

XaaydaGa TII Yahda TII GuhIGa¹
**Decolonizing Justice: The formation of a Haida
Justice System**

by

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Abstract

The imposition of colonial governance, law, and justice superseded Indigenous Nation-based ways of governing and responding to wrongdoing. The Haida Nation and Haida Gwaii are uniquely situated to reassert the right to justice. Through semi-structured in-depth interviews, this study addressed the research questions: What does justice mean to the Haida? How could Haida conceptions of justice be implemented in modern-day? The emergent themes encompass the importance of community involvement, looking to the past to understand the present, overcoming trauma and healing and taking incremental steps towards the ultimate goal of sovereignty. The re-establishment of a Haida justice (*tll yahda, make things right*) system will take time and the importance of building capacity, healing, and focusing on our collective strengths was highlighted by participants. This study suggests that the formalization of a Haida Tll Yahda system is possible and offers suggestions for further actions to hold Canada to account for the ongoing harm it has caused.

Keywords: Indigenous justice; Haida justice; sovereignty; self-government; Haida Nation; self-determination

Dedication

I would not have made it here without my Kuuniissii's (*ancestors*) guidance and the support of so many incredible people (and one very loyal dog). This thesis is dedicated to Haida Gwaii and the Haida Nation. Haida Gwaii is everything to me- it is all that I am and all that I hope to become. To know this place, to walk these beaches, to be in my ancestral home inspires me beyond what words can describe.

This research was and is deeply personal; the future of the Haida Nation is my future.

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I will continue to pursue justice for myself and for my Nation – and, to work towards our collective goal of sovereignty. No matter what we go through as a Nation we stand together when things get tough. There is a beauty in that, in community and in Nation-hood.

We are strong people and together we are unstoppable.

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Gam yen asing k'aa.ngasgiidaay han hll guudang Gas ga

(I will never again feel that I am less than)

translation of "Decolonization" by Betty Richardson (S.H.I.P.)

In this composition the Haida Nation, represented by Raven and Eagle, is fighting an uphill battle against a long history of colonial impacts, portrayed by the overarching figure. However, with guidance and knowledge from our ancestors, represented by the human face, we will flip this picture on its head one day.

- Iljuuwaas (Tyson Brown)

Chapter 1.

Prelude: Situating Myself

Before delving into my examination of Haida justice, I think it is necessary to identify myself. My name is Jaad Gudghiljiwah, and my English name is Michaela McGuire. My ancestry is Haida, Ojibwe, Irish and British. After contact beginning in 1774, the Haida population was decimated through genocide at the hands of the colonial state.² The surviving Haida moved to two main villages, Skidegate in the South and Old Massett in the North. My fathers' clan (Staastas) was split by this divide, and his family branch of the Staastas settled in the community of Skidegate. Identity provisions of the *Indian Act* impacted his ability to live in his home community. My father's mother, Nora Tulip, married his father Samuel McGuire who was of Ojibwe and Irish origin and she lost her *Indian* status. The Haida Nation is matrilineal meaning that clans, names, crests, etc., are passed through the mother's line. On my mother's side, my grandmother's family came from the South of England and settled on Indigenous land north of Battleford, Saskatchewan. Having a non-Haida mother comes with its own set of identity issues that I have grappled with since I was about 4 years old. My mother, brother and I were adopted in 2014 to the Gaa K'yaals KiiGawaay³ (*Skedans*)⁴ Raven clan and there I was given my name.

My family has suffered the intergenerational impacts of the *Indian Act* through imposed identity provisions. As a result of the *Indian Act*, my father did not grow up surrounded by language and culture. Instead, he was called a white boy, not allowed to live on his reserve and left home at 17. His life in the city was not much easier. There, he was subject to a racism that he laughs off with optimism that continually astounds me.

²The first accepted documentation of Haida and European contact occurred in 1774 when "Juan Perez and crew were found floating in Haida waters," followed by "1787 Captain George Dixon," who named Haida Gwaii the "Queen Charlotte Islands" (Collison, 2018. p. 146). The first major outbreak of smallpox occurred in 1862 decimating the Haida population (Collison, 2018).

³ This translation and all others were taken from the Skidegate Haida Immersion Program (SHIP) Xaayda Kil Glossary (2016). Haawa to SHIP for the time, generosity, and effort put into recording the language. Adoptions are customary in the Haida community when a mother of Haida children is non-Haida; it allows for her children to have a clan, wear crests, and participate culturally.

⁴ Following the work of Haida scholar Jisgang all Haida words will not be italicized however, English translations will be italicized at first mention.

He recalls being jealous of his friends when they went to residential school, even asking his mother why he could not go? To which she simply responded that they fell under the White Act. These imposed identity provisions severed my father's family. Although he received status in 1986 under revisions to the *Indian Act* he has continually grappled with finding his place in the Haida community. The very notion that we should seek a 'status' imposed by our colonizer is ludicrous. I grew up ashamed of my indigeneity because of the colonial system. I did not have access to my Haida culture because it was stripped from my father by a document that is still in existence.

I was born and raised in Burnaby, British Columbia although my parents made sure we returned to Haida Gwaii every summer. I was proud of being Haida (unfortunately I do not have as strong a connection to my Ojibwe side), until a certain point in my childhood that I cannot identify. I do not know if it was one singular incident or an amalgamation of micro-aggressions, stares and internalized shame but by the time I reached high-school I began to deny my identity. I can blend although I am dark-skinned; my mixed blood means I have the privilege of denying my heritage. And this is a privilege because identifying as Haida makes me more likely to be subject to racism, stereotypes, and abuse. I was treated as if I was inherently stupid, not worthy of love, friendship or success. People who I thought were my friends and those who never were used racial slurs against me – chug, squaw, Indian, apple – you name it I have heard it and felt the pain and shame that is its result. I have denied my heritage, ignored my lineage, and internalized my shame. The insular nature of my personality developed as an armour against the oppressive weight I held on my shoulders and the words thrown my way.

My life changed when I was 19 years old and I visited the village site of SGang Gwaay Llnagay, I stepped on shore and started to cry. I am not sure if I possess the eloquence to express it, but I felt the power of my ancestors. The sun came out; the clouds literally parted. I looked up at towering poles and I felt it for the first time, a pride in my Haida-ness that had been repressed so deeply that 10 years later I am still fighting to find my way back.

There was a power in that day.

The racism I experienced was also institutional, present in my textbooks, my teachers calling Indigenous peoples *Indians*, and teaching a version of history that was rendered to two sentences. Looking back on my education I now realize that I was 'streamed' – meaning held back – regardless of my mother's protests. I was made to feel less than, stupid, and unable to function within 'normal' classes. Instead of protesting I accepted my relegation to these 'essential' courses. The education system did not empower me, or push me to be a better student, I always felt like the 'other.' I got here, to this place, to writing my thesis because I am a stubborn person with a big old chip on her shoulder.

When you are told you cannot do something you start to believe it, you have to fight back. I still grapple with finding my place, just like my father I do not feel like I belong in either world. But thanks to my friends, family, partner and Haida Gwaii I continue to challenge my own internalized colonial hate. If I remain ashamed, subjugated and culturally unaware I am serving the colonizer's wishes. Denying my identity and assimilating would be easier than fighting my professors, having hard conversations with students, and representing my Nationhood. I wrote a poem once in which I said: *one foot in both worlds, not quite sure where I belong- a long lost shame still lingers true*. That shame is an omnipresent force, but so too is my pride, resilience and drive to decolonize my thoughts and to be a part of enacting real change for my Nation through this work.

Chapter 2.

Impediments to Justice

The nature of a topic as specific as the formation of a Haida justice system (HJS) is such that there is a limited amount of applicable literature. This limitation is important to note as I am not interested in applying co-opted definitions of Indigenous or restorative justice to examine the inherent right to Haida justice. The research that examines these co-opted versions of justice perpetuates misunderstanding about self-determination and promotes pan-indigenized perceptions of indigeneity (see: Tomporowski et al., 2011). Constructing indigeneity through a colonial lens compounds existing harms while continuing to ignore the inherent rights of self-determining Indigenous Nations. There has been an important emergence of other Indigenous-led justice initiatives (see: Monchalin, 2010; Nielsen & Brown, 2012; Victor, 2007). However, these programs are *not* situated within a Haida understanding of the world, values or laws. Reviewing them would pull attention away from any uniquely Haida elements that are my first priority to understand in this project. Victor (2007) notes the importance of Indigenous communities and Nations “reclaiming and revitalizing” their own “ways of doing justice” according to their laws, values, and perceptions of wrongdoing (p. 167). In light of this, the literature will be utilized to examine the inherent right of the Haida to determine their responses to justice issues. The work of Haida scholars and the most trusted ethnographer (Swanton) are also examined and utilized throughout this thesis.

The path to justice is rooted within our right to be a self-determining, self-governing people; however, there are many colonial roadblocks we must traverse to get there. This chapter will outline these impediments to establishing sovereign justice. The first is Canada’s tendency to choose the most straightforward minimal and one-size-fits-all solutions, instead of implementing meaningful action to support Indigenous Nations’ sovereignty and decolonization. However, impediments to establishing sovereign justice are not limited to the settler state and thus, internalized colonialism and shame will also be examined. After years of continually being treated as inferior, we even began to question ourselves. When we internalize colonialism and shame we may believe that “to achieve “justice” we need to mirror or model the Canadian system” (Victor, 2007, p. 14).

These impediments to the establishment of a sovereign Haida justice system must be addressed in order to re-imagine our ways of responding to wrongdoing.⁵

2.1. The Settler Colonial Stronghold

The settler state seems to only allow a certain amount of progress towards Indigenous self-determination while maintaining its imposed superiority. It is important to keep in mind that the colonial “criminal justice system [CJS] operates to uphold existing power structures, and these were initially set up to eliminate Indigenous peoples” (Monchalin, 2016, p. 144) through processes of extermination and assimilation. The Canadian government and its CJS opt for one-size-fits-all solutions instead of supporting true Indigenous self-determination. The Canadian CJS and Correctional Services Canada (CSC) prefer quick-fix, pan-Indigenous programming and policies that do not adequately account for the varied Indigenous Nations, peoples, cultural practices and notions of self among incarcerated persons (Martel & Brassard, 2008; Martel, Brassard & Jaccoud, 2011; Monchalin, 2016). These so-called Indigenous-led initiatives are still under some level of colonial control in that the majority of their funding is obtained through the Canadian government and thus subject to their approval (Monchalin, 2016; Palys, 2004). The Canadian government seems to develop policies that move the minimal amount that allows it to acknowledge deficiencies and appear to be forward-thinking and sensitive to the justice needs of Indigenous peoples. Stopping short of Indigenous control over Indigenous justice, it opts for the Indigenization of existing systems, i.e., by hiring Indigenous staff and providing pan-Indigenous programming such as the use of sentencing circles (Palys, 1993). The colonial construction of Indigenous peoples as the ‘other’ operates in the CJS and CSC’s favour as they swoop in as the saviour and effectively ‘heal’ unruly criminal Indigenous peoples. The colonial state opts to not support Indigenous self-determination in any meaningful way. Instead, the Canadian government supports smaller, less disruptive initiatives that do not “pose any immediate threat to its decision-making supremacy or, calls into question its authority” over Indigenous peoples (Palys, 1993, p. 4). The colonial state opts for the path of least

⁵ The term ‘wrongdoing’ used throughout this thesis is inclusive of: acts considered criminal by the Canadian CJS; harms against the land and waters; harms Canada has caused against the Haida and other Indigenous peoples; and family issues that may not necessarily be considered criminal. It is utilized to illustrate that ‘wrongdoings’ that impact the Haida are not limited to a Canadian notion of criminality.

disruption or as Palys (1993) notes it pursues “assimilation instead of [supporting Indigenous] self-determination” (p. 6), and never questions its authority to incarcerate, criminalize and regulate Indigenous peoples.

2.1.1. When will recognition turn to Action?

The suppression of our strength, pride, and power as first peoples was purposeful as it limits our ability to resist the colonial state and garner support from settlers as we attempt to reclaim our rightful space as Nations. Recognition is not unimportant, but it cannot be a substitute for substantive change. Waiting for the consent of our colonizer to take the necessary steps to establish our sovereignty is not necessary. The recognition that Canada is willing to give has a limit. Coulthard (2014) suggests that this recognition of Indigenous rights is accepted as long as it “does not throw into question the...legal, political and economic framework” that is embedded in the colonial system (p. 103). In other words, the Canadian government will recognize but not act, because recognition does not require the forfeiture of colonial dominance or disruption of its imposed superiority.

