My daughter's youngest girl—she's died!"

The old lips quivered, and those suspected tears brimmed over and rolled down her cheeks and on to her withered fingers. She sat looking at the drops for a moment, then wiped her fingers against her dress. "Oh, I'm 'shamed for you to see me like this!" she said, "but I feel so bad! That poor little girl!" She rubbed her sleeve across her eyes and pushed the hair back from her face.

Small Dorothy, guessing her need, brought a black silk handkerchief with which she dried her eyes, then folded and tied about her head.

"There!" she said, "now I look better!" She smiled up at me, but her brown eyes still looked dull and sad. "You know," she said, "that poor little girl was always sick; she had a bad back. I think one of the children dropped her when she was a baby, and her back got a hump, just like Agnes had!"

"Who was Agnes?" I asked.

"What!" she exclaimed, "don't you know about Agnes? I thought I told you about her!"

I shook my head. "Do you feel well enough to tell me now?" I asked.

She actually smiled cheerily. "I'll tell you while I card this wool," she said, and deftly worked black and white wool together until a mass of softest grey fell from the carders into her basket.

"Now, this story begins long, long ago—before I was born. At that time the Cowichans had been away fighting the Haida Indians and they beat them and brought away lots of slaves. You 'member I have often told you about my old grandfather, Chief Xulqalustun? Well, of course, he was with the Cowichans at this fight, and his brothers were there, too. One of his brothers, a man called Teh-Clo-Mun, found a woman hiding in the woods, with her little girl who was about two years old. Teh-Clo-Mun laughed when he saw that woman, for he thought she would make a good slave for him. He caught hold of her, to drive her down to the canoes, but the poor woman threw her arms round a young tree and would not let go.

"Well, Teh-Clo-Mun pulled and she held tight to that tree, and he could not get her. He could see some of the Cowichan canoes starting off from the beach, and could hear the cries of the slaves they were taking away with them. Soon he knew that his canoe would be ready, and if he did not hurry they would leave without him, thinking him dead. What was he to do? He could not pull the woman away, and he did not want to leave her! At last he got mad, and catching hold of her he killed her. Then he picked up the little girl and ran down to his canoe, leaving the poor mother dead beside the tree. When he got to the beach he threw the little girl into the canoe just as he would throw a dog, and there she lay until they got back to Puneluxutth'.

"When the women saw the Cowichan's canoes coming home, they ran to the beach to welcome back their men, and to look at the slaves they had brought. Now, Tch-Clo-Mun's wife was a woman from Kwa'mutsun, called Leed-Tha—a nice, good woman. When she saw that poor baby girl lying at the bottom of the canoe, she held out her arms, and Tch-Clo-Mun laid the child in them. 'Take good care of her,' he said; 'the mother was a fine-looking woman; maybe this baby will make a good slave for us.'

"Leed-Tha took the baby and she fed and washed her, but the poor thing just lay still, crying a lot, and on her little back was a mark where she had hit the canoe when Tch-Clo-Mun threw her down.

"My grandfather would walk into the house and look at her, and he would say to his brother, "Why do you keep that thing? She will be no good to you. Better throw her out!" But both Tch-Clo-Mun and his wife, Leed-Tha, liked that tiny girl, and they said, 'No, we will take care of her, and some day she will make a good slave!'

"After a bit that baby began to grow strong, but she was always very small, and the poor girl grew a lump on her back, and was a little 'humpy back.' Now," said Siamtunaat, laying down the carders, "my mother told me that when the little slave girl was about four years old, I was born, and my! How that little humpy did like to play with me! My mother had a stick made of very strong, hard wood, bending over at the top. This stick she would put in the ground near where she was working, and then she would fasten my little cradle—'Cha-cut-un' we call it—on to it, and it would swing in the wind and put me to sleep. All the Indians did that, and I did the same for my children when they were babies," she explained. "Now, sometimes there was no wind, and my cradle would be still, and I would cry. Then my mother would call to this little girl, 'Swing the baby for me!' and that little humpy would run up, and putting up her tiny hands she could just touch my cradle, and there she would jump, and swing, swing me, and sing, 'Don't cry, little baby, don't cry!' until I went to sleep again.

"When she was about fourteen years old, Leed-Tha's brother, who lived at Cowichan, saw her and wanted her for a slave, so Tch-Clo-Mun let her go, and that is when she went to live at Kwa'mutsun. She stayed there for many, many years. Just once her 'cousin' took her to live at Nanaimo, but she was not happy and soon went back to Kwa'mutsun. When the priests came they taught the Cowichans that it was wrong to have slaves, and made them give all their slaves up, and they were sent back to their own homes, but when they asked Agnes—(that is the name the priests gave her)—if she wanted to go home, she cried and would not leave. 'No,' she told them, 'my home is here, with all my friends. I cannot even talk as my own people do. I only know the Cowichan's way of talking!' and she would not go. So she stayed on at Kwa'mutsun until she was a very, very old woman, but all who knew her were her friends, she was such a kind, good, little woman.

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## Case Brief

### The Haida Slave

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#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when a woman is continually denied agency?

#### **Facts (Relevant): What facts matter?**

- Back when the Cowichan and the Haida were fighting, a man named Tch-Clo-Mun from Puneluxuthh' fought with the Cowichan, and during a fight, he found a woman hiding in the woods with her little girl (who was about two years old).
- Tch-Clo-Mun tried to take the young woman, but she clung fast to a tree and would not let go. So he got mad and killed her, and then took the little girl and ran back to the canoes as the Cowichan canoes were leaving. In his haste, he threw the little girl in the canoe, and her back was injured with a mark of where she was hit.
- Back in Puneluxuthh', Tch-Clo-Mun gave the little girl to his wife, Leed-Tha, to raise so she could be a good slave for them. The grandfather continuously said to throw her out as she would not be good to them as a slave, but the couple liked her and said they would take care of her and were adamant that someday she would make a good slave.
- As the girl grew older, she grew a lump on her back, but she could still move around, so she helped care for the other children.
- When the girl was about fourteen years old, Leed-Tha's brother, who lived at Cowichan, saw her and wanted her as a slave. So Tch-Clo-Mun let her go to live at Kwa'mutsun, where she lived for many years.
- When the Cowichan gave their slaves up because the priests told them to, they asked the girl (the priests named her Agnes) if she wanted to go home, but she cried and wouldn't go. She said her home was with all of her friends and she only knew the Cowichan's way of talking, so she stayed at Kwa'mutsun until she was a very, very old woman.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- Communities that have a history of denying women's agency should change their practices and create the space for women to have self-determination or agency.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- When the community asks where she wants to live, the girl chooses to stay at Kwa'mutsun rather than go home to the Haida. She says that Kaw'mutsun is her home and all that she knows – she only knows the Cowichan's way of talking and cannot talk as the Haida do, and all her friends live in the community.

Unsaid:

- Tch-Clo-Mun and Leed-Tha have a responsibility to care for the girl and not throw her out, as Tch-Clo-Mun is the one who caused her injury.
- When someone has lived in a community all of their life, even though they were born to another group, they deserve to be offered the choice to stay or go and determine where they consider home.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Why is there no mention or acknowledgment of the trauma the girl suffered when witnessing her mother be killed by Tch-Clo-Mun right in front of her?
- Why does Tch-Clo-Mun not demonstrate any regret for his hasty actions that caused the girl's injury and physically changed her forever?
- Why was the girl not given a name by the Puneluxuthh' or by the community when she lived at Kwa'mutsun, and it wasn't until the priests gave her the name Agnes they called her by a name? Is the priests giving her the name Agnes another situation where her agency is being denied?
- Leed-Tha's brother was able to request for the girl to be his slave in Kwa'mutsun after just seeing her and wanting her. If Tch-Clo-Mun and Leed-Tha liked the girl and how she cared for their children, why did they agree to his request and let her go? How did the girl feel about having to leave behind what she knew at the time and go away with Leed-Tha's brother?

# Synthesis of Coast Salish Legal Principles

## 1.0 Legal Processes

### 1.1 Authoritative Decision Makers

*Who are authoritative decision-makers?*

#### a. Community

When considering the appropriate response to a legal issue, community members will collectively decide how to approach the issue. Once decisions have been made, the community also acts as a collective, for example, by providing assistance and care or hearing an individual's wishes.

*The Woman Who Was Made Wrong (#2); The Haida Slave.*

#### b. Leader

Leaders make decisions on behalf of and for the benefit of the community, especially when dangers arise.

*Young Man Who Was Stolen By Lion; Xáls Makes Raven a Bird; Mr. Clookshla and his Family.*

#### c. Family Members

Family members have roles and obligations to fulfill towards each other in times of strife and dangerous situations. Family members are also responsible for raising younger generations to be self-sustaining, as well as ensuring they are properly cared for and able to follow norms within the community.

*Mr. Clookshla and his Family; The Woman Who Was Made Wrong (#1), Bear and Grizzly; Clookshla and his Sister Crow; Xáls Makes Raven a Bird.*

#### d. Individuals

Individuals have the agency to respond to legal issues and potential or real harms in a manner they believe best suits their needs.

*Bear and Grizzly; Clookshla and his Sister Crow; Young Man Who Was Stolen By Lion.*

## 1.2 Procedural Steps

*What procedural steps are involved in determining a legitimate response or resolution?*

#### a. Investigation

When someone suspects another of harm, such as secretly hoarding resources, the individual may observe or follow the harm doer to better understand the harm doer's actions and develop a response.

*Mr. Clookshla and his Family.*

**b. Make others aware of potential or existing danger**

Individuals may inform those around them when there is actual or imminent danger to an individual or those around them.

*Bear and Grizzly.*

**c. Give Warnings**

When an individual is at risk of acting poorly or has been acting poorly, it is appropriate to give them warnings to give them a chance to address and correct the behaviour before taking definitive, punitive action.

*The Woman Who Was Made Wrong (#1); Mr. Clookshla and his Family.*

**d. Inquiring**

When a legal harm has occurred, asking others who may have witnessed the harm may allow for a better understanding of what may have happened and what the appropriate response to the harm may be.

*Young Man Who Was Stolen By Lion.*

**e. To act swiftly**

It is important to act promptly when harm has occurred.

*Xáls Makes Raven a Bird, Clookshla and his Sister Crow, The Woman Who Was Made Wrong (#2).*

## 2.0 Legal Responses and Resolutions

*What principles govern appropriate responses and resolutions to harms and conflicts between people?*

**a. Escape**

When an individual's agency is disrespected, or they are put in danger, they can remove themselves from the situation to keep themselves and their relatives safe.

*Mr. Clookshla and his Family; Bear and Grizzly; Young Boy Who Was Stolen By Lion.*

**b. Gathering to take care of injured**

After a community member is harmed, the community should come together to care for and heal the individual.

*The Woman Who Was Made Wrong (#2).*

**c. Changing community practices**

When community practices cause harm, it is an appropriate legal response to change those practices to better suit the needs of those who are vulnerable.

*Young Man Who Was Stolen By Lion; The Haida Slave.*

**d. Ask for help**

When family members are in dangerous situations or need support, they may ask their relatives for help. This can include calling for help after being kidnapped or sending your children over to a relative's house to care for them.

*Clookshla and his Sister Crow; Xáls Makes Raven a Bird; Bear and Grizzly.*

**f. Protect yourself**

Individuals can protect themselves with the means available when put in a dangerous situation. This can include escaping the scene or self-defence.

*The Woman Who Was Made Wrong (#2); Bear and Grizzly.*

**g. Gather people to confront the wrongdoer.**

When someone gets kidnapped, or there is knowledge of an individual harming another, then leaders, relatives and/or community members gather people to confront the wrongdoer as a group and minimize further harm.

*Xáls Makes Raven a Bird.*

### 3.0 Legal Obligations

*What principles govern individual and collective responsibilities? Where are the "shoulds"?*

**a. To provide for children and relatives**

Relatives and community members must provide for their children and relations and ensure their basic needs are met.

*Clookshla and his Sister Crow; Mr. Clookshla and his Family; The Haida Slave.*

**b. To protect those who are vulnerable**

Relatives and community members must protect those around them, especially those who are vulnerable to violence.

*Xáls Makes Raven a Bird; The Woman Who Was Made Wrong (#2); Bear and Grizzly; Young Man Who Was Stolen By Lion.*

**c. To uphold others' bodily integrity**

Individuals deserve to have their bodily integrity respected and protected from those who would cause them harm. Community practices should offer protection and recourse if bodily integrity is violated.

*The Woman Who Was Made Wrong (#1); The Woman Who Was Made Wrong (#2); Young Man Who Was Stolen By Lion; Bear and Grizzly.*

**d. To honour an individual's personal decisions**

When an individual makes a personal decision, individuals and the community should respect their agency and support their wishes.

*The Haida Slave.*

**e. To help those in need**

When an intimate partner, relative or community member is in need, relations are responsible for helping them, even if they do not explicitly ask for help.

*Bear and Grizzly; The Woman Who Was Made Wrong (#2); Xáls Makes Raven a Bird; Young Man Who Was Stolen By Lion.*

## 4.0 Legal Rights

*What should people be able to expect from others?*

### 4.1 Substantive Rights

**a. Safety**

Individuals have a right to safety in their interactions with both community members and outsiders.

*The Woman Who Was Made Wrong (#2), Young Man Who Was Stolen By Lion, Xáls Makes Raven a Bird; The Haida Slave.*

**b. Bodily integrity**

Individuals should be able to expect that their bodily integrity will be respected and not violated by others, whether they be community members or outsiders.

*The Woman Who Was Made Wrong (#1), The Woman Who Was Made Wrong (#2), Young Man Who Was Stolen By Lion; The Haida Slave; Bear and Grizzly*

**c. To make your own decisions**

Individuals have the right to agency over their life choices, such as where they want to live.

*The Haida Slave; Mr. Clookshla and his Family*

**d. To be cared for and provided for**

Children and vulnerable relations have the right to be cared for and to have their basic needs fulfilled by those who hold that responsibility. This applies to the individuals around them and the broader community.

*Mr. Clookshla and his Family; Clookshla and his Sister Crow; Young Man Who Was Stolen By Lion; The Woman Who Was Made Wrong (#2); The Haida Slave*

### 4.2 Procedural Rights

**a. Right to be heard**

When the community is looking to make a decision concerning an individual, that individual has the right to have their feelings and preferences heard. Individuals have the right to be included in collective deliberation and decision-making

processes, especially when the decision impacts them directly.

*The Haida Slave; Young Man Who Was Stolen By Lion.*

**b. Right to investigation**

When a wrong has occurred, individuals have a right to investigate the scene of the harm and those who may be responsible for or involved in the harm.

*The Haida Slave; Mr. Clookshla and his Family; Clookshla and his Sister Crow.*

**c. Right to be looked for when you go missing**

When you have gone missing, and there are no explanations for your whereabouts, you have a right to have your relatives and community look for you until you are found and/or conclusions can be made regarding your whereabouts/what happened to you.

*Xáls Makes Raven a Bird; Young Man Who Was Stolen By Lion.*

**d. Right to a proportional response**

If an individual commits an act that causes harm or acts contrary to what was asked of them, they deserve a legal response proportionate to the act.

*Bear and Grizzly; The Woman Who Was Made Wrong (#1)*

## 5.0 General Underlying Principles

*What underlying or recurrent themes emerge in the stories and interviews that might not be captured above? What are the principles that guide the expression and application of the law?*

**a. Proportionality**

Legal harms warrant proportionate legal responses, consequences and remedies. When harms are responded to disproportionately, laws and relationships between people can break down. Dismissive or passive responses to violence by men cause additional harm or violence to ensue, such as the death of almost an entire family, which is depicted in *Bear and Grizzly*. Too strong of responses to harm can lead to women being made victims of violence at the hands of relatives, as in *The Woman Who Was Made Wrong (#1)*.

*Bear and Grizzly; The Woman Who Was Made Wrong (#1); Young Man Who Was Stolen By Lion; Xáls Makes Raven a Bird.*

**b. Gendered violence is serious**

Gendered violence is serious, and it must be treated as such by communities and individuals. When it is not seen nor treated as a serious legal issue and goes unaddressed, laws and relationships break down. Law and relationship breakdowns cause women, trans and two-spirit people, and children to be made vulnerable because there is no available recourse to address targeted violence against them.

*Bear and Grizzly; Xáls Makes Raven a Bird; Clookshla and his Sister Crow; Mr. Clookshla*

*and his Family; Young Man Who Was Stolen By Lion*

**c. Care for the vulnerable should not be gendered**

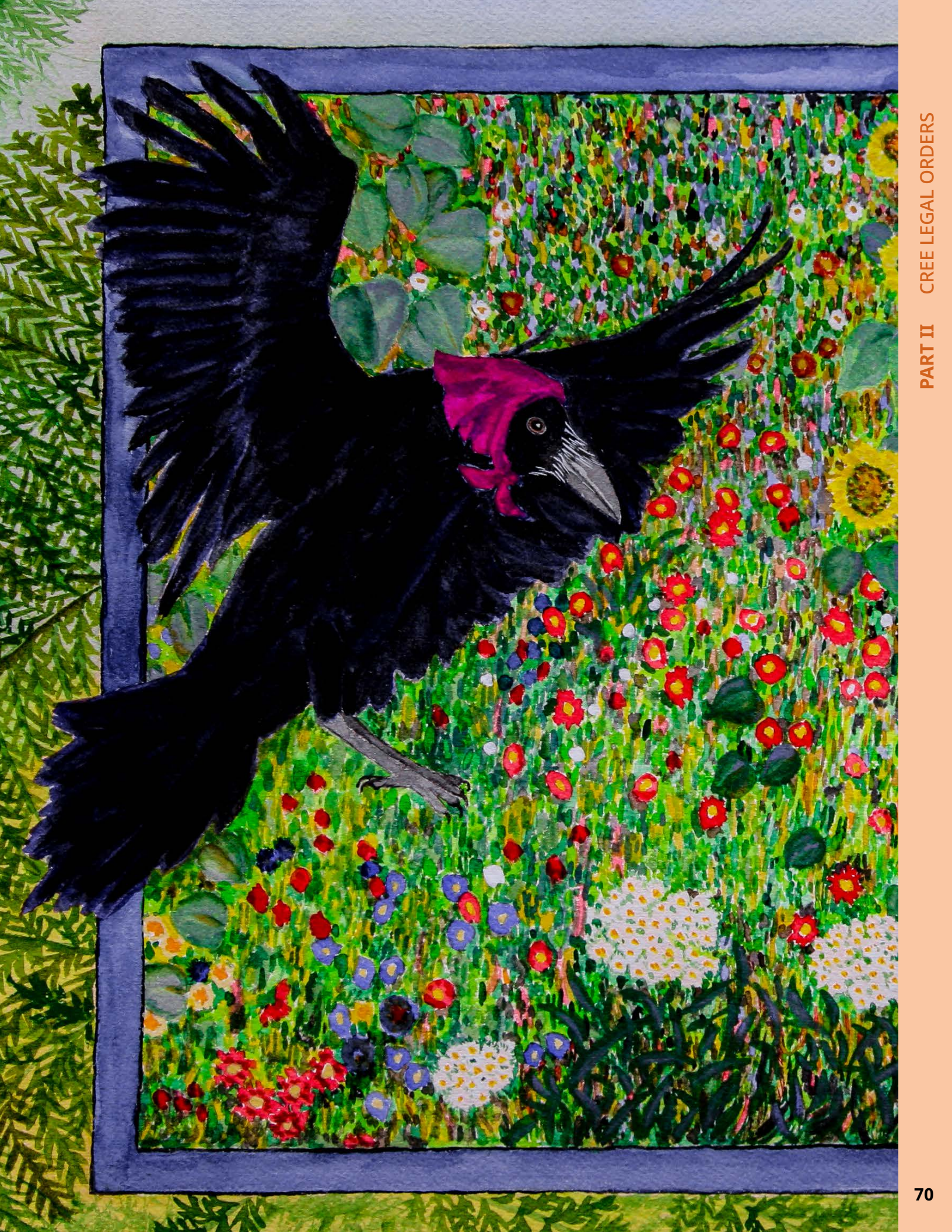
Parents, caretakers and relatives of all genders are equally responsible for caring for children and vulnerable people in their families and communities.

*Bear and Grizzly; Xáls Makes Raven a Bird; Clookshla and his Sister Crow; Mr. Clookshla and his Family.*

**d. Community inclusion**

People deserve to be treated with respect and a part of the community, regardless if they live with disabilities or deformities or originally came to the community as outsiders.

*The Woman Who Was Made Wrong (#1); The Woman Who Was Made Wrong (#2); The Haida Slave*



# Cree Legal Orders

## Legal Primer

The Cree people—also known as the Nêhiyaw—are one of Canada's most populous Indigenous peoples, with the majority of the territory spanning the subarctic region from Alberta to Québec.<sup>24</sup> Given the breadth of the territory, there is significant diversity in Cree communities, including different language dialects, economic practices, ceremonial practices, ecological relationships, and ways of living.<sup>25</sup> Cree communities in Canada include the Eeyouch—Eastern James Bay Cree in Québec; the Mushkegowuk—Moose Cree of northern Ontario, Swampy Cree of northern Ontario and Manitoba; the Sakawiniwug—Woods Cree of Northern Manitoba and Saskatchewan; and the Nehiwayin—Plains Cree in Saskatchewan, Alberta, and parts of northeastern British Columbia.<sup>26</sup> The Cree language is one of the most widely spoken languages in Canada; it is part of the Algonkian linguistic family, which also includes the Anishinaabe, the Innu, and the Niitsítapi.<sup>27</sup>

### Social and Political Structures

Before European contact, Cree communities primarily lived in semi-nomadic, kinship-based communities that travelled based on the subsistence needs of the community.<sup>28</sup> The availability of food resources partly shaped Cree social and political structures. The subsistence way of life required Cree communities to follow the seasonal patterns of the land and the changes in food sources.<sup>29</sup> As such, Cree people learned from a very young age the importance of watching, observing, and engaging with the environment around them to survive.<sup>30</sup> This attentiveness extended to the importance of maintaining

24 Gladue Rights Research Database: Legal Aid Saskatchewan, "The Nêhiyaw (Cree)" (last visited November 1, 2024), online (research database): <https://gladue.usask.ca/cree>.

25 Aaron Mills, "Cree Primer" in Jessica Asch et al, eds, *Cree Legal Traditions Report* (2014) Accessing Justice and Reconciliation Project 5 at 6, online (digital report): [https://www.cerp.gouv.qc.ca/fileadmin/Fichiers\\_clients/Documents\\_deposes\\_a\\_la\\_Commission/P-267.pdf](https://www.cerp.gouv.qc.ca/fileadmin/Fichiers_clients/Documents_deposes_a_la_Commission/P-267.pdf); Art Napoleon, *Key Terms and Concepts for Exploring Nîhiyaw Tâpisiwin the Cree Worldview* (Masters Dissertation, University of Victoria, 2014) [unpublished] at 17.

26 Mills, *supra* note 2 at 5; Arden Ogg and Dorothy Thunder, "Cree language facts for editors of English and French" (August 5, 2019), online (Language Portal of Canada blog): <https://www.noslangues-ourlangues.gc.ca/en/blogue-blog/langue-cri-demystifiee-cree-language-facts-eng>.

27 Mills, *supra* note 2 at 5.

28 Adrian Tanner, "Architecture Without Rooms: Cree Dwellings and Social Order" in John S Long and Jennifer SH Brown, eds, *Together We Survive: Ethnographic Institutions, Friendships, and Conversations* (Montreal: McGill-Queen's University Press, 2015) 71 at 77-78; Mills, *supra* note 2 at 5.

29 Napoleon, *supra* note 2 at 12.

30 Herman Mitchell, "School Science from the Eyes of the Woodlands Cree: Using the Migawap Dwelling

good social relations, as the community's survival relied on the collective efforts of all community members.<sup>31</sup>

Prior to the band membership system, Cree people were free to leave or join communities of their own will.<sup>32</sup> Bands could break apart or amalgamate to form larger, multi-band groups based on the community's safety, values, and subsistence needs.<sup>33</sup> Given the collective nature of Cree society, social authority in Cree communities was determined by one's ability to lead community practices or achieve shared goals.<sup>34</sup> To be recognized as an *Okimaw* (Chief), the person would have to embody the values of fairness, humility, transparency, compassion, and generosity, as well as demonstrate strong conflict-resolution skills.<sup>35</sup> Chiefs derive their legitimacy from the political and legal authority of the people; they cannot make unilateral legal or political decisions without the community's express consent.<sup>36</sup> If people disagreed with the authority established within the band, they could leave—generally smaller familial groups separating from multi-band groups.<sup>37</sup> This facilitated communitarian governance while upholding the Cree ethic of non-interference with another person's autonomy.<sup>38</sup>

### Cree Worldview

Cree ways of life and knowledge are framed around a worldview of interdependence and interconnectedness with all aspects of life—human beings, animals, natural elements, land, and spirit.<sup>39</sup> Spiritual and non-human life forms were not viewed as separate from or less important than human beings.<sup>40</sup> Further, the Cree worldview recognizes that animals and various terrestrial and celestial features have and can practice agency, desire, and intention.<sup>41</sup> As such, decision-making in Cree communities largely focuses on how

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and Traditional Values as a Guide to Plot Fundamental Key Concepts and Ideas" (2012) 32:2 *The Canadian Journal of Native Studies* 19 at 24.

31 Tanner, *supra* note 5 at 82.

32 Matthew Wildcat, "Miyo Wahkohtowin: Self-Determination, Colonialism and Pre-Reserve Nehiyaw Forms of Power" (Master's Thesis, University of Victoria, 2010) [unpublished] at 6.

33 *Ibid.*

34 *Ibid* at 5.

35 *Ibid* at 20, 53-54,

36 Sharon Venne, "Understanding Treaty 6: An Indigenous Perspective" in Michael Asch, ed, *Aboriginal and Treaty Rights in Canada: Essays on Law, Equality, and Respect for Difference* (Vancouver, UBC Press, 1997) 173 at 179.

37 *Ibid* at 6; Tanner, *supra* note 5 at 83-84; Mitchell, *supra* note 7 at 39-40.

38 Tanner, *supra* note 5 at 85-87.

39 Hadley Louise Friedland, "Reclaiming the Language of Law: The Contemporary Articulation and Application of Cree Legal Principles in Canada" (DPhil Thesis, University of Alberta, 2016) [unpublished] at 143, 157.

40 *Ibid* at 168.

41 Mills, *supra* note 2 at 6-7.



9. *Manâcîtowin* – The importance of having mercy, compassion and respect for each other and to protect one another.
10. *Kihciyimitowin* – An ultimate, sacred-like respect for one another.

# Stories & Case Briefs

## The Thunder Women

Robert A. Brightman, "The Thunder Women" in *Ācaǎǎhkīwina and Ācimōwina: Traditional narratives of the Rock Cree Indians* (Regina: University of Regina and Canadian Plains Research Center, 2007) at 102 [The Thunderwomen].

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Written in Cree syllabics and English by Henry Linklater and Angelique Linklater

Once upon a time long ago there were two brothers living together without mother or father or sisters or brother. Maybe witikow had eat them. All except the two brothers.

So one of them asked his brother if they could go and stay somewhere where there's beaver. So they went and stay where there's beaver and build a wikiwap from there so they could hunt. So the next day they went hunting beaver. Next morning they went again. They come home and find out someone had cut wood for them so they went in their place and find out all the beaver they killed before, someone had cleaned them and all stretched and the inside camp was nice and clean. But they didn't know who had clean it, they wonder who come to their place. Because there was no human round long time ago. So they went back again to hunt beaver, they come back in the evening.

When they come home to their camp, they went in and see two women sitting in their bedding. The oldest brother was happy to see a nice-looking woman sitting in his bedding and the young brother looking at the other woman, he didn't like it too much. I suppose he was jealous of his brother because the woman was nice-looking. His woman was not the same looking.

They stay for awhile with them. So one day they went hunting again. They come to beaver house and the young brother asked his old brother if he could stay where those beaver was and try and kill them. So the oldest brother telled his brother to come along [home]. But the young brother didn't want that way. So the oldest brother went alone and left him.

But the young brother had in his mind to kill his brother's wife. So he went back to the camp instead. After he got there close up, he saw her cutting wood. So he took a shot at her with his arrow and hit her on the rib and the woman run to her sister crying and screaming. So the other sister pulled the arrow from her rib. So she talked "From now on, in the near future when there will be humans around in this world, with this arrow, if anyone hit the animals on the ribs he will not be killed."

The brothers didn't know where women come from. But later they find out after this happens that they were thunderbird women. So the thunder women went back to their home, and when the oldest brother got home, the other brother went away that day. But

he know what happen before he get home, his brother had done it. And when the brother got back, he asked him what he did. But he denied it. So his brother talked him he is going to leave him.

"I am really mad at you, I know you did it. But I will try and look for them." On his way he come to a place and see a wikwam standing so he went in and saw a old woman sitting alone inside. So he asked the old woman if she seen someone. The old woman answered yes. But one of the women was very sick. So he asked the old woman if she could help him.

"Yes, son, I will." Now she told him what to do. She told him he had to go to the Rocky Mountains. "The first thing, just put this squirrel nails [claws] on you. Because it's a hard place to get there and when you wear them you can climb that steep Rocky Mountains. And then put this Thunder Hide on you." So he did it. Then he flew on that Rocky Mountains, the very top.

He seen a house right on the mountain. When he went in, he seen the two Thunder Women staying there with their whole family. The women recognize him and they're very happy to see him again. When he was ready to come home, the old folks of the thunderbirds told the girls to come home with him. Just before they leave, the old Thunder Bird tell him his "brother was just about dead crying for you." So they left for their camp and when they got home, his brother was still crying. So his brother told him to get up. He told him that "we got home, back again. But let me tell you, don't do this again, what you been doing."

So they stay together again and happily they went hunting and killed lot of beaver and moose. And one day the Thunder Bird Women asked them to go together somewhere in the bush and stay there for awhile. So the women went back and got the arrow. She come back with it. "This is the arrow that my sister was shot with it and this arrow from now on if anyone uses it to hunt there will be good luck with it."

That's it. End.

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## Case Brief

### The Thunder Women

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**Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when for attempted murder?
- What is the appropriate response for when women are threatened by family violence?

**Facts (Relevant): What facts matter?**

- A pair of young brothers return home to find that two women have mysteriously appeared, cleaned their camp, stocked their firewood supply, and cleaned the game from their previous hunt. The oldest brother was happy to see a pretty woman sitting in his bed. The younger brother was jealous because the woman sitting in his bed was not as pretty. From then on, they all lived together.
- The younger brother planned to kill the older brother's wife. On their next hunt, he tricked the older brother into parting ways and returned to camp. He shot his brother's wife in the rib. The other sister removed the arrow and said that any animals shot in the ribs in the future by humans would not die.
- The two women, who turned out to be thunderbird women, flew home. After returning, the older brother realized what had happened and questioned his younger brother, who denied it. Angrily, the older brother told him he was leaving to try and find the thunder women.
- While travelling, he asked an old woman if she had seen the thunder women. The old woman said she did and agreed to help the older brother. She gave him squirrel claws and a Thunder Hide and told him to climb the Rocky Mountains.
- He found the two thunder women at the top of the mountain with their whole family. They welcomed him happily. When he was ready to head home, the thunderbird elders told the girls to return with him. They also told him that the younger brother was "about dead crying for you."
- When they returned home, the older brother told the younger brother that he must never do what he did again. They lived together happily again.
- One day, the thunderbird women retrieved the arrow the younger brother used to shoot the older brother's wife. The other sister stated that anyone who used that arrow to hunt in the future would have good luck.

**Decision/Resolution: What is decided or how is the issue resolved?**

- The thunder women warn of the negative repercussions of the younger brother's hateful actions.
- The thunder women then flee from the violence to their safe home where they are welcomed by their family members.
- The thunder women and the thunderbird family assess the danger of returning before deciding to return on their terms.

**Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The younger brother shows clear remorse for his actions. Thus, the thunderbird family and the older brother give him the opportunity to make amends.
- Family members should support those harmed by domestic violence. If possible, they should try to surround themselves with people who are safe in a safe place.
- It is not easy to make amends for domestic violence. It may be a difficult journey that takes a long time. It is important to ask for help from wise and insightful community members to guide you in the right direction.

Unsaid:

- A person who harmed others can still be integrated into the community. However, this process should respect the safety and consent of the individuals harmed.
- If your family members have hurt others, making amends may be your responsibility, even if you are not directly at fault.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Should the younger brother have taken further steps to remedy the issue himself? It seems as if the older brother has taken on the responsibility to address the situation.
- The arrow transforms from something that causes harm to something that brings forth good fortune

## Untitled (Killing of a Wife)

Richard J Preston, "Untitled (Killing of Wife)" in *Cree Narrative*, 2nd ed (Montreal and Kingston: McGill-Queen's University Press, 2002) at 149.

Narrated by John Blackned.

My grandmother said he [Meskino] is very good at it [conjuring]. He could take one of those people – they call 'em *pawts* – and they could hear them talking inside – not only one inside. And they could hear him talking just like English words; some of them talk Indian, of course. They talked to the people, the ones that were inside the conjuring tent. The people inside that they called *pawts*, they knew the people were scared of them. This *pawt* talked to the women outside the conjuring tent, he told them, "I know all of you are scared of me, you are afraid because of your children [pawts steal children]. Nobody notices me when I am going into people's tents – nobody knows when I'm there." The Mistabeo said, "That's true, what the *pawt* said – he has a little box that he opens up when he goes in a tent, and while the box is open, the people can't wake up."

One time Meskino was playing with the conjuring tent way up inland and still the Mistabeo could tell the news to Meskino while he was inside there. Far down at Eastmain someone killed his wife, still the Mistabeo told Meskino about it. Meskino didn't want to believe his Mistabeo, he wanted to go and see if his Mistabeo was right. Then the Mistabeo told Meskino, "When you were making the shaking tent, then yesterday, that's the time the man killed his wife at Eastmain. This man wanted to kill his wife; he didn't just accidentally do it. He wanted to get married to another woman, that's why he killed her."

That's why my grandmother thought a lot of Meskino – he could tell of events from that far. So Meskino thought he would go down the Eastmain River.

"The woman had got hold of her baby, giving him suck, at the time when she got killed. He used the back of his paddle, right on the back of her head. She couldn't even lift the baby to go – she died like that, holding the baby. If you will go down (to Eastmain) and come up that way, that's the time you'll see about that," his Mistabeo told him. Then the Mistabeo told him not to make any more conjuring tent while he went down the river, till he came up again. "That's when you make it again. Before you get to Eastmain you'll see the man who lost his wife, killed his wife. He'll tell you about the story, his wife drowned. This man went to shore and pulled the canoe up. Then he got ahold of a paddle and knocked her. She and the baby fell beside the canoe in the water."

He went down the Eastmain River. Before he got to Eastmain, he saw the man who killed his wife. Just like the Mistabeo told him – the man told him how he lost his wife – he upset his canoe and that's how his wife drowned. Meskino didn't say a word to the man. [By subtle implication, Meskino is expressing doubt of the man's narration.] He'd rather believe

his Mistabeo than believe the man. There were more people there besides the one who killed his wife.

“Don’t look for the body of the woman right there – then when you come this way again, that’s the time you’ll see it’s true,” his Mistabeo had said. My grandmother heard all that the Mistabeo told him. So he went right down the Eastmain River then, and came to the post here. The other people went there, too, and this man, too.

This man had another wife already. They came and got their stuff at Waskaganish post. They stayed and then went back the way he came – up the Eastmain River. He went up with some other people. At last they were nearly where the woman got lost. That time they didn’t have tents, just wigwams (michwap). They were inside and it was dark outside and someone called to Meskino, “About dinner time tomorrow, that’s when you’re going to see the news I told you. You’re not going to see it first, your wife will see it first, then you will see it. When you see the woman she’s going to be holding the baby just like when she was killed.”

Next morning they went farther up the river where the man said his wife was drowned. Just about dinner time they got to the rapids. The men would pole up, the women would walk. While the women were walking the men could hear them calling out. Some of them ran back to their husbands coming up behind in the rapids. There were lots of men. The other men didn’t want to go themselves first, because they had heard the Mistabeo talking about it yesterday. So these men told their wives to go and stand opposite the body. They went ashore. So they saw the woman lying there in a dry place on the bank of the river – still holding the baby – it was quite a lot farther up the river where the man killed her. Still the bodies weren’t spoiled yet, just the same as if they had been dead only a few hours. “I don’t know how many months since the Mistabeo told the news,” my grandmother said.

Where he hit his wife, they saw the mark there. They picked up the body, and they found a nice dry place. They stopped there for awhile and buried the woman and the kid. My grandmother said that the body didn’t spoil at all.