This colonial rhetoric makes it seem as if Nation-to-Nation relationships and independence are impossible dreams despite the fact these relations have already existed “both historically and legally” (Alfred, 2015, p. 4). Instead of recognizing pre-existing relationships, Canada constructs the Indigenous other as unable to adapt with the times and incapable of progress in order to solidify its dominant position. Alfred (2015) further suggests that this construction results in Indigenous peoples falsely believing they need their colonizer’s permission to plan for and take steps towards their sovereign futures. Strength, resilience, and resistance provide the framework from which we can and should disrupt and contest our colonizer’s construction. Deconstructing state power over Indigenous Nations is no small feat when one considers how ingrained this hierarchical relationship is within laws, institutions and society at large. The Indigenous ‘other’ serves the role of scapegoat, blamed for societal wrongs, subjected to racist policies and brought under the wardship of the state.

2.1.2. An Imposed Criminal Justice System

The assumption that Canadian law dominates because our Haida laws were not written further exemplifies a colonial mindset. Canadian laws were not and are not reflective of Haida values, law or ways of life. Canadian law has been used to oppress, assimilate and subjugate Indigenous peoples and to justify the extinguishment of Indigenous rights since first contact (Jackson, 2015; TRC, 2015). The imposition of foreign governance, law, and institutions denied the existence of complex systems. The notion of written laws as superior is itself a European construct (Monchalin, 2016). This imposition of Canadian systems creates a hierarchy in which Indigenous peoples become the criminalized, inferior, unruly others stuck in the past. By subjugating our laws, systems and ways of life the Canadian system can continue to portray Indigenous peoples as historically obsolete incapable of adapting to modern life. Indigenous laws exist regardless of Canada's recognition. However, Indigenous law is not given the same weight as state law in Canadian courts (Moulton, 2016). The assertion of Indigenous law is tolerated but neither meaningfully respected nor recognized. Borrows (2001) notes that Canadian law has acted to conceal it but "Indigenous legal order continues to bubble through the cracks of its overlying cover," and thus, its existence cannot be ignored (p. 16). Napoleon (2014) posits that generally for Indigenous peoples, "law is a process not a thing, and it is something that people actually do" (p. 139). For instance, Haida law did not need to be written as it was and is reflected in our day-to-day relationships with each other, the world around us, through oral histories and potlatch. Imposed superiority forms the basis of the Canadian state's entire relationship with Indigenous peoples. In re-gaining power, asserting our law, governance and inherent rights we can move towards a just social order and a true Nation-to-Nation relationship with Canada.

The imposed justice system is reflective of European value systems, not those of the Haida. The Canadian criminal justice system (CJS) has religious roots within colonial ideology (Monchalin, 2010; Victor, 2007). The ideological foundations of the CJS are not reflective of the varied Indigenous cultures that preceded its existence. The imposed CJS cannot serve the needs of the Haida because of these divergent ideologies, values, and understandings of wrongdoing.

The responsibility we all hold as Haida citizens is evident when we institute measures to protect our islands. As GwaaGanad, Diane Brown (2018) notes, “every Haida person is entrusted with taking care of Haida Gwaii,” and this responsibility is what guides us (as cited in Collison, 2018, p. 44). Those who have upheld Haida law, such as GwaaGanad herself during the Athlii Gwaii (Lyell Island) protest over logging, have been found in violation of Canadian criminal law. Our laws tell us we must protect Haida Gwaii while Canadian law grants companies permission to log our ancestral home. According to Haida law and values, protecting the land is of the utmost importance. As a self-determining people living on our un-ceded territory, we have every right to protect it from harm as well as to create the necessary infrastructure to support our governance. Injustice within the Haida community is not limited to criminal justice issues but extends also to justice issues arising from and reflecting colonial harms. Such injustices are ongoing and permeate the everyday existence of Indigenous peoples (Monchalin, 2016; TRC, 2015). Diverse Nations had (and have) a myriad of distinct laws, values, and ways of responding to wrongdoing that were disrupted.

The court system although nominally receptive to the assertion of Haida (and other Indigenous) laws, continues to operate from the standpoint of Canadian superiority and ideological foundations that are not representative of the Nations that came before (Coulthard, 2014). Moulton (2016) suggests that this imposed superiority of the Crown is “predicated on a myth,” that obliterates and ignores the prior existence of Indigenous Nations to further colonial goals (p. 12). Moreover, Borrows (1999) argues that when oral histories and stories are interpreted by Canadian courts and judges they are essentially “given to another culture to authoritatively judge their factual authenticity and meaning, Aboriginal peoples lose some of their power of self-definition and self-determination” in this process (p. 9). Thus, despite shifts in the admissibility of oral history evidence in Canadian courts there is still a huge gap in necessary understanding and cultural context. The assertion of oral history in Canadian courts may be falling on deaf ears with its importance appreciated on the surface and its meaning left unravelled. Further, Borrows (1999) argues that “the Court’s progressive instruction to adapt the laws of evidence to incorporate Aboriginal factual perspectives does not scrutinize Crown assertions of sovereignty” (p. 10), creating a double standard that continually privileges the Crown. As a result of colonial and cultural genocide Indigenous peoples’ cultural understandings, language, and oral histories were suppressed, lost or forgotten. It will

take considerable time and hard work to bring these ways of doing out from under the shadows of colonial harm and to adapt them for the modern-day.

2.2. Internalized Colonialism and Oppression

In light of our oppression and the trauma inflicted upon us, our survival and resilience should be recognized and celebrated as we develop the capacity for self-determination. By using our law, value systems and ways of doing we can begin to imagine how to re-formulate our responses to wrongdoing. This is perhaps the first step toward decolonizing and implementing a Haida justice system. Decolonizing our thinking is incredibly challenging; when told there is only one acceptable way to perceive wrongdoing, without cultural referents, you adopt the status quo. Without a cultural grounding to understand the world differently I lack the ability to assert my Haida-ness into how I think about the world. This inability is a consequence of colonial assimilative tactics. Our colonizers did not want us to use our laws, cultures, and ways of being, so they attempted a myriad of avenues to deconstruct our identities. It is an act of resilience to reclaim what is ours, to re-implement our systems and to do so according to our laws. Alfred (2009b) notes that “the culture of being colonized takes away a peoples’ ability to resist the racist aggression and political, economic and cultural pressures of the colonial state” (p. 40). When we internalize colonialism we forget our unique Nationhood and are more easily controlled. As we internalize, the colonial state takes a step forward in terms of eliminating our Nationhood and identity as peoples. The domination of the Canadian state through its policy and practice is “essentially genocidal,” in that it serves the goal of eliminating our distinctiveness (Green, 2011, pp. 17-18). We cannot be complacent in our subjugation. Instead, we must foster the resilience, capacity and stubborn will to reposition our authority to determine our futures.

Internalized shame and colonialism result in both a conscious and unconscious acceptance of our oppression and the racism and discrimination we experience. Our relegation to the sidelines of humanity becomes accepted and we do not question our supposed inferiority. Our internalized oppression is expressed when we “oppress and discriminate against ourselves,” representing a complacency in our inferiority (Victor, 2007). As Alfred (2009a) explains, if we remain blind “to the roots of [our] pain,” then we will continue to passively suffer (p. 167). As was mentioned in chapter one, I grew up ashamed of being Haida and Ojibwe; I attempted to hide my identity. Experiences of

racism, discrimination, and oppression resulted in self-hate, shame, and subsequent denial. Without a cultural grounding or understanding of colonialism, I had no armour with which to fight racism. We internalize colonialism when we denigrate each other based on blood quantum, or status versus non-status, or even the colour of our skin. We internalize colonialism through lateral violence and the malice with which gossip spreads in our communities. We do it to ourselves when we accept our supposed inferiority and do not question colonial control, band council systems and the “Crown land” we live on. Internalized colonialism occurs when we are unable to understand our place in the world as Indigenous peoples and our construction as the other by the colonial state. Our subsequent acceptance of inferiority results in second guessing ourselves and eroding the essence of who we are.

Education about the true history of Canada, the role colonialism had on shaping my life and the trauma for which Canada is responsible has allowed me to shed the shame I internalized and instilled a pride in the incredible strength of my people. Before that education took place, I had internalized the colonial harm inflicted through racist, stereotypical comments and microaggressions. There is a power in knowing our unique histories and unravelling how colonial forces have influenced our identities. Alfred (2009a) suggests that combating self-hate involves educating ourselves as to the “roots of [our] pain that keeps [us] passively suffering” (p. 167). The shame that permeates my existence is ever-present, but I have the foundation to understand the origins of that shame. The act of decolonizing is made even more difficult for those who grew up in urban communities without a real cultural grounding. When I first moved back to Haida Gwaii I was often struck with self-hate, a feeling of not belonging and being out of place. My lack of cultural knowledge left me in tears and continues to break me down. When I joined Hltaaxuulang Gud ad K'aaju (a community dance group based in Skidegate), I was often struck with emotion – embarrassed, ashamed, feeling out of place and ignorant as to my ancestry – like I did not belong, in a place that should feel like home.

Armed with knowledge we can resist oppression or at least not internalize ignorant comments. Without that knowledge, experiences of ignorant, insensitive and outright racism can have a lasting impact on our wellbeing. We must decolonize ourselves to fight for our rightful place as self-determining Nations.

2.2.1. Ongoing Colonial Control

The imposition of inferiority is perpetuated by the *Indian Act's* ongoing control over Haida Nation politics. The Council of the Haida Nation (CHN) is the National government. However, the band council system is still in existence. Band Councils were created by the colonial state and all their decisions are filtered through colonial regimes. Shedding our ward status involves disrupting the internalization of our supposed inferiority. Monchalin (2016) suggests these imposed systems do not reflect the distinct traditional governance structures and laws of the original peoples. Further, the ability of band councils to influence true and meaningful change has been questioned as they lack the power to reject colonial goals and regimes (Monchalin, 2016). The Federal government granted itself the ability to supersede decisions made by band councils and impose its perspective (TRC, 2015). Band councils were created to “dismantle traditional structures,” as part of the assimilation of Indigenous peoples into Canada (Borrows, 2017, p. 121). In place of hereditary chiefs, the Federal government introduced the notion of an elected chief and council with limited powers, showing complete disregard for existing systems and appropriating Indigenous understandings of the world to suit colonial goals. Currently, in Haida territory, the band council system operates alongside the CHN as a form of pseudo-municipal level government. However, internalized colonialism and *Indian Act* control have led some Haida to accept the band council system and to fear change. This inferiority has been internalized as we have been socialized and constructed to be the immoral, needy other. The Constitution of the Haida Nation (2018) recognizes the jurisdiction of the band councils who each have a representative within the CHN. Moving beyond the imposed colonial system should involve the strengthening of our National government, and the disruption of imposed colonial control represented by the introduced chief and council system.

2.2.2. Decolonizing our Minds: Grappling with Inner Demons

Fostering resistance and resilience involves strengthening our existing systems to facilitate meaningful change. There is no straight-forward one-size-fits-all solution to shedding colonial trauma and we should anticipate a myriad of obstacles. Coming to terms with our own internalized self-hate and shame is an important first step towards decolonizing our thoughts and actions. In doing this, we can begin to appreciate our situated position and empathize with others grappling with addictions, poverty,

intergenerational trauma, and abuse. We must take a critical look at patterns of colonial harm within our territory, families, and Nations. We must also support one another as much as possible because there are so many outside forces against us; our people should not be one of them. As Monture-Angus (1999a) suggests, “the very worst part of colonialism is when Aboriginal people start doing it to each other” (p. 75). Recognizing the role of colonialism in our lives, in shaping our identities and our communities allows for self-awareness and understanding that is necessary to decolonize not only our minds but our Nation. The criminalization of Indigenous peoples was and is a necessary aspect of the colonial strategy (Monture, 2006). Those who have internalized colonial shame may fear change. However, “the lesson of the past is that Indigenous peoples have less to fear by moving away from colonialism than by remaining bound by it” (Alfred, 2009a, p. 58). Decolonizing involves taking back our rights, title, and ability to live together under our governance and to address wrongdoing as we determine necessary.

The imposed Canadian CJS has failed to address structural issues, untangle colonial rule and support Indigenous Nations in taking steps towards their justice systems. The right to administer our responses through the development of sovereign institutions has been recognized (United Nations, 2007). This recognition is important but the limitations that may arise in forming such institutions warrant consideration. As a result of colonialism, Indigenous communities are grappling with a multitude of hardships, social ills, and their capacity has been compromised by the significant trauma they have experienced. Thus, to expect ease in cultural revival and returning to old ways of doing would ignore the ongoing impact of colonial harm. Fostering the power to overturn imposed laws and systems is incredibly difficult given the ongoing oppression of Haida peoples. We cannot expect such a path to self-determination to be obstacle-free. Napoleon warns against idealizing Indigenous law and falling prey to the notion that any form of law and legal system is perfect (as cited in Yoon-Maxwell, 2019). We must accept that we will make mistakes along the path to sovereign Nationhood and recognize this is an essential part of the process.

Chapter 3.

Self-determination and the Right to Justice

3.1. Self-Determination

The colonial goals of assimilation and control were advanced significantly by the *Indian Act*, through which varied Nations that precede this country's existence were amalgamated. The Haida, Cree, Stó:lō, Haisla, and many other Nations were labelled as 'Indians,' and their identity as such came under colonial control. Subsuming varied Nations together through a common identifier was crucial to the ease with which Canada could construct us as the other, impose their government and legal systems, and claim our lands, rights, and resources. Harrison (1912) writes about the potential of fully assimilating the Haida:

I believe it is possible that with encouragement the time is not far distant when all these Indians on the entire Pacific Coast will eventually become assimilated and amalgamated with the white man, and will ultimately forget all their ancient customs in a peaceful and prosperous future (p. 4).

Today, our Nationhood is not understood by settlers because of this colonially imposed vision in which Canadians are encouraged to see all Indigenous peoples as the same. Monture (2008) suggests that "Aboriginal, Indian, Indigenous, First Nations, and so on, are all terms of colonial impositions...there is no "right" choice" (p. 159). The notion of a broad-sweeping singular identity is a colonial construction and thus, we must reject it and assert our Nationhood wherever possible (Alfred & Corntassel, 2005). If we fail to assert our rights as self-determining Nations the colonial state will continue to oppress, subjugate and ignore our Nationhood. Cardinal (1999) notes that "Indians have aspirations, hopes and dreams, but becoming white men is not one of them" (p. 2). In this thesis, I will utilize the term Indigenous when discussing the varied sovereign Nations that precede Canada's existence. However, I am concerned with the Haida Nation and Haida justice, *not* Indigenous justice more broadly.

Indigenous Peoples have an inherent right to self-determination. Regardless of Canadians' understanding of this right, or recognition of us as sovereign peoples, it is completely within our power to reclaim our ways. Alfred and Corntassel (2005) suggest that

we do not need to wait for the colonizer to provide us with money or to validate our vision of a free future; we only need to start to use our Indigenous languages to frame our thoughts, the ethical framework of our philosophies to make decisions and to use our laws and institutions to govern ourselves (p. 614).

In other words, permission is not required to take back what is rightfully ours. Alongside pursuits for title and recognition, we should build capacity, form systems and ways of doing, and reclaim our rightful place as Nations.

The suppression of our systems was and is perpetuated by the colonial state. Alfred (2009a) notes that “the path to self-determination is uphill and strewn with obstacles, but we must take it; the threat to our existence as indigenous people is so immediate that we cannot afford to delay” (p. 9). The Royal Commission on Aboriginal Peoples [RCAP] (1996b) posits that “no government can be imposed upon a people without their consent...this would be a denial of their right to self-determination” (p. 4). This denial of inherent rights is the very foundation of Canadian sovereignty.

The construction of Indigenous peoples and cultures as existing in the past is furthered by the use of terms like ‘traditional’ to describe our ways of being. This terminology has implications, “if Indigenous peoples are construed as politically ‘stuck in the past,’ then there is no need for the state to involve them in present and future political relationships” (Borrows, 2016, p. 44). Kline (1994) suggests that this ideological construction of Indigenous peoples as homogenous and unchanging is further compounded by their representation in court systems that neither consider nor address their values. Further, Mandell (2009) suggests that this relegation of Indigenous peoples as stuck in the past, or as primitive peoples, allowed for the establishment of a settler-colonial hierarchy. Kline (1994) further argues that this “ideology of static Indianness is apparent in aboriginal title jurisprudence where First Nations claims to land have been rejected on the ground that claimants have adopted certain practices of the dominant society and, therefore are no longer ‘real Indians’” (p. 463). In light of this, I will not utilize the term traditional. Instead, I will discuss ways of being and ways of doing. These systems were oppressed, not eliminated, and we must be careful not to treat them as relics of the past.

The Canadian Constitution does not truly recognize the sovereignty of pre-existing Nations. The *Constitution Act* (1982) recognizes Indigenous rights and title

under s. 35(1); however, this recognition leaves the onus on Nations (such as the Haida) to prove their title in Canadian courts. Borrows (1999) argues that imposed colonial hierarchies result in an unfair interpretation of the law, privileging the Crown while subjecting Indigenous peoples and Nations to “higher standards of proof” (p. 8). The Crown asserts its domination over Indigenous peoples and appropriates Indigenous land and rights. Our relegation to the past is exemplified in this process as we are asked to present evidence of our existence on land that has been occupied, stolen, pillaged of natural resources and had archaeological evidence removed. Borrows (1999) finds it problematic that the courts construct title based on unchanging perceptions of Indigenous land use. The assumption that we fall under Canadian laws, justice systems and institutions has allowed for the continued pillaging of our land, waters, rights, and the imprisonment of our people.

Canada has yet to justify its title to the land occupied by colonial forces. Borrows (1999) posits that the Crown has not had to prove its title to the land, what he deems “non-consensual colonization,” and that it would not be able to meet the high standard of proof to which it subjects Indigenous peoples (pp. 16-18). The hypocrisy of having to prove ourselves within an imposed colonial system that is representative of our ongoing oppression is difficult to comprehend. Colonial systems have imposed discriminatory laws and regulations including the *Indian Act*, the reserve system, residential schools, ongoing child apprehension, the potlatch ban, and so on (see: Truth and Reconciliation [TRC], 2015). They have relegated us to the periphery of humanity and yet we are meant to trust them to decide the disposition of our lands, lives, and rights. Coulthard (2014) notes that this subjugation is situated within the Canadian court system which has “repeatedly refused to challenge the racist origin of Canada’s assumed sovereign authority over Indigenous peoples and their territories” (p. 41). The extent to which Canada will grant legal recognition is limited by an unwillingness to disrupt their ongoing occupation and use of our land and resources (Coulthard, 2014). Monture-Okanee (1994) notes that because of the harm it has continually caused to Indigenous Nations and communities, “the legal system is at the heart of what we must reject” (p. 223). This rejection necessitates the development and reclamation of our own legal and justice systems. The imposition of foreign systems was done without our consent, and thus we do not need to seek the consent of our forceful occupiers to reclaim our systems.

3.1.1. Decolonizing...and rejecting Reconciliatory tactics

The rhetoric of reconciliation and apology perpetuates colonial harm while easing settler guilt. Although recognition of harm is, of course, important and likely provides some semblance of hope, it does little to alleviate the ongoing subjugating forces of the Canadian state. Indigenous peoples are impoverished, undereducated, and underemployed (TRC, 2015). The reserve system is still in existence, as are high rates of mental illness and suicide that permeate our communities, as do abuse, over-incarceration, racism, stereotypes, micro-aggressions and so on (Monchalin, 2016; TRC, 2015). Canadian systems continue to harm us by not addressing the myriad structural issues and social ills that affect our communities and limit our capacities to recover from the pillaging of our existence. Coulthard (2014) notes that

what is treated in the Canadian discourse of reconciliation as an unhealthy and debilitating incapacity to forgive and move on is actually a sign of our critical consciousness, of our sense of justice and injustice, and of our awareness and unwillingness to reconcile ourselves with a structural and symbolic violence that is still very present in our lives (p. 126).

Reconciliation suggests that colonial harm happened in the past and ignores the myriad of traumas we experience every day. This wholesome term serves to alleviate settler guilt with little to no meaningful or tangible change in the lives of those who are continually oppressed and subjugated to the margins of society.

Alfred (2015) argues that reconciliation rhetoric operates as yet another means of assimilation in its attempts to 'help' Indigenous peoples become just like Canadians. It is a continuation of the colonial tactic of choosing the 'easy' way out instead of supporting and taking steps towards necessary radical change. It is much *easier* to make settlements to residential school survivors than to overthrow colonial systems. It is also *easier* to acknowledge 60's scoop survivors than to recognize and respond to the ongoing apprehension of Indigenous children at alarming rates. It is *easier* to continue to define who Indigenous peoples are through only slightly modifying patriarchal provisions of the *Indian Act*. It is easier than giving land back or paying real restitution for the compounded harm we have all experienced. Apologies are important, but regardless of their positive aspects, it must be recognized that the rhetoric of reconciliation focuses on "Indigenous subjects [as] the primary object of repair, not the colonial relationship" (Coulthard, 2014, p. 127). Establishing relationships and overhauling existing systems is

portrayed as too drastic a task by the Canadian government. Such a portrayal fits within the colonial narrative of dominance while disregarding the fact that Canada ran a colonial bulldozer over our rights, laws, inflicted genocide on us, put our lives in museums and apprehended our children, placing them within foreign institutions.

According to this colonial narrative, we have no right to be angry or to assert our rights as self-determining Nations. However, our resilience is something to be celebrated as we prepare for the assertion of our rightful positions as Nations. Coulthard (2014) suggests that

Indigenous peoples have within their sights, now more than ever, a restructuring of the fundamental relationship between Indigenous nations and Canada. For more than two centuries the manifestations of this relationship have run roughshod over the rights of Indigenous peoples, which has resulted in a massive stockpiling of power and privilege by and for the dominant society. Land has been stolen, and significant amounts of it must be returned. Power and authority have been unjustly appropriated and most of it will have to be reinstated. This will inevitably be very upsetting to some; it will be incredibly inconvenient to others. But it is what needs to happen if we are to create a more just and sustainable life in this country for the bulk of Indigenous communities, and for the majority of non-Indigenous people as well (p. 168).

Continually oppressed, assaulted and constructed as the non-human other, we face difficulty in reclaiming our rightful places. Reclaiming our cultures (whatever that may mean to us), laws, governance and ways of responding to wrongdoing is essential to rebuilding our confidence and abilities. We must not accept the hate inflicted upon us by peoples who do not want to be held to account for the actions of their ancestors from which they continue to benefit. Instead, we continue forward remembering the incredible strength of our ancestors and those whose lives were lost to colonial harm.

I reject the use of the term reconciliation; it assumes we are ready to forgive and move on whilst holding hands skipping down the street with our oppressor. It disregards the ongoing and intergenerational impacts of the *Indian Act*. This is only one of the multitude of reasons we as Indigenous peoples, need to educate ourselves to combat the government's attempt at a simple and easy solution.

We must move towards decolonizing our institutions, Nations, communities, and minds. Monture-Angus (1999a) defines decolonization as "a state of being free from responding to colonial forces" (p. 73). It involves regenerating our unique ways of

existing in the world. The definition of decolonization that guides this research is Gam yen asing *k'aa.ngasgiidaay han hll guudang Gas ga* which translates to *I will never again feel that I am less than* (Betty Richardson, Skidegate Haida Immersion Program [SHIP], 2019). Victor (2007) notes that an “important part of the decolonizing journey is to come to understand the colonial process” (p. 6). On a structural level, Monchalin (2016) suggests that decolonization requires “a conscious engagement with colonial structures, ideologies and discourses,” as well as an “active resurgence” against those same structures (p. 293). She further suggests that this process involves asserting our self-determination, our rights and title and ways of being it means having the “conviction and courage to be who we are” (Monchalin, 2016, p. 293). My assertion of our inherent right to Haida justice, albeit within the confines of a colonial institution, is itself a decolonial act.