The man who killed his wife was there when they found the body. That evening they didn’t sleep right there. Where they were going to sleep, Meskino wanted a conjuring tent there. They made one for him. So he started to play with it. He wanted all the men to sit right around the conjuring tent. The man who killed his wife was named Meywapo. (Anderson asks if it is the same man by that name who used to come here from Eastmain – it is not the same man.)

Then the Mistabeo told this man that he wants to talk to him. He told him, “You said you upset the canoe, but you didn’t,” he told him, “I was watching you at the time.” Then the Mistabeo said, “You took the canoe ashore, and after you pulled the canoe up you took the paddle and hit your wife and you killed her. I was watching you. The reason was that you

wanted to marry this woman here,” the Mistabeo told him. “When you got back you told this wife that your wife had drowned.” The Mistabeo told the man he had told the news to Meskino, and Meskino had gone down then. The Mistabeo told him, “You can’t expect to live long now. That’s a thing you shouldn’t do is kill your wife.” That year, the same year that the Mistabeo told the man from the conjuring tent, that’s the year the man died.

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## Case Brief

### Untitled (Killing of a Wife)

#### **Problem (Issue): What is the main human problem that the story focuses on?**

What is the appropriate response to killing a wife and child?

#### **Facts (Relevant): What facts matter?**

- Meskino heard from his Mistabeo (a spiritual helper) that a man named Meywapo had purposefully killed his wife to marry another woman. Meywapo's wife was breastfeeding their baby when he hit her in the back of the head with the canoe paddle. Both of them then fell into the river.
- Meywapo lied to Meskino that his wife had drowned in a canoe accident. He had already married another woman. Meskino's Mistabeo said they would find the bodies when travelling along the river.
- The next day, the women found the body first. The men then went to verify and saw the bodies of the dead woman and baby on the bank of the river in perfect form (no decay) despite notable time passing since her death. The wife was still holding the baby to her breast. They saw the spot where Meywapo had hit her. They then buried the body.
- Meskino then asked all the men they were travelling with, including Meywapo, to sit around the conjuring tent. There, the Mistabeo confronted Meywapo for his crimes in front of everyone, including the fact that he had also lied to his new wife. The Mistabeo told Meywapo that he shouldn't expect to live long, warning people against killing their wives. Meywapo died that year.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- Upon hearing from his Mistabeo, Meskino went to investigate Meywapo's murder of his wife and ended up finding their corpses. He listened to Meywapo's story without comment and followed his Mistabeo's advice while investigating the crime.
- In a public setting, Meskino calls on his Mistabeo to declare the verdict for Meywapo's crime while also warning of the consequences of killing one's wife, especially for greedy and selfish reasons.
- Meywapo dies within the year due to the spiritual repercussions of his crime.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The punishment for killing women and children may be death.
- Community members have an obligation to investigate suspicions of domestic violence thoroughly.

Unsaid:

- It is important to address cases of domestic violence because of the danger that

these offenders may pose to other people in the future.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- How did Meywapo die?
- Killing one's wife and baby is a serious crime that may be adjudicated with help from spiritual forces (e.g., Mistabeo's guidance and ruling, Meywapo's death, the lack of decomposition and disturbance of the woman and baby's corpses).

## The Hairy-Heart People

Robert A. Brightman, "The Hairy-Heart People" in *Ācađōhkīwina and Ācimōwina: Traditional narratives of the Rock Cree Indians* (Regina: University of Regina and Canadian Plains Research Center, 2007) at 125; Robert A. Brightman, "Kayānwī Kills Hairy Hearts at the Beaver Lodge" in *Ācađōhkīwina and Ācimōwina: Traditional narratives of the Rock Cree Indians* (Regina: University of Regina and Canadian Plains Research Center, 2007) at 127.

Narrator: Selazie Linklater

Translator: Caroline Caribou

Once then and very long ago this happened. There were then in this country Hairy Hearts. You would say of these that they were without hearts or goodness. Then at this time there are two of these Hairy Hearts: a father and his son. They travel between the camps of the people, and they kill and eat the people. At one camp there is an old man, a "dreamer" himself, who had spiritual power. He can know before it happens that those Hairy Hearts are coming to his camp. He tells this to the others, his relatives and the people that stay with him. Really, very quickly they then break their camp and travel to a place there where the old man intends to hide. They have with them a moosehide. They use this hide by filling it with grass and then just there they hang it on wooden poles. It looks like a living moose. Then I suppose just there they dig a hole under the snow. Over the hole they position this "moose." The head of the moose faces north from there. "Truly they will not look for us here," he says, that old man. "Those ones who are coming are not interested in moose. Only people they intend to eat." A long time they will stay in that hole so that the Hairy Hearts will not find them.

This Hairy Heart old man owns a staff. Straight up and down he aligns this staff, placing one end in the snow so it stands upright. Then, if he sings, this staff is able to incline toward that place where people are hiding. He sings to his staff, this Hairy Heart. But the human old man, he who hides in the snow, uses his "power." Then truly that staff inclines in the opposite direction. For a long time they hunt the human beings, those Hairy Hearts, and the old man (Hairy Heart) uses always his staff. Always that old man in the snow uses his "power" to overcome them. Finally, then, those Hairy Hearts leave that place there and travel to another lake. When they are gone, those (human) people come out of their place in the snow. They intend to warn the other people around that lake that these Hairy Hearts are going around.

Truly almost starved to death now are those Hairy Hearts. "Near us there are people in a camp," that Hairy Heart old man says to his son. "Go and hunt for us. Bring from that camp two children. Run through them rawhide cordage so I can roast them." Then he catches them, two children who are playing outside of that camp. They scream with fear those two children. He brings them to the old man. Then really that old man roasts them, those two children. The people at that camp hear those children screaming. Greatly they

are frightened. Then they break their camp, and move from there, towards where the others stay at the lake.

That old man warns the people that they should stay together in a large camp. "We should not be in small groups," he says to them. They all travel together to a bay just there. Just there they will be able to see what might come towards them from across the lake. That old man is able to know that the Hairy Hearts will again hunt them, that the Hairy Hearts will transform into trees. In this way, they will stalk them (the people), those Hairy Hearts. He (old man) says to the children, "Always watch the ice on the lake. Maybe soon you will see something coming towards us from there. You will see trees. They will be closer to us each time you see them. When you see them, these trees, say loudly, 'Trees are on the ice'."

Soon those children see trees on the ice. Each time that they look, they are a little closer to the camp, those trees. Those children were very frightened. Very close to the camp those trees approached. And then: "Trees on the ice" they say. Just then, there those Hairy Hearts stopped.

That old (human) man does not act frightened. He tells those Hairy Hearts to come inside the lodge. Inside the lodge, they are eating beaver meat. And then really when they come into the lodge, they become human beings. They lose all their powers and the ice in their bodies melts. Truly, those Hairy Hearts would be frightened of fires and heat because it melts the ice in their bodies and they lose their "powers."

They stayed there then with the people in that camp. Always they would eat animal meat like the others. That old man and his son both marry women in that group of families just there. In the winter, the young man goes out hunting with his brothers-in-law. He brings back to the camp every kind of meat. But he stays a long time outside the lodge; seldom does he go in and stay by the fire. Really, he is still wicked, that young man. By staying out in the cold, he is getting "stronger." Again there begins to be ice in his body. He stays out in the bush because he doesn't want to be warm.

It becomes spring there. Still that young man goes hunting with his brothers-in-law. Then really: "When I hunt with your younger brothers, they resemble animals to me," that young man says to his wife. In the morning, he will go out hunting again with his brothers-in-law. They are preparing, outside the lodge. Then she hides the snowshoes of her brother, that woman. He comes inside the lodge to look for them. "There is something wrong again with my husband," she tells her brother. "Be careful when you hunt with him. Watch out for the welfare of our younger sibling."

They leave and go to hunt animals. Never is that young Hairy Heart staying with his brothers-in-law. He follows behind them, looking at their snowshoes tracks. He walks ahead of them through the bush. Then just there, he jumps out and grabs him. Then just

there, the other one chops off his head.

At the camp, those two old men are sitting in the lodge. Immediately, he knows it, that his son has been killed, that old Hairy Heart. Truly he says to all of them there: "You killed my son. Now, if you don't kill me I will destroy all of you." They took sticks and tried to kill that old man. He is too powerful for them, always he overcomes them. One woman stabs him in his arm with a sharp roasting stick. There is bone marrow on the stick. "How does it taste to you?" she says to him, that woman. "It is good meat," he says. Then just there, he seizes her with his other arm and kills her. Now the others are frightened that they cannot prevail over him. They run from the lodge. Just then those two men return to the camp. They enter the lodge and see that old Hairy Heart sitting by the fire. With their clubs, they strike him until he is dead. Only because he is near the fire, are those brothers able to kill him.

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## Case Brief

### The Hairy-Heart People

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**Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response against dangerous people?
- What is the appropriate response to when vulnerable people are created?

**Facts (Relevant): What facts matter?**

- The Hairy-Heart People are evil cannibalistic beings with magical powers that hunt humans. As only men can kill the Hairy-Heart people, they kill the men and take the women and children. They are frightened of fires/heat because it melts the ice in their bodies, causing them to lose their powers.
- There is an old man with spiritual powers who can shield against detection by the Hairy Hearts. He protects his communities and other endangered communities who seek his help. He warns that they stay together as a large camp and teaches others how to watch for Hairy Hearts approaching. The old man also:
  - Creates a moose and hides under it, diverting the Hairy Hearts' powers, inviting other camps to join them for collective safety
  - Warns children and other communities how to watch for the Hairy Hearts and creates strategies to warn of their arrival
- The camp's children listen to the old man's strategy. They successfully lure the Hairy Heart father and son into eating in the human's lodge, where the ice in their bodies melts, and they lose their powers. The Hairy Hearts are integrated into the community, marrying women from the camp.
- The younger Hairy Heart man purposefully stays a long time outside the lodge so that he can get stronger again. He tells his wife that when he is hunting, her brothers resemble animals.
- The wife hides her brother's snowshoes before their hunt. When her brother comes searching, she warns him to be careful as something is wrong with her husband and to protect their brother.
- On the hunt, the young Hairy Heart behaves strangely, acting as if he is tracking and hunting his two brothers-in-law. When he tries to kill one of the brothers, the other brother kills the Hairy Heart.
- At the lodge, the older Hairy Heart knows immediately that his son has been killed. He warns the camp that if they don't kill him, he will destroy everyone.
- One woman stabs his arm with a sharp roasting stick with bone marrow on the stick. She asks him how the meat tastes, and he says it is good meat. He then kills her and kills anyone else who tries to fight him. Others run from the lodge.
- The two men return at that moment to the camp. They find the old Hairy Heart sitting by the fire and kill him. They are only able to kill him because he is near the fire.

### Decision/Resolution: What is decided or how is the issue resolved?

- The old man with powers protects the community using his powers and sharing strategies with everyone on how to stay hidden and safe
- The community invites the Hairy Hearts into the community as a long-term strategy for managing the danger, eventually resulting in cohabitation and marriage.
  - They continue monitoring the Hairy Heart people's behaviour for warning signs.
  - When the woman senses that her husband is becoming dangerous, she warns her brother of potential danger and tells him to protect their other brother.
- The younger brothers protect the community by killing the Hairy Hearts when they show signs of being dangerous again.
  - The women try to kill the Hairy Heart but are not strong enough. Others hide until safety is guaranteed.

### Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?

Said:

- As those most proximate to dangers, vulnerable people are responsible for warning of potential dangers as they may be the first to spot them. They are also responsible for doing what they can to prevent harm to others.
  - The sister and young children fulfilled their obligations to warn of potential dangers.
  - The woman fought the older Hairy Heart person even though she knew women could not kill him.
- People have an obligation to help those within and outside of their community.
  - Teaching others how to stay safe by sharing information and devising collaborative strategies.
  - Working together as a larger collective can offer greater safety for all.
  - As seen with the brothers, those who can protect vulnerable parties should do so.

Unsaid:

- If safe, harmful people may be slowly integrated into the community for all parties' long-term safety and wellness.
  - Harmful people also deserve the opportunity for healing and growth.
- There is an obligation to protect vulnerable people, as well as reduce their vulnerability however possible (e.g. knowledge sharing).
  - However, being vulnerable does not mean that one does not have obligations to protect others. The women first tried to fight the older Hairy Heart, then ran when they knew they could not win.

### Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?

- Why did the older Hairy Heart person decide to stay in the lodge near the fire despite knowing it would make him vulnerable to attacks?
- Why was it that only men could kill the Hairy Heart people?

## A Faithless Woman

“A Faithless Woman” Edward Ahenakew, *Voices of the Plains Cree*, (Toronto: McClelland and Stewart Limited, 1973) at 65-66.

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Some of the stories that my father told me were sad. People, he said, could not always choose the way their lives would go.

There was a woman, a Cree, who had a husband and two children, the older one a boy, the other a small girl. Now their mother loved another man, and though it was not easy to meet him she talked to him in secret and told him her plan.

“I shall fall sick,” she said to him, “and pretend to die. When they have put me on the high place for the dead, they will leave me. Come to me then and I shall go with you, dressed as a man. Those who see us together will think that we are companions and friends.”

She told her husband that she was sick and could not eat. He brought medicine-men to cure her, but still she would not eat, and she became thin and weak. Then she said to her husband, “I am going to die. Do not bury me. Build a place high above the ground and put my body there, in the old custom of our people.”

When she made it seem that she was truly dead, he laid her on the high scaffold that he had built, and left her there. In the night, the young man came, and she answered his voice. He climbed to where she was and untied her. He had brought food with him, and man’s clothing, and they left her own clothing tied to look the same as before. Then they went into the wilds until she was strong again.

They were both good-looking, but the woman had a scar on the side of her head, and she wore an otter-skin over it, and appeared as a handsome young man. They travelled from one encampment to another, until it happened that they came to one where her husband was. When she saw her son, she felt that she must speak to him, and she beckoned him to her. “Are you well, boy?” she asked him, but she was uneasy when he looked at her closely.

Now when the child came back to his father’s tent, he stayed so quiet that his father asked him what was wrong. “It seemed to me that I saw my mother again. One of those two young men who are strangers in the camp has a scar like my mother had, and his voice is like hers.”

“That cannot be,” his father told him. “Your mother left us long ago. But look again.”

The boy was too wise to go openly, but he waited near where the young men were playing, and he watched. The one whom he was watching seemed to avoid him too, and the boy felt certain that this must be his mother. Then the father went to where the boy had been.

He walked with a long twist of shagganappi trailing from his hands, softening it as he went, pretending to pay no attention to the young men, though he saw that one of them, who was shooting with a bow, turned away from him always.

He was greatly disturbed, and felt almost sure that his son was right, but he had to make certain. He stepped close to the stranger, on the side where he knew the scar should be, and suddenly knocked the otter cap from her head. Her companion fled at once, and she tried to run too, but her husband gripped her arm.

"Wait. I had to be certain. It is as the boy thought. You are alive, and I have almost broken my heart for your little children, left without a mother."

He tore off her ornaments. "You are not human. You have had no thought for your children, only for yourself. I am going to ask your parents what I should do with you."

"Let me live," she cried, but he answered, "I cannot promise that," and he took her to his camp, and sent for her people.

"No one of us has ever done the like," they told him. "Do with her as you will." And he killed her.

It is not only now that woman causes trouble. That has been since first man was.

This is what happened. My father told me.

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## Case Brief

### A Faithless Woman

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#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response to violence against women?
- What is the appropriate response to creating unsafe societies for women?

#### **Facts (Relevant): What facts matter?**

- A Cree woman had a husband and two children, a son and a daughter.
- The woman loved another man. She planned on pretending to fall sick and die so that she could be with the other man. Then, she would dress as a man so they could travel together as companions.
- She pretended to be sick while her husband brought medicine men to see her. She told him that she was going to die and that he should build a high scaffold and leave her body there when she died. After she pretended to die, her husband obeyed her wishes.
- Her lover climbed the scaffold and brought her food and a man's clothing. They travelled between encampments. The woman wore an otter skin to cover a distinctive scar on the side of her head.
- One day, she came across her family's encampment. She felt compelled to ask if her son was doing well. Her son recognized her and told his father he thought he saw his mother again. The father told him it was impossible but that he should look again. The boy investigated and felt sure it was her.
- The father went to investigate himself. He walked near them. When he was close enough, he knocked the otter cap off her head. Her lover ran away, but her husband grabbed her before she could run.
- He confronted her, calling her selfish and "not human. He tore off her ornaments. He said he would ask her people what he should do with her. She begged to live, but he answered that he could not promise that.
- Her people responded that there was no precedence for her behaviour and that he should do with her as he wished. The husband killed her.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- The woman decides the only way she can be with her partner is to pretend to die and then run away with him while disguised as a man. She loses contact with her children.
- When her husband discovers her identity, he turns to her people to determine the punishment for running away. Her people state there is no precedent for these circumstances and turn the decision over to her husband.
- By failing to consider her agency and engage meaningfully with the law, her people allow her husband to kill her against her will.

**Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The woman's wishes for her future do not matter against that of her people and her husband.
- The woman's humanity is determined by her worth as a mother and wife.

Unsaid:

- Her husband believes death is a just punishment for abandoning her roles as a mother and a wife.
- Women are vulnerable in societies that evaluate their worth based on their ability to uphold traditional gender norms instead of their inherent worth as citizens and individuals.
- By refusing to grapple with issues of gender and oppression due to a lack of precedent, the woman's community exacerbates issues of gender-based violence.
- Societies that undermine women as autonomous legal agents reinforce oppressive gender dynamics that cause domestic and intimate partner violence. These oppressive gender dynamics also disrupt relationships between parents and children, resulting in intergenerational harm.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Why did the woman have to resort to dying to be with her new partner?
- What were the laws on divorce/separation? What were the laws on child custody? How could these laws have impacted her decision?
- The story ends by saying: "It is not only now that woman causes trouble. That has been since first man was".
  - Potentially concerning gender stereotypes that cast blame on women for societal conflicts.

## Sioux Woman

“Sioux Woman” in Morton I Teicher, “Windigo Psychosis: A Study of a Relationship between Belief and Behavior among the Indians of Northeastern Canada” in Verne F Ray, ed, *Proceedings of the 1960 Annual Spring Meeting of the American Ethnological Society* (Seattle: University of Washington Press, 1960) at 58.

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They (Sioux Woman and her shaman mother) went out walking one time, and one old Cree man (“old man” in this connection means sorcerer) was sleeping. She and her mother passed him, and they were talking. She used to laugh very loud. This old man woke up suddenly (startled by her laugh, annoyed that he had been awakened), and heard her laughing. He jumped up for he thought that she was making fun of him. He got mad and said, “This winter you will eat many Indians” (Le., become insane, windigo). But of course she did not hear him. Sure enough that winter before Christmas she got sick and crazy. She used to sit in one place for a long time .... not a word out of her, and she did not sleep or eat or do anything at all. The people were frightened: they knew she was going to be a windigo. For twenty days she did not eat anything. Then her mother started giving her medicine; she smoked medicine on her, and used the sucking cure. She made a long speech when she started to cure by sucking, and made signs with her hands. All the children were taken away, and some of the grown people went away too. Only a few stayed there to watch her. One day the old woman told her son-in-law to get a frog or a snake. The man asked some old people for a snake, and he got a little snake meat. The old woman made medicine out of it, and gave it to her daughter to drink. She also gave her dried blueberries and Indian rice to eat. This was to stop her from being a windigo. Sioux Woman was like that for a long time. The old woman kept on with her manito kazo. She fought for her daughter (against the shaman who must have been persecuting Sioux Woman) and finally she got the best of him. After he was beaten, he got sick and died in four days. Then Sioux Woman got better. She never was out of her mind. When this old man died, everybody was glad, for he was a very bad old man. He had destroyed lots of people by his bad medicine. This Sioux old woman was the first one to outdo him by her dreams and put an end to him. After her daughter got better, her grandchildren all came home, and they lived happily after that.

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## Case Brief

### Sioux Woman

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**Problem (Issue): What is the main human problem that the story focuses on?**

- What is the proper response to helping someone recover from gender-based violence?
- What is the proper response for addressing a harmful person?

**Facts (Relevant): What facts matter?**

- Sioux Woman and her shaman mother were on a walk, talking and laughing. Sioux Woman's loud laughter startled a sleeping old Cree man (sorcerer), who cursed her to become a windigo in winter.
- Sioux Woman got sick. She would sit silent and unmoving, without sleeping or eating for twenty days.
- To prevent her from turning into a windigo, her mother made her medicine, smoked medicine on her, used the sucking cure, and fed her food. Her son-in-law collected ingredients for her medicines.
- The community was frightened. The community members separated Sioux Woman from the children. Only a few adults stayed to watch after Sioux Woman.
- Using her manito kazo (spirit talk), her mother fought against the old Cree man. When she finally beat him, he got sick and died in four days. Everyone was glad for his death as he had hurt lots of people with his bad medicine.
- After he died, Sioux Woman recovered. Her children came home, and they all lived happily ever after.

**Decision/Resolution: What is decided or how is the issue resolved?**

- Sioux Woman's mother took steps to prevent her condition from worsening with the help of a few trusted people, including her son-in-law. All others, especially children, were separated for safety. The people who remained monitored her behaviour/wellbeing.
- Her mother used her shaman power to beat the old Cree man. After he was defeated, he died, and Sioux woman recovered.

**Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The old man deserved to die because he was a very bad old man and had destroyed lots of people with his bad medicine.
- She was separated from the community and watched by a few people to ensure everyone's safety.

Unsaid:

- Family and community members have a responsibility to care for those recovering

from violence. This responsibility applies even if the person may become dangerous themselves.

- Those who have become unwell deserve the opportunity to heal.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

# Synthesis of Cree Legal Principles

The following synthesis of Cree legal principles is based on the six Cree stories examined above. This synthesis is meant to provide an analytical framework that organizes elements of the Cree legal order in an accessible manner to support further deliberation, adaptation, and application.<sup>51</sup> It is not meant to be a comprehensive or complete statement of Cree legal principles, but instead, elements of Cree law that are relevant to the issue of gendered violence.<sup>52</sup> While some of these stories speak to gendered violence quite explicitly, other stories are “counter stories.” These counter stories aim to cast doubt on the validity of characters’ decisions while challenging accepted beliefs and premises.<sup>53</sup> With this in mind, it is important to deliberate the elements of each story while considering the power and gender dynamics present.

## 1.0 Legal Processes

### 1.1 Authoritative Decision Makers

*Who are authoritative decision-makers?*

- a. **Elders:** When facing potential harm, elders with relevant knowledge and experience may take on a key decision-making role to ensure safety. Elders can also play a guiding role in resolving familial conflicts where there is no immediate risk of violence.

*The Thunder Women, The Hairy-Heart People, Sioux Woman.*

- b. **Family Members:** Family members are responsible for preventing harm and resolving interpersonal conflicts. This includes remedying harm caused by family members, protecting vulnerable family members (e.g., children, women, seniors), and monitoring the behaviour of at-risk family members.

*The Thunder Women, A Faithless Woman, The Hairy-Heart People, Sioux Woman.*

- c. **Medicine People / Shamans:** People with specialized medicine and spiritual knowledge can use their abilities to investigate claims, address harmful behaviour, aid in recovery, and protect the community.

*Untitled (Killing of a Wife), The Hairy-Heart People, Sioux Woman.*

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51 Hadley Friedland and Val Napoleon, “Gathering the Threads: Developing a Methodology for Researching and Rebuilding Indigenous Legal Traditions” (2015) 1:1 Lakehead LJ 16 at 28-29.

52 For further information on Cree legal traditions, see: Hadley Friedland, *Cree Legal Summary* (2014) Accessing Justice and Reconciliation Project, <https://ilru.ca/wp-content/uploads/2020/08/Cree-Legal-Summary-Friedland.pdf>.

53 Richard Delgado and Jean Stefancic, *Critical Race Theory: An Introduction*, 1st ed (New York: NYU Press, 2001) at 144.

- d. Community Members:** Important decisions concerning collective safety should be made as a group. Further, community members should meaningfully engage in determining the appropriate legal response for unprecedented situations. In *A Faithless Woman*, the lack of a legal response from the woman's people created a space of "lawlessness."<sup>54</sup> By failing to deliberate on an appropriate legal response, the community reinforces conditions for the abuse of male power and violence.<sup>55</sup> *Untitled (Killing of a Wife), The Hairy-Heart People, A Faithless Woman.*
- e. Spiritual Beings:** Spiritual beings may play a central role in investigating harms and determining and enacting the appropriate legal response. *The Thunder Women, Untitled (Killing of a Wife).*

## 1.2 Procedural Steps

*What procedural steps are involved in determining a legitimate response or resolution?*

- a. Recognizing warning signals for the risk or occurrence of harm:** People may realize the risk or occurrence of harm by receiving spiritual guidance, observing a person's behaviour, or observing their natural environment. *The Thunder Women, Untitled (Killing of a Wife), The Hairy-Heart People, Sioux Woman.*
- b. Warning others about the risk of harm:** When individuals realize the risk or occurrence of harm, they are responsible for alerting the greater community. *The Hairy-Heart People, Sioux Woman.*
- c. Early intervention to mitigate danger and prevent escalation of harm:** Elders, family members, close friends, and people with relevant knowledge may take action to mitigate danger or harm. Intervention may include counselling the person about their actions, providing healing medicines, addressing the cause of harm, gathering in larger groups for safety, developing surveillance methods, and distancing vulnerable groups from the harmful or at-risk person. *The Thunder Women, The Hairy-Heart People, Sioux Woman.*
- d. Seeking guidance from parties with relevant expertise and experiences:** When faced with uncertainty, harm, or conflict, people may seek guidance from those with relevant expertise and experiences to guide their decision-making. *The Thunder Women, Untitled (Killing of a Wife), The Hairy-Heart People.*

54 Val Napoleon, "Gitksan Legal Personhood: Gendered" in Austin Sarat, George Pavlich, and Richard Mailey, eds, *Interrupting the Legal Person (Studies in Law, Politics, and Society, vol. 87A)* (Leeds: Emerald Publishing Ltd, 2022) 19 at 26, 29.

55 Emily Snyder, Val Napoleon, & John Borrows, "Gender and Violence: Drawing on Indigenous Legal Resources" (2015) 48:2 UBC L R 593 at 612.

- e. **Investigating claims and collecting corroborating evidence:** Claims must be substantiated before deciding on a response. This may include observing an individual's behaviour, hearing from those involved in the conflict, speaking to witnesses, and searching for physical evidence.  
*The Thunder Women, Untitled (Killing of a Wife), The Hairy-Heart People, A Faithless Woman.*
- f. **Where possible, public confrontation by authoritative decision-makers:** People suspected of causing harm or conflict may be publicly confronted about their actions by a group or an individual. Individual confrontations are prevalent in interpersonal disputes between family or community members, where maintaining good relationships is important.  
*The Thunder Women, Untitled (Killing of a Wife), A Faithless Woman.*
- g. **Legal response is implemented:** The decision-maker most capable of addressing the harm or risk of harm will implement the appropriate legal response. Where there is no immediate risk of harm, attempts should be made first to talk to the at-risk or harmful person before escalating the response.  
*The Thunder Women, Untitled (Killing of a Wife), The Hairy-Heart People, Sioux Woman.*

## 2.0 Legal Responses and Resolutions

*What principles govern appropriate responses and resolutions to harms and conflicts between people?*

- a. **Principle of healing:** The preferred response for people causing harm or at risk of becoming harmful is to heal and safely reintegrate into the community.  
*The Hairy-Heart People, Sioux Woman.*
- b. **Principle of avoidance or separation:** People causing harm or at risk of causing harm may be temporarily separated from the community, especially from vulnerable community members. If healing is impossible, the harmful person will be actively avoided for safety.  
*The Thunder Women, The Hairy-Heart People, Sioux Woman.*
- c. **Principle of respecting bodily integrity, humanity, and agency:** Unless the person causing harm is an immediate threat to safety, the legal response should respect and uphold the bodily integrity, humanity, and agency of all parties involved.  
*The Thunder Women, The Hairy-Heart People, A Faithless Woman, Sioux Woman.*
- d. **Principle of re-integration:** Provided it is safe and possible, even people who have caused severe harm can fully integrate or reintegrate into the community. This

decision should respect the opinion of those most vulnerable to harm. The process of integration and reintegration requires ongoing monitoring for signs that they may be becoming harmful again.

*The Thunder Women, The Hairy-Heart People, Sioux Woman.*

- e. **Principle of spiritual or natural repercussions:** People may face natural or spiritual consequences proportionate to the harm they have caused, such as the killing of a murderer. In some cases, these consequences are beyond human control, while others result from the efforts of a medicine person.  
*The Thunder Women, Untitled (Killing of a Wife), Sioux Woman.*
- f. **Principle of proportionality:** The legal response should be proportionate to the harm that the person committed or the threat that they posed.  
*A Faithless Woman, Sioux Woman.*
- g. **Principle of incapacitation:** In extreme cases of recurring and unresolvable harm, a harmful agent may be executed as a last resort to keep the community safe and prevent harm from reoccurring.  
*The Hairy-Heart People, Sioux Woman.*

### 3.0 Legal Obligations

*What principles govern individual and collective responsibilities? Where are the “shoulds”?*

- a. **Responsibility to help:** People are responsible for helping others when asked, provided that they have the capability to help. This responsibility is heightened for those with specialized expertise and abilities, such as elders, medicine people, or people with spiritual powers. The responsibility is also heightened when a vulnerable person asks for help, such as in cases involving children, people with limited resources, and people facing the risk of violence or harm.  
*The Thunder Women, Untitled (Killing of a Wife), The Hairy-Heart People, Sioux Woman.*
- b. **Responsibility to prevent future harm:** When a risk of harm is realized, or harm has occurred, people are responsible for preventing or addressing it by taking action proportionate to the severity of harm. This may range from a verbal warning to incapacitation.  
*The Thunder Women, The Hairy-Heart People, Sioux Woman.*
- c. **Responsibility to warn:** When a risk of harm is realized, people are responsible for explicitly warning others within the community or those who might be impacted.  
*The Hairy-Heart People.*
- d. **Responsibility to protect vulnerable individuals:** People are responsible for

protecting and supporting vulnerable individuals, even if they have caused harm. This includes recognizing how their actions may have been informed by their vulnerability, as well as how decisions may disproportionately impact them due to power imbalances and systemic oppression.

*The Hairy-Heart People, Sioux Woman.*

**e. Responsibility to respect others' agency, bodily integrity, and humanity:**

People are responsible for being as respectful as possible of others' agency, bodily integrity, and humanity. Except in cases of severe and immediate danger, even people who have caused harm have a right to bodily integrity on the grounds of their humanity.

*The Thunder Women, A Faithless Woman, Sioux Woman.*

## 4.0 Legal Rights

*What should people be able to expect from others?*

### 4.1 Substantive Rights

- a. Right to safety and bodily integrity:** People should be able to expect that their safety and bodily integrity will be respected. Infringement is only permissible when there are no other options for protecting the safety and bodily integrity of others.

*The Thunder Women, Untitled (Killing of a Wife), The Hairy-Heart People, A Faithless Woman, Sioux Woman.*

- b. Right to be helped when vulnerable:** People should be able to expect help when in a vulnerable position or situation. Even vulnerable people who have caused harm should be able to expect help.

*The Thunder Women, Untitled (Killing of a Wife), The Hairy-Heart People, Sioux Woman.*

### 4.2 Procedural Rights

- a. Right to be heard:** People should expect the opportunity to share their perspectives, opinions, and experiences when determining a legal response or resolution. This may include witnesses, people who caused harm, people who were harmed, and community members.

*The Thunder Women, Untitled (Killing of a Wife), A Faithless Woman.*

- b. Right to have claims or warning signs evidentially corroborated before action is taken:** Before determining a response, people should be able to expect that allegations of harm or potential harm are thoroughly investigated and substantiated.

*Untitled (Killing of a Wife), The Hairy-Heart People, A Faithless Woman.*

- c. **Right to have decisions determined through an open, collective, and deliberative process:** This process should be guided by authoritative decision-makers with relevant expertise and experiences and people who may be impacted. Group deliberation may also be used to publicly denounce certain behaviours and decisions.

*Untitled (Killing of a Wife), A Faithless Woman.*

## 5.0 General Underlying Principles

*What underlying or recurrent themes emerge in the stories and interviews that might not be captured above? What are the principles that guide the expression and application of the law?*

- a. **Decisions should be fluid, responsive, and proportional to the context:** The correct legal response under Cree law depends on the context, legal issue, social dynamics, and parties involved. While precedent plays a role in determining the response, decisions are made collectively through a deliberative process, reflecting Cree legal principles' adaptability and responsiveness.
- b. **Suppressing Indigenous women's rights and agency engenders gendered violence:** Failing to recognize Cree women as legal agents, persons, and citizens reinforces gendered violence, domestic and sexual violence. In the stories above, gendered violence occurs when the bodily integrity, safety, agency, and agency of women are violated. Gender-based violence is also perpetuated by social expectations for women to conform to "traditional" gender roles. In *A Faithless Woman*, the woman is assaulted and killed as a result of failing to meet expectations of being a perfect wife and mother.



# Dene Legal Orders

## Legal Primer

The Dene's traditional territories spread across a vast expanse of land to the north, from the Alaskan coast, through the Yukon, northern British Columbia, Alberta, Saskatchewan, and Manitoba, beyond the Mackenzie Delta region in the Arctic Circle, almost reaching the Hudson Bay in the east.<sup>56</sup> The many Dene communities, which each call parts of this expansive territory home, speak distinct languages and dialects, have distinct ways of life, and live in their respective and established territories, though some overlap or share boundaries. There are several Dene umbrella organizations and governments representing Dene communities who share political and regional interests, such as the Dene Nation<sup>57</sup>, the Dehcho First Nations<sup>58</sup>, the Kaska Dena<sup>59</sup>, and the Gwich'in Tribal Council<sup>60</sup>, to name a few. The Dene are part of a larger language family called the Athapaskan-speaking people, which includes the Den'a in Alaska, the Navajo, and the Apache, whose territories are in today's American southwest.<sup>61</sup> Dene means "people" in the northern Athapaskan languages.<sup>62</sup>

### Dene Way of Life

Dene elders such as George Blondin explain the history of the Dene through stories which reach as far back as the earliest days of the land.<sup>63</sup> Many Dene believe that the land was created by "the one who provides for all" and that Dene come from the land, as did the animals. As a result, the Dene see the land and animals as their relations and equals<sup>64</sup>; Dene Laws and ways of living are deeply informed and governed by the land. The Dene historically had a mobile lifestyle, following the cycle of the seasons and animal migrations in order to survive.<sup>65</sup> Mobility was necessary as the subarctic boreal forest can be a harsh place to live, and food availability differs across specific times of year.<sup>66</sup> For example,

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56 "About Us", online: *Dene Nation* <<https://denenation.com/about/>>

57 "Dene Nation", online: *Dene Nation* <<https://denenation.com/>>

58 "Dehcho First Nations", online: *Dehcho First Nations* <<https://dehcho.org/>>

59 "Kaska Dena Council", online: *Kaska Dena Council* <<https://kaskadenacouncil.com/>>

60 "Gwich'in Tribal Council", online: *Gwich'in Tribal Council* <<https://www.gwichintribal.ca/>>

61 "About Us", online: *Dene Nation* <<https://denenation.com/about/>>

62 *Ibid.*

63 *Ibid.*

64 "Dene Principles & Values", online: *Dehcho First Nations* <<https://dehcho.org/dene-government/about-us/dene-principles-values/>>

65 Velma Wallis, *Two Old Women: An Alaska Legend of Betrayal, Courage, and Survival* (New York: Harper Perennial, 1994), at 126. [Velma Wallis]

66 *Ibid.*, at 127.