3.1.2. The Right to Justice

The United Nations Declaration on the Rights of Indigenous Peoples [UNDRIP] was a significant step forward in terms of international recognition of the right of Indigenous peoples to govern their own lives and determine their futures (United Nations [UN], 2007). UNDRIP recognizes the right of Indigenous peoples to self-determination and the development of their ways of doing and being in the world and includes the right to form their responses to justice issues (UN, 2007). The right to be self-determining Nations and develop political and legal institutions includes the capacity “to administer such programmes through their own institutions” (UN, 2007, p. 9). Canada was a reluctant signatory to UNDRIP, signing on in 2012,⁶ and has yet to live up to its obligations in any meaningful way under international law. The superficial adoption of UNDRIP in principle, allows the Canadian government to appear to address Indigenous rights while making no substantive changes. Similar to tactics of reconciliation and apologies, UNDRIP’s adoption has not led to a vital change in existing systems. Green (2011) suggests that the inability to meaningfully adopt UNDRIP is problematic in that it should not be seen as something to aspire to but as law. Proclamations around adopting

⁶ One of four Nations to vote against UNDRIP in 2007, finally becoming the last to express guarded ‘support’ in 2012. A private members bill (Bill C- 262) was passed in 2018 that sought to oblige Canada to follow the principles contained within the UNDRIP however, it effectively died on the order paper when the election was called in November 2019. As of this writing it has not been re-introduced.

UNDRIP have mirrored the government's public image of reconciliation rhetoric, apology and lack of action. However, as a signatory of the UNDRIP Canada is obliged to abide by its terms.

The rights and recognition within the UNDRIP provide hope for a future free from colonial harm and an obligation to de-construct colonial forces and implement real ground-up solutions. Green (2011) notes that UNDRIP also “condemns all doctrines, policies and practices” that it deems to violate the rights of Indigenous peoples as well as those that are “racist, false, unlawful, immoral and unjust” (p. 12). This condemnation has been seemingly ignored by Canada as exemplified by the *Indian Act's* continuing existence, as it still includes the term Indians, and continually regulates Indigenous peoples' lives.⁷ The atrocities that Indigenous peoples face in Canada are ongoing through child apprehension, substandard housing, isolation, poverty, high rates of mental health and suicide, abuse by state actors, etc. (Monchalin, 2016; Monture-Angus, 1999a; Palmater, 2016; 2018). These social ills all stem from imposed laws, legal systems, policies and colonial control (Coulthard, 2014; Monchalin, 2016; TRC 2015). Regardless of UNDRIP's condemnation of colonial systems the inherent racism that permeates Canadian society and governance is continually perpetuated with little redress. Canada must be held to account as a signatory to UNDRIP and take steps towards supporting self-determination among the Indigenous Nations that preceded its existence.

Various inquiries, investigations, and organizations have also called for the Canadian government to support the formation and implementation of independent justice systems and sovereignty. The Royal Commission on Aboriginal Peoples [RCAP] (1996a, 1996b, 1996c) recognized that the inherent right of Indigenous peoples was violated through imposed governance and that justice is an essential component to the reclamation of those rights. In particular, RCAP (1996c) notes that Indigenous Nations and communities hold the knowledge and capacity to resolve their justice issues. This capacity may have been suppressed, but its recent resurgence is symptomatic of important steps towards post-colonial relations and self-determination. In its examination and research into historical and continual ramifications of the residential school system, the Truth and Reconciliation Commission [TRC] (2015) made recommendations that

⁷ The *Indian Act* is generally considered a necessary evil and its existence is contested.

were in support of Indigenous Nations sovereignty. TRC (2015) call to action 42 calls upon all levels of government “to commit to the recognition and implementation of Aboriginal justice systems” (p. 325). The TRC (2015) further suggests that justice is a component of the right to self-governance and self-determination as peoples. The right is also recognized for sovereign justice systems to have their own laws, values and ideological underpinnings (TRC, 2015). Despite Canada’s reluctance to implement UNDRIP, British Columbia has taken steps in this direction by passing the *B.C. Declaration on the Rights of Indigenous Peoples Act* to bring the province in alignment with the TRC recommendations (Government of British Columbia, 2019). It is yet to be determined what B.C’s adoption of the legislation will mean in reality. The power that the state gave itself to control, criminalize and imprison Indigenous peoples blatantly ignores their jurisdiction while usurping their rights as sovereign peoples.

The right to self-determination has also been recognized as important by the Department of Justice itself, however, this recognition is currently situated within a political and social climate in which Indigenous peoples are still subject to Federal control (Borrows, 2016). The Department of Justice Canada (2018) recognizes Indigenous self-determination and governance while continuing our ongoing marginalization and subjection to the *Indian Act* and other colonial regimes. The Department of Justice offers financial support for some Indigenous-run initiatives. However, they are subject to the department’s approval and subsequently their value-system (Monchalín, 2016). This funding maintains the hierarchical relationship that puts Canada’s ideologies, laws and governments first, and Indigenous peoples subsequently fall “under the umbrella of colonial structures and policies” (Monchalín, 2016, p. 312). This funding scheme is a missed opportunity for real and meaningful support for Indigenous-led justice systems. As Palys (2004) noted, “the federal government still holds all the money, still sets all the priorities, and still effectively tells [Indigenous peoples in Canada] what their justice systems can look like” (p. 2). Fifteen years later, this is still true today. By not acknowledging Indigenous peoples’ right to be truly self-determining the government continues to undermine those rights.

As previously stated, the Constitution Act (1982) was seen as an important step forward towards real change in Nation-to-Nation relationships. However, it has not led to the structural and systemic change that many had hoped would occur (Borrows, 2017). Alfred (2015) suggests that the constitution was “a lost opportunity” for Canada to

meaningfully implement Indigenous peoples' rights as self-determining (p. 4). He notes that "the state, instead of reorienting itself to reflect the older vision of a nation-to-nation relationship, looked at 1982 as an opportunity to assimilate indigenous people into the colonial policy" (Alfred, 2015, p. 4). Thus, regardless of recognition under the Constitution Act, the freedom to implement self-determined systems has been repressed. The assimilatory tactics entrenched in Canadian legislation are determinative of the colonial goals of control. The Nationhood of Indigenous peoples is often misrepresented or misunderstood by Canadians who have adopted wilful blindness to our existence. Despite some wins in court and subtle changes to existing legislation, little meaningful change has occurred.

3.2. Indigenous Justice Systems

A brief examination of Indigenous and restorative justice is necessary to facilitate understanding of the need for Haida justice. Out of recognition of the damaging effects of Canadian institutions and their active role in perpetuating harm against Indigenous peoples, there has been a rise in the number of Indigenous-led justice initiatives. The movement for Indigenous self-determination includes the reclamation of our own diverse ways of doing justice. Just as the term Indigenous ignores the diversity of varied Nations and communities it is commonly held that "there is not, and hopefully will never be a single definition of Indigenous justice" (Victor, 2007, p. 15). Pan-indigenized justice programming both serves to undermine the reality that we are distinct Nations and promote assimilation into a more manageable homogenized group. Asserting our sovereign ways of responding to injustice is meaningful and provides the most hope for real institutional change. Lastly, as Victor (2007) suggests we need to resist the "overwhelming colonial habit of trying to fit Indigenous concepts of justice into a colonial framework...we deserve better and much more than" these co-opted, pan-indigenized programs (p. 16). The development of independent justice systems is within our rights as self-determining peoples.

The incorrect conflation of restorative and Indigenous justice is problematic and may hinder efforts to enact our ways of responding to wrongdoing and is thus worth addressing briefly. Restorative justice (RJ) and its' myriad of iterations and programming have appropriated various aspects of broad-sweeping indigeneity. This appropriation is evident within RJ programming, practices and marketing materials (Andersen, 1999;

Tauri, 2016). The holistic, romanticized version of co-opted indigeneity that is often exemplified within RJ may also perpetuate existing stereotypes disregarding the diversity in responses to wrongdoing that exist among Indigenous peoples. The conflation of Indigenous justice systems with RJ is so prevalent that many people assume they are the same (Friedland, 2014). Tauri (2004) warns that this amalgamation of indigeneity with RJ is not limited to Canadian Nations and may have roots within other Indigenous cultures worldwide. RJ may thus, be yet another 'easy' band-aid solution to meaningfully addressing and supporting Indigenous justice systems.

A multitude of Indigenous cultures, communities, and Nations have taken steps to implement their responses to wrongdoing. Although these programs differ in myriad ways they are all responding to the ongoing impacts of colonialism (Nielsen & Brown, 2012). The importance of community to Indigenous cultures is another common element in those programs (Cunneen, 2011). However, I am less concerned with either restorative or 'Indigenous' justice, than with the resurgence of Haida responses to wrongdoing. Monture-Okanee (1994) posited more than two decades ago that regardless of recognition by the Canadian state, Indigenous "justice systems are already happening" (p. 230). It is within our power to resist the colonial state's dominance, oppression and laws by asserting our own responses to wrongdoing. We must not remain complacent with our subjugation and instead should more effectively assert our rights as sovereign Nations.

3.2.1. Haida Self-Determination

The gross dispossession of land, rights, and lineages through genocide and assimilative tactics of the *Indian Act* have caused a ripple effect impacting generations of Haida people. Anaya (1996) notes that these colonial regimes have resulted in utter devastation and disadvantage among Indigenous communities. Colonial dominance is ongoing through the subjugation and suppression of Haida rights, title, and recognition as a sovereign Nation capable of governing itself. Canada the colonizer has not slowed down. Instead, it utilizes more covert tactics to impose dominance. Public apologies provide smokescreens for the underfunding, imprisonment, and neglect of the rights of the varied Indigenous Nations or communities upon whose land settlers call home. The assertion of governmental, cultural, linguistic, legal and justice systems upon the Haida was done without their consent. Canada intentionally disregarded existing systems

(Green, 2011). Thus, Haida laws, governance and ways of doing justice were relegated to the periphery.

3.2.2. Haida Gwaii: the place, the people and the future.

Implementing Haida justice requires an understanding of the unique position of Haida Gwaii. Haida Gwaii is a remote group of islands located west of Prince Rupert and south of Alaska. The Haida Nation was split by an imposed border, and thus, there are also Haidas in Alaska (the Kaigani Haida). Haida territory crosses imposed colonial borders and “encompasses parts of southern Alaska, the archipelago of Haida Gwaii and its surrounding waters” (Council of the Haida Nation, 2019a, para. 1). Estimates of the Haida population before contact vary depending on the source. However, the population is generally held to have been in the tens of thousands with some estimates suggesting upwards of 30,000 (Collison, 2018). As a result of myriad diseases, the population fell to about 600 people (Council of the Haida Nation, 2019a). The impacts of genocide through imposed diseases have been devastating to the Haida community. Haida Artist Robert Davidson posits that regardless of having not forfeited rights to Haida Gwaii, survivors of colonial genocide “went on to face Canada’s Indian Act, which put them on reserves and governed their day to day lives” (as cited in Collison, 2014, p. 93). This control was further imposed through the carceral regime of residential schools, and the ban on cultural gatherings. However, like the many other Indigenous Nations across the land now called Canada, we have demonstrated considerable strength and resilience.

Haida Gwaii’s geographic location is also notable in that the remote islands with abundant natural resources have led to a unique understanding of the world. Swanton (1905) notes the inescapable interconnectedness present in all Haida life, “the entanglement of land and sea is much more extraordinary than any chart gives a notion of” (p. 16). This interconnectedness is a recurring theme in Haida oral histories and is perpetuated in modern-day understandings of the world (Williams-Davidson, 2012). A multitude of supernatural beings were responsible for the formation of the world as we know it and they had myriad ways of influencing Haida life. The reverence for all of Haida Gwaii and the animal and supernatural beings on our islands is evidenced by the role the natural world plays in our oral histories. Haida people are not seen as superior to the world around them. Belief in interconnectedness and reincarnation led to a

reverence for the natural world which is ongoing as is evidenced in modern-day political action to protect resources. This understanding of the world is exemplified in the belief that animals

may appear in...human form...sometimes, as in the case of the salmon, it is said that the animal-soul, on the death of its body, goes off somewhere, and is reincarnated; sometimes the impression is conveyed that some animals embody beings in human form, and some, which are the ones killed, do not (Swanton, 1905, p. 16).

Showing respect for the world around you is an integral part of Haida life, as the beings you encounter may be reincarnations of your *kuuniissii* (ancestors; SHIP, 2016, p. 305).

The isolated nature of the islands has fostered a strong sense of Nationalism. The Haida have occupied Haida Gwaii since time immemorial; however, the government of British Columbia has failed to “constitutionally [recognize] Haida ownership and resource use,” usurping Haida resources and lands without their consent (Borrows, 2016, p. 56). The imposed ideas of colonial powers around ownership and control disrupted existing systems. The Haida Nation formed its National government, the CHN to address the issue of title to Haida Gwaii, as well as rights and resources (Council of the Haida Nation, 2019b). The CHN has asserted Haida Title through various agreements, legal cases, political standoffs (Athlii Gwaii, Langara Island, etc.), and enacting policy (Council of the Haida Nation, 2019b). The Constitution of the Haida Nation’s (2018) mandate includes striving for “the full independence, sovereignty, and self-sufficiency of the Haida Nation” through protocols, and international agreements (p. 4). The assertion of Haida Nationhood is clear throughout the Constitution of the Haida Nation and other key documents.

This nationalism coupled with the ongoing Haida title case, National governance, and geographic isolation, reaffirm that Haida may be in a unique position among Canadian Indigenous peoples to assert sovereignty on multiple grounds. First and foremost, the Haida are self-determining peoples, as is true of all Indigenous peoples, and the UNDRIP now recognizes and reaffirms this principle. A second source employed by many Indigenous peoples involves the UN’s decolonization initiative, which dates back to the institution’s earliest years.⁸ While UN Resolution 1514 (UN, 1960a)

⁸ For further information see Chapter XI Article 73 of the UN Charter: <https://legal.un.org/repertory/art73.shtml>

reminded colonizing states of this principle and clarified that colonized peoples should have a choice between sovereign statehood, association or amalgamation (United Nations, 1960a, p. 29), the “blue water thesis” promoted by Canada (and others) and ratified by the UN through resolution 1541 (UN, 1960b) sought to limit this right to “non self-governing territories” that are both “geographically separate” and “distinct ethnically and/or culturally.” As Monchalin (2016) explains, an implication of this caveat to the UN’s decolonization initiative was that, “in order to be considered a truly self-governing entity (or one eligible for self-government through decolonization), a territory must be geographically separated from the colonial power by a substantial body of water, preferably an ocean” (p. 63). While this inappropriate restriction to sovereignty effectively limited the capacity of most Indigenous peoples in Canada to reclaim their Nationhood, the fact that Haida Gwaii is surrounded by the ocean on all sides and has proven its cultural distinctiveness suggests Haida may be uniquely situated to assert our independent sovereignty under the decolonization initiative as well.

Uncovering and re-formulating a Haida way of doing justice will not be without its trials and tribulations but reclaiming our sovereignty would be well worth the battle. The longer we spend trying to assert our rights within colonial institutions the more harm they will continue to inflict upon our lands, peoples, and resources. Building capacity and preparation are important but we must hasten towards community-based engagement around self-determination to facilitate real change. Our understanding of Haida law, values, and cultural understanding continues to be strengthened. These principles may form the ideological underpinning from which Haida responses to wrongdoing can be formulated. Victor (2007) posits that the assumption of Indigenous cultures and Nations as stagnant is based within and perpetuates euro-centric thought, hindering progress. Kline (1994) calls this the “ideology of static Indianness, [which] represents First Nations culture as static across time” perpetuating stereotypical and unchanging notions of homogenous indigeneity (p. 455). The Haida Nation is uniquely situated to discard the hegemonic, hierarchical imposed system and assert our right to reclaim our ways of doing justice.

Chapter 4.

Moving Towards Sovereign Justice

Law, legal systems, governments, and politics are subject to change over time. Napoleon (2014) posits that to function as it should, the law must adapt to “new contexts and circumstances” (p. 139). The Canadian state constructs self-determination as a lofty unrealistic dream that cannot exist in parallel with the Canadian system. Regardless of their recognition or lack thereof, “multiple [Indigenous] legal systems” are already operating “simultaneously.” However, they are not considered parallel to colonial state-imposed law (Yoon- Maxwell, 2019, para.1).⁹ Although these systems exist, they have been dismantled, suppressed and ignored or, have not been meaningfully recognized (Victor, 2007). However, as Napoleon suggests, there is a potential to strengthen Indigenous legal systems so that they can exist parallel to Canadian systems (as cited in Yoon-Maxwell, 2019). Taking steps towards revitalizing sovereign justice and implementing Indigenous laws is not only possible but an important step towards self-determination.

Indigenous legal scholars such as Napoleon and Borrows disrupt and call into question the state’s assumption of colonial superiority. Borrows (1999) suggests that the extinguishment of Indigenous peoples/Nations rights, systems, laws, and ways of beings at the hands of the Canadian government constitutes a violation of the rule of law, by usurping existing systems and undermining Indigenous peoples’ rights. Borrows (1999) notes that this “extinguishment of rights... represents a failure to fully extend the rule of law to Aboriginal peoples” (p. 25). The most pervasive barrier to our assertion of what is rightfully ours is our self-doubt. Our colonizers did not stop to question their authority over us, and we should not accept imposed inferiority. As Borrows (2016) posits, there exists a clear potential for Indigenous peoples to govern themselves through “broad civil

⁹ An example of egalitarian multiple justice systems exists as Quebec operates under its own civil code. This is a case in which the National government has recognized the existence of multiple legal systems (Monture-Angus,1995). Whether or not Indigenous legal systems could be recognized in a similar manner or whether Indigenous justice systems should be completely independent of the Canadian system warrants further exploration.

and criminal legislative and adjudicative powers...[on]...their homelands” (p. 41). It is time to realize our potential and move towards sovereign systems.

Nationhood, self-determination, and sovereignty will remain out of reach until we begin to imagine and subsequently create a life free from colonial control. Justice is an important component of any self-determined peoples. Cunneen (2011) notes that instead of “seeing Indigenous claims as a problem, a postcolonial vision might see the potential fragmentation of centralized criminal justice systems as an opportunity for progressive change and development,” that more adequately responds to the over-criminalization of Indigenous peoples (p. 314). We must resist the colonial tendency to “[carve] out a small and dependent space for Indigenous peoples” within existing systems and to suppress the potential for sovereign ways of doing justice (Alfred, 2009a, p. 82). Victor (2007) suggests that “if we truly are sovereign Nations... then we need to start acting like it... we have a right to live according to our own cultural beliefs, traditions and cultures” (p. 17). Negotiating with, challenging and contesting existing systems is not only possible but vital to our reclamation of self and place in the world.

4.1. Sovereignty is a logical next step for the Haida

Today, the Haida Nation has a National government (the Council of the Haida Nation, CHN), governing documents (the Haida Accord and the Constitution of the Haida), and law-making body (the House of Assembly or HOA). Williams-Davidson (2012) notes that the “governance structure set out in the Haida Nations constitution is what may be described as an inverted governmental structure, with the land at the top. Immediately below are the citizens of the Nation who hold the law making authority” (p. 624). The importance of the land and waters of Haida Gwaii are woven into our oral histories and law. The Haida Proclamation is as follows

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

This statement expresses the Haida reverence for our culture, lands, waters and ancestral home.

The resilience of the Haida coupled with the aforementioned affirmation of Nationhood means we are uniquely situated to assert the right to respond to our justice issues. As was mentioned, the focus of the Haida Nation and CHN has been rights and title litigation. A significant element of being a self-governing Nation involves having our own ways of responding to wrongdoing. CHN's governance includes a legislative body (the HOA), in which Haida citizens have the opportunity to pass laws and decide on policy through direct democracy (Council of the Haida Nation, 2019c). Presently, there is no justice branch of the Haida Nation. Article 15 of the Haida constitution outlines a "judicial tribunal" process for dispute resolution. However, the nature of such disputes is not defined and to the best of my knowledge, a judicial tribunal has never been held¹⁰ (Constitution of the Haida Nation, 2018, p. 13). Whatever Haida justice means falls within CHN's mandate as a sovereign governing power, capable of enacting its own laws, policies and any other component necessary for its functioning.

Determining our own way of doing justice is integral to our self-determination. If complacent with imposed colonial power over us, we will not move forward. Rejecting the assertion of Canadian justice systems and reclaiming our systems is a decolonizing act. Reparation of the harm, trauma, genocide and incredible pain we have felt as a Nation will not occur within an imposed foreign system. We cannot continue to allow our colonizers to control our lives and determine our futures. We must utilize all pathways to self-determination including asserting our right to Haida title, negotiating agreements to protect Haida Gwaii, and hopefully implementing recommendations for the formation of Haida justice. It may seem ambitious to pursue a Haida way of doing justice, but we are nothing if not resilient and ambitious people. Being Haida involves carrying a responsibility to uphold and protect Haida Gwaii. Colonial education has taught me about the massive destruction and carceral, cultural and actual genocide that Canada has inflicted upon Indigenous peoples through its' imposed justice system. My Haida education has revealed to me a different way of understanding and being in the world, a passion for protecting Haida Gwaii through all means necessary. The responsibility that I have is to tie my Haida cultural and western education together to further the application

¹⁰ The Constitution of the Haida Nation is a living document and thus, subject to change.

of Haida values and law and pursue tll yahda (*justice, translates to make things right*).¹¹ for my people. The understanding of Canadian systems, ways of thinking and being that I was both raised in and studied in post-secondary are essential to disrupting those systems and asserting Haida sovereignty. By taking ownership of our justice system we can work towards shedding years of colonial oppression. Tll yahda is an essential component of our Nation's self-determination. Haida Gwaii inspires and drives my passion for tll yahda.

4.2. Haida Kil yahdas¹² & Xaaynang.nga kuuyada¹³

Haida resistance to colonial power demonstrates resilience and tll yahda. GwaaGanad, Diane Brown outlines some of these values when she says,

The creator and the ancestors hold you very accountable. If I disrespect seafood or something else, I know I'd be in a lot of trouble. Not only me, my whole family. My mother said you have to be so careful, because your actions will have bearing on your children and your grandchildren and everybody to come after. So how you conduct yourself is very important. My first lesson on anything was respect for all things (as cited in Collison, 2014, p. 111).

This statement exemplifies many key values and ways of being in the world. Accountability is integral to Haida way of life and you are not only accountable for yourself but your family as well. Yahguudang (*respect*) is perhaps the most important Haida xaaynang.nga kuuyada (*life value*) from which all other Haida Kil yahdas flow. This statement is also evidence of the Haida belief in interconnectedness and balance. Old Haida society was highly structured and when you did something wrong by violating Haida law such as taking too much seafood, you would be held accountable. As Haida people, we uphold a responsibility to honour ourselves, families and clans and to protect Haida Gwaii.

¹¹ The Haida word for justice is tll yahda (in Skidegate dialect) and translates to make things right.

¹² Law (Golie Hans as cited in SHIP, 2016, p. 475).

¹³ Xaaynang.nga kuuyada translates to life values (Betty Richardson as cited in SHIP, 2016, p. 968).

Haida oral histories preserve Haida ways of seeing the world and exemplify the ideological foundations of our culture. Williams-Davidson (2012) outlines how Kil yahdas flow from these oral histories:

Raven's 'travels' involve constantly striving to balance what he would like to be with his true character. For instance, Raven would like to demonstrate the characteristics of those who are "yah Gid" (one worthy of respect) by eating little, thereby keeping food for others, but instead he is insatiable and avaricious. Therefore, we learn that our personal journey and challenge is one of striving to find balance in our lives-between greed and benevolence, ego and selflessness (p. 622).

Interconnectedness and reciprocity between all beings are foundational Haida laws. Resisting the imposed colonial system demonstrates what Alfred (2009a) calls "an inner strength greater than that of the Nations that would dominate" us (p. 58). This resistance, strength, and resilience are exemplified in the continual assertion of Haida laws and principles in CHN and Haida Nation documents and policies. Reciprocity is illustrated in the following story recorded by Swanton (1905)

A little girl gave food to a Raven and was given some in return. One day she lost her way, and was met by two good-looking men, who took her to a Raven town. While there, the Ravens learned that a whale had drifted ashore at Rose Spit. Then, to reward her, they gave her a great deal of food; and her people, going out one morning, found her sitting in the midst of this in front of her father's house. She also told them about the whale, which they found and cut up. Through these things her father became a rich man (p. 194).

While this unique way of thinking about the world around us is still present in the Haida community, work needs to be done both to learn and subsequently to educate the current generation around Haida Kil yahdas, Xaaynang.nga kuuyada, and TII yahda.

Haida resource protection, governance, and agreements to protect Haida Gwaii are demonstrative of Haida Kil yahda. As Haida peoples, we hold a responsibility to care for Haida Gwaii and its waters. Haida Gwaii is essential to who we are as a people, on Haida Gwaii our culture surrounds us. It is the trees blowing in the wind. The sound of an eagle swooping down to catch a fish. Children's laughter and singing. Haida dancing and potlatch. Culture is the smell in the air when the seasons are changing. It is everything we do, and everything we are. The words you say to a salmon when you hold it in your hands and the feeling of both sadness and gratitude that you feel as it takes its last breath. Our passion to protect Haida Gwaii aligns with protecting our culture, way of life, and asserting Haida Kil yahdas. Often in asserting Haida Kil yahdas we are in direct

opposition to the law of our colonizers whose greed and imposed superiority seem to reflect their culture. Haida Gwaii is home to our kuuniissii (ancestors), whose spirit surrounds us as we assert their laws and ways of being. When we take steps to assert Haida Kil yahdas and protect our homeland we are preserving our kuuniissii's resting place. Violations of Haida Kil yahdas are thus violations of who we are as a people.