Gwich'in communities relied on large-scale fishing during the summer<sup>67</sup>, which they did while staying in fish camps.<sup>68</sup> For the remainder of the seasons, the Gwich'in relied on caribou and moose<sup>69</sup>, which required them to travel across their territories in search of game.<sup>70</sup> For Dene communities, the possibility of starvation meant that the people had to work hard, work together<sup>71</sup>, and follow long-established rules, traditions, and knowledge to ensure the survival of the collective.<sup>72</sup>

### Legal Principles and Values

The Dene Nation and Dehcho First Nations identify Dene principles and values fundamental to the purpose and fulfillment of Dene life and, consequently, to ensure the people's survival.<sup>73</sup> The principles include recognizing and respecting Natural law; taking only what you need from the land; recognizing that no one individual owns the land; prioritizing the survival of the entire group over the individual; respecting and caring for each other; equal recognition and respect for all genders; respect and honour for leaders and medicine people; to respect and uphold individual and collective rights to self-determination and in decision-making; and to live by and pass on Dene laws to future generations<sup>74</sup>. These principles are supported by Dene values of sharing, respect, caring, equality, self-respect, and pride.<sup>75</sup>

Dene principles and values inform the Dene laws that govern individual and communal conduct. The Dehcho First Nations share nine fundamental Dene Laws<sup>76</sup>, which are listed below:

1. Share what you have
2. Help each other
3. Love each other as much as possible
4. Be respectful of elders and everything around you
5. Pass on teachings

67 Canada, Historic Sites and Monuments Board of Canada, *That river, it's like a highway for us. The Mackenzie River through Gwichya Gwich'in history and culture* (30 April 1997), online: *Gwich'in Social and Cultural Institute* <[https://www.gwichin.ca/sites/default/files/gsci\\_heine\\_1997\\_that\\_river\\_its\\_like\\_a\\_highway.pdf](https://www.gwichin.ca/sites/default/files/gsci_heine_1997_that_river_its_like_a_highway.pdf)> , at 4.

68 *Ibid*, at 7.

69 *Ibid*, at 4.

70 *Ibid*, at 7.

71 Velma Wallis, at 127.

72 Velma Wallis, at 9.

73 "Dene Principles & Values", online: *Dehcho First Nations* <<https://dehcho.org/dene-government/about-us/dene-principles-values/>>, and "Statement of Traditional Dene Values and Principles," online: *Dene Nation* <<https://denenation.com/wp-content/uploads/2021/09/Statement-of-Dene-Values-and-Principles.pdf>>

74 *Ibid*.

75 *Ibid*.

76 Dehcho First Nations, *Dene Laws Mek'éé Dene Ts'li* (2019), online: Dehcho First Nations <[https://dehcho.org/wp-content/uploads/2022/03/Dene-Laws-\\_compressed-2-5.pdf](https://dehcho.org/wp-content/uploads/2022/03/Dene-Laws-_compressed-2-5.pdf)>

6. Be happy at all times
7. Sleep at night and work during the day
8. Be polite and don't argue with anyone
9. Young people should behave respectfully

Katjà (Catherine) Lafferty (Yellowknives Dene First Nation) asserts that “[a]ll of the Dene Laws focus on the most important aspects of ourselves of strengthening our identities, respecting each other and ourselves, being loving, grateful, responsible and of service. Dene Laws are basic principles with spiritual qualities that truly help us to become better people for each other and for ourselves. The Dene Laws are not imposing, they are not difficult to practice, and they are not selective”.<sup>77</sup>

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<sup>77</sup> Katjà (Catherine) Lafferty, “On the Dene law of being happy”, *Northern News Services Limited* (30 June 2019), online: <<https://www.nnsl.com/opinion/on-the-dene-law-of-being-happy-7261253>>

# Stories & Case Briefs

## The Copper Woman

"The Copper Woman" in June Helm, Teresa S Carterette, and Nancy O Lurie, *The People of Denendeh: Ethnohistory of the Indians of Canada's Northwest Territories*, (Iowa City: University of Iowa Press, 2000) at 286-288.

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*In 1820 at Fort Chipewyan, Rabbit's Head, an old Chipewyan, told John Franklin (1824) the tradition of "The Copper Woman." Sixty years later at Fort Liard, Petitot (1888) recorded "La femme aux métaux" as told in Chipewyan by Alexis Ennaaze, a mixed Cree-Chipewyan. Ninety years later at Rae, Joseph Naedzo from Great Bear Lake told the legend with many of the story elements of both Ennaaze's and Rabbit's Head's versions:*

There was a Chipewyan woman, and Eskimos stole her. They took her to an island off the coast and gave her to a young man. The island was full of copper, nothing but copper. The woman had a little knife made of copper and a dress out of copper. It was shining and went dling! dling! Everything was of copper.

After she had two children, she decided she must see her people "before I die." She made a packsack big enough for two babies and her bedding and all. And she left her husband, packing two babies.

She went the length of the island, and when she reached the other end of it she didn't know what to do. She had no canoe, nothing. Then a wolf came up and asked, "What's on your mind?" The woman replied, "I want to find my relatives, but I don't know how. This is an island." The wolf said, "Put your babies back in the bag and I'll show you the road to the mainland. Follow me." And the wolf walked just that deep [halfway up his forelegs] in the ocean. The woman packed her babies and followed him. There was deep water on both sides, it was so blue. But where they were crossing, it was just like following a road. She was just about worn out because she couldn't rest while she was in the water. Twice she leaned on a staff to rest, like this [posture illustrated]. And when she rested the third time on the staff, only then she saw land ahead.

Finally she got to the mainland. She sat down to cool off and took the babies out of the pack. The wolf asked, "Where are your relatives?" The woman said, "I don't know, it's been so long." The wolf said, "Wait for me. I'll look for them. Stay here till I come back."

Long after the wolf left, she saw something way off in the water. It looked like lots of canoes. She thought it was Eskimos, and she didn't know what to do. She hid her babies in a little cave in the rocks. But when the canoes got closed, they turned out to be a herd of caribou crossing. She hid behind a rock where the caribou were passing [gestures, poke, poke, poke]. Finally, there was a big pile of caribou that she had killed with one

poke of her knife. Thousands and thousands of caribou were crossing. It was just like she had brought the caribou. It had been too far for the caribou to swim across. Now they were following the woman's road. That's how all the caribou moved to the mainland. They followed the woman.

She skinned the caribou she had killed and saved all the hides. She made a floor and walls, and then she built a fire and roasted caribou. As each was cooked, she put it in the cave. Finally, she filled the cave. The ones that were not cooked she piled alongside the cave, hundreds of them. She told her children that anytime they were hungry, "Here are caribou already cooked, and if you eat all this, there's a big pile out there." When she had finished the wolf came back.

The woman asked, "Where did you find my relatives?" The wolf said, "They are a long way away. Go straight south where the sun is up now. At the left you'll see a big mountain. Head for it. On the left side of the mountain keep going straight." The woman went to her two babies in the cave. "I'm leaving you here. Don't be scared, there's plenty to eat. Look after yourselves till I come back." So she left, going straight for the mountain on the left side of the sun. Walking, walking, walking. Each day when the sun came up she started again, straight south.

After many nights she saw a bunch of men, hunters. They were ready to grab her—they'd been away so long without seeing a woman. She was so pretty and her dress was so nice, all of copper, and shining. They all wanted her. But the woman says, "Don't touch me till we get close to your country. Don't touch me before that because I'm bringing good news. You won't be sorry."

Every night someone tried to get her, but every night she said the same words. So they left her alone. One of the leaders was a cruel man. Finally, halfway to their country, he sat alongside the woman. The woman repeated, as she had said over and over, "I won't stop you, but let me get close to your country." But the man said, "We've heard enough! Now!" And he threw her down and raped her. Then they all took turns, every one of them.

After all of them had raped her, the woman sat up on her knees, like, not moving [illustrated with rigid back and each hand resting on a thigh]. She began sinking down into the earth. The men asked her to come with them. "No! Nobody is going to move me now. It's too late. You should have listened to my words. I'm sorry for you. I would have brought good luck to your country. Now I am going to be here forever."

The men tried to move her, but she was like a stone. They begged her, but she couldn't move. The earth was as far as her knees now. The woman said, "Go, you'll never move me now." Needing food, they left her, but they soon killed plenty of caribou to eat, so they turned back to fetch the woman. The earth was up to here now [midthigh]. She was sinking in the earth. The men again tried to move her, but it was no use.

She said to them, "I'm going to tell you something. A person that eats drymeat with fat and comes to visit me is going to find rocks mixed [shot through] with copper. The man that eats nothing but liver and visits me, he is going to find a big chunk of copper, not mixed, pure. And the man who visits me and eats a chunk of meat without bone is going to find copper that is all split so it is easy to make axes and knives out of it." And she said, "From now on, call this place Sat in the Same Place Mountain."

Later, the men again returned to the woman. Now only her head was out. Again she gave them her last words about the copper. And a year or two later, the men again went to see her. Now she was completely covered with earth. The man who ate drymeat with fat found pieces of mixed copper and stone. The one who ate liver found a big chunk of copper. The one who ate meat without bones found copper all split.

[Naedzo concluded,] She was right. They have been doing that for so many years. That's as far as the story goes.

*This story was received in part from Vital's recall of a telling by Naedzo and in part from a tape I made of Naedzo that Vital translated. Neither effort was on one of Vital's good days. Fortunately, Alphonse Eronchi dropped in while I was trying to sort out two garbled denouements about pieces of copper. Alphonse made it clear that the third kind of copper was lamellar, "split" into a form that could easily be shaped into knives or other implements. In Alphonse's version of old-timers' lore, it was the man who did not eat fat who would find the flakes of copper.*

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## Case Brief

### The Copper Woman

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#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when someone takes without consent?

#### **Facts (Relevant): What facts matter?**

- A Chipewyan woman was stolen by Eskimos and taken to an island where everything was made of copper. The woman was given to a young man. She had a little knife and a dress made out of copper, which made noise whenever she walked.
- After she had two children, she decided she needed to see her people again before she died, so she made a packsack big enough for her babies and her belongings, and she left her husband.
- The woman walked the length of the island and didn't know what to do. A wolf came to her and said he would show her the road to the mainland, and they walked a hidden path of shallow water from the island to the mainland.
- When they arrived, the wolf asked the woman where her relatives were, she said she didn't know because it had been so long. The wolf told her to wait for him, that he would go find them.
- While the woman waited for the wolf, she thought she saw canoes in the distance, and thinking they were Eskimos, she hid herself and her babies. Once they got closer, she realized they were actually a herd of caribou. They had followed her and the wolf's path across from the island. That's how caribou came to the mainland.
- She poked every caribou that passed by her a single time with her copper knife, killing hundreds of them. She skinned them, made floors and walls, cooked some of them and placed the cooked meat inside the cave. She left the uncooked caribou outside of the cave. She instructed her children to feed themselves whenever they were hungry.
- The wolf came back and told the woman where to find her relatives, which was far away. She left her children behind, saying she would come back and telling them not to be scared and to look after themselves.
- The woman walked south for many days, and eventually she ran into some men who were hunters. They all wanted her, having been away from women for so long.
- She told the men not to touch her before they got closer to the men's country, because she was bringing good news. Every night a man tried to touch her, she told them the same thing and they would leave her alone.
- One of the leaders was a cruel man. When they were halfway to the men's country, the cruel man sat next to her. She told him what she had said to all the other men, but he said he had heard enough and forced himself onto her. The other men did the same.
- After all the men had forced themselves onto her, the woman sat up on her knees

and began sinking into the earth. The men asked her to come with them, but she said nobody would move her now, and that they should have listened to her, because she would have brought good luck to their country.

- The men tried to move her but she would not move, she was like a stone. They begged her to come with them but she couldn't move. She sank further to her knees.
- The men left to hunt caribou, and when they came back they found she had sunk past her thighs. They still could not move her.
- The woman told the men that someone who eats drymeat with fat and visits her is going to find rocks mixed with copper. Someone who eats nothing but liver and visits her is going to find a big, pure chunk of copper. Someone who eats a chunk of meat without bone is going to find copper that is all split and easy to make axes and knives with. She also told the men that the place they were at was now called "Sat in the Same Place Mountain."
- Later, the men went back to the woman and only her head was sticking out of the ground. Again she gave them her last words about the copper.
- A year or two later, the men went to see her again. She was completely covered with earth. The man who ate drymeat with fat found pieces of mixed copper and stone. The one who ate liver found a big chunk of pure copper. The one who ate meat without bones found copper all split.

**Decision/Resolution: What is decided or how is the issue resolved?**

- There are natural and human consequences to disregarding someone's consent, such as being denied gifts or highly valued resources such as copper.

**Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The men did not listen to Metal Woman's requests, ignoring her agency and forcing themselves onto her, so they did not receive the good luck Metal Woman promised to their community.

Unsaid:

- When consent is violated, relationships are severed, resulting in harm for all parties involved. The woman does not find her relatives, the kids are left without a mother and the men cannot bring good luck to their community.
- By staying in the place she was harmed, the woman exercises her agency to deny them the good luck that was promised and forces them to return to the scene of their crime if they want to get anything more from her.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Did she leave her husband on the island in secrecy or did he consent for her to go?
- Is the woman disregarding the caribou's agency by killing hundreds of them?

Does she face some kind of natural justice for her actions? Is the amount disproportionate or do the hundreds of caribou feed her children and perhaps her children's paternal side of the family?

- What is the relationship between her and the wolf? (Wolf as protector? Child and family relationship?)
- What happens to the woman's children? Why didn't she bring them with her to find her community? Do they go back to their dad? Does the wolf stay behind to care for them?
- What is the meaning of the woman sinking into the earth? Is she dying? Was that her wish?
- Are the copper items the woman has and the caribou herd meant to be remedies to make up for the Inuit stealing the woman? A peace offering? Are the children a symbol of an alliance between Dene and Inuit?
- What is the significance/meaning of the caribou following her path and establishing themselves on the mainland as a result? What happens to the caribou after the woman sinks into the earth?

## Aht'uutlętahsalats/Dog Piss on Arrow

"Dog Who Peed on Arrow/Girl Who Started Trouble Story" in Robin Ridington and Jillian Ridington, *Where the Happiness Dwells: A History of the Dane-zaa First Nations*, (Vancouver: UBC Press, 2013) at 72.

*One of the stories that Dane-zaa tell about the time before first contact is called "Dog Piss on Arrow War" or "Aht'uutlętahsalats" (literally "arrow, dog he piss on it"). The Dane-zaa elders also tell this story to explain the dispersal of Athapaskan languages. Doig story keepers Sam Acko and Tommy Attachie told us this version on 8 May 2010. Billy Attachie translated.*

This is the story of Aht'uutlętahsalats, dog pee on arrow, way before Moniyaas [whitemen] came to this land.

Now, we're going to tell you a story. This is the story about dog pee on arrow.

People all gathered together, from down south, all over the place, and some of the Dane-zaa there, too. All different tribes. They wanted to make peace. They all wanted to make peace. People from all over the place, they gathered together to make peace. They wanted no more war. After they gathered together there, they wanted to go far north from where they gathered to meet with some other people from the north. They wanted to tell those people to make peace. They all wanted to be one big family, friends. That's why they gathered together. There was one man that told everybody, "There's something going to happen here. Let's try to go around it. I think you guys are going to have a war among yourselves." That's where it started from.

People were all happy gathered together there on a big prairie. This is what I heard, what the people said. That morning, people were all gathered together. In the morning, they were all happy. They were going to go hunt. They told each other which way they were going to go hunt, and still today it's like that. Even today, we tell each other where we're going to hunt. We really watch out for gun safety. People tell each other where they are going, still today. They all gathered together where they were going to go hunt. They talked about it. They laid out their bows and arrows outside, and then one of the dogs peed on the arrows. That was a good hunting dog, but he walked around there and peed on one of the arrows.

One woman saw that dog. She said, "What happened to you guys? Why is it a dog peed on the arrow?" She said it, but nobody heard her yet. At the same time, all the other women told her, "Shut up. Don't say anything." She just said that louder. "I told you guys, that dog peed on the arrow." They all looked at their arrows, and one of those guys found out that the dog had peed on his arrow. The owner of the arrow picked up his bow and arrow, and he shot that dog. The arrow went right through that dog, and it fell and died.

Then the owner of the dog shot that woman who told on the dog. The owner of the dog shot that woman, and she died. That's when they started fighting each other. When they started that war, some of them ran away. Some of them jumped in the lake. They were holding each other from fighting for a long time. They said, "That woman died but that's OK. Let's not fight." But finally, they started fighting anyway. They just wiped each other out until there were only two people left. They couldn't kill each other.

There was one old guy who tried to stop the war. He just kept pushing people back, "No war. No war." But one of the more powerful guys threw the old man down and killed him. From there on, they just kept fighting. They tried to stop the fight for a long time, but it didn't work. If that old man hadn't gotten killed, they could have made peace. After that, they wiped all the people out until there were only two men left to fight. These men tried to pick up all the bows and arrows, but they couldn't kill each other.

People split up and went all over the place. Some went where the sun comes up. Some went where the sun goes down. There wasn't any border, that time. Way long time after, one of the really old woman told people, "I'm the one who survived dog pee on arrow." That old lady remembered from a long time ago. The survivors all split off. That's the woman who survived. She went into the water and came out until her breasts were on the water. That's how she survived. One of the men who survived told her, "Go underneath my arm," and that's how she survived. K'e che mege, Saskatoon Lake north of Beaverlodge, Alberta, that's where Aht'uutlętahsalats happened.

## Case Brief

### Aht'uutlętahsalats/Dog Piss on Arrow

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when a vulnerable person or people are harmed or endangered in a conflict involving many different communities?

#### **Facts (Relevant): What facts matter?**

- This is about the time before first contact with Europeans. Dane-zaa elders also tell this story to explain the dispersal of Athapaskan languages.
- People from all different communities gathered together from down south and all over the place; some of the Dane-zaa were there too. They gathered to make peace.
- There was one man who told everyone that something was going to happen at the peace gathering. He thought the people were going to have a war among themselves.
- People were gathered together on a big prairie. That morning, everyone was happy, and they went to hunt together. Everyone laid their bows and arrows outside, and then someone's dog peed on an arrow.
- One woman saw the dog peeing on the arrow and said something about it, but most people did not hear her comment. The women who did hear the woman told her to stay quiet, but the woman repeated, this time louder, that the dog peed on the arrow.
- Everyone looked at the arrows, and one of the guys found that his arrow had in fact been peed on by a dog. The owner of the arrow shot the dog, who died. The owner of the dog shot the woman who told on the dog, and she died. That's when everyone started fighting each other.
- Some people ran away when the fighting began, others jumped into the lake. The people tried to each other back from fighting for a long time, saying that the woman died but that's okay, let's not fight. In the end, they started fighting anyway.
- There was one old guy who tried to stop the war. But one of the more powerful men threw the old man down and killed him. From there on, they just kept fighting. People tried to stop the fighting but it didn't work. If the old man wouldn't have been killed, there could have been peace.
- Everyone was killed in the fight except for two people who couldn't kill each other.
- People split up and went all over the place after this fight.
- A long time after this fight, an old woman told people that she survived dog pee on arrow. The old woman said that the survivors split off after the fight, and the old woman survived by going into the lake and hiding under a man's arm.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- The women try to protect each other by telling the outspoken woman not to alert others of the dog pee on the arrow.

- There is no justice or accountability for the dog, woman, or old man who are killed in the conflict because there is no shared law or accountability processes across the communities who gathered to make peace.
- A man protected the old woman, one of the few who survived the violent outbreak.

**Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

**Said**

- The women tell the woman to “shut up” and not “say anything” when she tries to alert the communities to the dog pee on the arrow.
- The owner of the arrow that was peed on shoots the dog, and the owner of the dog shoots the woman.
- A “more powerful” man kills the old man advocating for the fighting to stop.
- Everyone at the gathering was killed except for two men.
- The old woman survived by going into the lake and hiding under a man’s arm.

**Unsaid**

- When there are no agreed-upon laws or behavioural norms between different nations and communities, a highly emotional conflict arising between people can become an uncontrollable, violent battle.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Why did the person whose arrow was peed on not talk to the dog owner before killing the dog? If there was a lake nearby, couldn’t they have just cleaned the pee off of the arrow? Is a dog peeing on an arrow a severe offence because it could have negative implications for human health should the contaminated arrow pierce an animal’s skin?
- If the people initially gathered for peace, and many were aware that emotions across groups were running high, why did the communities choose to bring vulnerable individuals such as old people and women to the gathering?

## Bird Girl: Leaving Her Community

Velma Wallis, *Bird Girl and the man who followed the sun: an Athabaskan Indian legend from Alaska* (Fairbanks: Epicenter Press, 1996).

### Case Brief

#### Bird Girl - Leaving Her Community

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when community expectations and traditions are imposed on someone who does not conform or meet the expectations?

#### **Facts (Relevant): What facts matter?**

- Bird Girl was never interested in doing what is traditionally women's work in her Gwich'in community, instead preferring to learn men's work, which includes hunting, trapping, scouting, making weapons and using them.
- Bird Girl's behaviour is seen as unusual by her community, and the community resents her for being different.
- Bird Girl's community pressures Bird Girl's father, Zhoh, to force Bird Girl to marry. There is a thinly veiled threat that if she does not get married, the community will force her or the family will be banished.
- One night Na'Zhuu and Zhoh, Bird Girl's parents, tell Bird Girl that she will have to take a husband. Bird Girl tells her parents that she accepts this. However, when Bird Girl leaves her parents' shelter to return to her own, she decides she will run away from her community to avoid marriage.
- Bird Girl packs her things and runs away from her community. After walking for a long time, she finds a cave that she chooses to make into her winter shelter. She spends many weeks hunting, trapping, fishing, picking berries, medicines and bark, preparing for winter and ensuring her survival in these ways. Bird Girl is fully stocked to survive the cold, harsh months ahead.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- The nonconforming person chooses to leave because their agency will not be respected by the community otherwise. The community becomes an unsafe place for those who cannot conform to expectations and traditions.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- Bird Girl was not ready to get married, nor did she want to be forced to do women's work. Her community and family did not give her a choice to stay as she was, even though she excelled at doing what is traditionally men's work, so she left her

community to live on her own.

Unsaid:

- If Bird Girl asserted her agency in her community and with her family, both her and her family would be ostracized and likely banished. Survival through the winter is not as assured for those without a community.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Why did it matter so much that Bird Girl didn't want to do women's work, when she was so good at doing men's work? Was there really no way for the community to sort out an arrangement that filled whatever gap existed from Bird Girl's reluctance to do women's work?
- Bird Girl does (what I assume is) women's work when she sews bark into caches, so it's not a question of whether she can do the work. In times of need, Bird Girl seems able to perform both spectrums of work.

## Bird Girl: Captured as a Slave

Velma Wallis, *Bird Girl and the man who followed the sun: an Athabaskan Indian legend from Alaska* (Fairbanks: Epicenter Press, 1996).

### Case Brief

#### Bird Girl - Captured as a Slave

##### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when someone is kidnapped and abused by an enemy for over a decade?

##### **Facts (Relevant): What facts matter?**

- Bird Girl is chased down and kidnapped by a Ch'eekwaii man, Turak, who takes her back to his community to have as a slave.
- Once they arrive in Turak's community, Turak and the community leave Bird Girl outside, and an old lady named Ukpik took Bird Girl into her house to allow Bird Girl some rest. Ukpik gave Bird Girl some dried meat the morning after.
- Turak drags Bird Girl out from Ukpik's house that morning and hits her repeatedly. Turak requires Bird Girl to clean his shelter, make his food, and forces her to have sex with him.
- Bird Girl lives as Turak's slave for a long time, being forced to clean, feed him, have sex with him. When Turak is away, he requires his community to work Bird Girl hard.
- Bird Girl eventually falls pregnant. Bird Girl tries to escape, and makes it to the foothills of the mountain, before Turak finds her and drags her back to camp.
- Turak takes a wife from his community, a woman named Akpa. Bird Girl and Akpa spend lots of time together doing Turak's chores but they are not friends.
- When the time comes for Bird Girl to give birth, Bird Girl is moved to the birthing hut some distance from the Ch'eekwaii camp. After Bird Girl gives birth, her child is taken from her by Turak, and Turak and Akpa take care of the child. When Bird Girl tries to get her child back, Turak beats her and drags her back to Ukpik's house.
- Ukpik keeps Bird Girl with her, discouraging Bird Girl from leaving Ukpik's shelter or trying to see the child again.
- Bird Girl spends another ten years watching Akpa and Turak raise Bird Girl's son. Bird Girl continued living with Ukpik and working for the old lady and some of the Ch'eekwai. The Ch'eekwai couple give Bird Girl's son the name Kanuk. Akpa would not ever look Bird Girl in the eyes, while Turak continued to make Bird Girl's life miserable.
- One day, Kanuk noticed Bird Girl watching him and runs off. As Kanuk grew older, he adopted the Ch'eekwai's perspective of Bird Girl and joined in on teasing her and throwing rocks at her, until he eventually came to start ignoring Bird Girl entirely.

- Bird Girl chose to let go of her sorrow about her son, and to keep living her life as best she could.
- Bird Girl learned lots about the Ch'eekwai way of life, and she enjoyed helping butcher whales and watching Ch'eekwai dancing and games as much as she could, given her circumstances.
- While the celebrations went on, the Ch'eekwai began playing with a ball, kicking it back and forth between each other. When the ball rolled over towards Bird Girl, she noticed it was one of her brother's decapitated heads. The Ch'eekwai added more balls to the game, and these were all of her brother's heads. Bird Girl felt an anger unlike any other she had felt. She stayed by the fire after all the Ch'eekwai went back to their shelters for the night.
- The Ch'eekwai expected Bird Girl to clean up after the celebration. Instead, Bird Girl walked around the Ch'eekwai camp, collecting furs and using them to block the airways of each shelter in the community, except for Ukpik, the old lady.
- Bird Girl then collected her belongings and escaped from the Ch'eekwai camp.
- Bird Girl returned to her people to find her parents dead from the grief of losing their children. Bird Girl decided to live out the rest of her life with a different community, because her own community was weary of her because she survived the Ch'eekwai, and her brothers hadn't. Even the new community Bird Girl lives in struggles to accept her, so she lives separate from them, a few hours walk away.
- Bird Girl and Daagoo are reunited, and Bird Girl is able to open up about her past fully for the first time. With Daagoo's support, Bird Girl is welcomed into the folds of the community she chose to live in, and settles into the camp with the people.
- Bird Girl, Daagoo and Daagoo's mother, Shreenyaa, choose to stay with the community that Bird Girl is staying with.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- Bird Girl chooses to survive. When given the chance, she escapes and takes revenge on those who hurt her and her family.
- Bird Girl's brothers never stopped looking for her because they wanted to know what had become of their sister.
- Ukpik, the old Ch'eekwai woman, helped Bird Girl whenever the opportunity arose, in ways that kept Ukpik safe from Turak's wrath or the community's disapproval.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- Bird Girl believed that Turak and the Ch'eekwai wanted to see her lose faith and give up after all of the abuse she suffered and that if she did, she would be killed. So Bird Girl stayed strong and did what she needed to survive.
- Bird Girl's brothers found the abandoned winter cave Bird Girl had stocked up for herself to survive through the winter on her own, and because there was no definitive answer to her disappearance, Bird Girl's brothers chose to keep looking

for her.

- Ukpik did not approve of Turak's behaviour and the way that her community enabled the torture of Bird Girl, so Ukpik helped Bird Girl where she could.

Unsaid:

- It is important that when a family or community member goes missing, the community and family get closure for what happened to them, so Bird Girl's brothers never stop looking for her.
- Psychological and physical torture of a woman, even if she is from an enemy community, is not acceptable.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Turak went through something traumatic as a younger person, and he was not able to process it or heal from it. Is it fair to say that his community failed him in this regard? The community is afraid of him and does not necessarily seem to approve of his actions, yet they do not intervene. There seems to be a cycle of unaddressed violence and complacency in the Ch'eekwai camp.
- Does Ukpik have any family? Why was she always alone? And if the community did not value Ukpik, why did Turak not harm her if he was angry over how Ukpik helped Bird Girl?

## Two Old Women (Part 1)

Velma Wallis, *Two Old Women: An Alaska Legend of Betrayal, Courage, and Survival* (New York: Harper Perennial, 1994) at 1-67.

### Case Brief

#### Two Old Women: Chapters 1 - 5

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate legal response when the community abandons vulnerable members?

#### **Facts (Relevant): What facts matter?**

- The People lived in the arctic region of Alaska and followed a nomadic life in order to survive. Hunting was their main source of food and despite the hunters best efforts, many of the women and children suffered from malnutrition and some would die of starvation.
- In this particular band were two old women named Chi'idzigyaak (80) and Sa' (75). The younger members of the band would provide and care for the two old women; however, they uncharacteristically constantly complained of aches and pains but never received reprimands for their behaviour.
- One fateful day, the Chief announced that he and the council had decided to leave the two old women behind. The People began to immediately pack, and the Chief could not bring himself to look at the two old women as this decision made him feel worse than he had ever felt in his life.
- In response to the decision, the two old women sat proudly before the fire and disguised their shock.
- Only Chi'idzigyaak had a daughter and a grandson, and neither vocalized their dissent with the decision. However, the daughter did give her a bundle of babiche (thickly stripped raw moosehide) and the grandson gave her his hatchet.
- After The People walked away, the two old women continued to sit by the fire until Sa' rallied the two of them by proclaiming that they have earned the right to live, so if they are going to die then they will die trying.
- The two old women survived for a few days at that camp using skills they had learned as children using all of their possessions as The People did not take those when they left. They decided to move on from that camp as there were not enough animals to survive on and other bands who were on the move might pose potential dangers.
- The two women set out for a camp they remembered from when they were younger, a creek where the fish were so abundant that many caches had to be built. For six days they walked across the dry, deep snow pulling all of their possessions with them, persevering despite the deep cold and their aching bodies.

- They set up a camp and worked steadily in preparation for the incoming worst weather of the winter. That night, they sat around the fire in deep thought until Chi'idzigyaak shared a memory of when she was a little girl and witnessed the community abandon her grandmother, who was blind and deaf. In return, Sa' shared a memory of an old woman who was left behind and how when she spoke out against the Chief for this decision, she was left behind with that old woman for what she had done. Afterwards, each woman felt more at home.
- Throughout the winter, the women spent their time during the day hunting, foraging and all the things they needed to survive, and spent the long nights talking and weaving blankets and clothing.
- They survived the harsh winter and as the weather changed so did their spirits.

**Decision/Resolution: What is decided or how is the issue resolved?**

- When the community leaves them behind, the two women resolve to survive or die trying, using their knowledge and skills to make it through the winter.

**Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The community believes that the two old women are too old and useless, but they forget that the two old women have the right to live.

Unsaid:

- Without each other, the women would have had a harder time surviving the harsh winter. When one is emotionally overwhelmed by how they were abandoned, the other offers inspiring words to rally their collective efforts. When one is exhausted from the labour, one can draw on the strength from the other to keep going.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Why were only the two women left behind and not any of the older men? Were there no older men in the community? If there were men who were the same as the women, would they have been abandoned too? If the partners of the two women were still alive, would that change the council and Chief's decision?

## Two Old Women (Part 2)

Velma Wallis, *Two Old Women: An Alaska Legend of Betrayal, Courage, and Survival* (New York: Harper Perennial, 1994) at 71-123.

### Case Brief

#### Two Old Women: Chapters 6 - 9

#### **Problem (Issue): What is the main human problem that the story focuses on?**

What is the appropriate legal response when those who have committed harm are in need and ask for forgiveness and assistance from the wronged party?

#### **Facts (Relevant): What facts matter?**

- During the spring, the women decided to move their camp as they were worried that the plentiful resources in the area would attract other people, with whom they'd lost trust. When they left, they hid the evidence of their stay.
- The women were busy hunting and fishing all spring and summer, and were so successful that they had to make caches and many articles of clothing; however, they began to feel lonely in the fall.
- The People had suffered after they abandoned the two old women and by the fall season they were nearly out of food. As they searched for winter game, the Chief decided to lead The People back to the camp where they had left the two old women. When he investigated the site, he found no signs that anyone had been left and nothing to indicate that the women had died.
- The Chief decided to send the older guide Daagoo and the three strongest young hunters to learn about what happened to the women. The Chief knew that they had inflicted an injustice on the two women and The People had suffered silently since then. While he knew it was potentially a waste of precious time and energy, the Chief had a small speck of hope that the women had survived.
- Daagoo and the three young hunters found the women's first camp. The young hunters saw no evidence of their stay, but Daagoo patiently taught them how to recognize the signs of what the two old women had tried to hide. Daagoo then found the new camp the two women had set up, but rather than approach further he called the women's names out and identified himself.
- The two women were sitting around the fire, talking about The People as loneliness and time had healed their most bitter memories. When they heard their names and Daagoo's name, they knew they could trust him but were unsure of the others. While they were frightened, they decided to be brave and face the group of men, but were prepared for anything.
- Sa' announced her presence, and the group of men made their way to the camp. When they arrived they found the two women holding spears. The women asked why the men were there, and Daagoo explained how the Chief had sent them.

When the women expressed wariness about the Chief learning they had survived, Daagoo gave his word that he would protect them.

- After this proclamation, Sa' noticed how weary the men looked and invited them inside the shelter and fed them. As they ate, the women could see that they were lean. Once the men had finished their food, Daagoo shared how The People were starving and that everyone was sorry about how the two women were abandoned. When Sa' asked if The People would leave them again, Daagoo told them he would protect the two women with his own life. After hearing the exchange between their elders, the younger men vowed to protect the two women too.
- The two women huddled for a private conference, and decided to share with The People; however, they expressed their concerns to Daagoo about being taken advantage of. They set clear expectations and boundaries with Daagoo, saying that if The People became greedy and tried to take their food, the two women would fight to their deaths for what is theirs. They also told Daagoo that only he and the Chief were allowed to see them, and expected The People to stay at the old camp.
- When Daagoo returned to The People, he told the women's story and the terms they had set. The Chief agreed and decreed that anyone who disagreed would have to fight him. The council members who had suggested abandoning the women were deeply ashamed, and one member spoke up to admit it was wrong to leave them behind and would now pay them back with respect.
- The People agreed to follow the rules set by the women and travelled to the old camp. The Chief and Daagoo met with them alone, and the women reiterated their expectations. The Chief responded by telling them their wishes would be obeyed. Then the women shared food and their extra clothing.
- After some time, The People were curious about the women, and the Chief asked permission for others to visit them too. At first the women said no, but then decided they were ready and soon people began visiting. Visitors came and went daily and each time they would bring the women gifts, and began to seek them out for advice and to learn new things.
- One day Chi'idzigyaak's grandson came to visit and they had a happy reunion, and afterwards he came every day to listen to the women's stories and help them with daily chores. Eventually Chi'idzigyaak asked him why her daughter did not come to visit, and the boy said she was in shame and thought her mother hated her. Chi'idzigyaak decided to forgive her daughter and acknowledged it had been brave of her to leave the bundle of babiche before she left.
- When the daughter visited the camp, they embraced tightly and wept. Then Chi'idzigyaak went into the tent and brought out a small bundle of babiche for her daughter. After some initial confusion, the two smiled and embraced.
- After reuniting everyone, the Chief appointed the two women to honorary positions within the band. At first, people wanted to help them, but the women would not allow too much assistance as they enjoyed their independence, so The People showed their respect by listening to what they had to say. The people kept their promise and never abandoned any elders again.

**Decision/Resolution: What is decided or how is the issue resolved?**

- When a community is in need, the wronged party can choose to offer and provide assistance while maintaining boundaries to ensure their safety. In time, further conversations and respect for their boundaries may lead to forgiveness and for people to be reunited.

**Reason:** What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?

Said:

- The women decided to offer assistance to The People but set clear expectations and boundaries to protect themselves. Eventually, they reached a place where they could feel comfortable having the people visit their camp and begin to have a relationship again.
- When the people visited, they brought gifts, which the women appreciated very much.

Unsaid:

- People need a community to survive, and recovering from harm committed takes time. However, it is important to take the steps and gradually reach a place where relationships can be mended and people can be reunited.
- When those who have caused harm are in need, there is an obligation to provide help when asked, but it is important to be clear about the terms of the relationship and the nature of the assistance.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- What if another group came across the two women's camp before their community did, and asked them for help? Would they have respected the women's boundaries and expectations when receiving the assistance? Would the women have felt the same obligation to feed and clothe them?
- Why is there no interaction between the council members and the women?

# Synthesis of Dene Legal Principles

## 1.0 Legal Processes

### 1.1 Authoritative Decision Makers

*Who are authoritative decision-makers?*

**a. Individual**

Individuals have the agency to make their own decisions in response to stressors or legal issues, even when their family or community do not agree with them.

*The Metal Woman/The Copper Woman; Two Old Women; Medicine Power Woman; Bird Girl and the Man Who Followed the Sun.*

**b. Leader**

Leaders make decisions for the benefit of the community. A leader's authority is derived from and shaped by consultation with the community.

*Two Old Women; Bird Girl and the Man Who Followed the Sun.*

**c. Community**

Community members come together to deliberate on the best course of action given a situation or legal issue. The people deliberate amongst each other to ideally come to a consensus.

*Two Old Women; Bird Girl and the Man Who Followed the Sun (Leaving Her Community).*

**d. Human Relatives**

Family members have a responsibility to make the best decisions for their relatives and to protect them whenever they can. Family members also ensure their relatives are fulfilling their obligations towards the family and the community. When relatives do not fulfill their obligations to the family or community, family members can step in to address or correct behaviours.