A further exemplar of the interconnected nature of Haida law, values and ways of being is the interrelationship of Haida Kil yahdas and culture. Understanding how Kil yahda and culture are intertwined may be essential to understanding the resolution that should stem from wrongdoing. Culture is not limited to art and song but is present in everyday interactions, food gathering and preparation, it is everywhere in the Haida community. Haida Kil yahda demonstrates that we can uphold and sustain our culture and unique place in the world. Collison (2014) explains the importance of Haida art noting that "it affirms and honours our inseparable relationship to, and dependence upon, the lands and waters of Haida Gwaii. It reminds us of our place in the world" (p. 2). The western critique of non-written law ignores the role that Haida art plays as a record of lineage, law, oral history, and values. Haida Kil yahdas cannot be understood or interpreted without culture and vice versa.

There is no one way of practicing or learning about the culture. For some it is delving into oral histories, for others, it is fishing or food gathering, or speaking the Haida language, and for others, it may be a walk in the forest or along the ocean. Guujaaw explains the diversity within Haida culture in his box of treasures statement:

And know that Haida culture is not simply song and dance, graven images, language or even blood. It is all those things and then...waking up on Haida Gwaii anticipating the season when the herring spawns. It is a feeling you get when you bring a feed of cockles to the old people, and when you are fixing up fish for the smokehouse, or when walking on barnacles or moss. It has something to do with bearing witness when a falcon takes a seabird, and being there when salmon are finishing their course. Along the way, you eat some huckleberries, watch the kids grow up, and attend the funeral feasts. And then there is the matter of dealing with squabbles within, and the greater troubles that come to us from the outside. It is about being confronted with winter storms and trying to look after this precious place. All that we say is ours is of Haida Gwaii (as cited in Swanton, Enrico and Council of the Haida Nation, 1995).

The Haida laws of respect, responsibility, reciprocity, and balance are exemplified in this statement. Our identity as Haida peoples is intricately linked to the land itself. The

reciprocal relationship between Haida Gwaii, culture and law are evidenced in our art, stories, and efforts to protect Haida Gwaii from exploitation.

Haida culture is also interwoven with Haida Kil yahda through 'Waah!Gahl (*potlatch*) (SHIP, 2016, p. 632). 'Waah!Gahl, kihl yahda Gan id t'l'aa iijii *the potlatch is our legal system* (SHIP, 2016, p. 632). The Council of the Haida Nation (2005) suggests that "our stories, songs, dances and crests are displayed through the ancient traditions of feasting and potlatching, where prestige is gained through the distribution of property" (p. 4). The potlatch could play a role in Haida justice as it has been utilized both historically and in modern-day to make things right when wrongdoing occurs. Haida art and culture also plays an important role within the potlatch system.

Haida people are ocean-going, the ocean sustains us, it nourishes our bodies and feeds our souls. When environmental threats arise such as current concern regarding liquefied natural gas (LNG) pipelines and shipping routes, and the previous fight against Enbridge's Northern Gateway Pipeline we band together with our allies in opposition. The Nation as a whole has taken many public stands against destructive resource exploitation, an injustice that violates Haida law. Haida law has been utilized to remedy such situations or to tll yahda (make things right). For instance, the Yahguulanaas Janaas used potlatch and the clan system to strip two hereditary chiefs of their titles for going against their clan and supporting Enbridge (Lee, 2016). This illustrates the extent to which the Haida will go to make things right when Haida law is violated. I watched proudly as my friends used a royal visit to stage a respectful silent protest against LNG, garnering International media attention (Macdonald, 2016). More recently, the Haida have publicly supported the Wet'suwet'en and Unis'tot'en in the protection of their lands and waters from a myriad of oil and gas pipelines. A press release from the Council of the Haida Nation (2019) notes that the Haida Nation are "allies in this commitment to defend our lands and waters...the proposed Coastal GasLink project could result in LNG tankers travelling through Haida territorial waters. Their stand is our stand, and together we have great strength" (para. 3). The main violators of Haida law are Canada and British Columbia; our colonizers disregard our jurisdiction, law, and culture and seek to exploit our lands and waters. If our land and waters are unhealthy, then so are we as a Nation. This exploitation and resource extraction is a continuation of genocidal colonial tendencies. If our colonizers continue to denigrate our homelands they will deny our children the ability to experience culture, to

practice Haida law and to understand our place in the world. An understanding of Haida culture, law and conceptualization of justice requires an understanding of how intertwined they are with our responsibility to protect Haida Gwaii.

This thesis will focus on identifying the next steps that will be involved in the creation of a Haida Tll Yahda system including the Haida understanding of justice, how a Haida justice system may respond to violations of western criminal law and Haida law, and revitalizing Haida tll yahda. In a preliminary project on visions of tll yahda (McGuire, 2019) participants discussed issues around domestic violence, drug abuse and theft that will be further explored in this research. Potential solutions and ways in which a Haida system may respond were examined- suggestions included community accountability, apology with witnesses, and pathways to retribution. The reaffirmation of a Haida justice system could both establish new and utilize existing institutions and structures. For instance, the CHN, as the Haida National government could be involved or establish a partnership. Additional structures that will need to be created are written policy and law, specific values under which the system will run, and operational procedures as required. The present research will offer in-depth analyses of the role Haida tll yahda could take in criminal cases and potential repercussions for wrongdoing. This thesis will explore the research questions: What does justice mean to the Haida? How could Haida conceptions of justice be implemented in modern-day?

Chapter 5.

Research Methods and Ethics

Moving towards decolonization involves rejecting colonial superiority in favour of reclaiming and reformatting Indigenous ways of being in the world. Research and academia have long been a colonial force that has subjugated, appropriated and oppressed Indigenous peoples. Often research has little to no benefit to the Indigenous communities or peoples being researched (Simonds & Christopher, 2013), while Indigenous peoples continue to be “some of the most researched people in the world” (Antoine, 2017, p. 114). There has been a surge of Indigenous and settler/ally academics who made clear the necessity of decolonizing the research enterprise. Along with calls to decolonize academia, there has been a proliferation of Indigenous research methodologies. Some of these methodologies are based upon principles that are deemed common amongst Indigenous peoples in North America. Others affirm more Nation or community-specific research principles (Kovach, 2009). This chapter will provide an examination of strategies for decolonizing research, a brief exploration of Indigenous methodologies, and an explanation of the rationale behind methodological decisions and principles that guided the present research.

5.1. Decolonizing Research

Colonial forces have impacted how we see ourselves and imposed institutions have superseded Indigenous knowledge and ways of knowing. Simonds and Christopher (2013) define

decolonizing research [as] a process for conducting research with Indigenous communities that places Indigenous voices and epistemologies in the center of the research process. It critically examines the underlying assumptions that inform the research and challenges the widely accepted belief that Western methods and ways of knowing are the only objective, true science

while ignoring the pre-existing ways of knowing specific to Indigenous peoples (p. 2185). Simonds and Christopher (2013) further argue that decolonizing research does not always mean a complete rejection of western research methods but can require a re-framing of them as is deemed “appropriate and beneficial by the local community” (p.

2185). Decolonizing research from within a colonial institution and framework involves considerable attention be given to research decisions, centering Indigenous knowledge and balancing institutional and community ethical guidelines.

Decolonizing research further involves recognizing the role colonial research forces have had in devaluing and suppressing Indigenous knowledge (Smith, 2012; Victor, 2007). Colonial research protocols and knowledge systems have actively ignored Indigenous peoples. Kovach (2009) explains that “in the colonization of Indigenous people, science was used to support an ideological and racist justification for subjecting Indigenous cultures and ways of doing” (p. 77). The misuse and appropriation of Indigenous knowledge, ceremonies, and cultures by some Western researchers has led to a distrust of the research community as a whole (Wilson, 2008). Colonial research protocols would include research that has ignored community and cultural protocols, “disempowered communities...[and]... imposed stereotypes,” perpetuating existing feelings of disempowerment (Simonds & Christopher, 2013, p. 2185). Distrust of academic research is based on the perpetuation of such research protocols and projects that have devalued Indigenous peoples and knowledge in favour of furthering colonial understandings of the world (Cunneen, Rowe, & Tauri, 2017).

Research that fails to meaningfully engage Indigenous communities, amalgamates Indigenous peoples into one group, and rationalizes distancing through the promotion of ‘objectivity’ perpetuates harm through the silencing of Indigenous people. For instance, colonial research often uses “secondary data” without including the lived realities and perspectives of Indigenous peoples themselves or, engaging with Indigenous researchers (Deckert, 2016, p. 47). Relegating Indigenous peoples into an amalgamated statistic with no recognition of their Nationhood, community or cultural differences propels their dehumanization and silencing. Deckert (2016) suggests that if “academics predominately use research methods that exclude participation of Indigenous peoples, then criminology is effectively contributing to the marginalization of Indigenous voices on crime and justice issues,” in favour of getting published in reputable journals (p. 58). Cunneen, Rowe, and Tauri (2017) argue that colonial systems have continually ignored Indigenous perspectives. Evidence based research is important; however, contextual analysis, mixed-methods approaches, inclusion of Indigenous researchers and perspectives, and acknowledgment of limitations may result

in more effective research. Silencing of Indigenous peoples does little to remedy the reputation of research and perpetuates distrust.

As a result of the distrust of research there have been repeated calls to decolonize, indigenize and reclaim research. The prioritizing of Indigenous peoples, researchers, communities, and concerns is a key element of decolonizing research (Kovach, 2009). Reclaiming our ways of doing research has led to a myriad of understandings of Indigenous methodologies. Held (2019) suggests that

the next step in decolonizing research paradigms needs to be the co-creation of a multi-paradigmatic space from which both Indigenous and non-Indigenous researchers can undertake research at the intersection of Indigenous and non-Indigenous ways of knowing that is not only emancipatory and culturally adequate but supports the radical changes needed to advance true decolonization (p. 10).

Decolonizing research involves moving beyond the ingrained perception that western research is the gold standard in favour of creative, multi-disciplinary and culturally centered research methodologies.

5.2. Indigenous Methodologies

A myriad of Indigenous research methodologies have been re-formulated or constructed to better serve decolonial researchers. Most of these methodologies are either situated within or aligned with qualitative research methods (Singh & Major, 2017). There has been a progressive shift among Indigenous methodologies towards “using Indigenous paradigms as the foundation for research” (Singh & Major, 2017, p. 11). Smith (2012) explains the variation in Indigenous methodologies noting that they “are often a mix of existing methodological approaches and indigenous practices” (p. 144). Indigenous methodologies are varied but generally, centralize decolonial goals.

Indigenous research methodologies may be more broadly ‘Indigenous,’ or specific to certain Nations, cultures or communities. Kovach (2009) posits that in general, these methodologies show

agreement on the following broad ethical considerations: (a) that the research methodology be in line with Indigenous values; (b) that there is some form of community accountability; (c) that the research gives back to

and benefits the community in some manner; and (d) that the researcher is an ally and will not do harm (p. 48).

These ethical considerations seem to echo the sentiment of western ethical guidelines. However, the concern with Indigenous [in this case Haida] values, in particular, is what sets Indigenous methodologies apart. Indigenous methodologies overall prioritize respect for and consideration of varied Indigenous knowledges. They provide space for Nation-specific values and research paradigms that do not fit within western methodologies.

Oral histories are essential in terms of understanding unique perspectives, laws, and ways of being in the world. However, re-telling oral histories in a different language, writing them down, and attempting to interpret them may result in a misconstrued understanding of their meaning. Thus, Indigenous researchers need to be careful in their presentation and interpretation noting the intricacies of oral history, crediting knowledge holders, and treating stories with respect (Kovach, 2009). Oral histories and stories offer an important form of data that is often overlooked by western researchers (Hodge, Maliski, Cadogan, Itty & Cardoza, 2010). There is an essential part of communication that is lost when interpreting oral histories as written word – in the case of the Haida, they were meant to be spoken in the Haida language. Accordingly, it is important to consult with knowledge holders to make connections and ensure they are respected.

The centrality of respect and interrelationships is heightened in Indigenous research methodologies (Singh & Major, 2017). Cunneen, Rowe and Tauri (2017) suggest that the interrelationship and interconnectedness within Indigenous communities is a key difference between “ Western and Indigenous ontologies” (p. 71). This understanding of the world as interrelated and the belief that knowledge can be gained through ceremony, stories, the natural world and relationships is a unique component of Indigenous methodologies.

5.2.1. Grounded Theory

A grounded theory approach to research has commonalities with Indigenous methodologies that warrant brief consideration. A grounded theory approach allows for more collaboration between communities and researchers and the centralization of Indigenous people’s perspectives and knowledge (Bainbridge, Whiteside, McCalman,

2013). Redman-Maclaren and Mills (2015) posit that transformational grounded theory allows for the co-development of understanding through critical analysis of oppressive forces and the pursuit of social justice. Thus, elements of grounded theory overlap and provide support for Indigenous methodologies.

5.3. Haida Justice: Methodological Musings

Innovative, original research designs that are appropriate for Nation-specific research have begun to emerge. Bainbridge, Whiteside and McCalman (2013) suggest that such research designs should work towards “striking a balance between methodological rigor and the creativeness of the research design,” to ensure ethical and quality research (p. 276). Using Haida-specific values and principles to guide this research was essential to situating myself as a researcher and ensuring alignment with Haida ethical procedures. The present research was guided by principles of Indigenous methodology, calls to decolonize research, and the specific Haida values outlined below.

5.3.1. Community Member/Insider/Outsider

I do not consider myself an insider within my community, nor am I an outsider. I consider this methodological challenge an opportunity to decolonize myself. I approached this project as an opportunity to utilize reflexive practices to combat internalized colonialism and to ensure that I did not let these feelings impact the quality of my research. As a member of the community, I have a responsibility that goes beyond that of ensuring ethical research. Smith (2012) suggests that insider research “needs to be humble,” as insider researchers are fulfilling multiple roles at once (p. 140). To ensure allegiance to protocol and cultural understanding, I sought to rely upon “building support structures,” of friends, family members and cultural and community mentors (Smith, 2012, p. 140). Through establishing boundaries, and self-care practices, I believed I would be able to effectively balance my role as a Haida person and a researcher.

The challenge of grappling with these issues is that the practice of doing research forces us to both face, and effectively respond to, internalized colonialism. Singh and Major (2017) identify Indigenous researchers “who are newly exploring their Indigenous identity, and who find themselves negotiating a space that is between Indigenous and non-Indigenous and seeking a sense of belonging in their journey” (p.

12). Singh and Major (2017) suggest that the “ambiguities and tensions that can emerge in Indigenous research paradigms and methodologies make it a challenging field,” for researchers like myself who “have been disconnected from their... culture” for a myriad of reasons (p. 16). Out of recognition that I fit within what Singh and Major (2017) deem researchers who “have been disconnected from their culture” (p. 17), I also utilized ongoing communication with my supervisor and Haida mentor to combat these issues. Reflexivity was utilized through identifying or addressing the “limitations” of my research and utilizing multiple avenues to ensure my research was done with methodological rigor (Engward & Davis, 2015, p. 1532). I trusted these practices would allow me to manage my situated position as a researcher and a Haida person while ensuring all applicable ethical procedures were adequately considered.

5.4. Methodological and Ethical Principles

5.4.1. Centering community-knowledge

The Haida community is integral to deciding what Haida tll yahda entails and to situate its definition within our worldview. Haida justice is separate and distinct from western attempts to indigenize existing systems, restorative justice or attempts to fit Haida conceptualizations of the world into the settler colonial system. The knowledge to respond to wrongdoing and to form Haida tll yahda is available within the community. There are recognized knowledge holders and people whose political, legal and social involvement is and will be integral to the formation of a Haida justice system.

5.4.2. Involving Women

Women have been disempowered through colonial imposition and patriarchal provisions of the *Indian Act*. Indigenous women’s subjection to the margins, relegation as the unworthy victimized other and imposed inferiority, ignored the role they play within their communities (Monchalin, 2016; Monture-Angus, 1999a; Razack, 1998). An integral part of moving towards tll yahda involves upholding women’s interests and beginning the decolonizing task of bringing women into their rightful position as decision-makers.

5.5. Haida Methodology

The way we understand the world around us is influenced by our physical location. Although I have not lived on Haida Gwaii while I pursue my western education Haida Gwaii is my greatest teacher. Kovach (2009) notes the importance of being near or on our “traditional territory ...[as]...critical,” noting that “where we are, and the daily influences of our lives, shape how we think and write” (p. 52). Haida Gwaii is everything that motivates and inspires me. My physical location and connection to Haida Gwaii guided my actions and this research.

5.5.1. Xaaynang.nga kuuyada (*life values*)

The values that guide the present research operate as my ethical obligation, Haida methodology or paradigm, and as a form of self-reflection or guidance. Many of these principles were outlined throughout the aforementioned discussion of Haida values but still warrant examination in order to set the framework for my research.

Tll yahda (*make it right*)

As was mentioned earlier in the Haida language justice is understood as *make it right* or tll yahda. This difference is perhaps symbolic of the value differences between Haida and western understandings of justice. Tll yahda allowed me the opportunity to redeem myself if I mis-stepped in terms of protocol and to ensure that I went about research in a good way. Moreover, tll yahda is the goal that I kept in mind as I explored Haida justice; I firmly believe it is within our power to make right (tll yahda) the wrongs that have been done to us through reclaiming our rightful place in the world.

Yahguudang (*respect*)

Yahguudang guided every decision I made, interview I conducted, and the research related interactions I had with the Haida community. As has been illustrated, yahguudang is the core Haida value, it is intertwined with our daily lives, interactions with one another, and how we communicate.

Tilga k'aaysguuxan sGaw gang k'iiga (*the world is as sharp as the edge of a knife*)

Currently, we are at a crossroads as a Nation as we balance our right to be self-determining with the existence and colonial stronghold of the Canadian settler state. We are experiencing a shift towards adopting a Haida way of being within the world that effectively maintains our self-determination while continuing a Nation-to-Nation relationship with Canada. The capacity has been developing for the formation of Haida justice. It is time to strike a balance, to find a place for revitalizing our systems. Bell (2016) discusses this proverb as offering support for the re-interpretation of knowledge to foster understanding of Haida way of life, and that as Haida researchers we are “walking on an edge of a knife and that [our] thoughts and words need to be good” (p. 18). I believe this proverb is also applicable to the present work, in ensuring I balance my ethical obligations as a Haida person.

Ad kyanang kunGasda (*to ask permission first*)

I utilized my cultural mentors and the CHN to ensure allegiance with protocol, and that my research was conducted respectfully.

Gina 'waadluxan gud ad kwaagiida (*everything depends on everything*)

In conducting this research – it was important to remember to be patient. Haida culture and community, knowledge and ways of doing are often divergent to the western world in which I was raised. I cannot expect to assert my timelines and deadlines without taking the time to reflect, review and understand data. The interconnectedness of my research was strengthened by the pursuit of land-based knowledge by exploring Haida Gwaii instead of allowing my entire research to occur within the confines of a desk.

'Laa guu ga kanhlins (*responsibility*)

As was discussed previously I had a responsibility to my Nation, community, and culture to ensure that this research was done. This responsibility is cultural, personal and ethical. It is not something that I took lightly.

5.6. Ethics

This thesis was granted ethics approval through both the CHN's research ethics review procedure and Simon Fraser University's Research Ethics Board. All participants from my previous project (see: McGuire, 2019) agreed to have the transcripts from their interviews included in the present project.

5.6.1. The participants

I conducted follow up interviews with some participants who had been interviewed for a course project (Criminology 862) that was granted course-based ethics approval as minimal risk and published (see: McGuire, 2019). Given the limitations of that project, I had opted to assign pseudonyms to all participants. In the present research, participants were given the option after the interview was complete to utilize a Haida pseudonym, their English name, Haida name or, a combination of both. I reached out to the original group of participants to ask whether they wanted to be identified in this current project under a Haida pseudonym, their English name or their Haida name. Haida pseudonyms for all participants were chosen from the SHIP glossary. This shift towards utilizing Haida pseudonyms was done in order to work towards further Haida-izing and decolonizing this project. For clarity, where participants were identified under a different pseudonym in McGuire (2019), a footnote will be included denoting both pseudonyms at first reference.

Purposive sampling was utilized because it allowed for the sample and resultant data to be in line with the research questions and goals of this project (Palys, 2008). I wanted to interview a diverse group of Haida peoples who varied considerably in terms of their life experience, education, cultural and community knowledge. I sought participants who were willing and able to speak to me about Haida Tii Yahda and were interested in contributing their time to this project. Participants were contacted because of their cultural and community knowledge, interest in self-governance and justice or law, etc. Most participants were contacted either by phone or email with some initial contact made in person at community events. Some interviewees provided recommendations of people to whom I should reach out and I asked them to pass along my contact information.

The resultant sample included a total of 30 participants, 7 from the previous project, 2 of whom I conducted follow up interviews with, and 23 new participants. Participants varied considerably with 17 men and 13 women from the communities of Old Massett and Skidegate, some with roots in both communities. Two participants had roots in the Haida community of Hydaburg, Alaska. Ideally, I would have liked to speak to more participants from Hydaburg but making a trip to Alaska was not feasible at this time. In determining my sampling priorities I focused on the diversity of experiences, representativeness and perspectives that would offer guidance and knowledge. The resultant sample included: knowledge holders, Ga kaadllxaws¹⁴ (*leaders*), Kilslaay¹⁵ (*chiefs*), K'uuljaad¹⁶ (*boss ladies*), Nang gina sk'aadGadas¹⁷ (*student*), educators, artists, and movers, and shakers. They ranged in age, life experiences, and knowledge. As hoped, the resultant sample offered considerable insight into the multitude of perspectives on tll yahda within the Haida Nation.

5.6.2. The interviews

Semi-structured interviews were conducted, and a list of questions was utilized as a framework to guide conversation (see: Appendix). Interviews ranged from 1 hour to over 2 hours. The questions were open-ended, which allowed participants to have the “freedom to talk about what is of interest or importance to them” (Hesse-Biber, 2017, p. 112). After reflecting upon and transcribing the second interview I realized that context was needed for some participants before we began talking. As a result, I decided to begin each interview with a brief statement about the framework of this thesis re- self-governance as inclusive of the right to justice. This allowed for more understanding of the intent and direction of the project and a more relaxed and open interview. Interviews took place in participant’s homes, coffee shops, over the phone, and in community spaces. I opted to gift each individual with local items. These gifts included blankets, homemade jam or canned fish, handmade soaps and mugs, coasters, earrings, woven

¹⁴ Ga kaadllxaws translates to “leader (more than one leader)” (SHIP, 2016, p. 478).

¹⁵ Kilslaay translates to chief it is also used to “refer to a man that you have great respect for” (Ernie Wilson as cited in SHIP, 2019, p. 168).

¹⁶ K'uuljaad translates to “boss lady (esteemed ladies)” (SHIP, 2016, p. 119). They are also referred to as women held in high esteem, or matriarchs (if they are the oldest member of the clan) (SHIP, 2016, p. 519).

¹⁷ Translation by Golie Hans (as cited in SHIP, 2016, p. 833).

baskets, and blankets. All of these items were purchased on and most made on Haida Gwaii.

With the participant's permission, all interviews were audio recorded and hand-written notes were taken first to record consent and then subsequently throughout the interview. These notes allowed me to keep track of follow up questions and to listen closely to what participants were saying. I transcribed all interviews and stored them within an encrypted, password-protected container on my computer and backed up on an external hard-drive.

In this project, I opted to utilize reflexive practices in a Haida way. Many of the interviewees disclosed very personal and traumatic experiences. The trust that they have in me is because I am a fellow Haida. That trust is not something that I take lightly. I am incredibly privileged to have been able to do this research and to work with such resilient people. I often found that I felt lost and bogged down by the trauma that we all have endured. Kovach (2009) notes that reflexivity for Indigenous researchers involves the "inward reflection of the researcher," and it is very individual (p. 49). I opted to utilize the forests and beaches of Haida Gwaii as my time to process, reflect and work through my own emotions.