*Two Old Women; Medicine Power Woman; Bird Girl and the Man Who Followed the Sun (Leaving Her Community).*

**e. Non-human Relatives**

Non-human relatives play key parts in legal narratives as they have agency and skills to help those in need.

*The Metal Woman/The Copper Woman.*

### 1.2 Procedural Steps

*What procedural steps are involved in determining a legitimate response or resolution?*

**a. Survive and develop a plan**

When caught in a dangerous situation, it is appropriate to survive as best as possible given the circumstances to then be able to develop a plan to address the situation and work towards re-establishing safety.

*Two Old Women; Medicine Power Woman; Bird Girl and the Man Who Followed the Sun; The Metal Woman/The Copper Woman.*

**b. Consult with your community or relatives**

When faced with a problem or dangerous situation, individuals should consult with their community and relatives to establish a course of action. In these scenarios, community members try to reach a consensus to maintain as much peace as possible in the community, especially during hard times where emotions are running high and people are hungry or afraid.

*Bird Girl and the Man Who Followed the Sun; Two Old Women.*

**c. Inform others of actual or potential harm**

If an individual witnesses a potential or actual harm, they can inform those around them to ensure it is addressed or minimized.

*Aht'uutlętahsalats/Dog Piss on Arrow*

## 2.0 Legal Responses and Resolutions

*What principles govern appropriate responses and resolutions to harms and conflicts between people?*

**a. Protect and defend yourself**

When faced with danger, individuals can protect and defend themselves through many means. This can include hiding, pacifying your captor(s) by following their orders, using your gifts or medicine power, and outright physical self-defence.

*Two Old Women; The Metal Woman/The Copper Woman; Medicine Power Woman; Bird Girl and the Man Who Followed the Sun (Captured As A Slave); Aht'uutlętahsalats/Dog Piss on Arrow.*

**b. Abandonment**

Communities or individuals can choose to abandon each other. A community abandoning individual(s) often happens in times of strife or if the individual(s) in question do not meet their obligations to the community. When an individual chooses to abandon their community, it can be to preserve their independence and safety from a community that cannot honour their individual needs.

*Two Old Women; Bird Girl and the Man Who Followed the Sun (Leaving Her Community).*

**c. Death penalty**

Killing a harm-doer can be a proportionate response when the violence is severe and there is no remorse or legal recourse available for those harmed. This can be especially true when harm-doers are from outsider communities, and there is no established legal relationship or obligation to uphold towards those they have harmed.

*Medicine Power Woman; Bird Girl and the Man Who Followed the Sun (Captured As A Slave).*

**d. Offer Care and Support**

When someone has been made vulnerable or needs help, it is an appropriate legal response to provide care and support in whatever way possible. Offering care and support can take many forms, as sometimes individuals are limited in the care and support they can offer due to the limited safety they have within their living environment. For example, Ukpik helped Bird Girl in the ways that she could, without bringing Turak's wrath onto her.

*Bird Girl and the Man Who Followed the Sun (Captured As A Slave); Two Old Women (Chapters 6-9).*

**e. Establish yourself elsewhere**

When a place is dangerous or invokes bad memories for an individual or group, people may establish their lives elsewhere to heal and live fulsome, happier lives. This could mean moving to a different community, establishing a new community by separating from your current community, amalgamating one or more communities into one, or parting with your community to live alone or with a few others.

*Bird Girl and the Man Who Followed the Sun; Two Old Women; Aht'uutlętahsalats/Dog Piss on Arrow.*

**f. Escape and find safety**

When someone is in a dangerous situation or danger seems imminent, individuals may choose to escape and find safety.

*The Metal Woman/The Copper Woman; Aht'uutlętahsalats/Dog Piss on Arrow; Bird Girl and the Man Who Followed the Sun (Captured As A Slave)*

### 3.0 Legal Obligations

*What principles govern individual and collective responsibilities? Where are the "shoulds"?*

**a. To care for and share with those in need**

When individuals or communities notice someone in need, whether directly related or not, they can offer care to the person or people in need by providing shelter and sharing the resources the individual or community has at the time of need.

*The Metal Woman/The Copper Woman; Two Old Women; Bird Girl and the Man Who*

*Followed the Sun; Medicine Power Woman*

**b. To educate future generations**

Older generations have a responsibility to educate younger generations in their community's ways to ensure that the young people can sustain themselves, their families, and the community when they grow up.

*Bird Girl and the Man Who Followed the Sun (Leaving Her Community).*

**c. To ensure your own and your kin's survival**

Life in the North is harsh, especially in the dead of winter, and communities often focus on ensuring their survival throughout the coldest months. Survival requires strict rules, and people must follow these rules for the benefit of the collective, such as feeding hunters first because hunters feed the community. Ensuring the community's survival may also mean leaving the elderly or unhelpful community members behind.

*Two Old Women; Bird Girl and the Man Who Followed the Sun (Leaving Her Community).*

**d. To use your gifts or medicine power for the benefit of your community and others**

When individuals have gifts or medicine power, they must use them for good or to benefit their community and others.

*Medicine Power Women; Bird Girl and the Man Who Followed the Sun (Leaving Her Community); The Metal Woman/The Copper Woman.*

## 4.0 Legal Rights

*What should people be able to expect from others?*

### 4.1 Substantive Rights

**a. Right to be helped**

Individuals have a right to be helped by others, especially when they are made vulnerable or in immediate danger.

*Two Old Women; Bird Girl and the Man Who Followed the Sun (Captured As A Slave); The Metal Woman/The Copper Woman; Medicine Power Woman.*

**b. Right to have your basic needs met/right to care**

Individuals have a right to food, shelter, and other basic care both in their communities and outside of their communities.

*The Metal Woman/The Copper Woman; Two Old Women; Bird Girl and the Man Who Followed the Sun; Medicine Power Woman.*

**c. Right to safety**

Individuals have a right to safety in mind, body and spirit, both inside and outside

their home communities. They also have a right to be protected, especially by those whose responsibility is to protect them.

*Two Old Women; The Metal Woman/The Copper Woman; Medicine Power Woman; Bird Girl and the Man Who Followed the Sun.*

## 4.2 Procedural Rights

### a. To be heard

Individuals have a right to be heard in community deliberations, especially when decisions are directly related to them, or will impact them.

*Two Old Women (Chapters 1-5), Bird Girl and the Man Who Followed the Sun (Leaving Her Community).*

### b. To be given a warning before sanctions/punishment being imposed

When individuals exhibit problematic behaviours, they have a right to be given warnings and a chance to change their behaviours before being faced with a sanction or punishment.

*Two Old Women (Chapters 1-5).*

### c. To have closure

When an individual goes missing or something happens to their loved ones, communities and relatives have a right to know, when possible, what happened to the individual(s) in question. Individuals who have gone missing can return to provide this closure, or communities, relatives or individuals can determine what happened to a missing person through searching or finding evidence. When the truth about an incident has been uncovered, individuals share their findings with the community.

*Bird Girl and the Man Who Followed the Sun (Captured As A Slave); The Metal Woman/The Copper Woman; Two Old Women (Chapters 6-9).*

## 5.0 General Underlying Principles

*What underlying or recurrent themes emerge in the stories and interviews that might not be captured above? What are the principles that guide the expression and application of the law?*

### a. Relationships are necessary for survival

Relationships are central to surviving in the north. The principle of sharing core resources needed for basic survival between individuals and communities is embedded within and enacted through relationships. Having another with you or depending on you can motivate you to survive in the most hopeless times, as is seen in Medicine Power Woman and Two Old Women. To be cast out of community often means a certain death. Solitary outcasts are often regarded as suspicious, as it is likely they were cast out for failing to fulfill their obligations to their original community.

*Two Old Women; Medicine Power Woman; Bird Girl and the Man Who Followed the Sun.*

**b. Reciprocity**

The principle of reciprocity underpins all lawful relationships. When receiving gifts or resources, people are expected to give what they can, given the circumstances and the extent of their belongings. Sometimes, there are rules attached to reciprocal relationships, as seen in *The Metal Woman/The Copper Woman*.

*Two Old Women; The Metal Woman/The Copper Woman.*

**c. Forgiveness takes time**

When those who have committed harm wish to make amends, they need to listen to and respect the boundaries set by those who have been harmed. They also need to be patient and understand that mending relationships takes time and care.

*Two Old Women.*

**d. Unaddressed violence feeds a cycle of violence**

When individuals or communities fail to enact a legal response to disproportionate violence, and this violence goes unaddressed, the cycle of violence continues.

Violence goes unaddressed due to a breakdown in law, a lack of legal relationships and obligations across communities, or a lack of support and accountability for individuals who suffered violence or their relatives who are vicariously traumatized by the violence.

*Aht'uutlętahsalats/Dog Piss on Arrow; Bird Girl and the Man Who Followed the Sun (Captured As A Slave)*



INDIGENOUS

LAWS

FUTURE  
REASON  
AND OLD

FEMINIST  
LAUGH YOUNG  
THEORY  
CRITICAL

LAW  
APPLY  
INDIGENOUS  
ENGAGEMENT  
DEBAT

AG  
LA  
FEM  
RESPECT

MS  
L ORDERS  
WORK PLAY

# Gitxsan Legal Orders

## Legal Primer

The Gitxsan, meaning “people of the Skeena” or “people of the river of mist”, are part of the Tsimshian linguistic group<sup>78</sup> located on the northwestern coast of British Columbia.<sup>79</sup> The Gitxsan traditional territories span approximately 33,000 km<sup>2</sup> and encompass the Babine, Bulkley, Kispiox, and Skeena Rivers.<sup>80</sup> They interacted with their neighbours—the Nisga’a, Tsimshian, Wet’suwet’en, Carrier, Tahltan, and Sekani peoples—through marriage, adoption, conflict, and trade.<sup>81</sup> It is estimated that there are 18,000 Gitxsan people worldwide and approximately 7,200 Gitxsan members.<sup>82</sup>

### Kinship-based Societal Structure

Gitxsan society is decentralized and horizontally structured with a focus on accountability, transparency, and collaborative problem-solving.<sup>83</sup> Societal order is maintained through the kinship system, which defines individual and community responsibilities, obligations, and rights.<sup>84</sup> The *wilp* (House) is the foundational unit of Gitxsan society, formed of about 150 people with common ancestry.<sup>85</sup> All Gitxsan Houses belong to one of four larger *pteex* (clans)—the *Ganeda* (Frog), *Gisgahast* (Fireweed), *Lax Gibuu* (Wolf), and *Lax Skiik* (Eagle).<sup>86</sup> As a matrilineal society, Gitxsan people inherit their House membership from their mother.<sup>87</sup> House and clan members were widely scattered by marriage and occupation between different Gitxsan villages, with the current villages being Gitanmaax, Kispiox, Glenvowell,

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78 The Tsimshian linguistic group consists of the Gitxsan, the Nisga’a, and the Tsimshian. Due to sharing a common ancient history, the three groups share many cultural and language similarities.

79 Neil J. Sterritt, *Mapping My Way Home: A Gitxsan History* (Smithers: Creekstone Press Ltd, 2016) at 327; Val Napoleon, “Gitxsan Democracy: On Its Own Terms” in James Tully et al., eds, *Democratic Multiplicity: Perceiving, Enacting, and Integrating Democratic Diversity* (Cambridge University Press, 2022) at 202.

80 Gitxsan Huwilp Government, “About the Gitxsan - The Traditional Gitxsan Laxyip (Territory)” (n.d.) <https://gitxsan.ca/the-gitxsan-laxyip-territory/> (accessed October 30, 2024).

81 Val Napoleon, *Ayook: Gitksan Legal Order, Law and Legal Theory* (PhD Dissertation, University of Victoria, 2009) [unpublished] at 4 (Napoleon 2009).

82 Gitxsan Huwilp Government, “Press Releases - Government of BC Withdraws Participation On Fishing Crisis Talks, Perpetuating Cultural Genocide” (April 23, 2021) <https://gitxsan.ca/government-of-bc-withdraws-participation-on-fishing-crisis-talks-perpetuating-cultural-genocide/>; BC Treaty Commission, “Gitxsan Hereditary Chiefs” (2023) <https://bctreaty.ca/gitxsan-hereditary-chiefs/>.

83 Napoleon 2009, *supra* note 4 at 163.

84 *Ibid* at 2-5.

85 Val Napoleon, *Thinking About Indigenous Legal Orders* (National Centre for First Nations Governance, 2007) at 20.

86 *Ibid* at 21 (Napoleon 2007).

87 Sterritt, *supra* note 2 at 45.

Each Gitxsan House has a distinct and exclusive set of tangible and intangible possessions, including fishing and hunting territories, a set of *adaawk* (oral histories), a set of *ayuk* (crests), a set of songs, and a collection of important names.<sup>89</sup> A person's House membership determines their position in the kinship system by outlining their access to territory and resources, as well as rights and responsibility to their House and other House members.<sup>90</sup> As the Gitxsan forbid marriage between members of the same clan, Gitxsan individuals also have rights and responsibilities to other Houses through their spouses, paternal relations, and mother's paternal relations.<sup>91</sup>

### Decentralized Gitxsan Society

The House is the highest political and legal authority in Gitxsan law; there is no head or chief of all Houses.<sup>92</sup> However, Houses interact with other Houses and non-Gitxsan entities through their *simoogit*, the House Chief.<sup>93</sup> Each Gitxsan House owns a number of chiefly names—a *simoogit* (head chief) name and *hla ga kaaxhl simoogit* (wing chiefs) names—which are passed down to the next successor when the chief passes.<sup>94</sup> The House Chief's principal function is to seek consensus within the House and present the consensus to other Houses and non-Gitxsan entities.<sup>95</sup> The House Chief is responsible for protecting the welfare and health of House members, protecting House possessions and territories, representing the House's decisions to outsiders, ensuring that the House meets its legal obligations, and enhancing the House's *daxgyet* and standing among the Gitxsan and other peoples.<sup>96</sup> *Daxgyet* refers to a House's source of power rooted in their relationship to land, nature, and society.<sup>97</sup> If a Chief repeatedly speaks or acts in a manner that diminishes the *daxgyet* of the House or acts against the House's interests, they will lose House members' support, be removed from the position, and be stripped of the chiefly name.<sup>98</sup> All House members have the responsibility to uphold the standing and *daxgyet* of their House within the Gitxsan political and legal ordering.<sup>99</sup>

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88 Richard Daly and Val Napoleon, "A Dialogue on the Effects of Aboriginal Rights Litigation and Activism on Aboriginal Communities in Northwester British Columbia" (2003) 47:3 *Social Analysis: The International Journal of Anthropology* 108 at 114; Napoleon 2009, *supra* note 4 at 6.

89 Sterritt, *supra* note 2 at 45; Napoleon 2009, *supra* note 4 at 7-9.

90 Napoleon 2009, *supra* note 4 at 5-6.

91 *Ibid.*

92 Napoleon 2007, *supra* note 8 at 5-6.

93 Napoleon 2009, *supra* note 4 at 148-149.

94 *Ibid* at 6-7.

95 *Ibid* at 104-107.

96 *Ibid.*

97 Napoleon 2009, *supra* note 4 at 6; Daly & Napoleon, *supra* note 11 at 120.

98 Napoleon 2009, *supra* note 4 at 104-105, 255-256.

99 *Ibid* at 6.

### ***Yukw* (Feast) as a Legal Practice**

The *yukw* (feast) is the main political, legal, economic, and social institution for the Gitksan.<sup>100</sup> Through the feast, significant events within and between Houses are formally validated through public announcement, witnessing, and recounting.<sup>101</sup> The feast also serves as an opportunity for Houses to receive public recognition of their wealth, organization, effectiveness, and *daxgyet*.<sup>102</sup> There are various types of feasts, including naming feasts, marriage feasts, divorce feasts, totem pole raising feasts, compensation feasts, cleansing feasts, and death/burial feasts.<sup>103</sup>

There are extensive processes in planning and hosting a feast. Before the feast, there are many meetings between House members and Houses to reach a consensus on the matter at hand.<sup>104</sup> The House(s) hosting the feast is responsible for arranging food, goods, and gifts, as well as any necessary provisions for specific types of feasts.<sup>105</sup> Guests invited to witness the event must respect the rank-based seating arrangement, witness the decisions, recall precedence, and provide gifts and goods where appropriate.<sup>106</sup> Though rare, a house chief may deliberately refuse to attend a feast or refuse the host's gifts or food if they do not agree about the decision being made.<sup>107</sup>

### ***Ayuks* (Crests) and *Adaawk* (Oral Histories)**

Each House owns a set of *ayuks* (crests) and *adaawk* (oral histories), which are central to the Gitksan political foundation. Gitksan crests are images that commemorate the House's history and are recorded on their totem poles, house fronts, chiefly regalia, and other objects.<sup>108</sup> The crests are rooted in the House's relationship with the territory and signify their ongoing relationships with the land and spirit forces.<sup>109</sup> Similarly, the *adaawk* links each House to their territory, thus establishing their ownership of land and resources.<sup>110</sup> The *adaawk* details the House's origins, migrations, and their spiritual connection with the land.<sup>111</sup> While the *adaawk* belongs to Houses, the Gitksan collectively own another form of

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100 Napoleon 2022, *supra* note 2 at 207-208.

101 Richard Overstall, "Encountering the Spirit in the Land: 'Property' in a Kinship-based Legal Order" in John McLaren, Andrew R Buck, & Nancy E Wright, eds, *Despotic Dominion: Property Rights in British Settler Societies* (Vancouver: UBC Press, 2004) 22 at 40.

102 Napoleon 2009, *supra* note 4 at 299.

103 Gitksan Wet'suwet'en Education Society, "Wilp Li'ligit Feast Manual" (2019) <https://gwesschool.ca/wp-content/uploads/2023/07/Wilp-Liliget-Manual-v1.pdf> at 20-26.

104 Napoleon 2009, *supra* note 4 at 125-126.

105 Gitksan Wet'suwet'en Education Society, *supra* note 26 at 27-29.

106 *Ibid* at 30-31.

107 *Ibid* at 31.

108 Napoleon 2009, *supra* note 4 at xi.

109 *Ibid* at 8.

110 *Ibid* at 7.

111 *Ibid*.

oral history called the *antamahaswx*.<sup>112</sup> The *adaawk* and *antamahaswx* may also serve as the recording of legal precedents to inform future decisions.<sup>113</sup>

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112 *Ibid* at 7-8.

113 *Ibid* at 266.

# Stories & Case Briefs

## Art Mathews, Tenimgyet (Ensnared Bear)

Val Napoleon, Ayook: Gitksan Legal Order, Law and Legal Theory (PhD Dissertation, University of Victoria, 2009) [unpublished] at 118.

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Art Mathews (Tenimgyet) told the Court how his House was paid a crest, the ensnared bear, when two female House members were killed sometime in the 1700s. Mr. Mathews explained that at the time there was a mild famine and some of the wolves/lax gibuu travelled from Kisgagas to trade grease. Mr. Mathews continues:

And they were trading for grease and they traded and they took this grease and packed it away, when I say “away”, they left. And a short time later they came back again and they said they had changed their mind, they didn’t want to trade anymore. And they wanted the payment back which they did, they gave back the payment. But later after these men left, these ladies found out that they were being cheated....[T]he men...actually...poured off some stuff, the grease, and filled it up with rock so it looked like it was full again. And this is how the ladies found out that they were being cheated. And these men came back again and said that they would trade again and these ladies started laughing and taunting them, so that’s how these men ended up killing these two women. And as a result of that the – I don’t know the name of the chief from Kisgagas came and gave the crest of the ensnared bear and that’s why we have it in our house.

The two women that were killed were from the House of Tenimgyet. Mr. Mathews explained that since this case occurred in fairly recent history it did not have an accompanying song, but it was a part of the Tenimgyet adaawk.

## Case Brief

### Art Mathews, Tenimgyet (Ensnared Bear)

#### **Problem (Issue): What is the main human problem that the story focuses on?**

What is the appropriate response to the murder of two women?

#### **Facts (Relevant): What facts matter?**

- There was a mild famine in the 1700s and some of the wolves/lax gibuu travelled from Kisgagas to trade grease with people from the House of Tenimgyet.
- The Kisgagas men traded with two women from the Tenimgyet house. After the men left, the two women realized that they had been cheated of their fair share of grease.
- When the men returned to trade again, the two women laughed and taunted them. In retaliation, the men killed both women.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- The chief from Kisgagas gave the crest of the ensnared bear as compensation.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- Violence against women is taken very seriously by the Gitksan community, adequate compensation must be paid and acknowledged.
- Gendered violence was not normalized in Gitksan communities, as seen through the Tenimgyet adaawk.

Unsaid:

- This case is a settlement between two Houses, both from the wolf clan/lax gibuu, for the murder of two women from the Tenimgyet house.

#### **Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

## Gitanmaax: The Torchlight People

“Gitanmaax: The Torchlight People”, in Neil J. Sterritt, *Mapping My Way Home: A Gitxsan History* (Smithers: Creekstone Press Ltd, 2016) at 32.

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When a chief died, his name survived through the chosen son or daughter of one of his sisters. Thus the leader of this tiny village [Gitanmaax] was also known as Nola.

Nola’s sister had a daughter whose favourite pet was a dog. Its fur was black and grey and it had white legs. It followed her everywhere—when she went to the spring for water, when she picked berries, when she tended fish at her father’s smokehouse and when she went to the slough to bathe.

As she approached puberty, young men from nearby villages travelled the river to court her. But as a chief’s daughter, she should marry only someone who was acceptable to her parents and of interest to her.

Eventually, a young man from a distant village caught her eye. Her parents approved of him. They took long walks together, sometimes along the path that ran north from her home to the Skeena. Or they sat and talked at the edge of the slough on the point where the rivers meet. The chief’s daughter wanted her pet to accompany her on these walks, but he was nowhere to be seen and only appeared when the young man returned to his village.

Her pet’s puzzling behaviour was on her mind as she fell asleep. She thought she was dreaming for someone seemed to be in her bed, and she felt it was the young man. She fell asleep again, and no one was there in the morning. This happened again, and she decided to find out whether or not she was dreaming. She took red ochre and dabbed it on the edge of her blanket. That night she again woke from her slumber and felt someone with her. It appeared to be her suitor. But when she awoke in the morning, she was alone. As she left her father’s house to bathe in the slough, her dog accompanied her. To her horror, she saw that his white legs were stained with ochre. Confused and embarrassed, she told no one.

Soon the young woman realized she was pregnant and told her mother. Her mother, believing the young man to be the father, was happy with the news and began to prepare for the birth of her grandchild. By spring she had made a beautiful white caribou skin blanket to wrap the child.

When the day arrived, the birth was quick. As her mother came to assist, she heard the cry of the newborn. But it was the mewling of a pup, not a child. Her mother said to her daughter, “Open the blanket. Show me your child.”

When she refused, her mother tugged the blanket away. She couldn't believe her eyes. Her daughter had given birth to two male puppies and a third male was on its way. In all she had four pups, the last being a female.

"This is a disgrace to our family. Your uncle and father will be humiliated," her mother said. "We will be banished. Give them to me. I will drown them in the river before anyone learns of this."

The young woman refused to give up her pups, and by then it was too late. The pups could be heard and others were curious. Word spread and Nola decided the entire family had to leave Ansi'suuxs except for his niece and her strange offspring.

Nola ordered everyone to gather food and possessions. They were to load their canoes immediately and seek a new home. Being cursed, his niece was left with nothing—neither food nor fire—with which to survive. She and her puppies were left to die.

Her cousin pitied her. He placed live embers in shredded cedar bark and buried the embers at the base of a house post. As he went out the door, he whispered what he had done.

The chief's daughter was grief-stricken and ran crying to the point only to see the canoes pass from sight, one by one, around the bend in the river. She knew they would not return. That evening, she dug up the embers and lit a fire to keep warm, but she had no food. If she and her offspring were to survive, she would have to feed herself.

She knew from her father's stories that at night trout often rested in the shallows along the edge of the Xsi'yeen where they could be seen by torchlight. After a day without food, she made *maa hixs* (torch) and a spear and left her pups locked in the house.

She followed the short path from Ansisuuxs to the river where she planted her torch in the sand at the water's edge. Soon she had speared enough trout to feed herself. She returned to her house, stoked the fire, put hot rocks into a water-filled cedar box and cooked the fish. After that, she gathered berries during the day and continued to fish at night, sometimes roasting the fish over a fire.

While fishing one dark night, she thought she heard children's laughter. Curious, she took her torch and spear and went back to the house. As she neared home the noise stopped. When she entered, the pups were asleep in their beds. This happened again the next night, prompting her to develop a plan.

The next time she heard children's laughter she left the torch lit beside the river and silently made her way home in the dark. She crept to the house and, peering through a crack in the logs, spied four children playing. The boys had piled their puppy skins by the

fire and the girl had hers wrapped about her waist like a skirt.

One of the boys said to his sister, "Go and see if mother is coming."

She went to the side of the house and, peering through a crack in the logs, said, "Her torch is by the river."

Their mother returned to the river and continued fishing as the children played on. Then she took her fish and the torch to light her way home. As usual, the noise of children stopped as she approached her house. When she entered, the pups were asleep. The next day she decided to put an end to the puppies' games. While they were playing at the slough, she prepared the door of her house so it would open easily and quietly and removed a knot so she could see what her children were doing.

That night she went again to the river to fish. Once again she left the torch by the river and stole back to the house. The children were laughing and singing by the fire. She peered through the door watching the children and, when they were at the back of the house away from the fire, she rushed in, gathered the puppy skins and threw them into the fire. But the little girl was too quick for her mother. She threw her dress over her head and became a puppy again.

The boys were heartbroken, for although they were now human, their sister alone would be a pup. Their mother tried to console them. She said, "I will make bows and arrows for you, and you will learn to hunt. Your sister will be able to find animals and bark, and you will follow her and shoot them. We will call her Oomits."

The brothers were pleased and soon forgot their sorrow. Their mother set about making clothes for her sons. To ensure success, she fasted for four days before making their weapons.

She taught them how to use bows and arrows, snare grouse and rabbits, and how to spear fish by the light of a torch at night. The boys relied on Oomits to find game and, as they grew older, they became very successful, filling their cache with berries and furs and their earthen pits with dry salmon.

Years later, the woman was sitting at the point with her sons, comforted by the pleasant hush of the rivers and enjoying the evening sun. Oomits, lying nearby, suddenly perked up her ears and looked down river. At first the others heard nothing but gradually they began to hear a dirge in the distance. It grew louder until around the bend of the Skeena came a great coastal canoe carrying many people singing a lament.

As the canoe approached, the woman recognized her father's slaves and, seated in the middle of the canoe, her cousin. He had been sent by her father to gather and cremate the

bones of his daughter and her pups. Oomits barked and refused to let them come ashore but the woman quieted her. Her cousin was amazed at what he found. Not only had she survived but, with the help of her sons and Oomits, she had thrived. Hers was a wealthy family.

The slaves were sent back downriver to bring the good news to the aged Nola and the woman's parents. The family returned to their former village site. Throughout that fall and winter the chief prepared for a feast with the help of his great-nephews and Oomits. In the spring he invited chiefs from villages up and down the Skeena to the feast. There Nola honoured his niece and her sons with proper names.

The chief's guests, upon hearing her amazing story, began to call the village at the forks and its people, *Git An Maa Hixs* (The People Who Fish With Torches). It is known to this day as Gitanmaax.

## Case Brief

### Gitanmaax: The Torchlight People

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response after being abandoned by your community?
- What is the appropriate response to being the only support for vulnerable children?

#### **Facts (Relevant): What facts matter?**

- Chief Nola's niece was approaching puberty and was being courted by many young men. The young woman began courting a young man from a distant village that her parents approved of. When they were together, her pet dog—who followed her everywhere—was nowhere to be found.
- She dreamed that her suitor was in her bed and dabbed red ochre on her blanket to determine if she was dreaming. That night, she thought she felt her suitor was in bed with her but awoke alone. However, her dog's white legs were stained with ochre.
- When she became pregnant, her family believed it was with her suitor. After the birth, the mother saw that her daughter had borne four puppies. Fearing humiliation and banishment, the mother tries to drown them, but the young woman refuses. Her entire village moves, abandoning the young woman and her children. Chief Nola ordered everyone to leave her nothing for survival. However, her cousin hid live embers for her. Though distraught, the young woman lights a fire to keep them warm.
- She remembered from her father's stories that trout could be seen in the shallows of the Xsi'yeen by torchlight. The next day, she made a torch and spear and left to go fishing, locking her pups behind in the house. She returned with trout and gathered berries. This became her routine.
- One night while fishing, she heard children's laughter. She snuck home to see her pups in child form, with the boys piling their puppy skins by the fire and the girl wrapping her skin around her waist. The pups checked on her location by checking to see if her torch was by the river. She wanted to end the puppies' games. The next time she went fishing, she snuck back early and threw the puppy skins into the fire—with the exception of the girl who was too fast. Their mother reassured them that she would teach the boys how to hunt, and their sister would help them find animals. With her guidance, her children became very successful as hunters and gatherers.
- Years later, the woman's cousin returns to gather and cremate her and her children's bones. However, he was shocked to find her thriving and wealthy family. The slaves brought the news back to their family, who all returned to their former village site.
- Following extensive preparation, Nola honoured his niece and her sons in the spring with their proper names in a large feast with attendees from up and down

the Skeena. The chief's guests, hearing her amazing story, began calling the village *Git An maa Hixs* (The People Who Fish With Torches). It is known to this day as Gitanmaax.

**Decision/Resolution: What is decided or how is the issue resolved?**

- The young woman takes control and fends for herself and her children
- Chief Nola decides to honour her and her grandnephews with their proper names

**Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The cousin's actions show the importance of offering help to those who need it
- Even with limited resources, people who are experiencing great precarity should try to the best of their abilities to take care of themselves and those depending on them
- Responsibility for taking care of children and other vulnerable dependants; this may even include protecting them from their own family members
- The young woman had been taught by her father what to do in times of danger.

Unsaid:

- Chief Nola and the community were wrong in abandoning the young woman for something beyond her control and needed to make proper amends through the Feast
- Parents are responsible for sharing their knowledge with children so that their children can be self-sustaining adults capable of caring for their community

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Where did her pet dog go after she became pregnant?
- What is the significance of the girl puppy remaining a dog while the boys all remain humans and receive their proper names?
- Did the young woman actually consent to sexual intercourse with the suitor? Was she able to give consent while dream/being asleep?
- Why did the cousin return to collect her bones? Why was a proper burial more important than her life?

## Stanley Williams - Gwis gyen

Val Napoleon, *Ayook: Gitksan Legal Order, Law and Legal Theory* (PhD Dissertation, University of Victoria, 2009) [unpublished] at 130.

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This adaawk starts at T'am Lax amit and the ladies used to go too, which is known now as Seeley Lake, this lake belongs to Spookw. This is where there was maple trees and this is where the ladies used to go to get the maple barks. There has been a lot of women that went there and never returned and at one time these two women from Gwis gyen's house went and they didn't return. So Ts'uu eek and Dii aa wilp went to investigate. They waited around the area where the women disappeared and all of a sudden they seen this white bear – they seen the Mediigam ts'uu'wiiaks and ... these two men shot them with arrows on the sides. They killed this Mediigam ts'uu'wiiaks and they took this Mediigam ts'uu'wiiaks towards the village of Temlaham and this was the creature that was killing all the women off. They cleaned the bear and they took the hide off and Gwis gyen took the hide and used it, he took it as his crest and it was called Gwiis luu sinxsxw. Gwis gyen used this hide as a blanket when he is invited to a Feast House. And their crest is the body of the Mediigam ts'uu'wiiaks. Wiigyet did not have a crest so Gwis gyen gave the body to Wiigyet to use as a crest. And they still use this today. And this is where Jook made a mistake, when he said that the women were sitting at the back of this Mediigam ts'uu'wiiaks and the women told this Mediigam ts'uu'wiiaks, told them don't kill the Mediigam ts'uu'wiiaks, because he will take us home. This is the part that was not right. This, he made a mistake here. So what I did is I stood up and I explained that this was our adaawk and that a mistake was made and I explained to them that my grandfather gave the body of the Mediigam ts'uu'wiiaks to Wiigyet because he didn't have any crest.

## Case Brief

### Stanley Williams - Gwis gyen

#### **Problem (Issue): What is the main human problem that the story focuses on?**

What is the appropriate response when women begin going missing in a specific area?

#### **Facts (Relevant): What facts matter?**

- This adaawk is told by Stanley Williams (Gwis Gyen) about how Gwis Gyen came to have the Gwiis luu sinxsxw crest.
- Women used to go to T'am Lax amit (lake belonging to Spookw) to collect bark from maple trees. A lot of women went and never returned, including two women from Gwis Gyen's house.
- Ts'uu eek and Dii a wilp went to investigate. They waited where the women disappeared and saw a white bear—the Mediigam ts'uu'wiiaks—appear, which was what killed all the women.
- They killed the bear by shooting it with arrows, then cleaned it and took its hide.
- Gwis gyen took the hide and used it as his crest, calling it Gwiis luu sinxsxw. Gwis gyen used the hide as a blanket when invited to a Feast House.
- The House of Wiigyet did not have a crest, so Gwis gyen gave the body of the Mediigam ts'uu'wiiaks to use as a crest.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- Two men decided to investigate the missing Gitksan woman and found that they were being killed by the Mediigam ts'uu'wiiaks. As such, they decided to eliminate the risk of further deaths by killing it.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- Women going missing is an issue of great concern and should be investigated
- Other community members should take care to protect the safety of women by eliminating risks where possible

Unsaid:

- Even a being that cause significant harm should not be disrespected. Ts'uu eek and Dii a wilp do not just leave the bear to rot, they clean the bear. Gwis gyen uses the bear's pelt as a crest and gives the body to the House of Wiigyet as a crest.

#### **Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Were there previous efforts to find what was killing the women?
- Why had so many women died before the threat was eliminated?

## Ska'woo

"Ska'woo", in Neil J. Sterritt, *Mapping My Way Home: A Gitxsan History* (Smithers: Creekstone Press Ltd, 2016) at 26.

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According to our histories, some of our ancestors settled at Temlaham. They settled first in two villages, one on each side of the Nass River about thirty kilometres above Aiyansh, near Kwinamuck Creek. The forerunners of the Fireweed Clan lived on the right bank of the river in Gitandakhl, while the Raven Clan lived on the other side of the river in Gitgwinyookhl.

Tension and jealousy between the two villages eventually erupted in violence. The young people of one village burned the other and killed all of the people except for a woman—Ska'woo—and her daughter. They escaped the devastated village and fled upriver, where Ska'woo finally stopped and sat out on a rocky point mourning her loss.

Ska'woo feared for her daughter, who now had no suitors, and repeatedly cried out, "Who will marry my daughter?" Animals came from near and far, offering to marry the young woman, but Ska'woo, who sought a strong warrior to avenge the loss of her people, rejected them.

A brilliant light and the crash of thunder startled Ska'woo. She turned, and before her stood a man whose garment was aflame. He said, "I will marry the daughter of Ska'woo. I have great powers. If any come to battle with me, I have only to wave my hand and the whole earth will roll over and bury those who will harm me."

To further demonstrate his powers, he extended his hands with his palms up, then down, and the trees before him were buried. Ska'woo knew this man had the powers of a supernatural being and would be able to avenge her massacred relatives. She asked, "What will you do when the enemy comes?"

He said, "I can turn the earth over right on top of them." As he spoke, the earth and the whole hillside crashed down. And a hill on the trail from New Aiyansh to Gitanyow near Wiluuks t'aas Ska'woo, is that way still today.

Ska'woo's daughter and her husband ascended into the Sky World where their children were trained to be warriors. The children acquired supernatural powers, names and crests, and were taught how to successfully wage war on their enemies. When they returned to earth, a fog descended over the land.

Tsimshian elder, Joshua Ts'iibaasaa said:

In the morning the fog cleared away and the people of Gitandakhl saw before

them four houses on the site of the burned village... Each house had a different painting. The first house was that of Dagmwilgyet and had the sun (*gyamk*) as a crest. The second house, that of Andisa'm, had the stars (*bil'ust*). The third house, that of Laxhlmaxai, had the rainbow (*maxmaagay*). The fourth house, that of Ligiyu'en, had sky (*lax'om*) in front of it. All of these paintings were very bright and shining. These tribes were born of the Sky brothers, in the different nations of the Indians, the Nisgaa, the Gitxsan and the Tsimshian. They all claim their origin from these brothers. Their crests have been handed to them from supernatural beings.

...

Some villages may have had a *ta'oots'ip* (fortress) where women, children and the elderly could shelter while warriors fended off enemy attacks.

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## Case Brief

### Ska'woo

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#### **Problem (Issue): What is the main human problem that the story focuses on?**

What is the appropriate response when all your community members have died from violence?

#### **Facts (Relevant): What facts matter?**

- Tension and jealousy between the Fireweed Clan and the Raven Clan erupted in violence, leading to the burning of the village and the death of all people except for a woman, Ska'woo, and her daughter.
- Ska'woo feared for her daughter and sought marriage prospects for her. Animals came from all over but Ska'woo rejected them as she sought a strong warrior to avenge the loss of her people.
- A man arrived in a flash of lightning and thunder, wearing a flaming garment. He offered to marry Ska'woo's daughter, stating that he has great powers to fight off enemies. He proved his supernatural powers by moving the earth and creating a hill that still exists near Wiluuks t'aas Ska'woo today.
- Ska'woo's daughter and husband ascended into the Sky World where their children acquired supernatural powers, names, crests, and trained to be successful warriors.
- When they returned to earth, there were four new houses, each with its own crests, on the site of the burned village: (1) Dagmwilgyet with the sun as a crest; (2) Andisa'm with the stars; (3) LaxhImaxai with the rainbow; and (4) Ligiyu'en with the sky. This is the origin of the Nisga'a, the Gitxsan, and the Tsimshian.
- Some villages built a *ta'oots'ip* (fortress) to protect women, children, and the elderly while warriors fended off enemy attacks.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- Ska'woo searches for a strong warrior to be her daughter's husband, eventually accepting a supernatural being with the power to control the earth.
- They return to the earth to repopulate the destroyed villages. They establish four different houses, each with their unique crests.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- Ska'woo accepts the Sky person as her daughter's husband because he has supernatural powers that can beat enemies and avenge the loss of her people.
- Parents have a responsibility to play in ensuring that their daughter's future partner is responsible and can protect them from harm.
- People have a responsibility to protect/re-establish their familial lineage

Unsaid:

- Vulnerable people, such as women, children, and the elderly, should be protected from violence.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Ska'woo is looking for a son-in-law who has the powers to avenge the deaths of her community, it is not explicitly said that she is looking for someone to protect her daughter
- Women's role in the continuation of violence with her desire to avenge her community
- Where does Ska'woo go after her daughter leaves with her husband to the Sky World?

## Gidix'uus and Yee'l

"Gidix'uus and Yee'l", in Neil J. Sterritt, *Mapping My Way Home: A Gitksan History* (Smithers: Creekstone Press Ltd, 2016) at 41.

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Yee'l hunted along the Kispiox River, and fished nearby at his fish camp on Xsigwinya'a [Shegunia River]. His sister, Gidix'uus, and her family picked berries nearby at Lax Ansi Matsa on Gwin Wijix [Sidina Mountain]. Although Gidix'uus had several children, she had but one daughter who could carry on the Yee'l line.

Gidix'uus's daughter entered puberty while at the fish camp and lived separately in an underground hut. Gidix'uus brought food and water to her daughter from time to time, but when alone, the girl signaled her needs by pulling a rope that rattled hooves at her mother's house.

One day the girl got no response to her signals but could hear children. Fearing the worst she left her hut and went cautiously to the house where she discovered that everyone was dead except for the children. After cremating the deceased, the young woman and children prepared for the coming winter by fishing, hunting, and picking berries.

Soon afterwards a young man appeared from a distant village and seeing their plight offered to help. The girl accepted and, him being of a Wolf Clan, they married. The following year they had a son whom they named Y'eel after her deceased uncle. By then, the girl had taken her mother's name, Gidix'uus.

One day while fishing, again at Xsigwinyaa, a bear appeared wearing a sun collar.<sup>114</sup> Gidix'uus's husband killed the bear and gave it to Yee'l to use as a crest. And soon after, the couple had a daughter, Ts'ixs Gibuu.

Gidix'uus's husband taught his son what he knew of warfare and hunting. He tested Yee's courage by bathing him in grizzly blood and repeatedly forcing him to endure bee stings. Finally, when Yee'l was old enough for battle, his father made him a war club—a *haxgwi'laax*.

The Nisgaa often raided Gitksan villages and Yee'l sought to bring an end to it. He travelled the grease trail across the mountains to Gitlaxtaamiks on the Nass River where he attacked at dawn, surprising the villagers. Yee'l killed many men with his war club, and then returned home, where he composed his war song.

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114 *Madiigam Gyamk* (supernatural grizzly of the sun).

## Case Brief

### Gidix'uus and Yee'l

#### **Problem (Issue): What is the main human problem that the story focuses on?**

What is the appropriate response after a violent attack leaves you as the sole caregiver of many vulnerable children?

#### **Facts (Relevant): What facts matter?**

- Yee'l's sister Gidix'uus had several children, but only one daughter who could carry on the Yee'l line.
- Gidix'uus's daughter entered puberty while at the fish camp and had to live separately in an underground hut. Gidix'uus would bring her food and water regularly. The girl would signal her needs by pulling a rope that rattled hooves at her mother's house.
- One day, the girl did not get a response to her signals but could hear children. Afraid of the worst, she cautiously left her hut and went to the house. There, she discovered that everyone was dead except for the children. The girl cremated the deceased.
- She and the young children fished, hunted, and picked berries in preparation for winter.
- Soon, a Wolf Clan young man from a distant village saw their plight and offered to help. The girl accepted him, later marrying and having a son named Yee'l after her deceased uncle. The girl took her mother's name Gidix'uus. They had a daughter, Ts'ixs Gibuu.
- Gidix'uus's husband taught his son about warfare and hunting, testing his courage, and exposing him to bee stings. When Yee'l was old enough, his father made him a haxgwi'laax (war club). Yee'l grew up to be a strong defender of the Gitxsan against the Nisga'a, who often raided Gitxsan villages.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- The young woman:
  - Accepts responsibility to care for and teach the children. They work together to ensure their livelihood throughout winter.
  - Chooses to marry an appropriate suitor that will help her and her community.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- There is an obligation to care for vulnerable people, such as women and children. This is seen in the young man's decision to help, as well as the young woman's care for the children.

- Parents have an obligation to ensure that their children grow up to have useful and important skills and knowledge.

Unsaid:

- Vulnerable people should do what they can to fortify themselves and protect others. This may be limited by their knowledge and skills. They may have to accept the help of others.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Does this story speak to when it is appropriate to rules set out by tradition when she came out of the hut?

# Synthesis of Gitxsan Legal Principles

## 1.0 Legal Processes

### 1.1 Authoritative Decision Makers

*Who are authoritative decision-makers?*

- a. **Family Members:** The Gitxsan legal order is rooted in an extensive kinship system that dictates relationships, roles, obligations, and responsibilities. As such, family members may adopt significant legal roles as educators, conflict mediators, avengers, protectors, negotiators, and advisors.

*Gitanmaax: The Torchlight People; Ska'woo.*

- b. **Chiefs:** The chief is responsible for making decisions that reflect the consensus of House members and protecting the welfare and health of House members. Chiefs are also responsible for upholding or elevating the House's standing among the Gitxsan and other peoples.

*Art Mathews, Tenimgyet (Ensnared Bear); Gitanmaax: The Torchlight People.*

- c. **Individuals:** Within a Gitxsan House, all individuals are recognized as independent legal agents, with women acting as decision-makers, educators, traders, and avengers. In interactions beyond the House, House members are recognized as part of the collective legal entity of the House.

*Gitanmaax: The Torchlight People; Ska'woo; Gidix'uus and Yee'l.*

- d. **House Members:** In decisions that impact the greater community, House members may play prominent roles as educators, advisors, avengers, and investigators.

*Stanley Williams - Gwis gyen.*

### 1.2 Procedural Steps

*What procedural steps are involved in determining a legitimate response or resolution?*

- a. **Recognizing warning signs for harm or danger:** People may notice signs of harm or danger by observing changes in their environment or repeated incidents of harm against a specific group.

*Stanley Williams - Gwis gyen; Gitanmaax: The Torchlight People; Gidix'uus and Yee'l.*

- b. **Investigating risks or claims by observing and collecting evidence:** Before deciding on a legal response, it is important to investigate claims or concerns by gathering information and evidence.

*Gitanmaax: The Torchlight People; Stanley Williams - Gwis gyen; Ska'woo; Gidix'uus and Yee'.*

- c. Considering applicable knowledge, precedent, and resources to determine next steps:** To determine the appropriate legal response, it is important to consider the precedent set by previous legal decisions, the resources available, the severity of risk or harm, and the knowledge and skill set of those involved.  
*Gitanmaax: The Torchlight People; Stanley Williams - Gwis gyen; Gidix'uus and Yee'.*
- d. The response is validated through public witnessing and recounting:** Once a response has been implemented, the decision may be validated through public witnessing at a feast. These decisions may be documented through crests or *adaawk* and recounted at future feasts.  
*Art Mathews, Tenimgyet (Ensnared Bear); Gitanmaax: The Torchlight People; Stanley Williams - Gwis gyen; Gidix'uus and Yee'.*

## 2.0 Legal Responses and Resolutions

*What principles govern appropriate responses and resolutions to harms and conflicts between people?*

- a. Principle of resourcefulness and problem-solving:** Even when facing immense challenges, people should use their knowledge, skill set, and the resources available to ensure the safety and survival of themselves and their community.  
*Art Mathews, Tenimgyet (Ensnared Bear); Gitanmaax: The Torchlight People; Stanley Williams - Gwis gyen; Ska'woo; Gidix'uus and Yee'.*
- b. Principle of education:** People, especially children, should be taught the skills, knowledge, and principles necessary to become self-sufficient, participative, and responsible community members.  
*Gitanmaax: The Torchlight People; Ska'woo; Gidix'uus and Yee'.*
- c. Principle of compensation:** Where harm has occurred, the responsible party should acknowledge the harm done and arrange proportional and meaningful compensation. The appropriate compensation is generally determined by the impact of the harm, not the intention of the responsible party.  
*Art Mathews, Tenimgyet (Ensnared Bear); Gitanmaax: The Torchlight People.*
- d. Principle of public witnessing and recounting:** Significant decisions should be publicly announced and recognized by other Houses at a *yukw* (feast), especially in decisions involving Houses from other Clans. These decisions may be documented and recounted through *adaawk* (oral history) or *ayuuk* (crests).  
*Art Mathews, Tenimgyet (Ensnared Bear); Gitanmaax: The Torchlight People; Stanley*

*Williams - Gwis gyen.*

- e. **Principle of upholding the status of your name, lineage, and House:** In addressing or recovering from harm, people should consider how their actions may reflect upon their inherited name, the continuation or status of their family lineage, and the strength of their House.  
*Art Mathews, Tenimgyet (Ensnared Bear); Gitanmaax: The Torchlight People; Stanley Williams - Gwis gyen; Ska'woo; Gidix'uus and Yee'l.*
- f. **Principle of incapacitation:** In the case of repeated and severe violence, the harmful being may be incapacitated to keep the community safe and prevent future harm.  
*Stanley Williams - Gwis gyen.*

### 3.0 Legal Obligations

*What principles govern individual and collective responsibilities? Where are the "shoulds"?*

- a. **Responsibility to care for and educate young children:** Children should be protected, cared for, and taught the skills necessary to become self-sufficient, participative, and responsible community members. This responsibility extends to their parents, relatives, and community members.  
*Gitanmaax: The Torchlight People; Gidix'uus and Yee'l; Ska'woo.*
- b. **Responsibility to help and protect vulnerable people:** Vulnerable people, such as children or those targeted by violence, deserve help and protection from family and community members. This may require one to recognize and resist unfair decisions or inequitable power dynamics.  
*Gitanmaax: The Torchlight People; Stanley Williams - Gwis gyen; Gidix'uus and Yee'l.*
- c. **Responsibility to value one's life:** People have a responsibility to value their own and other people's lives. This responsibility may mean choosing to survive following a devastating event, respecting other people's rights to bodily integrity and safety, and taking action to address suspicious deaths or disappearances.  
*Gitanmaax: The Torchlight People; Gidix'uus and Yee'l; Stanley Williams - Gwis gyen.*
- d. **Responsibility to fend for yourself with the resources available:** People, even those in vulnerable situations, are responsible for making use of their knowledge and skills, as well as the physical resources available to them to survive.  
*Gitanmaax: The Torchlight People; Gidix'uus and Yee'l.*
- e. **Responsibility to uphold legal order:** People are responsible for witnessing and recounting events that occur in their House and the Houses to which they hold

reciprocal obligations. This ensures legal decisions, deliberations, and precedents can be recounted and validated by present and future generations.

*Gitanmaax: The Torchlight People; Stanley Williams - Gwis gyen.*

- f. Responsibility to uphold the status of your name, lineage, and House:** People have the individual and collective responsibility to uphold the status of their name, lineage, and House. This includes living according to Gitxsan legal principles, extending the longevity of the lineage or House, paying compensation for harm done, and witnessing and recounting important decisions.

*Art Mathews, Tenimgyet (Ensnared Bear); Gitanmaax: The Torchlight People; Ska'woo; Gidix'uus and Yee'.*

- g. Responsibility to make amends for harm:** People must take accountability for the harm they or their House members caused. This includes acknowledging the harm, reporting the harm, and making amends—providing compensation proportional to the harm caused and documenting the decision appropriately.

*Art Mathews, Tenimgyet (Ensnared Bear); Gitanmaax: The Torchlight People.*

## 4.0 Legal Rights

*What should people be able to expect from others?*

### 4.1 Substantive Rights

- a. Right to redeem rank:** Individuals who have failed to act or acted in a way that diminishes their House's rank in Gitxsan society are given a chance to make things right through the publicly witnessed and validated processes of the feast and accompanying forms of proportionate compensation. Alternatively, people who have been kidnapped or removed from Gitxsan society have the right to redeem their original standing upon return.

*Gitanmaax: The Torchlight People; Art Mathews, Tenimgyet (Ensnared Bear).*

- b. Right to safety and bodily integrity:** People have the right to safety and bodily integrity both in their communities and outside of their communities. When these rights are not upheld or respected, individuals have a right to legal recourse, which may involve compensation, healing, and protection.

*Art Mathews, Tenimgyet (Ensnared Bear); Gitanmaax: The Torchlight People; Stanley Williams - Gwis gyen, Ska'woo.*

- c. Right to compensation and legal action:** When harmed or faced with a legal problem, individuals have the right to address it through legal action. This can include negotiating appropriate remedies, such as public acknowledgment of the harm and compensation in the form of names or crests.

*Art Mathews, Tenimgyet (Ensnared Bear); Gitanmaax: The Torchlight People; Stanley Williams - Gwis gyen.*

- d. **Right to be helped when vulnerable:** People should be able to expect help from family members, House members, and others when they are vulnerable. This may include the sharing of knowledge and resources, physical protection, addressing the source of harm, and arranging compensation.

*Art Mathews, Tenimgyet (Ensnared Bear); Gitanmaax: The Torchlight People; Stanley Williams - Gwis gyen; Ska'woo; Gidix'uus and Yee'l.*

## 4.2 Procedural Rights

- a. **Right to a transparent, collaborative, and deliberative decision-making process:** People have a right to a transparent, collaborative and deliberative decision-making process within their community.  
*Art Mathews, Tenimgyet (Ensnared Bear).*
- b. **Right to be involved in decision-making:** People have the right to be involved in a transparent and deliberative decision-making process, especially when the decision impacts them and their community.  
*Gitanmaax: The Torchlight People; Stanley Williams - Gwis gyen.*

- c. **Right to have decisions publicly witnessed and recognized:** People have a right to have legal decisions be publicly witnessed and validated by other Houses and relevant parties. This ensures transparency and accountability, as well as outlines important precedents that may inform future decisions.  
*Gitanmaax: The Torchlight People; Stanley Williams - Gwis gyen.*

## 5.0 General Underlying Principles

*What underlying or recurrent themes emerge in the stories and interviews that might not be captured above? What are the principles that guide the expression and application of the law?*

- a. **The Gitxsan society is decentralized and non-hierarchical.** It is governed by a complex kinship system focused on maintaining reciprocal relationships between family members, House members, and other Gitxsan peoples.<sup>115</sup> The accumulation of political authority and hierarchy is resisted through the practice of reciprocal gifting at feasts between communities, Houses, and clans.<sup>116</sup> Further, the Gitxsan system of matrilineal inheritance—in which Chiefly names and property are passed

115 Val Napoleon, *Ayook: Gitksan Legal Order, Law and Legal Theory* (PhD Dissertation, University of Victoria, 2009) [unpublished] at 148.

116 Richard Daly, *Our Box Was Full: An Ethnography for the Delgamuukw Plaintiffs* (Vancouver: UBC Press, 2005) at 31.

through women's lineage—prevents the accumulation of generational wealth and power.<sup>117</sup> Matrilineal inheritance alongside patrilocal residence—women reside in their husbands' territory after marriage—prevents the accumulation and transmittance of power between men to their sons.<sup>118</sup> Thus, it is important to interrogate claims of absolute and gendered authority, such as in the case of *Gitanmaax*, where the male Chief Nola commands the entire village to abandon a pregnant woman and leave her nothing for survival.

- b. Prevention of bias in Gitxsan legal decision-making.**<sup>119</sup> Significant efforts are taken to ensure unbiased decision-making in Gitxsan legal processes, including the use of neutral legal adjudicators, mediators, and advisors.<sup>120</sup> This is evident in the Ganeda crest dispute between House Chief Hlengwax, from a small and highly ranked Ganeda House from Gitwangak, and House Chief Gaxsgabaxs, a larger and growing Ganeda House from Gitsegukla.<sup>121</sup> In deciding whether Hlengwax had exclusive use of the Ganuget crest, T'awa'lesk, an Eagle clan member, was brought in a neutral and disinterested third party to advise Hlengwax.<sup>122</sup> Further, the Gitanyow chiefs provided a neutral assessment and decision on the dispute as the village of Gitanyow had no direct interest in the Ganuget crest.<sup>123</sup> As unbiased parties, T'awa'lesk and the Gitanyow chiefs were primarily concerned with maintaining the overall Gitxsan legal order.<sup>124</sup>

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117 *Ibid* at 209.

118 *Ibid* at 36.

119 For more information, see Val Napoleon, "Comparative Perspectives: Engaging Productively Across legal Orders" (2024) 98:5 Australian Law Journal 352.

120 Val Napoleon, "Living Together: Gitksan Legal Reasoning as a Foundation for Consent" in Jeremy Webber and Colin M Macleod, eds, *Between Consenting Peoples: Political Community and the Meaning of Consent* (Vancouver: UBC Press, 2010) 45 at 51-54.

121 *Ibid* at 50.

122 *Ibid* at 53.

123 *Ibid*.

124 *Ibid*.



# Kwakwaka'wakw Legal Orders

## Legal Primer

Kwakwaka'wakw (pronounced: KWOK-wok-ya-wokw)<sup>125</sup>, means the “Kwakwala-speaking people”. The traditional territories of the Kwakwaka'wakw range from what is now known as “Cape Mudge near Campbell River to the Scott Islands north of Vancouver Island, the adjacent mainland of British Columbia northward to Smith Sound, and several villages located on islands between Vancouver Island and the mainland”.<sup>126</sup>

The Kwakwaka'wakw are closely related and speak Kwakwala, but are made up of distinct groups who live in different places throughout the territory, comprised of the following: Kwaguł First Nation, Mamalilikala First Nation, 'Namgis First Nation, Ławit'sis First Nation, Awa'etłala First Nation, Dā'naxda'xw, First Nation, Ma'amtagila First Nation, Dzawada'enuxw First Nation, Kwikwasutinuxw First Nation, Ha'xwa'mis First Nation, Gwawa'enuxw First Nation, 'Nakwaxda'xw First Nation, Gwa'sala First Nation, Gūsgimukw First Nation, Gwa'tsinuxw First Nation, Tla'tlasikwala First Nation, Weka'yi First Nation, and Wiwek'am First Nation.<sup>127</sup> Over time some of the groups have died out, amalgamated with other groups, and some have disappeared - among them the A'wa'etłala of Knight Inlet, the Nakamgalisala of Hope Island, the Yutlinux of Cox and Lanz Islands.<sup>128</sup>

The potlatch is a complex, long-lasting ceremony and an all-encompassing social, economic, political and religious institution.<sup>129</sup> Potlatch ceremonies celebrate different stages of life in Kwakwaka'wakw society, such as birth, coming of age, marriage, initiation to one of the secret societies, or to mourn the death of an important person.<sup>130</sup> The word potlatch derived from the Chinook trade word meaning “to give”, and this can be seen in how gifts are given to witnesses and large amounts of food are provided. Graded series of ranked positions exist in each group, determining the standings of individuals within the potlatch system.<sup>131</sup> The Kwakwaka'wakw have been hosting potlatch ceremonies since a

125 The U'mista Cultural Society, “Our People: People of The Potlatch” (last visited 27 October 2024), online: [https://umistapotlatch.ca/notre\\_peuple-our\\_people-eng.php](https://umistapotlatch.ca/notre_peuple-our_people-eng.php)

126 The First Peoples' Cultural Foundation, “Our People: The Kwakwaka'wakw” (last visited 27 October 2024), online: <https://www.firstvoices.com/kwakwala/our-people>

127 The U'mista Cultural Society, “Our Land: Kwakwaka'wakw Territories” (last visited 27 October 2024), online: [https://umistapotlatch.ca/notre\\_terre-our\\_land-eng.php](https://umistapotlatch.ca/notre_terre-our_land-eng.php)

128 The U'mista Cultural Centre, “The Kwakwala Speaking Peoples” (last visited 27 October 2024), online: <https://www.umista.ca/pages/kwakwakawakw>.

129 Agnes Alfred, Martine J. Reid, and Daisy Sewid-Smith. *Paddling to Where I Stand: Agnes Alfred, Qwiqwasutinuxw noblewoman* (Vancouver: UBC Press, 2004) at xxxiii.

130 Lucy Bell, “Kwakwaka'wakw Laws and Perspectives Regarding Property” (2006) 5:1 ILJ at 137.

131 Alfred, Reid, and Sewid-Smith, *supra* note 5 at xxxiii.

time beyond memory and continues to be a central aspect to community life to this day.<sup>132</sup>

Laws are upheld in the *gukwdzi*, the Big house.<sup>133</sup> Long ago potlatches lasted for weeks over the winter months and were held in the Big house, and the size of the Big house indicated the hosts' status.<sup>134</sup> At a potlatch the hosting chief will display a *tlakwa*, which is a copper that bears a name and has an engraved crest in its face relating to the name. A *tlakwa* symbolizes the wealth of its owner and when the hosting chief displays one at a potlatch, the value of all the gifts distributed and monies paid out are added to the value of the *tlakwa* displayed at that particular ceremony.<sup>135</sup>

The Kwakwāka'wakw language is a source of power and holds great importance to the understanding of Kwakwāka'wakw law. It is a language unlike any other in the world and is essential to Kwakwāka'wakw identity, culture and traditions.<sup>136</sup> Some guiding principles for the Kwakwāka'wakw include: "Namwayut (we are all one) and Maya'xala (respect), ga'wala (helping) and taxwe'gila (gaining strength)".<sup>137</sup> The alphabet of the Kwakwāka'wakw includes 43 characters<sup>138</sup> and contains forty-eight distinct sounds, although this does not count the glottal stop.<sup>139</sup> Many sounds in Kwakwāka'wakw do not occur in English and more than half of the consonant sounds have no English counterparts.<sup>140</sup> Until contact, the only permanent records of Kwakwāka'wakw were carved on totem poles which conveyed family histories and crests.<sup>141</sup> The language is officially endangered, but there are many ongoing efforts and people who are working hard to keep it alive.<sup>142</sup>

"The rich culture of the Kwakwāka'wakw reflects and acknowledges the riches in their surrounding natural environment. The songs, stories, dances, and ceremonial objects honor the animals, rivers, cedar trees, salmon, and all those things that help to sustain the Kwakwāka'wakw physically and spiritually. The sea life, particularly the salmon, the oolichan (pronounced: OO-la-kin)—a silvery, smeltlike fish—and the cedar tree are among the resources in the natural environment that have long made the Kwakwāka'wakw both

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132 The U'mista Cultural Society, *supra* note 1.

133 Kwakwāka'wakw Hereditary Chief Confederation, "Our Organization" (last visited 27 October 2024), online: <https://www.kwakwakawakw.org/>

134 The U'mista Cultural Society, "Potlatch" (last visited 27 October 2024), online: <https://umistapotlatch.ca/potlatch-eng.php>

135 Bell, *supra* note 6 at 137.

136 Bell, *supra* note 6 at 127.

137 Kwakwāka'wakw Hereditary Chief Confederation, *supra* note 9.

138 The U'mista Cultural Society, "Our Language: Kwakwāka'" (last visited 27 October 2024), online: [https://umistapotlatch.ca/notre\\_langue-our\\_language-eng.php](https://umistapotlatch.ca/notre_langue-our_language-eng.php)

139 Alfred, Reid, and Sewid-Smith, *supra* note 5 at xxxvii.

140 *Ibid.*

141 Pamela Whitaker, Chief James Wallace. *Kwakiutl Legends* (Surrey: Hancock House Publishers Ltd., 1981) at 8.

142 The U'mista Cultural Society, *supra* note 14.

spiritually and materially rich. For the Kwakwaka'wakw, the “good life” is not only about plenty of food and resources, but also about how the resources have been used, how the connection to living things is expressed, and the appreciation of those things that sustain them.

The Kwakwaka'wakw believe that animals, rivers, and trees are powerful beings that long ago existed in both the human world and the spirit world. The Kwakwaka'wakw coexisted with these ancestral beings and came to be related to certain animal spirits such as the salmon. The Kwakwaka'wakw believe that their wealth, which comes from their surroundings, is a result of their connection to the spirit beings”.<sup>143</sup>

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143 The U'mista Cultural Society, *supra* note 3.

## Stories & Case Briefs

### Wáwalis (Myth That Took Place Before The Flood - yeḥ<sup>w</sup>əxsa)

ḥawćis Version

Agnes Alfred, Martine J. Reid, and Daisy Sewid-Smith. *Paddling to where I stand: Agnes Alfred, Qwiqwasutinuxw noblewoman* (Vancouver: UBC Press, 2004) at 17.

This is the story of Wáwalis, who was from Qaluḡ<sup>w</sup>is [Turnour Island]. Wáwalis was a seal hunter [mámiḡ<sup>w</sup>ata]. He and his little slave [qakuwí] went out every day hunting seals. Every time they went out, Wáwalis's wife met with her lover. Every month she had to isolate herself and stay in a little house during the time of her menstruation. Wáwalis, her husband, believed she was an honest woman, and he trusted her.

One day Wáwalis came home and started to kick his little slave, whom he thought had done something wrong. The little man started to cry and said, "You should not do that to me. I try to do my best in performing my duties whenever we are out hunting." This is what he said as he continued to cry. "You should discipline your wife. Every time we go out, she is with another man." Wáwalis could not hear the little man and asked him to repeat what he had just said. The slave replied, "You kick me because I try to do my duty. I do everything I am told when we shoot and catch seals. You should go and kick your wife and give her a beating because she goes with another man every time we go out hunting."

Wáwalis wanted to have proof of this accusation. One day they were ready to go out hunting. Wáwalis did not say anything to his wife; he just left. They had a little girl called Qad'idala. She asked her father not to forget to bring some seal meat for her. "I'd love to eat seal," she said. Every day, he would bring home his seal catch and his wife would cook it for his lunch. There is a small box in the bow of the canoe where the seal hunters put their lunch when they go out hunting. Since they were hunting seals in the dark, Wáwalis and his slave were supposed to stay out all night. But that day they returned earlier than usual.

Quietly, they went home, sneaking around the back of Wáwalis's wife's lover's house. Wáwalis heard his wife giggling, having a nice time in bed with her lover. Wáwalis and his slave started scratching, and it sounded like a rat wanting to come in. The wife shouted to her lover: "The rat should eat Wáwalis!" By the way she said it, you could tell that she wished for her husband's death. Wáwalis and his slave kept scratching while the couple continued frolicking in bed – laughing, giggling, carrying on, and having a fine time. The lover was a *giḡamēy* [a nobleman, a chief]. Soon everything was quiet, for the couple had fallen asleep. Wáwalis and his slave were preparing to kill his wife's lover. They lit a bunch of kindling to make a torch, pushed the door open, and saw his wife and this man asleep. Wáwalis did not touch his wife; he just took his knife and cut the man's head off. Wáwalis

and his slave pulled the body out and put it in a sitting position on the platform in front of the house, the place they call ɔəwaǵwas. They placed the chief's hat on top of the headless body.

Wáwalis left with the head of his wife's lover and returned to his seal hunting. When his wife and the little girl woke up, they felt the cold blood around them and started to scream and cry. Someone in the big house asked: "What is happening? Who is crying?" "Maybe she soiled her bed," someone answered, "and that is why she is crying." It was not that. It was the blood of that man, the blood of her lover. Wáwalis's wife got very busy cleaning up the little girl; she later bathed herself.

The family of the lover, his sisters and nieces, were living in his house. His sister said to her daughter: "You had better go and tell your uncle to come and have breakfast." It was now morning. The daughter went out and called him, but he did not stir. She ran back to her mother and said: "Uncle never moved." "Well, touch him, wake him up." She went back and tried to touch her uncle again, but he remained still. She ran back to her mother and said: "Uncle never moved." "Touch his head and remove his hat," her mother said. She ran back and moved the hat. To her horror, there was no head under the hat. The little girl screamed and ran back to her mother, telling her what she saw. Soon after, the whole village found out what had happened.

Wáwalis was still out seal hunting but returned later in the day. He was paddling in slowly. The people waved to Wáwalis to make him hurry. His people kept waving, so Wáwalis paddled faster. When he and his slave landed on the beach, all the people went down to see him, to meet him. The people did not know that Wáwalis had killed the nobleman. Nobody knew exactly what had happened to the nobleman. Wáwalis did not pay any attention. He just took his lunch box and went to his house. His wife was drying her hair by the open fire. She was a beautiful woman. Qadʒidala was really anxious to see her father, but her mother said to her: "Do not bother your father. Let him eat first. Go and let him finish his meal." So Wáwalis's wife fed them right away.

Qadʒidala did not mention the seal meat, even though she was eager to eat some. Her mother knew this and went to get the seal meat that was in the lunch box. That is when the trouble began. She opened the box and saw that there was something in between the pieces of seal meat. Immediately, she recognized the head of her lover. Wáwalis grabbed the head of his wife's lover and violently hit her with it. She died instantly.

He was really a supernatural man, this Wáwalis. Horrified, his daughter panicked and started screaming. Wáwalis grabbed the little girl and turned her into a sawbill duck. Wáwalis and his slave walked down the beach to his canoe and left. The little girl, transformed into a sawbill duck, was swimming around in the channel near Qaluǵwis. This bird really looks like that little girl. Its face looks exactly like Qadʒidala's face. Even today they can still recognize the pretty little duck swimming around the channel.

Wáwalis took off and went up to Rivers Inlet in ɔAwíkinuǰw country, leaving Qaluǰwis behind. Now there is a big tribe over there. This tribe is called ɔAwíkinuǰw. ɔAwíkinuǰw is the name of the tribe and *Wanukw* [owner of a river] is the name of the river. They went right up the river. There were lots of houses there, but signs of smoke came from only one. They went right up to this house.

A blind woman was trying to cook something, just as they used to do in the early days. They got hot rocks and placed them into the water in which the meat was to be cooked. The two men simply sat there and watched what the blind woman was doing. Wáwalis did not know that she was blind. They took the seal meat from her just as she was searching for it with her hands. She called her granddaughter who was in her bedroom. "Come out and help me. I cannot find the seal meat that I was going to cook." "Maybe these two men took it," replied the young girl. "Those two men who are sitting there." She closed the door and went back to her bedroom. The old woman called out again to her granddaughter. As soon as the young girl went back to her bedroom, Wáwalis gave the meat back to the old woman. She called out to the granddaughter again. "Come out and eat with the two people you were talking about." So the young girl came out.

She was the prettiest girl you ever saw! A really beautiful woman. Wáwalis and the slave started to eat the seal meat with the young girl and her grandmother. They were eating seal meat. Wáwalis became very thirsty. He asked the old woman about the water container. "Where is your water container, where is your pail? Go and get some water," Wáwalis ordered his slave. But the old woman said: "No, never go near this river because a big monster [*yagam*] lives in it. As you can see all these houses are empty. Every time people go near the river and try to get water, they are swallowed by that big *yagam*." "Well," Wáwalis said to his slave, "go and get my belt." It was a *Sisayut* belt, a Double-Headed Serpent belt. He gave his slave the belt to use and told him what to say should he be in danger of being devoured by the *yagam*.

So the slave went out. As soon as he tried to put the pail in the water, the big *yagam* came up and swallowed him. The big monster's belly was full of skeletons and people, some of them half alive. So the slave said, "*siscallit, siscallit, siscallit, siscallit*" [to coil] four times. As soon as he repeated the word four times the big *yagam* exploded. Wáwalis took the life-giving water [*q'əlasta*] and sprinkled it over the skeletons and the people who were barely alive. They all came back to life. Wáwalis and his slave went back to the house with the pail of water. But before returning, they took a little bit of clay from the ground in order to cure the blind woman. They put a little bit of clay in each eye and the blind woman was able to see again.

Then Wáwalis and his slave went back to the village. The people were really good to Wáwalis. He remarried and kept on doing what he had been doing before he left Qaluǰwis [Turnour Island]: seal hunting. Wáwalis and his new family went to the mouth of Rivers

Inlet to dig clams. They went there and shot a white sea otter [*q'assa*]. The slave skinned it and Wáwalis gave the skin to his wife to wash on the beach. However, the waves carried it out to sea. The woman tried to catch it, but two Killer Whales came by and carried her off. "Wáwalis, the killer whales have kidnapped your wife," someone said on the beach. Wáwalis and his slave ran to the beach but could not catch up to them. They walked back behind his house and found two bulrushes [*kákiłama*]. They cut four pieces out of them and left. After walking for a long time in a southeasterly direction, they examined the ground on the beach. They pushed all four of the sticks into the ground and Wáwalis turned into a wolf. He went straight down into the Underworld.

The first people he saw there were the Crabs [*qum'is*]. He went to the Crab People's house. "Maybe you know what has happened to my wife," he asked them. "She just passed by us. You will catch up with her if you keep following the Killer Whales who took her," the Crab People told him. So they continued their pursuit and passed by all the houses of the Sea People, including the Red Snapper [*łaxsəm*]. All the Sea People understood each other and could communicate with Wáwalis. Finally, they came to the last house of the underworld village. They watched a slave splitting wood. He was working very hard. "You are sure a hard worker," said Wáwalis to this man. The slave said, "We will be needing lots of wood, for the chief has a new wife." "She is *my* wife," said Wáwalis. "I came to get her back." While he was talking to the slave, Wáwalis turned into something very small, penetrated the wood, and created an obstacle for the wood-splitter. The slave could not get his wedge out of the wood. The little man started to cry. "Oh! My master is going to be really mad at me! Oh! The old chief is really going to scold me! It was his best tool!" Wáwalis returned to human form. "If you promise to help me get my wife back, I will fix your wedge," said Wáwalis. "I can try," replied the slave. Wáwalis took the blade out of his mouth and put it back into the slave's pouch. Wáwalis had real supernatural power and so could do these things.

The slave said: "The Killer Whale People are going to have a feast and I have to start the fire and fill up the cooking containers with water in order to boil some food. I have to go out and bring lots of water into the house. I will go out three times and pour the water; the fourth time I will pour it on the fire." Wáwalis could see his wife in the big house under the sea. The fourth time the slave went in with the pail and poured water onto the fire, causing it to smoke. Under cover of the smoke, Wáwalis ran into the house, seized his wife, and escaped.

After Wáwalis had returned to dry land with his wife, he had a dream that the Killer Whale People were going to capture her again. And if they were not successful it would rain for forty days and forty nights, causing a real Flood – like in the Bible. Since Wáwalis did not want to lose his wife again, he prepared some clay and cast her in it in order to keep her forever. Wáwalis and his wife both turned into stone just before the flood [*yeχ'əxsə*] covered the earth. It was the Killer Whale People's doings. Wáwalis got his wife back and never lost her again as they were both transformed into stone forever. That is the end.

## Case Brief

### Wáwalis (Myth That Took Place Before The Flood - yeḵwəxsá)

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the proper response to men trying to control women?

#### **Facts (Relevant): What facts matter?**

- Wáwalis was abusive to a slave, and discovered that his wife had been cheating on him with the Chief, who was her lover. He spied on her when she thought he was out hunting and saw them together.
- The Wáwalis murdered the Chief when he was asleep, and at lunchtime he murdered his wife with the head of her lover. Their daughter started panicking and screaming when she saw her mother die, and so Wáwalis transformed his daughter into a sawbill duck.
- Wáwalis left the community, and took the slave with him. They arrived at another community and after spending some time there and he had done some good deeds, Wáwalis married again.
- Two Killer Whales kidnapped Wáwalis's new wife and so he travelled to the underworld to get her back. Wáwalis tracked her down and used his supernatural powers to abuse a slave into helping him disrupt a feast of the Killer Whale People. During the commotion, Wáwalis seized his wife and escaped.
- Wáwalis had a dream that the Killer Whale people would try to capture his wife again and so he turned them both into stone just before the Killer Whale people caused a flood (yeḵwəxsá) that covered the earth.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- Wáwalis has to leave his original community after committing murders and violence.
- No response from the community creates an unsafe place for women and children.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- Wáwalis could not control the women in his life and so he resorted to murder and transformation.

Unsaid:

- When a man is consistently violent towards women and children, they do not want to be around him and have him in their lives.
- The entire community suffers from the violence he commits.

#### **Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Wáwalis commits a lot more violence towards women in this story, such as how he traumatizes the Chief's family in the first village by leaving the beheaded body for all of the women and children to discover.
- We learn that the first wife did not want Wáwalis around anymore, but we do not find out how the second wife felt. Did she also not want to be with Wáwalis? Was she kidnapped or did she leave with the Killer Whale People of her own volition?
- The story says that the Killer Whale people were going to flood the earth if they could not capture Wáwalis' wife again. But is it possible that the flood is a supernatural consequence of Wáwalis disrupting their feast?
- Wáwalis never loses his wife again because he transformed the two of them into stone forever. But are they truly together if they are immobile and cannot live as humans do when they are stone? Where is the woman's agency in refusing to be turned into stone if she does not want to?

## Mountain-Goat Hunter

(Tradition of the ʔəʔegēd, a clan of the wālas Kwā'gūł)

(Dictated by Yā'gōʔas, 1900.)

Franz Boas, *Kwakiutl Tales* (New York: Columbia University Press, 1910) at 109.

Rolling down saw (some) mountain-goats. "Let me go up to the mountain-goats walking about on the rocks" (he said). — "Where are they?" said his wife. "They are there at LIESElēkʷ." — "Don't talk that way, else you might fall off (from the mountain). Don't talk that way, else you might fall off." — "I do not fall off." — "Then go on," said his wife. He had four wives. Then Rolling-down went up. He arrived and hid. Then he took out his charm. He put the dried frog on the rock. Then the mountain-goats could not walk. They just became like the frog, and just lay there. Then he went and hid himself. He just sat by the side of a rock and shot with his arrows. He hit the chest (of a mountain-goat), then he also shot its neck.

He did not know that he was being pursued by a grisly bear. What should it be? It was standing there, and began to growl. "Do not say so, friend. I am your friend." Then the grisly bear sat down on the rock and listened to the word of Rolling-down. Then another grisly bear arose and began to growl. The bear went right up to take hold of him. He took the man by the shoulder and threw him upward. Behold! There were many grisly bears. They threw the man to one another while they were going up with him to the top of the mountain. Then they came to a fine place in the woods, and the man was thrown about by the grisly bears. His limbs were torn to pieces. His fingers and his toes, and the bones of the man, were scattered on the ground. Then the grisly bears left and went home, and the man was dead.

Then one of the grisly bears felt badly. "Why did you do so? Did you not hear what our dead friend said?" — "Not I," said, on his part, another one, — the one who had killed the man. "What do you think?" said, on his part, the one. "Don't you love our friend? Indeed, I feel sad on account of our friend. Let us try to revive him. Go on to Head-Wolf and Head-Runner, that all our friends may come, all the animals."

Then many animals came. They assembled. They were going to the place where the man had been killed, and sat on the ground. Then the bones of the man were gathered up, and were pushed together. Some of the bones had disappeared. Then the Ermine and the Mouse were sent, because they had a good scent. They searched for the toes of the man. The ermine found the toes of the man, and gave them to the supernatural person. Then he put them on his feet, and the man was sprinkled with the water of life. Then the man sat up on the ground and revived. To no purpose he rubbed his eyes. He thought that he had only slept. Then he discovered the many animals sitting there. "Now you are alive, friend. I killed you by accident. Don't do it again, ["It had gone bad with you. That happens only once"] that you come up here, although you may know that we were laying for the

mountain-goats. That is called mountain- goat hunting. For that reason our friend acted in this way. Now you are alive. That was the reason he tried his supernatural powers. Now you shall do as I do. Now your supernatural treasure will be this water of life, and this means of throwing.”

Then he sang his sacred song in the night, and his tribe heard it. “Don’t sleep, for somebody is singing his sacred song. It may be our chief.” He came to the other side of the village, singing his sacred song. The house site was called Middle-of-Beach. Day had not come yet when the tribe arose and went bathing. Then the sound was heard on the other side. Then his tribe went across and tried to catch him. From time to time he just flew away. For four days they tried to do so. Then he was caught by G-ā’yusdês. He was snared. (Time) was beaten for him by his tribe. Then he threw (his supernatural power) at his tribe, and his tribe groaned in the house. He did so to try to tease his tribe. He had for children the princesses of chiefs. His tribe only worked for him. His wives only went out and purified themselves. Then his tribe planned that he should die. Their anger rose quickly when he teased them. He was made to drink blood, menstrual blood of a woman. Then he became sick; then he was given medicine by the one side of his tribe (either father’s or mother’s family). Then he was bewitched that something should happen to him quickly. It was not one year, and he lay sick. Then he died when summer came. Then his tribe revived: they were no longer afraid. That is the end.

## Case Brief

### Mountain-Goat Hunter

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the proper response to a man who abuses his supernatural abilities against his wives and community?

#### **Facts (Relevant): What facts matter?**

- Rolling-down decided to hunt some mountain goats, and one of his four wives advised him against his planned approach up the mountain, but he decided to head up that way anyway.
- Once he arrived at his destination, Rolling-down used a charm to immobilize the mountain goats and he easily killed one with his arrows.
- He did not know he was being pursued by grizzly bears and when they showed up, he stated: "Do not say so, friend. I am your friend." After hearing his plea they took him to the top of the mountain, tore his limbs apart and Rolling-down died.
- Then one of the grizzlies felt badly because he had said he was a friend, so the grizzly convinced the grizzlies and other animals to try and revive him.
- When Rolling-down comes back to life, he gains supernatural powers.
- He returned to his village and abused his powers against the tribe until they could not take it anymore and tried to kill him.
- The Tribe made him drink menstrual blood and he was poisoned, and he became sick; however, his family gave him medicine.
- He then was bewitched and died when the summer came.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- A possible consequence for serious abuses of power is death. This allows the community to restore safety.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The tribe decided to kill Rolling-down for his abuse of power and disrespect for his wife and tribe. Only when he died did the tribe come back to life and stop being afraid.

Unsaid:

- The health and safety of the community is reliant on no one abusing their power and abilities against other members of the community.

#### **Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Why is menstrual blood poison that could kill a man? Why is it the community's

chosen method to kill him? Is it because menstruation is a symbol that someone is not pregnant (not creating life) and therefore seen as the opposite of life?

- Because family gave him the medicine for the menstrual blood, does that symbolize his family trying to give him a second chance?
- Why does only one of his wives have a voice in the story?

## The Brothers

Tradition of the Comox.

(Dictated by Qā'sElas, a Mā'diḷbē woman, recorded by George Hunt.)

Franz Boas, *Kwakiutl Tales* (New York: Columbia University Press, 1910) at 401.

The ancestors of the Comox were living at a place called Pentlatch. The prince of the chief had for his wife the princess of another chief, a chief of the Ē'ēqsE'n. The woman had four brothers, and the name of the woman was Nă'dEḡwomat, and Nă'dEḡwomat had a young man for her lover. The man, husband of the woman, was always jealous of the young man on account of his wife. In vain the woman asked her husband to accompany her, getting cedar-bark in the woods. Her husband just sent her to go by herself.

At once the woman got ready; and as soon as she was ready, she started. Her husband watched her and her lover. As soon as the woman had been out some time, her husband went also to search for his wife's lover, but he never found him, and therefore he discovered that he had gone with his wife; and so the man came back, returned to his house, and lay down on his back.

In the evening, however, his wife came home. His wife just put down the great amount of cedar-bark that she carried on her back in front of the house, and came in. As soon as she sat down in the house, she began to make the noise "Hwo!" but the woman said at once, "I had really hard work." At once her husband spoke angrily, and said, "Indeed, you are not tired, for you were accompanied by your lover." Thus he said.

The man had not been silent long when he spoke again, and said to his wife, "Let us wash ourselves with hemlock-branches in the woods." Thus he said. At once the woman agreed to go, and the couple arose at once and went out of their house to a pond behind the village. As soon as they arrived there, the man spoke to his wife, and said "O mistress! let us go to a pond farther back." Thus he said. At once they started again, and they arrived at another pond. Then the man spoke again to his wife, and said again, "O mistress! let us go to a pond farther back." Thus he said.

The woman started at once, for she did not guess the thoughts of her husband. They started again; and they had not been walking long before they arrived at another pond; and the man spoke again, and said, "O mistress! Let us go to a pond farther back, so that we may really purify ourselves." Thus he said.

Immediately the woman just passed the pond, and they did not walk long before they arrived at another pond. Its name is Tsā'wilaḡ<sup>u</sup>. Immediately the man sent his wife to break off hemlock-branches, and the woman at once tried to break off the lower branches of a hemlock-tree. Her husband requested her to climb higher up the tree and to break off the hemlock-branches (there). Then the woman climbed on, and tried to break (branches).

As soon as the woman began to break the branches of the hemlock-tree, the man spoke again, and requested her to go higher up the tree. Immediately the woman climbed again, and went halfway up the tree. As soon as the woman was high up, the man followed her and also began to climb. He said that he was going to help his wife.

As soon as he arrived at the place where his wife was, he requested her to go to the top of the tree. The woman tried to go on, but she was tired and her strength was gone. That was just the reason why the man carried his wife to the forked top of the tree; and he placed his wife in the forked top of the tree and tied her to it. As soon as he had done so, he pulled off the bark of the tree as he came down, and he cut off all the branches. As soon as the man had come down, he went home to his house and lay down on his back. In vain the man's mother called him to come and eat. The man just said that he did not feel hungry.

Now, let us talk about the four brothers of Nă'dEḡwomat, the wife of that man. When the woman started to go with her husband, her four brothers went out paddling, for they were sea-hunters. They had gone to harpoon seals at the island in front of Pentlatch, which is named K!ō'la. In the evening the four brothers of Nă'dEḡwomat came to the place Shelter Point when it was really calm. Then the youngest one heard something saying, "Listen, brothers, I have been sitting for a long time in the forked top of this tree, brothers, and I am beginning to be weak on account of the heat." Thus said what was heard by them.

Immediately the youngest one spoke, and said, "O brothers! listen to what I hear! It sounds just like our elder sister." Thus he said. Then they kept quiet, and they heard the sound again, repeating the former words. Immediately the brothers paddled to the place where the sound they had heard came from. Then they listened together, and heard plainly when they arrived at the harbor at the village of the ancestors of the Comox. As soon as they arrived at the village, the brothers stepped out of the canoe and went on the trail, and followed it. In the morning, when day came, they arrived at Tsă'wilaḡ<sup>u</sup>, that lake. Then they discovered at once their elder sister standing on top of the tree in the fork of the tree which stood by the lake. Nă'dEḡwomat was still alive when they arrived.

Immediately the eldest brother tried to climb up, but he did not reach very high when he slipped down. Then the one next to him tried. He hardly reached higher than his elder brother when he also came slipping down. Then the third brother also tried, and he hardly reached higher than his elder brothers when he also slipped down. Then the youngest one took cedar-bark and twisted it, and he tied the ends together for his feet to stand on; and as soon as he had finished his work, he put what he had made on his feet. Then he began to climb, and he got to the place where his sister was standing. As soon as he reached his sister, she died. In vain he wished to carry his dead sister down on his back. He discovered that she was dead, and therefore his elder brothers just said that he should throw her down. The youngest one at once obeyed their words, and he threw her down. The young

man also came down.

As soon as the youth arrived, the eldest one spoke, and said, "O brothers! let us take revenge on this one's husband. Take off her bracelets and her anklets and try them on our middle brother? Thus he said. "And also her apron." Thus he said. Immediately these were taken off by the one next to the eldest brother, and were put on the third brother. When they had finished, he did not look just like his past sister. They took the bracelets and the anklets and the apron off again and put them on the youngest brother. As soon as they had done so, they pulled out his eyebrows; and the eldest brother took the scalp off of their dead sister's head and put it on the head of the youngest brother. Now he looked really like their dead sister.

Then the eldest brother gave his youngest brother a knife, and said, "Oh, my dear! go and sit down on the ground behind the house of our former brother-in-law, and pretend to look for lice on your apron; and as soon as you are seen by some of the younger sisters of our former brother-in-law, and as soon as you are called in, enter the house and pretend that you are not well, and that you are just able to walk, and hide this knife to cut the throat of our former brother-in-law when he sleeps." Thus he said.

As soon as they had finished, they came out of the woods. At once the youngest brother went behind the house of their former brother-in-law and sat down on the ground. He had not been sitting there long, looking for lice on his apron, when the younger brother of his brother-in-law came out. The child went back into the house at once and told his elder brother, and said, "O master! go and look at your wife. She is sitting there behind the house, looking for lice on her apron." Thus he said. Immediately he was sent to call her. The child went back out of the house at once to call the man who pretended to be a woman. Immediately the woman arose and followed the child, and she went straight to the place where her pretended husband was lying on his back, and sat down by his side.

Immediately her mother-in-law spoke, and said, "Welcome! for your husband has just been lying on his back since yesterday, and he was never willing to eat." Thus she said, and immediately she gave fern-root to her daughter-in-law. The pretended woman took the fern-root and scorched it; and after she had scorched it, she pounded it with a pestle. Then the child, the younger brother of the pretended husband, spoke, and said, "Oh, my dear! master, why has your wife such a man's hand?" But the woman at once stopped her child, and the pretended woman gave her pretended husband fern-root to eat. After he had eaten, the man at once tried to play with his wife, but the pretended woman pushed him away and said that she was not strong enough to play with him. Then the man gave it up.

Then the younger brother of the man spoke again, and said, "Oh, my dear! master, why has your wife such a man's hand?" Thus he said. His mother said at once that he should not talk so much. Thus she said.

It was evening and the night was fast coming. Then the pretended woman went into her bedroom and lay down, and the man also went to lie down. At once he tried to embrace his wife; but the pretended woman pushed him away, saying that she felt weak, and that she was sleepy. Then the man gave it up, turned his face back-ward, and began to sleep; and it was not long before he began to snore, and he slept.

After some time the pretended woman turned round and pinched the shoulder of the man. He never moved. Then the pretended woman arose and cut the throat of his ugly brother-in-law, and he twisted off his head, and covered up the neck of his ugly brother-in-law with the bed-cover. Then he went out through the back door of the house, carrying the head of his ugly brother-in-law. As soon as he had gone out, he discovered his elder brothers hiding behind the house, waiting for him. Then they all went to their hunting-canoe, which lay on the beach, and went aboard, and paddled away in the night, going to the south side of the bay of Pentlatch. As soon as day came, they arrived at the point. Then they stepped out of the canoe, carrying the cut-off head. Then the eldest brother took a long pole and stuck the head on it. Then he stood it up on the point.

As soon as they had finished, they went home. No talking at all was heard when the brothers arrived at the house. Then a little girl, the younger sister of the one whose head was cut off, was sent by her mother to wake her elder brother and his wife. It was not long before she came back, and the girl said to her mother, "O mistress! the wife of my master is menstruating; much blood is running out of the bedroom!" Thus she said. Immediately the woman entered the bedroom of her son. She lifted the bed-cover, and discovered that his head was cut off. Then she cried aloud, and the girl also cried; and then she said to her mother in vain, "I told you that the wife of my master had a man's hands." Thus she said. Then he was just buried, and the ancestors of the Comox never had a war about this. That is the end.

## Case Brief: The Brothers

### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response to uxoricide (murdering your wife)?

### **Facts (Relevant): What facts matter?**

- Nä'dExwomat was the princess (daughter) of a Chief and her husband was the prince (son) of another Chief.
- Nä'dExwomat had a young man as her lover, and her husband was jealous.
- One time she asked her husband to help her gather cedar bark but he refused and sent her to go by herself, so she took her lover instead.
- When she returned, tired from the hard work, the husband accused her of being with her lover and so she could not have been tired.
- Soon after, he said he wanted the two of them to wash themselves with hemlock-branches in the woods and the woman agreed to go. He took her far from the village and requested her to climb high up in the tree to break off the hemlock branches. He then climbed the tree when she was high up, and when she was too tired to climb he carried her to the forked top of the tree and tied her to it. As he climbed down he cut off all the branches and pulled off all the bark so no one could rescue her.
- When Nä'dExwomat's four brothers returned from hunting, they could hear their sister's pleas for their help. When they eventually found her, they had such a hard time getting up the tree that she died right when the youngest finally reached her. The youngest wished to carry her body down but the elder brothers told him to throw her.
- To enact their revenge on the husband, they scalped their sister and put her hair on the youngest brother's head and dressed him in his sister's clothing and he looked just like her.
- The youngest brother pretended to be his sister in the household and when night came, he beheaded Nä'dExwomat's husband in his sleep. The brothers took the head and paddled into the night until daybreak, and then mounted the head on a long pole.
- The body was buried and the ancestors of the Comox never had a war about it.

### **Decision/Resolution: What is decided or how is the issue resolved?**

- The brothers decided to seek justice for their sister by killing the husband.

### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The eldest brother declared that the brothers must take revenge. The brothers

murdered their brother-in-law for what he did to their sister, and stuck his head on a point for everyone to see.

Unsaid:

- By choosing to not go to war, the husband's family acknowledged his shameful actions and that the brothers' response was proportionate to the initial incident.
- When a husband does not contribute to the household, a wife will seek out someone who will satisfy her needs.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- What is the significance of hemlock for the Kwakwaka'wakw? Because the husband had suggested washing themselves with hemlock branches and then tied her to a hemlock tree, is he violating a ceremony or something particularly sacred about hemlock?
- Why did the brothers treat Nä'dExwomat's body so disrespectfully after she died? Why would the elder brothers suggest that she should be thrown down, and why did the youngest obey when he wished to carry her?
- Why is Nä'dExwomat bodily autonomy not recognized? Why do her brothers throw her body and scalp her to enact their revenge on the husband? Is this a counter story of what not to do when seeking revenge against the murder of a family member?
  - Why does the youngest brother call Nä'dExwomat "elder sister" and the eldest brother refers to Nä'dExwomat as "this one"?
- Because the youngest is the one who first heard Nä'dExwomat's pleas for help, was the one to successfully climb the tree, wanted to carry her body down and was the one who resembled her the most - is all of this an insinuation that the youngest brother is two-spirit?

## Mink goes to make War with his Friend Land-Otter

(Dictated by MalE'd, a Kwāg-ūł, 1893.)

Franz Boas, *Kwakiutl Tales* (New York: Columbia University Press, 1910) at 157.

"Let us go and make war, friend," said Born-to-be-the-Sun to Land-Otter. "Whom shall we make war against, friend?" said, on his part, Land-Otter to Born-to-be-the-Sun. "Those are the ones whom we will take, on the beach, the Innumerable-Ones." Then they started in the morning. It was foggy. They paddled to an island. "Ê, ê, ê, ê!" said Born-to-be-the-Sun. "Back-water! My nose-ornament fell into the water." Then his friend tried to back-water. Born-to-be-the-Sun stood up in the canoe and dived. He was not under water long when he came up carrying sea-eggs in the fold of his blanket. Then he ate them. He only lied when he said that his nose-ornament fell into the water. What he meant was, that he had seen the sea-eggs. "Give me some, friend," said his friend Land-Otter. "Don't," said Born-to-be-the-Sun. "Do those who war here and there give to each other? Just go, friend," said Born-to-be-the-Sun to his friend Land-Otter.

Then Land-Otter dived. He came up again, and Land-Otter did not get anything. "How did you do it, friend.?" said Land-Otter, questioning his friend. "Put your face up and pull your knees up when you come up." Then Land-Otter dived, and Born-to-be the-Sun jumped up in the canoe, went to the bow of the canoe, and took what murdered by itself Land Otter. Then Born-to-be the-Sun was standing in the canoe, ready for his friend to come up lying on his back. When his face came up, Born-to-be-the-Sun speared his friend just over the breast bone. Then his friend was dead. He just pushed his friend into the water.

Then Born-to-be-the-Sun went ashore. He went out of the canoe and sat down on the beach. He pulled out his musk-bag and transformed it into a man, who was sitting there, small, on the beach. Then he spoke to his Musk-Bag. "To what tribe do you belong, slave?" Thus said Born-to-be-the-Sun. "I am the Musk-Bag of Born-to-be-the-Sun," [only] said the child. "Don't say that, slave," said Born-to-be-the-Sun. "You shall say, when you are asked, 'I am the prince of the Innumerable-Ones.'" Then he went home. The Musk-Bag was sitting in the bow of the canoe. He said that he had taken him in war. Then he wailed for his past friend, "Ts!anā'nanā! My friend died by going behind the houses, ts!anā'nanā! My friend died by going in front of the houses, ts!anā'nanā!" – "Our chief says something important on the water," said his tribe. Then he went ashore. Born-to-be-the-Sun went out of the canoe. Then he pulled out of the canoe the slave he had gotten. The slave was questioned. "To what tribe do you belong, slave?", Thus was said by the tribe of Born-to-be-the-Sun. "I am the musk-bag of Born-to-be-the-Sun," [only] said the slave. Then he was made fun of. They just threw at each other the musk-bag of Born-to-be-the-Sun; and Born-to-be the-Sun's sister sang for him, "Try to sit on it! Try to sit on his musk-bag!" Then Born-to-be-the-Sun tried to sit on his musk-bag, and he caught it. He put it back in its place.

Then he entered the house. Then the wife of the dead friend came in. She was dressed

well, and inquired what had killed her dead husband. "Don't!" said Born-to-be-the-Sun. "Go to your house. Let me point out what killed my dead friend. Just stop up all the holes in your house." Then the woman went home. Immediately she stopped up the holes. Then Born-to-be-the-Sun entered her house. "That is what killed my past friend," he said, pointing to her forehead. He went down pointing at the body of the woman. "Lean back, that I may point out all that killed my friend. Open your legs! That is what killed my friend." There was no place on the woman's groins that he did not point at. Then he climbed on Sawbill-Duck-Woman. He only wanted to cohabit with Sawbill-Duck-Woman. "I am the one who did it to my dead friend." That is the end.

## Case Brief

### Mink goes to make War with his Friend Land-Otter

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the proper response when a man will commit harm to get what he wants?

#### **Facts (Relevant): What facts matter?**

- Mink, also known as Born-to-be-the-Sun, asked his friend Land-Otter to make war on the Innumerable-Ones.
- When they head out, Born-to-be-the-Sun murdered Land-Otter and returned to the community proclaiming that his friend had died.
- Sawbill-Duck-Woman, who was the wife of Land-Otter, inquired what had killed her dead husband. Born-to-be-the-Sun said that he would only point out what killed Land-Otter if she stopped up all of the holes in her house.
- Inside the house, Born-to-be-the-Sun pointed to her forehead, body and groins and said that was what killed Land-Otter.
- During or after Born-to-be-the-Sun climbed on her (it is unclear), he told Sawbill-Duck-Woman he was the one who killed her husband because he wanted to cohabit with her.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- When harm doers are not held accountable for their actions and women are left alone to confront them, the community is an unsafe place for women.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- Mink does not take accountability for his actions and instead blames the victim for the fact that he killed his friend.

Unsaid:

- It is important to have self control and it is egregious to commit these kinds of crimes to get what you want.
- When the community does not uphold their responsibilities to hold people accountable for their actions, they create conditions of vulnerability.

#### **Bracket: What do you need to bracket for yourself in the case?**

- Why did Mink leap to murder so quickly? Is there a history here where Land-Otter and Sawbill-Duck-Woman are clear with Mink about their boundaries that Mink decides he needs to murder Land-Otter to get what he wants?
- Is the purpose of transforming Mink's muskbag into a slave to distract the community? Why is the community so absent from Sawbill-Duck-Woman's reality when her husband has gone missing?

## Great-Inventor

(Dictated by MalE'd, a Kwāg-ūł, 1893.)

Franz Boas, *Kwakiutl Tales* (New York: Columbia University Press, 1910) at 167.

The myth people were hard up for water. They only drank the juice of roots. Then Great-Inventor went to get water for his tribe. He knew that only one woman, living at Bull Harbor, had water. Then he got ready to go to Bull Harbor. He arrived at Bull Harbor. She was warming her back. He went in, and the woman was asleep. Then he took some dung and put it behind the woman. Then Great-Inventor pushed her. "Don't sleep," he said to the woman. "Evidently your house is soiled. I want to have a drink from you." Thus said Great-Inventor to the woman. "Look at my mouth: it is all dry, for I desire to drink." — "Go on, drink there," said the woman, on her part, to Great-Inventor. Then Great-Inventor drank water. He had his mouth in the water for a long time. Then the woman spoke, "Don't, else I shall have nothing to drink. Then Great Inventor looked up and said, "I have not drunk yet. Look at my mouth! it is just dusty." It is said that Great-Inventor had a bladder into which the water was poured. "You are awful," said the woman to Great-Inventor. "You are evidently a great drinker." — "Then let me talk about your house being soiled, said Great-Inventor. "Then go on, drink!" Great-Inventor was told. Then he drank again, and his sea-lion bladder was full. Then the water of the woman was at an end.

He went to the beach and went aboard his folding paddle-side canoe. Then he crossed and went to the inland side (Vancouver Island). Then he urinated and thus made the rivers. Where he sprinkled water, there were small rivers. He went around the world making rivers. After four days he had finished.

Then he returned to Crooked-Beach. Immediately he invited his tribe in. Then he talked about the rivers he had made. Then he told his tribe that he would get a wife from Salmon for the rivers. He got ready, with his tribe, to get a wife from Salmon. Day came, and they started in the canoes. When the canoes were loaded, his whole tribe went aboard the folding canoe. Then they steered southward. "Don't let us be this way," said his tribe. "It is said that below is the place to paddle. There is no storm there." Then (the canoe) went right down. It was under the sea, and went along paddling underneath. Then he saw the color of the smoke of Salmon. They carried up the canoe, and Great-Inventor pushed back the trees. One tree stood alone on the ground. Then Great-Inventor whitened its trunk. Very early in the morning the slave of Salmon came paddling along the beach. Then Great-Inventor went into the tree. The slave caught sight of it, and went right out of the canoe, going up to it. Then he drove his wedge into the bottom of the tree, and Great-Inventor bit off the point of the wedge, — the wedge that had never been blunted since Salmon first became a man in the world. The slave cried on account of his wedge. Then Great-Inventor came out of the opposite side of the tree. "Why do you cry?" said Great-Inventor, on his part, to the slave. "On account of this my broken wedge, I shall be struck by my master." — "Give it to me," said Great-Inventor. Then the slave gave it to him, and Great-Inventor took

it and put it into his mouth. "Look at it, slave," said Great-Inventor to him. "How was its tip? Was it not this way?" — "That is the way it was," said, on his part, the slave.

Then Great-Inventor asked the slave, "Has not the chief of Salmon a child? Does not the child of Salmon take walks?" — "The princess of Salmon comes first to meet me. She will try to carry on her shoulder the heart of the fire-wood that I get." Then Great-Inventor told the slave that he wished to get a wife from Salmon. "Only take care!" was said to Great-Inventor by the slave. "Take this stone when you first cohabit with her. Her crotch is always biting." Then Great-Inventor pushed down the tree. The alder broke up on the ground. Then Great-Inventor wedged it to pieces. He took care of its heart, for he wanted to go and hide in it. Then the wood was taken aboard. The tribe of Great-Inventor came and helped (with) the loading. When all the wood was aboard, the heart of the tree was put on top, and Great-Inventor hid inside. Great-Inventor left word with his tribe that they should go at daybreak. Then the one who had gone to get fire-wood arrived at the beach, and the princess of Salmon came to meet him who had gone for fire-wood. She waded to meet him, and took the top piece of the wood that was lying there, in which Great-Inventor was hiding. Right away he cohabited with her.

She did not get ashore, when the girl threw the wood down on the beach. "Don't handle it roughly," the slave said to the girl. Then the girl carried it again in front of her body. Again Great-Inventor cohabited with her. Then she came to her house. The child went right to the rear of the house with the wood, to her room. Then at once Great-Inventor came out of it and took the girl for his wife. It is said that Great-Inventor held in his mouth gum of the white-pine. Immediately, the next day, the girl became pregnant.

In the morning the tribe of Great-Inventor came ashore. "Don't stay thus, friend," was said to the girl. "Come to the fire with the one who is lying down with you." Then the girl said to Great-Inventor, "Take care! this is that with which they try to kill those who come from time to time to us. It is the settee of my father. Squidbones are in the settee." Then Great-Inventor put a sandstone on his back. He just met his tribe when they were coming into the house, and Great-Inventor came out of the room. "Don't be that way," said Salmon to his wife, "but give our son-in-law to eat." She just sent the younger sisters of Great-Inventor's wife to the beach to play in the water. Then the children became salmon. They became sockeye salmon. They were cut quickly, and were roasted. Then the woman, the mother-in-law of Great-Inventor spoke. "Please gather up this clothing of these younger sisters and go and throw it into the water."

Then all that was roasted was placed before them. Great-Inventor pulled out the collar-bone of the sockeye and pushed it behind his ear. After they had eaten the bones were gathered and were thrown into the water. Immediately the salmon jumped and came to life. Only one of them had no blanket-pin.

Then Great-Inventor spoke, "Don't let your parents be that way. It is bad that they are

too stout. Let us cut them. They will not die. Look! I will cut my younger brother, Duck.” Then Great-Inventor called Duck. “Take care!” was said to the female duck. “Just rise from under your younger brother when he is dead.” Then Great-Inventor cut open the duck. As soon as all the intestines were taken out, the duck was covered over. Then the female duck stood up from under the cover. Then they were told that he (the duck) had come to life. Then Salmon and his wife arose and lay down on their backs on the board on which the duck had been cut up. Immediately Great-Inventor cut up Salmon and his wife. “Don’t touch them for four days,” said Great-Inventor to the tribe of Salmon. “Let us get ready and go home.” Then his crew went aboard, and Great-Inventor carried his wife aboard in his arms. Then the side-paddles paddled.

The various kinds of Salmon also went aboard their canoes to follow their chieftainess. The canoe of Great-Inventor just waited from time to time for the canoes of the Salmon, for he wished to see the face of the mountains when doing his work. “Do let me go ahead,” said Deer. “Don’t! we must see the face of our land.” Then Great-Inventor discovered the land. “Go ahead, Deer!” Said Great-Inventor. Then Deer arose in the canoe, and jumped from one canoe of the salmon to another, and all the canoes of the salmon capsized. Then the various kinds of salmon began to jump, and Great-Inventor arose in his canoe and pointed to the rivers. “You will go that way,” said Great-Inventor, calling the names of the rivers. Therefore salmon go to the rivers made by Great-Inventor. That is the end.

## Case Brief Great-Inventor

### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when there is abuse of power?

### **Facts (Relevant): What facts matter?**

- The myth people were hard up for water and so the Great-Inventor devised a plan to steal the only water he knew about from the woman who lived at Bull Harbour.
- He placed dung behind her as she slept, and then he woke her up and shamed her for soiling her house. He demanded water from her and she told him where to drink.
- She asked him to stop as she would have nothing to drink but the Great-Inventor tricked her, and he poured the water into a bladder and took all of her water while shaming her about the soiled house.
- After he left, he went to the inland side (Vancouver Island) and when he urinated that made the rivers.
- Then to feed the myth people, the Great-Inventor told his tribe he would get a wife from Salmon for the rivers. He surprised the princess of Salmon in the woods when she was alone collecting firewood and cohabitated with her right away. He cohabitated with her multiple times after that, took her for his wife and immediately the next day the girl became pregnant.
- While eating and sharing the fire with his in-laws, the Great-Inventor tricked them and he cut up Salmon and his wife, and took them and the princess of the Salmon in the canoes.
- Various kinds of Salmon went aboard canoes to follow their chieftainess, and when the Great-Inventor could see the face of his land again he instructed deer to capsize all of the canoes. When the Salmon were in the water, the Great-Inventor directed them to go to the rivers he had made.

### **Decision/Resolution: What is decided or how is the issue resolved?**

- When community members let abuses of power and violence go unchecked, women are harmed at the expense of the community's benefit.

### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The Great-Inventor successfully brought water and salmon to his people through the means of deceit, abuse and rape, and forced an entire community to relocate.

Unsaid:

- Sometimes people are willing to overlook harm to vulnerable people from outside

communities in times of strife, especially when scarcity of resources is an ongoing issue.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- What does it mean for a story to entangle the origins of local rivers and salmon with the abuse of women? Is there possibility for origin stories to influence a society in subconscious ways regarding sexual violence?
- Why does the slave give the Great-Inventor a stone for when he first cohabits with her and says her crotch is always biting? There is no mention of Great-Inventor using the stone at all.

## Mā'lēleqala

(Tradition of the Mā'malēleqala)

(Told by Lā'bid, a Má Mā'malēleqala.)

Franz Boas, *Kwakiutl Tales* (New York: Columbia University Press, 1910) at 480.

Mā'lēleqala knew that Q!ā'nēgēlak<sup>u</sup> was coming south after having left his brother ɛnEmōgwis, and that he was transforming the world. He also knew that the Deluge, which was sent by the Chief in Heaven, was coming, and that people were preparing for it. Mā'lēleqala's house was on the island T!o'x<sup>u</sup>sExLalak<sup>u</sup>, opposite Fort Rupert.

He put down large trees like the logs of a log-cabin, and caulked the openings with clay. When the Deluge came, it covered his house, but he remained inside without being hurt. When he thought that the Deluge had subsided, he and his younger brothers, Hā'naL!ēnox<sup>u</sup> and Ĝā'LEmaxs<sup>ε</sup>ala, went out, and they found that the country was dry again. They saw much driftwood, and people were lying on it, holding on to it. Then Ĝā'LEmaxs<sup>ε</sup>ala took a long hook and pulled the logs ashore. They became their tribe. Hā'naL!ēnox<sup>u</sup> had bow and arrows. He put a string at the bow end of his arrows and shot at the drifting logs. Then he pulled them ashore. For this reason the members of the Hā'nanaL!ēnox<sup>u</sup> clan show a bow and arrow at their festivals.

Mā'lēleqala wished to travel, but he had no canoe. He felled a cedar-tree and burned it out inside. At the same time he placed stones on each side, so that the fire should not burn through the sides of the wood. Thus he continued until he had made a serviceable canoe. Then he started looking for a place in which to build his house. He came to Fort Rupert (Tsa'xis). There he built a house at ʔāʔek!uXLa.<sup>144</sup> A shell-heap may be seen at this place.' His brothers accompanied him.

Now they were waiting for Q!ā'nēgēlak<sup>u</sup> to come. One day when they were out in their canoe, they were met by another canoe. A man was aboard. When he came near, he asked, "What are you doing here?" Mā'lēleqala replied, "What do you mean? Do you mean my canoe that is on the water, or do you mean the red cedar-bark on my head?" Q!ā'nēgēlak<sup>u</sup> replied, "I mean the cedar-bark on your head. I like it." Mā'lēleqala was not quite sure whether it was Q!ā'nēgēlak<sup>u</sup> who had come. Then Q!ā'nēgēlak<sup>u</sup> continued, "You and all your descendants shall be the first to receive red cedar-bark in the winter ceremonial."

Q!ā'nēgēlak<sup>u</sup> went on. He had just come from Gwa'dzē<sup>ε</sup>, where he had put the people to rights. As soon as Q!ā'nēgēlak<sup>u</sup> had left, Mā'lēleqala called his tribe in the evening, and he told them of what had happened. For this reason a meeting is always held before the winter-dance, in which the plans for the ceremonial are discussed.

Late at night the supernatural power appeared, singing like a bird. Then they prepared for

144 It is about half a mile west of Fort Rupert.

the dance of Mā'lēleqala's daughters, whose names were Q!wā'q!waLEmg·ilayūgwa and Wīlx·stasīlayūgwa. They made torches and assembled in front of the houses. The people carried large planks, on which the girls were dancing one after the other. The people sang,  
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"Aya a haik·as mēLa, lā'k·as amā'sēl<sup>ε</sup> yā>wix·ilidzEmsōx awā'sk·as<sup>ε</sup>o lā'k·as amā'sēL  
lē'li<sup>ε</sup>stālayux<sup>u</sup>sōx awā'fk·as<sup>ε</sup>ōx mēiLaya."

The people raised the torches high up while they were singing; but when they did not close their song with the burden "awā'ya," the two girls disappeared one after the other, and their father said that they had been taken away by the supernatural power. They staid away for a long time, and for this reason the novices continue to do so at present. (The people really hide the dancers, so that the uninitiated may think that they have been taken away by the spirit, but they always stay in the house where they are in hiding.)

One day the two girls went out. They saw something dark in the air. They did not know what it was. When it approached, they saw that it was a large bird which carried something in its talons. When it came still nearer, they saw that it was the thunder-bird carrying the double-headed serpent (sī'siuL). The bird dropped it near the girls; and when the double-headed serpent touched the ground, it became a salmon. It was quite small. Q!wā'q!waLEmg·ilayūgwa went to pick it up; but as soon as she came near it, she disappeared. Nobody knew what had become of her. Then Mā'lēleqala took a piece of wood, and went into his room, where he carved an image of his daughter, which he intended to take her place.

While he was engaged in this work, the daughter of the lost woman climbed to the roof of the house and pulled one of the boards aside. Thus she was able to look into her grandfather's room, where she saw the image, which looked just like her mother. Her grandfather called her, and said, "Yes, it is your mother. Come and look at her." The girl came down from the roof, went into her grandfather's room, and the old man strangled her because she had seen what he was doing. He wrapped her up in skin, and made a hole under the fireplace, where he buried her. For this reason the preparations for the winter ceremonial are still kept secret, and whoever sees the secrets without permission is killed.

In the evening they began the winter-dance (kwē'xala). The people took their boxes and carried them into the house for their chief. There they sat down quietly. Then a speaker arose and called Hā'naL!ēnox<sup>u</sup> to go and take the boxes. He took one of them up, went around the fire, and put it down behind the fire. Then there began to be a noise in the house, and the people sang, —

"The great one is going to be Thrower with her throwing stick. This great Yā'lag·līs.  
Hâ."

("Lā'dzēLElalaē mā'maq!ayasēs mā'magayū hēyā'lag-ilidzē ā'dzēs-g-a yā'lag-ilidzē. Hā.")

After they finished singing the song, they beat time, and various dancers came in one after another, — the Thunder-Bird, the Grizzly Bear, the Džō'noqlwa, the Raven, the Fool-Dancer, the Sea-Monster Dancer (yā'g-adalał), the Hōx<sup>u</sup>hok<sup>u</sup>, and the Wasp Dancer. Every one performed his dance and uttered his cries. After this the people sang the following song : —

"Ah, great one, this great Yā'lag-līs, great Winā'lag-ilīs; great one who will take up with his hands.

Ā hā'yâhânō. Wonderful power of madness. That is the way your father did, madness.

Almost discernible is the means by which yours would have been caused to go, with which yours would have hung (??).

This, because I really said ghost (= near by), bring close by, sitting on fire (= ghost), trembling with hands in dance (= ghost dancer)."

("Ādzēs-g-a yā'lag-ilidzē, winā'lag-ilidzē. Lā'dzēLElalaē q!ā'qalayaLatsēs q!ā'q!alayū. A, hā'yâhânō ai'k·as nau'alakwas nu'Ēma. Hē'seł gwā'lag-ilitseMasōx ō'wask·as ō wasōx nūĒma. K!ā'k!aLElasēs lā'εyōlaxsdēasēs tē'x·tēgumlaxsdēa. Hē'x·g·în εnē'x·soēg·as nē'nɣwalalēlānaga mε'mk·îlalîānaga k!wā'xLālalēlā'naga xō'leuxsεalanēlanaga.")

On the fourth night they beat time again to bring back the women who had disappeared. The old man, who would not let the people know what had happened, because he was ashamed, first showed the face of the carving he had made, pretending that it was his daughter.

He had hidden some people behind the house, who imitated his daughter's voice and the voices of the spirits. Then a large board was let down from the roof, on which the figure was seated. It seemed to move about like a living person. The younger sister came back safely when the performance of bringing back the novice was held. During this ceremony the figure was shown again and disappeared again; and the people said that the woman had gone back with the spirits, and that she would never return.

It is said that this whole performance was made in accordance with the advice of Q!ā'nēgēlak<sup>u</sup>. Therefore the winter ceremonial is performed in this manner.

Now, Mā'lēleqala resolved to leave the place where he had lost his daughter. He went to

Pā'tsawē, just east of Fort Rupert. There he built a large, strong house and gave a festival to all the tribes, among whom he distributed qō'xqowîs (a bush with cotton-like tips [sp.?.]) and pearl shells (k·ōgwîs). Here his family increased. One day his children were playing in a cave on the beach, which at high water is under water. The children had put down mats, and were imitating the work of their mothers, when the tide rose and cut off their retreat. Mā'lēleqala heard them crying, but was unable to save them, and they were drowned. While there, he found a stick with a copper attached to it, which had drifted ashore with the tide.

He made a copper plate out of it, sold it, and gave a great potlatch. This was the first potlatch. Great-Smoke-Face (εwā'las Kwa'x·ilanōkumēε) was the son of Mā'lēleqala. Once he put a copper plate down at the place where the people were in the habit of drawing water, so that the first person to draw water in the morning should find it. This was his way of giving away a copper. He was very wealthy. His descendants were TsExtsExu'lîs, T!ā't!Endzid, NōL!Eqâ'gamēε, Sē'x·wugâla, ʔā'bid, ʔā'bid, Gwā'maxalas, L!ā'gōʔas, Lā'xlagalîs, Lā'L!ēlîf, G·âεdEn (= Gordon), and ʔā'bid or Kwā'x·ilanōkumēdzē, who told this story.

## Case Brief

### Mā'lēleqala

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when young women are subjected to conditions of vulnerability within their communities?

#### **Facts (Relevant): What facts matter?**

- Late at night the supernatural power appeared, singing like a bird, and the tribe prepared for the dance of Mā'lēleqala's daughters.
- When the people did not close their song, the two girls disappeared one right after the other and their father said that they had been taken away by the supernatural power. They stayed away for a long time.
- One day the two girls went out and saw the thunder-bird carrying the double-headed serpent in its talon. The thunder-bird dropped the double-headed serpent and it turned into a salmon. One of the girls disappeared when she went to pick up the salmon that was dropped.
- Then Mā'lēleqala took a piece of wood and carved an image of his daughter, which he intended to take her place. The daughter of the lost woman witnessed what her grandfather was doing and Mā'lēleqala strangled her and buried her in a hole under the fireplace. For this reason the preparations for the winter ceremonial are still kept secret, and whoever sees the secrets without permission is killed.
- In the evening they began the winter dance, and on the fourth night the people beat time again to bring back the women who disappeared. Mā'lēleqala showed the face of the carving he had made and had some people hidden behind the house imitate his daughter's voice and the voice of the spirits. During the ceremony the figure disappeared and the people said the woman had gone back with the spirits, and that she would never return.
- Mā'lēleqala resolved to leave the place where he had lost his daughter, and went to another community where he had another family. One day his children were caught in a cave at high tide and he could not save them and they drowned. While there, he found a stick with a copper attached to it, and he made a copper plate. He sold it and gave a great potlatch, which was the first potlatch.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- Those who create conditions of vulnerability or cause harm must leave the community.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- When a man commits atrocities against his relatives, he eventually has to leave the

community. Even if community members are not aware of his actions, he will feel internal pressure to remove himself.

Unsaid:

- When the education of young people is neglected in times of loss, established legal responses to breaking protocols may be disproportionate to the offense.
- Death is a severe legal response, and a grieving individual may not be in the right state of mind or the appropriate decision maker to determine the context where death is a proper response.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- The story mentions many times that certain community practices exist because of occurrences in this story. What are the implications of the origins of a practice/protocol derived from violence?
- Why did the younger sister not voice what had happened to her older sister?
- Why does the story note that Mā'lēleqala feels shame about what happened to his daughter but there is no mention of shame about the death of his granddaughter?
- Why does Mā'lēleqala become wealthy after the loss of his second family?

# Synthesis of Kwakwaka'wakw Legal Principles

## 1.0 Legal Processes

### 1.1 Authoritative Decision Makers

*Who are authoritative decision-makers?*

#### a. Individual

When faced with a legal problem, individuals may act on their agency to respond in a manner that they believe will resolve the issue.

*Wawalis (Myth That Took Place Before The Flood - yeḵʷəxsə), Mountain-Goat Hunter, Mink goes to make War with his Friend Land-Otter, The Brothers, The Blind Girl, Great-Inventor, Mā'lēleqala.*

#### b. Community

Communities may collectively make decisions as a legal response to harm that has been committed by individuals.

*Wawalis (Myth That Took Place Before The Flood - yeḵʷəxsə), Mountain-Goat Hunter, The Blind Girl.*

#### c. Non-human relatives

When harm has occurred, non-human relatives may collectively make decisions in response to that harm.

*Mountain-Goat Hunter, Mā'lēleqala.*

#### d. Family

When an individual commits harm, family members may take action. This may range from investigation, intervention or even enacting justice on behalf of a family member.

*Mountain-Goat Hunter, The Brothers, The Blind Girl, Mā'lēleqala.*

#### e. Leader

Leaders may make decisions that affect not only an individual, but entire communities.

*The Blind Girl, Great-Inventor, Mā'lēleqala*

### 1.2 Procedural Steps

*What procedural steps are involved in determining a legitimate response or resolution?*

#### a. Investigation

Decision-makers may ask questions and observe behaviours in order to investigate the legal issue at hand so a response can be determined.

*Wáwalis (Myth That Took Place Before The Flood - yeḵʷəxsə), Mink goes to make War with his Friend Land-Otter, The Brothers, Great-Inventor, Mā'lēleqala*

**b. To pursue those who have caused harm**

When an individual causes harm, decision-makers may choose to pursue them in order to try and hold them accountable for their actions.

*Mountain-Goat Hunter, The Brothers.*

**c. Survival**

Individuals may make choices in order to ensure their survival, or even for the survival of their communities.

*The Blind Girl, Great-Inventor*

## 2.0 Legal Responses and Resolutions

*What principles govern appropriate responses and resolutions to harms and conflicts between people?*

**a. To go after someone who has been kidnapped**

When someone has been forcibly removed without their consent, it is an appropriate response for decision-makers to search for them.

*Wáwalis (Myth That Took Place Before The Flood - yeḵʷəxsə), The Brothers.*

**b. To review previous decisions**

When a decision has been made, it may be appropriate for that decision to be reviewed in order to determine the proportionality of that decision in response to the harm, or to determine whether an alternative response is more appropriate.

*Mountain-Goat Hunter.*

**c. To make someone family**

Communities may choose to welcome outsiders into their web of legal relationships and obligations by making them kin through marriage.

*The Blind Girl, Great-Inventor*

**d. Holding a feast**

Holding a feast can be a legal response to bring about resolutions and invite long-lost family members into the fold. Feasts are important for collective validation through witnessing, as well as for establishing shared community histories and legal precedents.

*The Blind Girl*

**e. Sentenced to death**

Killing may be utilized as a legal response by a decision maker if they feel the harm that the individual has caused merits such a response.

*Mountain-Goat Hunter, The Brothers, Mā'lēleqala.*

### 3.0 Legal Obligations

*What principles govern individual and collective responsibilities? Where are the "shoulds"?*

**a. To think and talk to others before reacting**

It is important to have open and honest communications when an issue arises rather than immediately leaping to reactive actions that can cause harm.

*Wawalis (Myth That Took Place Before The Flood - yeḵʷəxsə), Mink goes to make War with his Friend Land-Otter, The Brothers, Mā'lēleqala*

**b. To inform the community about harms**

When harm has occurred, it is the responsibility of those who have witnessed the harm to inform the community about what has happened.

*Wawalis (Myth That Took Place Before The Flood - yeḵʷəxsə), The Blind Girl.*

**c. To hold perpetrators accountable**

When an individual has committed harm against others, there is a responsibility to hold them accountable for their actions.

*Mountain-Goat Hunter, The Brothers.*

**d. To uncover truth about a harmful situation**

When a harm has occurred and not all of the information is known about the situation, there is a legal obligation to investigate and learn more about what has happened.

*Wawalis (Myth That Took Place Before The Flood - yeḵʷəxsə), Mink goes to make War with his Friend Land-Otter, The Blind Girl, Mā'lēleqala.*

**e. To use your abilities and gifts in a good way**

When an individual possesses abilities that others do not, they have a responsibility to utilise those gifts in a way that benefits the community and those around them, rather abuse them to cause harm. It is also important that when actions are taken to benefit the community, that those actions do not cause harm to others.

*Mountain-Goat Hunter, Great-Inventor*

**f. To care for vulnerable people**

When vulnerable people are in a situation where harm has occurred or where there is potential for harm to befall them, there is a responsibility to care for them.

*Wawalis (Myth That Took Place Before The Flood - yeḵʷəxsə), The Blind Girl, The Brothers,*

## 4.0 Legal Rights

*What should people be able to expect from others?*

### 4.1 Substantive Rights

#### a. Safety

Everyone deserves physical, emotional and psychological safety in life and in death. They should be able to expect that others will treat them with respect and dignity.

*Wawalis (Myth That Took Place Before The Flood - yeḫʷəxsə), Mountain-Goat Hunter, Mink goes to make War with his Friend Land-Otter, The Blind Girl, The Brothers, Great-Inventor, Mā'lēleqala.*

#### b. Agency in intimate relationships

Every individual has the right to have agency in their intimate relationships, and that they can be safe from physical and emotional harm when they make decisions that relate to their relationship.

*Wawalis (Myth That Took Place Before The Flood - yeḫʷəxsə), Mink goes to make War with his Friend Land-Otter, The Blind Girl, The Brothers, Great-Inventor.*

#### c. Transparency

Any individual should be able to expect that others will not lie or be deceitful towards them, and they deserve to have others be up front and clear about their intentions and actions.

*Blind girl, Mink goes to make War with his Friend Land-Otter, Wawalis (Myth That Took Place Before The Flood - yeḫʷəxsə), Great-Inventor, Mā'lēleqala.*

### 4.2 Procedural Rights

#### a. To respond to allegations

Individuals should be able to expect to have an opportunity to respond when allegations are made against them.

*Wawalis (Myth That Took Place Before The Flood - yeḫʷəxsə).*

#### b. To get closure and/or accountability

When someone has suffered harm, the individual who has been harmed and those close to them deserve closure and accountability as a resolution.

*Wawalis (Myth That Took Place Before The Flood - yeḫʷəxsə), Mountain-Goat Hunter, Mink goes to make War with his Friend Land-Otter, The Blind Girl, The Brothers, Mā'lēleqala*

#### c. To have witnesses present at the time of confrontation

It is important to have witnesses present and to not be alone when confronting those whose actions have caused harm, as this can create conditions of vulnerability.

*Mink goes to make War with his Friend Land-Otter, The Brothers, Great-Inventor*

**d. To be looked for if you go missing**

When an individual goes missing, they should be able to expect that others will search for them.

*The Brothers, Wáwális (Myth That Took Place Before The Flood - yeḵʷəxsə), Mā'lēleqala*

## 5.0 General Underlying Principles

*What underlying or recurrent themes emerge in the stories and interviews that might not be captured above? What are the principles that guide the expression and application of the law?*

**a. Violence that goes unaddressed can become cyclical**

When violence goes unaddressed by those who have a responsibility to address it, the lack of legal responses can create and enable further violence.

*Wáwális (Myth That Took Place Before The Flood - yeḵʷəxsə), Mink goes to make War with his Friend Land-Otter, The Brothers, Mā'lēleqala*

**b. Respect for non-human relatives**

Humans must respect their non-human relatives by not taking more than what they need, and not using unfair means to hunt. The easiest way is not necessarily respectful of the inherent value of another being's life.

*Mountain-Goat Hunter, Great-Inventor.*

**c. Proportionality**

It is important for a legal response to be proportionate to the harm committed as a disproportionate response has the potential to cause further harm and feed the cycle of violence.

*Wáwális (Myth That Took Place Before The Flood - yeḵʷəxsə), Mountain-Goat Hunter, Mink goes to make War with his Friend Land-Otter, The Brothers, Mā'lēleqala*

**d. Men should not be possessive and controlling towards women**

Men must respect and uphold women's bodily integrity and legal agency to make their own decisions. Otherwise, women do not have a voice and can be forced into conditions of vulnerability.

*Wáwális (Myth That Took Place Before The Flood - yeḵʷəxsə), Mink goes to make War with his Friend Land-Otter, The Brothers*

**e. It is important to respect and support those who are grieving**

If someone is grieving, it is important to support them and respect their needs. To

mock or harm them when they are vulnerable in their grief merits a legal response.  
*Mink goes to make War with his Friend Land-Otter, The Blind Girl, Mā'lēleqala*

**f. Status**

Status is a significant consideration when it comes to marriage between communities. It is important not to allow this consideration to hold priority over women's agency to choose a partner.

*The Blind Girl, Great-Inventor*



# Secwépemc Legal Orders

## Legal Primer

Secwépemc (pronounced suh-Wep-muhc)<sup>145</sup> means “the spread-out people.”<sup>146</sup> The traditional territories of the Secwépemc reflect this meaning as it stretches from “what is now known as the Columbia River valley along the Rocky Mountains, west to the Fraser River, and south to the Arrow Lakes.”<sup>147</sup> Before contact the traditional territory was undivided and covered over 180, 000 square kilometers, known as Secwepemcúíecw. After European contact in 1811, the Secwépemc peoples and the territory were split by colonial powers into 17 distinct groups and designated parcels of land.<sup>148</sup>

“The First Nations that comprise the Secwépemc Nation today are as follows: Esk’etemc, Eskétemc, Esk’et, Eskét, or Eskétemc or Eskétemc First Nation; Kenbaskets, Kenpésq’t, or Kenpésq’t or Shuswap Band; Llenllenéy’ten or High Bar First Nation; Pellt’iq’t or Whispering Pines/Clinton Indian Band; Qw7ewt or Little Shuswap Lake Band; Sexqeltqín or Adams Lake Indian Band; Simpcw or Simpcw First Nation; Skatsín, or Sk’etsin, or Sk’Emsin or Neskonlith Indian Band; Skítsestn or Skeetchestn Indian Band; Splatsín or Spallumcheen Indian Band; St’uxwtéws or Bonaparte First Nation; Stswecem’c Xgat’tem, or Xgét’tem or Stswecem’c Xget’tem First Nation; T’exelc, or T’exelcemc or Williams Lake First Nation; Tk’emlúps te Secwépemc, or Tk’emlúpssemc or Tkemlúpssemc; Ts’kw’aylaxw, or Tskwéylecw or Ts’kw’aylaxw First Nation; Tsq’ésceen, or Tsq’escenemc Canim Lake Band; and Xat’súll or Xat’súll First Nation.”<sup>149</sup>

Secwepemcúíecw is historically understood as thirty-two separate communities with seven divisions of closely related groups of families: the Stk’emlúpssemc/Stk’emlúlepsemc (Kamloops), the Sexqéltkem (Shuswap Lakes), the Tqéqeltkemc, the Stmcúíecwemc, the Sétem, the Styétemc, and the Sextsínemc.<sup>150</sup> The communities spoke four distinct dialects<sup>151</sup> of the language known as Secwepemctsín, which is considered an Interior Salish

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145 Tk’emlúps te Secwépemc, “Our Land” (last visited 31 October 2024), online: <https://tkemlups.ca/profile/history/our-land/>.

146 Jessica Asch & Rebecca Johnson with Cheyenne Arnold-Cunningham, (Indigenous Law Research Unit, Shuswap Nation Tribal Council, & Secwépemc Sna7a Elders Council) *Secwépemc Laws of K’wséltkten and Secwépemc-kt Report* (Victoria/lək’wəŋən territory: Indigenous Law Research Unit, 2023) at 34.

147 Tk’emlúps te Secwépemc, *supra* note 1.

148 Tk’emlúps te Secwépemc, “Our History” (last visited 31 October 2024), online: <https://tkemlups.ca/profile/history/>.

149 Asch, Johnson, and Arnold-Cunningham, *supra* note 2 at 46-47.

150 *Ibid* at 37-38.

151 *Ibid* at 37.

language.<sup>152</sup>

Secwepemctsin is a vital part of Secwépemc identity and is valued as sacred. It contains important aspects such as teachings, cultural knowledge, social and political structures, values and many more.<sup>153</sup> One example of this can be seen in the set of legal principles upheld by the Íselcéwtqen Clleqmeíten/Chief Atahm School in their immersion program for children: “Kwselktnéws (all beings are related); Knucwestsút.s [(knucwestsút.s)] (care for yourself and preserve with your struggles); Mellélc (take time for yourself and create a healthy balance between work and rest); Slexléxs (develop wisdom and uphold Secwépemc traditions, culture, language, and history); and Qweqwetsín (honour the spiritual and develop reciprocal relations with the earth).”<sup>154</sup> Because of the vastness of the territory, historically it would have been hard to participate in Secwépemc society without Secwepemctsin as it connected all of the diverse communities in a shared legal understanding and cultural worldview.<sup>155</sup> Colonialism has impacted Secwepemctsin and it has now become a critically endangered language with few fluent speakers today,<sup>156</sup> but there are efforts to revitalize Secwepemctsin and have it spoken at all levels, in any environment.<sup>157</sup>

Secwepemcúlecw is the foundation of Secwépemc law.<sup>158</sup> All aspects of Secwépemc law, language and knowledge are vitally linked to the land and are passed down through oral histories and stories to the next generation. The songs, dances and ceremonies of the Secwépemc also contain the laws and perpetuate vital teachings, reminding people of their responsibilities to each other and to the land.<sup>159</sup> Secwépemc spirituality is grounded in respect for all living things as they have all agency and a soul.<sup>160</sup> To show them the utmost respect, practices must be done before harvesting any food, medicines, and other materials from the land.<sup>161</sup>

The Secwépemc developed a unique self-sufficient culture as a result of the nomadic lifestyle depending on the resources of the land and what food was available in different

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152 *Ibid* at 34.

153 Tíkemlúps te Secwépemc, “Language and Culture” (last visited 31 October 2024), online: <https://tkemlups.ca/language-culture/>.

154 Asch, Johnson, and Arnold-Cunningham, *supra* note 2 at 54-55.

155 *Ibid* at 72-73.

156 *Ibid* at 45.

157 Tíkemlúps te Secwépemc, *supra* note 9

158 Jessica Asch, Kirsty Broadhead, Georgia Lloyd-Smith & Simon Owen, Secwépemc Lands and Resources Law Research Project (2018) (Tíkemlúps: Shuswap Nation Tribal Council, 2016) *Secwépemc Lands and Resources Law Research Project* (Victoria/ləkʷəŋən territory: Indigenous Law Research Unit, 2018) at 1.

159 Tíkemlúps te Secwépemc, *supra* note 9

160 Asch, Johnson, and Arnold-Cunningham, *supra* note 2 at 35.

161 Tíkemlúps te Secwépemc, *supra* note 9

areas.<sup>162</sup> The Secwépemc calendar reflected seasonal rounds, and each seasonal round consisted of five seasons with strategic economic activities that harvested, managed and enhanced the resources of the diverse environment.<sup>163</sup> The Secwépemc pre-fur trade economy was driven by the seasonal rounds and with their many trading partners they traded goods such as salmon, furs, copper, dentalium shells, clothing, among many more.<sup>164</sup>

This trade network with other communities and nations was possible because of the Secwépemc kinship networks.<sup>165</sup> The Secwépemc have a detailed system of kinship relations within and between communities, and this kinship has always been integral to Secwépemc social and political organization.<sup>166</sup> Relationships and the kinship ties among family members and the extended family has been described as the foundation of Secwépemc laws.<sup>167</sup>

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162 T'kemplúps te Secwépemc, *supra* note 1

163 Asch, Johnson, and Arnold-Cunningham, *supra* note 2 at 40.

164 Asch, Johnson, and Arnold-Cunningham, *supra* note 2 at 41-42.

165 Asch, Johnson, and Arnold-Cunningham, *supra* note 2 at 39-40.

166 Asch, Johnson, and Arnold-Cunningham, *supra* note 2 at 39.

167 Asch, Broadhead, Lloyd-Smith, and Owen *supra* note 14 at 58.

## Stories & Case Briefs

### The Women Who Sought for a Husband/The Women Who Married the Cannibal (Star) and Wolverine

Sxwélecken (or Siwi'lexken, "Big Billy" of Dog Creek and Big Bar, born near Big Bar), "The Women who sought for a Husband; or, The Women who married the Cannibal (Star) and Wolverine" in James Teit, recorder, "The Shuswap" in Franz Boas, ed, *The Jesup North Pacific Expedition: Memoir of the American Museum of Natural History* 2:7 (Leiden & New York: E.J. Brill & G. E. Stechert, #909) at 687-689.

Two young women could not get along with the people, so they said they would leave, and live by themselves. They agreed to train themselves, and then to wander over the country in search of husbands. For four moons they trained themselves, and then tried their magic powers. They reached an open plain, the elder one sang, and a tree with branches only at the top grew out of the prairie. When it had grown very high, she stopped singing, and the tree stopped growing. Again she sang, and the tree became shorter and shorter, until at last it disappeared. Again the elder sang and the prairie split open, leaving a deep chasm. She pulled a hair out of her head, threw it across the chasm, and it became a bridge, on which they crossed. Again she sang, and the chasm gradually closed, leaving no mark.

The women went on, and came to a large valley. Then the younger one sang, and the valley was filled with water, which rose up to the tops of the hills on each side. She took a hair from her head and threw it on the water, thus making a bridge, on which they crossed. Again she sang, and the water receded until the valley was dry again. Once more the younger one sang. "Now," said they, "we are wise in magic. If danger assails us, we are safe."

Then they started to seek for a husband, and camped the first night at a fine open spot near a stream. Here they lay down. Before going to sleep, they looked at the stars overhead, and wished that one of the large bright ones would become their husband. That night the Star came down and lay between them. When they awoke in the morning, they saw an old man with sore eyes in their bed. They were surprised and disgusted as well as afraid. As the man appeared to be asleep, they arose quietly and ran away into the forest, where they thought he would not find them.

They came to a trail, which they followed until a large gray log barred the way. "That is a strange-looking log," they said. "It is too thick to climb over. Let us go around it." But the log grew lengthwise, the end always keeping ahead of them. They turned back, and tried to go around the other end, but with the same result. Then the elder woman kicked it, saying, "What kind of a magic log is this!" At once the log changed into a man, who said, "You wish for a husband. I will take you for my wives." They answered, "Very well," and

went with him to his house. He hunted every day, and brought home different kinds of meat, which he rolled up in grass and placed on the shelves of poles which were all around his house. The first day he roasted some and offered it to the women, who refused it because they did not know what kind of meat it was. They never saw him eat anything, and, although he lay between them at night, he never showed any desire to have connection with them. They said, "Our husband is a queer man."

One night the younger woman watched, and saw him get up, go to the shelves, and, after eating heartily of the meat there, return to his place in the bed, and fall asleep. Next night she watched again, and saw him get up, sharpen his knife, and uncover the feet of the other woman. He cut a deep gash the whole length of the sole of one foot, which he eagerly examined, saying, "She is hardly fit to eat yet. I will wait until she is fatter." Then he spat on the palm of his hand, and, rubbing the saliva on the cut, it healed up at once, leaving no mark.

The following morning the younger woman said to her companion, "Did you not feel our husband cutting your foot last night?" She said, "No!" So the younger one told her all about it. Then they looked on the shelves, and found much human flesh and also rib and breast pieces cut off in the same manner as Indians cut up deer. Now they knew that their husband was a cannibal, and that he intended to eat them. So, after throwing all the flesh and bones into the fire, they left the place. When the cannibal came home and found his wives gone, he went in pursuit and soon overtook them.

When they saw he was near, the younger woman sang, and a lake formed before them. She threw a hair of her head on the water, and it stretched straight across, forming a bridge, on which they crossed. The cannibal cried out, "Why do you leave me?" They answered, "You can follow." He walked out on the surface of the lake a little distance, and then sank. They thought that he was drowned, but soon they saw him following again. Then the elder sister sang, and a tall tree grew out of the earth underneath them, in the top branches of which they sat. The cannibal passed by, looking for them, and disappeared. Then they caused the tree to disappear again, and continued their journey. Again they saw the cannibal close behind them. Then the elder one sang, and the earth split in front of them, forming a deep chasm. She took a hair from her head, threw it across, and on this they went over as if on a log. She told it to break when the cannibal should step on it. The man cried, "Why do you leave me?" and they answered, "Follow us; we will wait for you." The cannibal hesitated to cross; but the women assured him that the log was quite strong. When he was in the middle of the chasm, it broke, and he fell down to the bottom. They could hear his voice from the distant depths calling, "Take me out!" The women sang, and the chasm gradually closed, crushing and burying him.

Now they went on leisurely, for there was no need of further fear of the cannibal. Soon they reached a lake, took off their clothes, and had a bath. A beaver was swimming around, and struck his tail on the water. Then they wished they had a husband to kill the

beaver, that they might eat its tail. Wolverine was on the edge of the lake, looking for a beaver that he had wounded, and heard their wish. Noiselessly he went up behind them, and touched each of them on her backside with his toe. They turned around, and were surprised to see a man there. He said, 'I am the man you wished for a husband.' They agreed to be his wives. They built a house at that place; and Wolverine hunted beaver, and procured plenty of meat and tails for his wives to eat. They made many beaver robes. They lived there two years, and each of the women bore a child. Then Wolverine by magic compressed a great amount of meat into three bags made of beaver-cub skins. He and his wives carried these along. They were going to the houses of the people; and, on arriving there, Wolverine shook out the contents of the sacks, and the meat filled two underground houses. Thenceforth they lived with the people. Wolverine was a short man, but very strong and a great hunter.

## Case Brief

### The Women Who Sought For A Husband/The Women Who Married The Cannibal (Star) and Wolverine

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response to a dangerous suitor?

#### **Facts (Relevant): What facts matter?**

- Two young women (unclear on if they are sisters) leave their community, become wise in magic and decide to seek a husband.
- On their travels, they awake one morning to find an old man in their bed who made them afraid and disgusted. When they try to run away into the forest, he traps them with magic and brings them back to his house as his wives.
- As they live there, they notice his behaviour is odd. The younger woman watches him and witnesses him cut the foot of the other woman as she slept. The next morning, she tells the other what she saw and the two realize there are pieces of human flesh, particularly breasts, on the shelves. Upon learning he is a cannibal, they destroy all of the flesh and bones by throwing them in the fire, and leave the place.
- When the cannibal pursues them when discovering they had left, the two women use their magic to overcome his wily pursuit and bury him with their arts.
- When they travel on, they meet Wolverine who heard their wish for a husband, and they agree to be his wives and have children with him.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- The two women assess the danger together, and decide to leave the old man to try and find a suitor that they want.
- When the women saw the cannibal in pursuit, they decide to kill him by using their magical arts together.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

##### Said:

- Upon discovering that the old man is a cannibal, and his horrible collection of human flesh (particularly breasts and ribs) they leave him and the house.
- When the women come upon Wolverine, a suitor they want, they choose him and created a life together.

##### Unsaid:

- When women ask for a husband, they ought to be able to choose the suitor they want and protect themselves from a man who is dangerous to them; just because a suitor presents himself, does not mean he gets to force them to choose him.
- When they are first trapped by the cannibal, they don't understand his magical arts

and go with him to his house as they feel coerced into becoming his wives. When they decide to leave him and his house after discovering he's a cannibal, they are able to use their own magical arts to defend themselves.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Additional Facts: After two years of living together and having children, they all return to the community with gifts of meat and continued to live with the community.
  - Because of this addition to the story, maybe there is something in here about the women only bringing back a husband who isn't a danger to the community and can help provide for the community? (When they fled the cannibal, they did not flee to their community but instead used their own magical arts to deal with him)
- Outstanding question: why did the cannibal use his own magical arts in only the first time he encountered them? Why was there no mention of his magical arts when he pursued them the second time? Was it because the women had thrown the flesh and bones they found into the fire, is it supposed to symbolize that he drew his powers from violently abusing and murdering women?

## Story of Moon and His Wives

Sxwélecken (or Siwi'lexken, "Big Billy" of Dog Creek and Big Bar, born near Big Bar), "Story of Moon and his Wives" in James Teit, recorder, "The Shuswap" in Franz Boas, ed, *The Jesup North Pacific Expedition: Memoir of the American Museum of Natural History 2:7* (Leiden & New York: E.J. Brill & G. E. Stechert, #909) at 701-702.

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The Moon lived in a distant country, which was cold and largely covered with snow and ice. In another country, which was warm, lived a number of people, among whom were four sisters. The Moon visited these people, and asked for the eldest sister to be his wife. Her relatives consented, and upon his return he took her home with him.

For a time she was quite comfortable, for the Moon had his house in a temperate spot; but one day he told her they were going to move to his new house, which was a cavern in a glacier or snow-field, with icicles hanging from the roof. When they reached this place, he put the woman inside, shut up the entrance, and left her to freeze to death.

Then he returned to her people and told them that his wife had died, and asked for her sister next in age to be his wife. He took her home, but treated her in the same manner as the first one, and froze her to death in his ice-house. Again he returned to the people, told them of his second wife's death, and received from them the third sister as his wife, whom he killed in the same manner as the others.

Now, the youngest sister, who had a lame leg, thought there was something wrong; and, as soon as her sister left with the Moon, she went to the mountains and trained herself as shamans do. Soon she became very wise, and saw, through her shamanistic power, what had been the fate of her sisters. She understood the designs of the Moon.

She had just finished her training when the Moon came along, and said to the people, "My last wife is dead. I desire my remaining sister-in-law to be my wife." She went with him, and before long accompanied him to his new house, as the others had done. On the way thither he said to himself, 'I will kill this one too, thus I shall gain complete mastery over these people, who love warm weather; and I will make much cold and ice in their country, so that they will all die.' The woman entered the ice-cavern and sat down. She looked up at the roof, and the icicles at once melted. She looked steadily; and the roof of the house, then the house itself, and finally the whole country, melted before her gaze. The air became warm like a Chinook wind; and, aided by the sun, everything thawed out, and the country became as if it were spring. Thus the lame sister thwarted the Moon, and saved the people from being frozen to death, or from having to live in snow and ice, and suffering much cold.

## Case Brief

### Story of Moon and his Wives

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- How can an individual appropriately respond to violence when a community is complicit?

#### **Facts (Relevant): What facts matter?**

- There were four sisters living in a community, which was situated in a warm country. The Moon lived in a cold distant country, and when he visited he asked for the Eldest to be his wife and the community gave their consent.
- The Moon froze the Eldest to death, and then returned to the community and asked for the sister next in age to be his wife, and this pattern continued until he asked for the youngest sister.
- The community gave their consent but the youngest knew that something was wrong, and so before the Moon asked for her, she had trained herself as the Shamans do as she had a lame leg. As she became wise with her training, she saw the fate of her sisters and understood the designs of the moon to gain mastery of the people who lived in the warm country and kill them by changing their climate.
- She left with the Moon as the others had, but when she reached the ice-cavern to be murdered, she melted not only the icicles on the roof but eventually the entire country, thwarting the Moon's plans and saving the people.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- After witnessing how the community does not protect her sisters, the youngest decides to train herself in a way that allows her to protect herself.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- When women are made vulnerable, in this case through a physical disability, they are aware of their vulnerability in a way that makes them take additional precautions to look out for themselves, taking deliberate steps to protect themselves in a way the community doesn't.

Unsaid:

- When a community continues to allow violence to happen to women, women should take steps to protect themselves.

#### **Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Why did the community not question the Moon at all about what happened to his previous wives before giving permission for the next woman to be taken away?

- Does the community ever learn what the youngest sister did for them? Does she get recognized for how she protected those who did not protect her?
- When the youngest thinks that there is something wrong, why does she have to go and protect herself on her own? Why can she not go to the community and voice her concerns - is it because she thinks they would not listen to her, that they can't/ won't protect her?

## Story of Muskrat

Sxwélecken (or Siwi'lexken, "Big Billy" of Dog Creek and Big Bar, born near Big Bar), "Story of Muskrat" in James Teit, recorder, "The Shuswap" in Franz Boas, ed, *The Jesup North Pacific Expedition: Memoir of the American Museum of Natural History* 2:7 (Leiden & New York: E.J. Brill & G. E. Stechert, 1909) at 679-681.

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A pubescent girl lived in her lodge near the village. She had nearly finished her training; and several young men, including Muskrat, had asked to marry her. Her parents had spoken to her regarding these, but she had refused them all. Muskrat made up his mind to kill her, and made a number of snowshoes and arrows of different types, in imitation of those used by the surrounding tribes, — the Shuswap, Thompson Indians, Lillooet, Cree, and Chilcotin. He made about twenty kinds of arrows and about ten kinds of snowshoes.

At last one night he killed the girl, shooting one of each of the different kinds of arrows into her body. Then, putting on the snowshoes one after another, he ran around the girl's lodge in all directions. On the following morning the people found the girl dead, with many arrows in her body, and snowshoe-tracks all around the place. They said, "It is impossible to tell who killed her. There must have been a war-party of many strangers here."

They took the girls' body into the underground house, and tried to revive her with the help of the shamans. When they had all failed, the people asked Muskrat, who was a young shaman, to try. He answered, "I will try; but I have not much chance, when all the old, experienced shamans have failed." Now he began to dance and sing in a different manner from the other shamans. He danced round the body, then towards the ladder and up some steps, and back again. Four times he did this. One time, when halting in his song, he said to himself in a low voice, "I am the one who killed the girl." Coyote, who was sitting nearest to him, overheard him, and whispered to the people, "He killed the girl." Some of them answered, "If he does not manage to bring her to life again, we will kill him." The fourth time, as he danced up the ladder, he cried out in a loud voice, "I killed the girl!" then bolted for the lake, and dived down the hole in the ice where the people drew their water.

The people pursued him. Coyote was close behind, and nearly caught him. He called to the people, "Hurry up! I am holding him." Now they all stood around the hole with their spears, ready to stab him as soon as Coyote should pull him out. Coyote plucked some grass by the roots from the lake-bottom, and made a great ado, saying it was very hard to pull him up. At last, after telling the people to be ready, he slowly pulled his arms out of the water, and exposed in his hands some grass and mud. "Oh! he must have escaped," he said, laughing.

The people were angry. They left Coyote. Some of them went aboard a bark canoe, and chased Muskrat all around the lake; and others tried to get a shot at him by running round

on the ice. Although they chased him until dark, they could not even get within arrow-shot of him, for he was a very fine swimmer and diver. Finally they had to give up the pursuit, and they went home while he was laughing at them.

Now Beaver joined Muskrat. He said, "We look very much alike, and, as we are friends, we will sit here for a while and talk." As they sat together, Beaver commenced to admire Muskrat's tail, and wished that his were like it. At that time Muskrat had the tail that Beaver has now, while the latter had the tail we see on the muskrat at the present day. Beaver said, "I wonder how we should look if we changed tails!" This they did, and Beaver said, "You look fine with my tail. I will go into the water and try your tail, then afterwards you can try mine." Beaver dived and swam about, striking his tail on the water, and making a loud noise. He was pleased because he could swim so much better, and gradually swam farther away from the store.

Now Muskrat became suspicious, and swam out after him; but Beaver caused a strong wind and high waves to come; so Muskrat, finding that he made little headway, and that he could not swim as well as before, gave up the chase. When he came ashore, he was transformed into the muskrat that we see at the present day, and it was decreed that he should have to live along the shore, and never swim out into the deep water of the large lakes, as he had been wont to do [once typically did].

## Case Brief

### Story of Muskrat

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response to the murder of a young girl?

#### **Facts (Relevant): What facts matter?**

- Muskrat kills a pubescent girl who had refused all suitors (including himself).
- Muskrat devised a plan to kill her, and tricks the entire community into thinking that a war party was responsible for her death.
- The shamans tried to revive her and failed, and so asked all of the shamans to try – even Muskrat was asked to try to revive her even though he was a young and inexperienced shaman.
- When Muskrat does try to revive her, he admits out loud that he was the one who killed her and when Coyote overhears this, he exposes Muskrat.
- When the community learns that Muskrat is the murderer, they pursue him in anger. Coyote tricks them during the pursuit and so the community fails to catch Muskrat, and eventually give up when they cannot catch him.
- Beaver sits with Muskrat, and then tricks him by switching tails. This transformation dooms Muskrat to only live along the shore because he can no longer swim out into deep water.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- The community decides to investigate her death and try to revive the young girl.
- The response to the young girl's murder is the supernatural transformation of Muskrat that forever limits his mobility.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The death of a young girl is unacceptable, and those who commit the crime deserve punishment for that act. The community must take steps to figure out who did it, try and bring her back, and seek justice against the one who did it.

Unsaid:

- When women are selective with whom they want to be their husbands and are outspoken to both the suitors and their parents in rejecting a suitor, they are vulnerable to violence.
- Supernatural transformation (by whom it is unclear) is a repercussion when the community cannot achieve justice themselves.

#### **Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Why did the community eventually give up? Should they not have taken time to rest when night fell and then pursue Muskrat the next day? Why isn't justice continually pursued?
- What was Coyote's role in tricking the community into thinking he had Muskrat captive?
- Is the repercussion of not being able to do what you used to be able to do enough of a punishment for murdering a young girl?
  - What is the symbolism of limiting Muskrat's mobility through supernatural transformation? Is it supposed to make sure that he cannot run from accountability again?
- What was Beaver's role? Is he a member of the community trying another form of justice, or was he an outsider trying to be an ally?

## Spider and Otter

Sxwélecken (or Siwi'lexken, "Big Billy" of Dog Creek and Big Bar, born near Big Bar), "Spider and Otter" in James Teit, recorder, "The Shuswap" in Franz Boas, ed, *The Jesup North Pacific Expedition: Memoir of the American Museum of Natural History 2:7* (Leiden & New York: E.J. Brill & G. E. Stechert, 1909) at 689-690.

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A number of people lived near a large lake. Among them was a young woman who had refused all suitors. One day, when she was drawing water at the lake, Otter seized her, and, putting her in his bark canoe, paddled away to the other end of the lake. Here he hid his canoe in the bushes, and, after travelling with the girl a long distance, they reached the shores of a very large lake. Here he made the girl jump on his back, and, telling her to shut her eyes, he dived into the water, and soon reached his house.

The people searched for the girl in vain, and at last came to the conclusion that she had been drowned. Now, Spider, who lived in the sky, had seen all that had happened, and made up his mind he would have the woman. One day he came down from the sky on a rope, carrying his tomahawk with him, and, going to Otter's hole, he sat down to wait for him. Otter had a hole in the ice through which he was wont to come out when he went hunting and fishing. When he appeared, Spider killed him. Then he called the woman and took her up to the sky with him.

Here she staid, and bore Spider two children. When the children were old enough, Spider said to his wife, "We will go to the earth and visit your people. They will be glad to see you and your children. We will make them happy." Spider went hunting, and killed many deer, the flesh, fat, and skins of which he made to assume such small proportions that he could put them all in the thumb of his mitten, which he attached to the end of his rope, and lowered down to the earth. Then he lowered down his children and his wife, and finally he descended himself.

When they reached the houses of the people, Spider shook his mitten; and the meat, falling out of the thumb, assumed its original proportions, and filled an entire underground house. The people were very glad to see the woman who they thought had been drowned, and to hear her story. Spider gave a feast to the people with the meat he had brought, and gave them all the fat and skins as presents. The woman and her children continued to live with the people, but some say Spider after having staid on earth some time, returned to the sky.

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## Case Brief

### Spider and Otter

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#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when men do not respect a woman's agency when choosing her suitor?

#### **Facts (Relevant): What facts matter?**

- Otter kidnapped a young woman who had refused all suitors and took her back to his house. He seized her when she was alone and separated from the community.
- The community searched for the girl in vain and eventually assumed that she had drowned.
- When Spider witnessed the kidnapping, he decided to have the woman for himself.
- Spider used his knowledge of Otter to murder him, and then Spider took the young woman to his home in the sky.
- When the young woman had borne Spider two children, they all returned to the community for a visit when the children were old enough. Spider brought a feast and many presents to make the community happy.
- The young woman and her children continued to live with the community but some think that Spider returned to his home in the sky.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- When men and communities do not address disregard for women's agency, marriages and communities become or remain unsafe places for women.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The woman and her children deserve to be returned to the community when the woman did not choose to be separated from them, and she did not choose to live with either Otter or Spider.
- The community were glad to see them, especially because the community did not have closure or knowledge of what happened to her.

Unsaid:

- When women are selective with whom they want to be their husbands and are outspoken in the rejection of all their suitors, they are vulnerable to violence.

#### **Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- This story is similar to the Story of Muskrat in that it deals with the concept of a woman refusing all of her suitors.
- This story also deals with other legal principles such as citizenship.

- If Spider did not bring the community meat and presents, how would they have received him? He did save the woman from Otter, but he also held her and her children for years, robbing them of their agency. By bringing meat and presents, is this Spider trying to offer payment as a remedy?
- What obligations did the community have here? Should there have been someone at the lake with the woman that day?

## Story of Sna'naz

Sxwélecken (or Siwi'lexken, "Big Billy" of Dog Creek and Big Bar, born near Big Bar), "Story of Sna'naz" in James Teit, recorder, "The Shuswap" in Franz Boas, ed, *The Jesup North Pacific Expedition: Memoir of the American Museum of Natural History* 2:7 (Leiden & New York: E.J. Brill & G. E. Stechert, 1909) at 702-707.

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Sna'naz was the youngest of four brothers who lived together with their father. Nearby lived many people, including Coyote. Sna'naz was an unassuming youth, and, moreover, was ugly and had very large eyes. At that time the wind was very fierce and destructive, blowing very hard at times, and even killing people. For this reason the people tried to snare it; but, although they had been trying for a long time, none of them had succeeded. The brothers tried, but they also failed. Thus everyone had failed, and it was now Sna'naz's turn to try. The people all laughed at him when he went out to set his snare, and said, "When all of us have failed, how can an ugly, miserable know-nothing fellow like him succeed?" Three times he set his snare, each time making it smaller; and the people made fun of him. The fourth night he made his snare exceedingly small, and was rewarded by finding the Wind caught in the morning. It was like a very small man with very thin body and limbs; while its head was large, and had long, stiff streaming hair, thus making the head part appear of enormous size. The eyes were large and protruding. He hid the Wind in his robe and carried it home, for it was quite light. The people were glad that their enemy had been caught, and a crowd of them followed Sna'naz when he went to release it. He went to an exposed hillside, and laid his robe down.

Coyote, who did not believe that Sna'naz had caught the Wind, tried to peer into the robe, and watched very closely. All the other people stood behind at some distance. After Sna'naz had made the Wind promise to blow moderately in the future, he opened the robe; and the Wind, rushing out, blew Coyote into the air, where he turned over and over, and up and down. Coyote held on first to the grass and bushes, then to the trees; but the Wind was so strong that it blew him off, and landed him in the middle of a swampy lake, where he held on to the rushes, and called on Sna'naz to save him. The latter helped him out, and they went home together. Since then the wind has never blown as hard as formerly, and often never blows at all.

It now came to be early spring, and the water-fowl arrived on their way north. The ice still clung to the edges of the lakes, and the people had very little food left. One day a large number of swans arrived, and the people said, "Who can bewitch the swans so that they may become heavy, and we can catch them?" Coyote and all the shamans tried, and also Sna'naz's brothers, but without result. Then Sna'naz said he would try. The brothers laughed at the idea; but their father said, "Let him try. He is greater in magic than you are." The swans were sitting near the edge of the ice, and Sna'naz approached them, as a shaman would, with incantations. They became so heavy that they were unable to fly; and Sna'naz clubbed them all, and killed them. He tied them together, carried them home, and

the people ate their fill.

Shortly after this the people were starving again, and made holes through the ice to spear fish, but they did not see any. Then Sna'naz went, and struck his foot four times on the ice. The water bounded up each time, and threw large quantities of fish on the ice. He tied them on a string, carried them home, and the people had plenty to eat until the weather grew quite warm. Then they shifted camp, and hunted deer.

Now, Sna'naz's father had a garden near his house, in which he grew potatoes. For some time he had missed some of his potatoes every morning, and had noticed the tracks of the thief. The tracks seemed to come from nowhere, and to lead nowhere: so he was unable to follow them. Now the brothers watched for the thief. The first night the eldest watched, but fell asleep toward daybreak; and when he awoke, he found the fresh tracks of the thief, and more potatoes gone. Then the second and third brothers watched, but with like result. When Sna'naz essayed to watch, the others laughed at the idea of his being able to detect the thief. He, however, sharpened one end of a thin pole, stuck it loosely into the ground, and then sat down, resting his shoulders against the blunt end. Thus he sat watching. Whenever he fell asleep, the pole fell over, and he awoke. Just about daybreak he saw a very large black object among the potatoes, fired at it, and wounded it. It got up and flew away. Sna'naz watched until he saw it alight far away on the ridge of a mountain. He watched the place until the daylight was bright enough for him to recognize the exact spot.

Then he went to the house, and informed his friends that he had shot the thief. He asked his brothers to accompany him to the spot where he had seen it alight. He said, "I dreamed of a hole in the ground. We will take a long rope with us."

After travelling a long distance, and camping two nights, they reached the place, and found the thief's tracks where he had alighted. They followed these, and came to a chasm in the rocky ground, to which the tracks led. Then the brothers tied a rope around Sna'naz, and lowered him down the hole, promising to pull him up again when he tugged. After he had been lowered a long distance, they felt a tug, and pulled him up again. He told them the hole was very bad, rocky, deep, and dark, but he was determined to reach the bottom. The brothers lowered him again, and he reached the bottom, where he tied the end of the rope to a rock.

He found himself in the Lower World, and saw a wide trail leading away from the hole. On it were the tracks, two or three days old, of a large man. Following these, he soon came to a brush lodge, lifted the mat door, and looked in. Everything inside was covered with soot, and in one corner lay an old man under a robe, which was also soot-covered. He noticed a bullet-wound through the man's shoulder, and he thought to himself, "This is evidently the thief I shot."

As soon as he had entered the lodge, the old man asked him whence he had come, and he answered, "Oh, I am just travelling around to see the country." — "Well," said the old man, "if you continue along the trail, before long you will come to the house of our chief. He is great in magic power, and has two beautiful nieces. Perhaps he may be pleased to see you." Sna'naz soon reached the house of the chief, who gave him food to eat, and asked him whither he was bound. Sna'naz answered, "I am a poor lad, and wander around the country seeking wisdom. I hear you are a great chief, and I desire to learn wisdom from you. I have nothing to eat, and you have much food. I should like to remain with you for a time. If you will give me food, I will fetch wood and water for you." Sna'naz lived with the chief a long time, and learned much wisdom from him.

At last one day the chief said to him, "You may perhaps like to go to the other world and see your friends. You have worked for me a long time, and I have paid you nothing but your food. I like you, because you have acted so faithfully, and behaved so well. I give you my two nieces to be your wives. You may take them whenever you wish." Sna'naz said he would like to go to see his friends. Then the chief gave him his nieces and a very light box to carry.

When they arrived at the bottom of the entrance, to the Upper World, Sna'naz tied the box to the end of the rope, and put one of his wives inside. He gave the rope a tug, and his brothers pulled the woman up. Then they lowered the box again, pulled up the other woman, and finally lowered the box for Sna'naz. He climbed into the box, and his brothers began to haul him up; but when he was halfway up, his brothers cut the rope, and he fell to the bottom of the chasm. They wanted to kill Sna'naz because they coveted his wives.

Sna'naz was badly hurt by the fall, but managed to crawl to the old man's lodge. After resting there, he went on to the chief's house, and related what had happened; and the chief invited him to stay until he became well, when he would help him.

When Sna'naz was well again, the chief gave him a roll of birch-bark with a picture on it, saying, "I give you this. You can change it to a horse when desired. I will now teach you two wonderful feats." He stuck the point of a knife into the ground, with the handle sloping away from Sna'naz, whom he told to transform his "picture" into a horse, and ride up over the edge of the knife. Sna'naz threw the "picture" on the ground, and it became a horse, on which he mounted and rode at full tilt to and over the knife. Now the chief made the slant of the knife steeper, and Sna'naz rode over it as before. Again he made it steeper, and again Sna'naz rode over it. The fourth time he made it perpendicular. Sna'naz whipped up his horse, galloped up over the sharp edge of the knife, and disappeared over the top of the hilt. The chief said, "It is well. You are proficient."

Then he took a small ring, and set it on its side, with a needle so placed that the point was just in the middle of the ring. Then the chief asked Sna'naz to ride his horse through the ring. Sna'naz charged at the ring, and rode right through it. Four times he accomplished

this feat; and the chief said, "You are proficient. You may now go."

Then Sna'naz left the chief, and, on reaching the bottom of the chasm, he rode his horse up its perpendicular walls, climbing to the top without difficulty. Then he rode to the village of the people, changed his horse back to a roll of birch-bark, and himself to a ragged, dirty, famished looking Person.

While all this was happening, his brothers, thinking Sna'naz had been killed, kept the women for themselves, and agreed to say that they had brought them from the Lower World, and that Sna'naz had been killed by their uncle. When they reached the village, the people came to see them; and the chief asked them where they had obtained the women. They answered as they had agreed. The women, however, told the chief the true story, who told the brothers that the girls would remain with him in his house. The brothers said, "Why act thus?" The women are ours. We went to the Lower World with our brother, and fought the people there. Our brother was killed in the battle, and we took these women from our enemies. They stand as payment for our brother, and, being captives of war, they are our property. We won them by our deeds." The chief answered, "They are the same as belonging to you, yet I will have charge of them for little while, until they become accustomed to us and to our ways." The girls staid with the chief, and told him many things about their world, — how the people there had the power of making themselves so small that they could jump or ride through a finger-ring; how they had the power of making themselves invisible; how they could also shorten distances, transport themselves through the air, and run or ride over the sharp edges of knives and up steep cliffs. The chief said, "I will some time test my people to find out if they are capable of doing these feats."

Now Sna'naz came to the chief's house, and no one recognized him. He pretended to be very poor, and asked the chief to give him food and rest, saying that, when he got well, he would fetch wood and water for him. Shortly after this, the chief announced that he would give a feast to the people and have games. First he placed the point of a large knife in the ground, and asked the men to try and run up over the edge of it. Some of them tried on foot, and cut their feet. Others tried to ride up the knife on horseback, and hurt their horses. Coyote managed to get far up the blade, when his horse, missing his footing, fell, and cut himself right in two.

Then the chief placed a finger-ring, with a needle pointing at the middle, and asked his men to jump or ride through it. They all tried, but the best of them could manage to get only half through. Coyote got farthest through, and stuck on the point of the needle.

Then the chief asked Sna'naz to try; and the people all laughed, saying, "How can a fellow like him do these feats, when all of us have failed? He does not know anything. If he were wise, he would have a house of his own, and not have to work or beg for his food." Sna'naz said, "I am certainly very foolish, and know little. Yet, if you wish, I will try to do the feats."

Then he went to a place where he was out of sight, took out his roll of bark, changed it into a horse, and appeared again among the people. Full speed he rode up to the knife, went up over the edge, and disappeared. After he had accomplished this feat, he rode full speed through the ring, the needle only pricking his leg. The people were astonished; and the chief said, "He must belong to the Lower World." The girls, who were looking on, said, "Yes, indeed, he must be one of our people!" Then Sna'naz resumed his natural appearance, and the people all recognized him. The girls said, "He is our husband." His brothers felt ashamed, and avoided him. The chief returned his wives to him, and he lived with them happily, having many children by them, all of whom became noted for magic.

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## Case Brief

### Story of Sna'naz

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#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when women vocalize their concerns to the community?

#### **Facts (Relevant): What facts matter?**

- Sna'naz was teased by many in the community for being ugly, so he decided to prove himself to the community by completing tasks that benefited the community.
  - Some of these tasks included him kidnapping the wind when others couldn't do the job, catching swans and fish to feed the community.
- When he tracked the thief of his father's garden to the Lower World (his brothers lowered him down by a rope), Sna'naz ends up learning from the Chief there.
- The Lower World Chief rewarded Sna'naz with his nieces as a reward for his faithful learning.
- When Sna'naz tried to return with his wives, his brothers coveted the women and cut the rope to kill him after they pulled the women up from the Lower World.
- Sna'naz survived the fall, and recuperated in the Lower World while his brothers tried to keep the women for themselves. When the Chief asked where the women came from, the brothers tried to lie, but the women spoke up and told the Chief the true story.
- The Chief heard both sides and decided that by the community's customs, the women belong to the brothers, but he wanted to listen to them more. So he deemed that the women would be under his charge until the women became accustomed to their ways.
- When the women stayed with the Chief, they told him about their powers and the powers of those who lived in the Lower World. The Chief is intrigued, and he decided to hold a test to see if any of his people were capable of such feats.
- Sna'naz returned to the community and no one recognized him, so he decided to hide his identity. He entered the contest and accomplished what no one else could, and the women recognized him as their husband.
- The Chief returned the women to Sna'naz, and they lived together happily with children who were noted for their magical abilities.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- The women decide to speak up and tell the Chief the true story when the brothers try to lie.
- The Chief decides to hear both sides. He deems that because of their customs the women belong to the brothers, but the women will reside with him so they can be acclimatized to the community.

**Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The Chief heard the stories by both the brothers and the women, and decided that the women belonged to the brothers but the brothers would not get them right away. The Chief does not keep the women for himself, but wishes the women to become acclimatized to their new community.
- When Sna'naz proves himself at the contest, the women recognize him as their husband and speak up to claim him as theirs.

Unsaid:

- The Chief had a responsibility to hear from both sides before making a judgment. Because he was not there to witness what happened, the Chief had a responsibility to investigate what he had no knowledge of.
- When new people are brought in to the community, they deserve time to learn and become accustomed to their new home.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- When the women stayed with the Chief, they told him all about their world and the magical feats. But did they ever try to make their case again and tell him the truth about how the brothers tried to kill Sna'naz?
- With how this story is written, does consensual polyamory exist within these communities?
- What insights does this story provide around "othering"?

## Coyote and His Niece

Sxwélecken (or Siwi'lexken, "Big Billy" of Dog Creek and Big Bar, born near Big Bar), "Coyote and His Niece" in James Teit, recorder, "The Shuswap" in Franz Boas, ed, *The Jesup North Pacific Expedition: Memoir of the American Museum of Natural History 2:7* (Leiden & New York: E.J. Brill & G. E. Stechert, 1909) at 639-640.

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Coyote and his niece lived alone in the same house, and slept on opposite sides of the fire. One morning Coyote happened to see her privates, and said to her, "Why do you show your privates? Keep them covered. I feel strange when I see them." The woman felt ashamed at what Coyote said. The latter thought, "I will play a trick, that I may have intercourse with my niece;" for, after seeing her privates, he desired her very much.

He pretended to be very sick, and said, "I am dying. Come here, and I will tell you what to do. Take a large spoon made of sheep's-horn, and a birch-bark basket, and dig a grave for me. Bury me in the hole you dig, just leaving my head uncovered. Then place a basketful of lily-roots (*Lilium columbianum* Hanson), and another one of service-berries, beside my head as a grave-offering. I shall never eat roots or berries anymore, so be liberal and place plenty at my grave. Also leave the spoon and bark bucket nearby, for it would not be right to take these away and use them when they had been once used for digging a grave. Then leave me to rot, and go to my brother, who dwells in an underground house away to the south, and live with him, for you cannot live here alone. Marry the first nice man that comes along and wants you." Bidding his niece good-by, Coyote pretended to die, and was buried as directed.

Then the woman took all her property, travelled to her friends, and told them of her uncle's death. After she had departed, Coyote came out of the grave, and, taking the bark bucket, he fetched water, and boiled the berries and roots together. When they were done, he ate with the spoon, and thus he cooked and ate until all the food was consumed.

Then he travelled until he came near to the place to which his niece had gone. Here he went to a shallow lake, and, taking a horse-tail reed, he transformed it into a nice-looking bark canoe. He tore algae and other plants from the bottom of the lake, and transformed them into many blankets of green and yellow colors. He transformed a piece of taxpā'wood<sup>1</sup> into a gun, and some alkali-grass into dentalia, with which he ornamented his body. He donned the brightest-colored blanket, painted his face red and black, dressed his hair, and placed two large feathers that looked like an eagle's tail-feathers, one on each side of his head, so that they stood up like horns. He attached long streamers of red ribbon to their tips. Then, going to the river some distance above the people's house, he launched his canoe and paddled down-stream.

The people saw him approaching, and called to one another, "A richly dressed stranger

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1 A tree which bears a a whitish berry that people can eat.

is coming in a canoe!" He had almost passed the people, whose curiosity was aroused by his appearance. They hailed him, asking where he was going, and if he had any news. He answered them in the Okanagon language, and they said among themselves, "He is an Okanagon," and invited him to come ashore. He tied up his canoe and entered the house. When the girl saw him, she said to herself, "This is surely the man my uncle told me about." She shook a mat, and spread it for him to sit on. Then he asked the people for the woman, and gave them all his dentalia, blankets, gun, and canoe as a marriage-present. That night he slept with his niece, and had intercourse with her. Next morning he arose before daybreak, and left.

When the woman awoke, her husband was gone, and the people found their rich presents transformed. The dentalia had become alkali-grass; the gun, a stick; the blankets, water-plants; and the canoe, a horse-tail. The people said, "Oh! this is certainly Coyote. He has played a trick on us." The woman was ashamed when she learned that her uncle had lain with her.

Soon afterwards some of the people saw a man walking up the river on the opposite bank, and they all ran out to have a look at him. It was Coyote, who called across the river, "If the child is a branch with a hole in it, hang it up in a tree; but if it is a branch with a spike on it, then rear it." He meant the child his niece would bear to him, as she was already pregnant.

## Case Brief

### Coyote and his Niece

#### **Problem (Issue): What is the main human problem that the story focuses on?**

- What is the appropriate response when a young girl is sexually abused?
- What are the consequences of creating the conditions of vulnerability for young women?

#### **Facts (Relevant): What facts matter?**

- Coyote lived with his niece, and one morning after seeing her privates he decides that he wants to have intercourse with her.
- So he devised a trick and pretended to be very sick, and gave her a list of instructions he insisted she follow when he dies. Among these instructions, he told her to marry the first nice man that comes along and wants her.
- After Coyote pretended to die and she believed that he had died, the girl followed all of his instructions on how to bury him but then took all of her property to be with her friends, going against Coyote's instructions to go and stay with his brother.
- After she left, Coyote emerged from the grave and transformed himself into a well-dressed stranger and also transformed materials into marriage presents. He approached the community in a canoe and spoke in the Okanagon language to further the impersonation. He asked the community for the girl, and the people were enamoured by the marriage presents. The girl believes he is the man her uncle told her about.
- Coyote had intercourse with his niece, and he left before daybreak. The girl and the community realized Coyote's trick when all of the transformations faded away.
- The girl felt ashamed upon learning that her uncle had lain with her.
- The community ran to the river and saw Coyote on the other side, and he revealed to everyone that his niece was pregnant.

#### **Decision/Resolution: What is decided or how is the issue resolved?**

- When a family and community fail to protect girls from sexual abuse and address the conditions of vulnerability that enable abuse within the community, the community remains an unsafe place for women and girls.

#### **Reason: What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?**

Said:

- The community is left with no gifts, and the girl is left to be a young, pregnant, single mother. The community is focused on the loss of the gifts, and the girl is left alone in her shame after the discovery.

Unsaid:

- Just because someone has all of the trappings of wealth, does not mean that they

- are a good person.
- When young girls live alone with a man, and there is no one from the community close by, they are vulnerable to emotional manipulation and sexual abuse.
    - The girl feels consistent shame for her body and privates throughout the entire story because of Coyote's words and actions. He uses that shame to manipulate her when she lives alone with him and has no support system.

**Bracket: What do you need to bracket for yourself in the case? What outstanding questions do you have?**

- Counter story of what not to do!
- Coyote's last statement reads: "If the child is a branch with a hole in it, hang it up in a tree; but if it is a branch with a spike on it, then rear it." Does this mean that Coyote is saying if the child turns out to be a girl, kill it, but if the child turns out to be a boy, let it live and raise the child in the community?
- The girl decided to follow only part of Coyote's instructions, and goes to live with her friends instead of going to Coyote's brother's place, as she wants to live in the safety of other women.
- Right from the beginning the girl is alone when living with Coyote, and at the end of the story she is alone with the consequences. Where are her other family members, why does she not have any kind of support system?

# Synthesis of Secwépemc Legal Principles

## 1.0 Legal Processes

### 1.1 Authoritative Decision Makers

*Who are authoritative decision-makers?*

#### a. Individual

When an individual is faced with a dangerous situation, they can use what is available to them and make the best decision that suits their needs. This can include acting in a way that protects them from harm or choosing the kind of life they want for themselves.

*The Women Who Sought For A Husband; Or, The Women Who Married The Cannibal (Star) and Wolverene, Coyote and his Wives, The Story of Muskrat, Coyote and his Niece, The Moon and his Wives, Story of Sna'naz*

#### b. Relations

When an individual or group of people is faced with a legal issue or harm, close relatives can respond in a variety of ways to support and protect their relation(s) from harm.

*The Women Who Sought For A Husband; Or, The Women Who Married The Cannibal (Star) and Wolverene, The Moon and his Wives, Story of Sna'naz*

#### c. Community

The community has protocols and expectations in place around marriage and intimate relationships, and they collectively make decisions in response to potential suitors.

*The Moon and his Wives, The Story of Muskrat, Coyote and his Niece*

#### d. Leaders

Leaders will deliberate on an issue that is before them and issue a verdict, and inform the community of it. When a leader issues their decision, it is expected of community members to accept that verdict and the leader's deliberation process.

*Story of Sna'naz*

### 1.2 Procedural Steps

*What procedural steps are involved in determining a legitimate response or resolution?*

#### a. Investigate

When an individual suspects that harm is being committed, they are to take the

steps to seek out more information. This includes strategies like investigating the environment around them, deliberating with those around them and being observant of the suspected perpetrator.

*The Women Who Sought For A Husband; Or, The Women Who Married The Cannibal (Star) and Wolverine*

**b. Communicate potential dangers or harms as they arise**

If one suspects and/or witnesses harm or danger, it is important to communicate with others around them.

*The Women Who Sought For A Husband; Or, The Women Who Married The Cannibal (Star) and Wolverine, Story of Sna'naz*

**c. Observation and strategic planning**

When there is a repetitive pattern of harmful behaviour going unaddressed, it is important to observe it so you can develop a strategy to deal with it.

*The Moon and His Wives*

## 2.0 Legal Responses and Resolutions

*What principles govern appropriate responses and resolutions to harms and conflicts between people?*

**a. Separation**

When living with someone who is dangerous, it is appropriate to protect yourself by creating separation between you and the danger, for example by escaping.

*The Women Who Sought For A Husband; Or, The Women Who Married The Cannibal (Star) and Wolverine*

**b. Self-defense**

When faced with someone who is dangerous, it is appropriate to do whatever is necessary to protect yourself. The self-defence methods can range from magical means to removing yourself through disassociation.

*The Women Who Sought For A Husband; Or, The Women Who Married The Cannibal (Star) and Wolverine, Coyote and his Wives, The Moon and his Wives*

**c. Develop your skill set**

When aware of incoming danger, it is an appropriate response to learn new knowledge and develop a skill set, so you have the power and abilities to be able to deal with the danger.

*The Moon and His Wives*

**d. Provide care and healing**

When someone is harmed, it is important to provide care and heal harm even if

they are an outsider, or when the situation seems futile.

*The Story of Muskrat, Story of Sna'naz*

**e. Hold perpetrator accountable**

It is an appropriate legal response to find the perpetrator of harm and hold them accountable for their actions in order to provide justice for those who have been harmed.

*The Story of Muskrat*

**f. To make an informed decision**

When a legal issue arises, it is an appropriate response to investigate to figure out what has happened. This enables a decision maker to be able to make an informed decision.

*Story of Sna'naz, The Women Who Sought For A Husband; Or, The Women Who Married The Cannibal (Star) and Wolverine*

### 3.0 Legal Obligations

*What principles govern individual and collective responsibilities? Where are the “shoulds”?*

**a. To make dangers known to others**

When individuals come across knowledge of danger, they should share that information with others so they can protect themselves and their community.

*The Women Who Sought For A Husband; Or, The Women Who Married The Cannibal (Star) and Wolverine, The Story of Muskrat, Story of Sna'naz*

**b. To work together when harm is present**

When an individual has caused harm, those who are present should work together to support each other and maintain their safety. This can look like two individuals coming together or the community working as a collective.

*The Women Who Sought For A Husband; Or, The Women Who Married The Cannibal (Star) and Wolverine, The Story of Muskrat*

**c. To protect yourself**

An individual should protect themselves however they can, and this can manifest in different ways depending on the context. This can include dissociation, building your skill set, choosing to live where you feel safe, or escaping from a dangerous situation.

*The Women Who Sought For A Husband; Or, The Women Who Married The Cannibal (Star) and Wolverine, Coyote and his Wives, The Moon and His Wives, Coyote and his Niece*

**d. To make space for vulnerable people's concerns to be vocalized**

When individuals bring concerns to the community, they deserve to have the space to vocalize those concerns.

*Story of Sna'naz*

**e. To protect vulnerable people**

Individuals who are vulnerable deserve to have their needs considered and to be protected by their family and community.

*Coyote and his Niece, The Story of Muskrat, Story of Sna'naz, The Moon and his Wives, Spider and Otter*

## 4.0 Legal Rights

*What should people be able to expect from others?*

### 4.1 Substantive Rights

**a. To have the agency to choose your suitor**

Individuals should have the agency to choose their suitor and not have family members or the community create barriers to them making their decision.

*The Women Who Sought For A Husband; Or, The Women Who Married The Cannibal (Star) and Wolverine, Coyote and his Wives, The Story of Muskrat, Story of Sna'naz, Coyote and his Niece, Spider and Otter*

**b. To have your boundaries respected**

Every individual should be able to expect that others will respect their boundaries.

*The Women Who Sought For A Husband; Or, The Women Who Married The Cannibal (Star) and Wolverine*

**c. To be protected when vulnerable**

Every individual should be able to expect that their community will act in their individual best interest and ensure their safety. If this right is not respected, then vulnerable individuals will suffer because of the lack of protection offered by their community.

*Coyote and his Wives, The Moon and his Wives, The Story of Muskrat, Story of Sna'naz, Coyote and his Niece*

**d. To access resources to better yourself**

Every individual should be able to access resources and knowledge available within the community to better themselves in the way that they need and want to.

*The Moon and His Wives*

**e. To be told the truth**

Every individual deserves to know the identity of their intimate partner, and partners should be truthful about who they are. When this does not happen, the

relationship breaks down.

*Coyote and his Niece, The Moon and his Wives, The Women Who Sought For A Husband; Or, The Women Who Married The Cannibal (Star) and Wolverine*

## 4.2 Procedural Rights

### a. The right for claims to be substantiated by evidence

When an individual knows of harm committed, they deserve to be heard and to have their claims investigated for the community to uncover the truth and adequately respond to the claim.

*The Women Who Sought For A Husband; Or, The Women Who Married The Cannibal (Star) and Wolverine, Story of Sna'naz*

### b. The right to be heard

When there are community practices that cause harm, individuals who experience that harm should have the opportunity to have their concerns heard. When space is not made for deliberative decision making processes, that denies the individual's right to be heard and enables the continuity of conditions of vulnerability.

*The Moon and his Wives, Story of Sna'naz*

### c. The right to be cared for when you have been harmed

When an individual has experienced harm, they have the right to be cared for by their community.

*The Story of Muskrat, Coyote and his Niece*

### d. The right to dignity

Women have inherent worth and deserve autonomy and basic human rights to be respected and upheld by the people around them.

*Coyote and his Wives, The Story of Muskrat, Spider and Otter*

## 5.0 General Underlying Principles

*What underlying or recurrent themes emerge in the stories and interviews that might not be captured above? What are the principles that guide the expression and application of the law?*

### a. Women can help keep each other safe when they believe and support each other.

When women communicate actual or potential danger to each other, and they choose to believe and support each other, they can devise strategies to protect each other from that danger.

*The Women Who Sought For A Husband; Or, The Women Who Married The Cannibal (Star) and Wolverine*

### b. When violence goes unchecked, the entire community suffers for it

When community practices create conditions of vulnerability and do not protect their members, devastating harm comes to the entire community. It is important to adapt and change community practices so that harm can be prevented.

*Coyote and His Wives, The Moon and His Wives, Coyote and His Niece*

**c. Natural justice**

When human intervention fails, supernatural forces will sometimes intervene to enact justice.

*The Story of Muskrat, Coyote and His Wives*

**d. To not make assumptions about what people have to offer**

Everyone has unique abilities and skills to offer, regardless of their differences. Help can come from the people you least expect it from, and it is important to give everyone a chance to participate in community life and in situations where the community is in danger.

*The Moon and His Wives, Story of Sna'naz*







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