Although I am Haida, I was interviewing people whose life experiences were so divergent from my own that I often felt like an imposter. Hesse-Biber (2017) notes the importance of researchers utilizing reflexivity "as a tool to assist them with studying across difference," and finding ways to examine their positionality and challenge "assumptions" that may get in the way of their research (p. 134). Taking the time to reflect on my positionality as a Haida researcher, my place of privilege and oppression and the unique situation that I was in allowed me to find my way through and to come to understand how to navigate the unknown.

As I reached the end of data collection I sought additional advice on how to Haida-ize my research journey. I opted for more time on Haida Gwaii and participating in ceremony that felt right to me. Living here is not easy and it is filled with ups and downs, emotion, loss and tragedy. Nonetheless - there is nowhere I would rather be.

5.7. Data Analysis

Analysis began at the time of transcription as I re-familiarized myself with the content and began to make connections (Stuckey, 2015). A total of 32 interview transcripts were analyzed in NVivo 11- a qualitative analytic program- for data analysis. I utilized “inductive or open coding,” as it allows for the emergent themes to be “grounded in the data,” and representative of participant’s perspectives (Bernard, 2013, p. 524). The initial round of coding and re-coding was more literal with codes including things like background, abuse, potlatch, and healing. On the third and fourth rounds, I began to collapse and combine codes based on their similarities, saliency, and relevance to the research questions.

The amount of data provided for rich, meaningful insight into the research questions; however, making my way through it all in analysis became overwhelming and things became a bit “muddled” (Chenail, 1997, p. 4) along the way. To gain a better understanding of the data I utilized the ‘explore’ feature within NVivo to determine the frequency of codes and that information along with a re-examination of my research question, helped me to develop themes. The first themes and sub-themes were subsequently examined through a re-reading of the text and consideration of the best way to present the findings. This process took much longer than I had anticipated. Writing out my research questions and having them taped to my computer screen as I re-coded themes and subthemes allowed for direction and re-alignment to occur throughout the analysis stage. I continuously cross-referenced themes with the transcripts and research questions to ensure they were the most accurate and thorough representation of the findings.

The resultant 6 themes (and sub-themes), which will be examined in the following chapter, are as follows: T1) *I am sure there is some real value in adopting different principles [from old stories]; even from the harshest of lessons*¹⁸: Old ways of being and responding to Wrongdoing. T2) The impact of genocide: there can be no justice without healing. T3) Self-governance: *Haida Gwaii is a satellite village of Canada*¹⁹. T4) Resilience, resistance, and revival: *That is over 600 years of trauma in*

¹⁸ Gwaliga Hart

¹⁹ Captain Gold

various forms and we are expected to put it aside and get on with life²⁰. T5) Building capacity for TII Yahda: 100% sovereign is the dream...how will that look in reality?²¹ T6) Establishing TII Yahda: it is a huge piece of work²².

²⁰ Kii'iljuus

²¹ Gwaliga Hart

²² Michael Nicoll Yahgulanaas

Chapter 6.

Looking to the past: *Principles shift and change [over time]*²³

There was an overwhelming amount of valuable information shared with me that offers insight into Haida justice, conception of law and values, oral histories and other pertinent issues. However, the scope of this project was limited to a strict analysis of my research questions with other data to be utilized in subsequent projects on Haida justice. The findings contained within this chapter represent the most succinct account of the themes to address the research questions ((1) what does justice mean to the Haida? And (2) How could Haida conceptions of justice be implemented today?). In Haida way, answering questions is often not linear, stories are complex, overlapping, and often contain lessons that are continually unravelled upon each telling and reading. Thus, the themes presented below are all as intertwined as we are as Haida people with Haida Gwaii as Gwaliga explains: *Interconnectedness, keeping the roots intertwined as other trees grow up. There is strength alongside one another.*

6.1. *dive into stories that have a Haida justice portion to them...: Old ways of being and responding to Wrongdoing*

Oral histories were explored in light of multiple recommendations offered by participants from McGuire (2019) which are summed up well by Daamx̄aangang²⁴ as he explains: *really dive into stories that have a Haida justice portion to them [to garner a] thorough understanding of what those stories are telling you about justice...then try to adapt them [to today].* Fortunately, many of these oral histories survived and the “information [that] could not be passed down by traditional means was preserved through our ancestors working with westerners to record their cultural knowledge” (Collison, 2014, p. 93). The following sub-themes present stories and lessons that shed light on the past and offer potential lessons for the future. As Collison (2014) explains in sharing these oral histories with ethnographers “our ancestors ensured a door was left open for their children, an opportunity to strengthen our Haida way of life while at the

²³ Guudee gud dlaaya

²⁴ Pseudonym in McGuire (2019) was Ben.

same time succeeding in the contemporary world,” in which we now live (p. 93). Oral histories and old ways of being contain important lessons and offer a glimpse into our pre-contact existence.

6.1.1. Everything that our ancestors set forth, there was a damn good reason [Gwaaganad]

Participants shared a multitude of stories around: potlatch; wrongdoing; community; ceremonies; banishment, isolation, and abandonment; payment; shaming; interconnectedness with the natural world and Haida Gwaii itself as well as with supernatural beings; reparation and restitution. The punishments contained within these stories may have acted as deterrents for future misbehaviour. Another deterrent from wrongdoing was the community and clan system as its functioning was reliant on peaceful relations and reciprocity. *Kii'iljuus* notes the importance of community in olden times as she describes *our old ways tell us that we share, and we look after each other ... and so our clan system had that built into it*. Furthermore, Harrison (1913) suggested that “bad Indians [he was referring to the Haida] were all those that were unkind to one another, all who were quarrelsome, all who took property that did not belong to them, all who committed murder, and all who refused to obey the medicine men” (p.1). In other words, those who disrupted community functioning were looked down upon as ‘criminal,’ and treated as such.

Ceremonies were often done around food gathering and are representative of the interconnectedness between Haida peoples and the natural world. Dr. Woody Morrison shared one story involving the Haida community preparing for the salmon run:

[A]t the end of the ceremony all the bones, tails, head [and] fins were carried very gently down to the ocean and put into the water for more to come. And then once that was done you could fish for the whole year. They said this way the spirit of the salmon is going out and telling its relatives how good these humans treat us and then they will come back.

Haida peoples are not superior to the world around them and this belief was echoed in many of the stories shared.

Kihlguaans notes that many of the old stories have *a deeper meaning than the face value... that can be quite profound*. This is important to keep in mind- I cannot unravel all of the meaning contained within the stories shared with me nor should I be

expected to. The unknown, the uncovering is for us to continue to do as generation after generation begins to seek out, hear, and read records of oral histories. We understand them differently according to who told them, our knowledge of the Haida language, the context that we have in interpreting them, and our own life experiences. There is incredible value in these divergent understandings and the layers that we continue to unweave from our oral histories.

The role of Aunts and Uncles

Strict accountability was evidenced best in participants' descriptions of the role and responsibility of maternal aunts and uncles in olden times. As Jisgang describes *when a nephew did something wrong, in certain circumstances it was the uncle who was punished. It was his [the Uncles] responsibility to raise a person who would conduct themselves properly.* The role of the uncle was taken very seriously and not listening to one's uncle would be considered incredibly disrespectful and worthy of punishment. Jaskwaan explains this further when she recalled a story *where a boy is tied to a rock and drowns with the rising tide for not listening to his uncle.* The interconnectedness of the individual to his family, clan, and community is demonstrated by this repercussion. Jaskwaan sums up the importance of context in interpreting these stories when she states

I think the manner of the story can seem so unlike the loving culture that I know we have. There is this other sharp end to it where it was a life or death issue that the nephew needed to listen to the Uncle. Justice was doled out before the event where an entire clan or an entire family could have been killed because of the nephew's actions.

When one thinks of this kind of swift punishment in today's context the swiftness and severity of punishment are hard to reconcile, however, we must always be cognizant of the times in which these stories were recorded. The functioning of the community was dependent on a certain balance and calm that when disrupted could lead to turmoil.

Severe dealings in the form of justice²⁵

There was a multitude of stories shared that demonstrate Haida understanding of the world and the importance of community, balance and life lessons. As Captain Gold explains *the stories that I know about are an eye for an eye, severe dealings in the form*

²⁵ Captain Gold

of justice. Multiple participants mentioned that we had to pay when wrongdoing was done or alternatively, our families or clans had to pay. Some participants referred to this as blood payment in which *if you killed someone deliberately, you would go and sacrifice yourself (GaaysiiGas)*²⁶. Alternatively one of your family or clan members *would have to be sacrificed* (Jaalen). If somebody did not address or tried to defend someone else who did something wrong it often *ended up badly* (Guujaaw). This payment was not always life for a life but could include *giving up land or property (Kii'iljuus)*. Community accountability is divergent from the western world because *the whole clan is watching your behaviour* [and making sure that you behave properly which is] *often lost in western law* (Jaalen).

Dr. Woody Morrison posits that the stories that he had been privy to demonstrate that *everything was about balance, you might want to call it justice*. When there was a disagreement between clans and families the community would be out of Dllxaats'ii (*balance*; SHIP, 2016, p. 73). Dr. Woody Morrison shared a story in which a feud between two clans had reached a breaking point and they *decided to settle it*. Thus,

both sides sent men down to the beach to the low water mark and as soon as the tide started to come in they started fighting. And when the tide reached the highest level- whoever had the most still standing had won. In that case, both sides had one man left standing, so the issue was settled.

Often, settling disputes was done in potlatch as Captain Gold expressed in the following story: a woman's son had *drowned in a fishing accident in the territory of Chief Skedans*. [In return, during a potlatch Chief Skedans gave] *her a seagull egg nesting site* in order to settle the issue. Nang Jingwas shared another story that takes place in the village of Skidegate – *it was a Raven village and there was an Eagle woman and they were getting spruce pitch from a tree and the pitch fell into her eye and it blinded her. Then in retribution, the raven's gave up the village to the eagles*. Thus, payment was often offered to bring things back into dllxaats'ii (*balance*).

The punishment for wrongdoing was often done in public whether at a potlatch or a more informal event. *Tidansuu* shared a story that his old Uncle Willis White had passed on to him about a young woman who was a trouble-maker - her neighbours

²⁶ Pseudonym Jack in McGuire (2019).

became fed up with her antics and one morning they *got up really early and marched down to her house*. They woke up the other people in her house and

they grabbed the woman and took her to the beach at low tide. They stuck a stake in the ground that was sharpened at both ends and they stuck her on top of the sharp end...they slid her on there...and they left her like that. She screamed and screamed and screamed until the tide came up and over her and she drowned (7idansuu).

Gwaliga reiterated the same story as (7idansuu) and noted *that it would be really interesting to know the context of how that came to be and how they decided upon that punishment*. Michael Nicoll Yahguulanaas told a similar story of a woman causing trouble and subsequently being pegged²⁷ noting *that form of severe punishment was divergent from what he knew of Haida peoples and society*. This form of punishment was explained by Guujaaw who recalled a story about a young boy who was always getting into trouble and eventually he did something that *caused another child to be killed*. As punishment, they took him to the beach at low tide, pegged him there *and let the tide come up over him*. These stories are graphic, severe, and in today's world seem incredibly far-fetched, however, they were a sign of the times. When people disrupted community well-being and peace they were deemed deserving of the most severe punishments.

Through a colonial lens affected by the imposition of modern western notions of morality and justice, these stories seem far-fetched. It is important to note that western society has its own history of severe punishment for wrongdoing. However, the Haida (and other Indigenous Nations) were portrayed as immoral to serve the settler-state's interests (Palmater, 2019). Napoleon (2014) reminds us that one of the important things to remember is that as societies and peoples change so does their understanding of "law," and wrongdoing- "it has to be appropriate to new contexts and circumstances or it simply will not work" (p. 139). The world that we are living in today as Haida peoples is far different than how we lived in communal longhouses and this context is important when interpreting these stories.

²⁷ That had been told to him by Henry Geddes.

Banishment, Abandonment & Isolation

Participants discussed multiple ways in which banishment, abandonment, and isolation were utilized as punishment for wrongdoing. Some stories involved leaving someone alone to fend for themselves; a few allowed for redemption; and, others were around individuals being ostracized. Nang Jingwas recalled a story that his Chinaay (grandfather) Albert Jones had told him about a *very bad man who had killed someone* [and in return the community] *banished him from Skidegate*. [Subsequently, he and his family]...*relocated to Tlell*. This banishment meant that they were not that far away from their clan and community but were left to their own devices. Laanas describes how this must have felt when she notes *that [it] would be so awful not to be able to be included in your own community*. This ostracism would be a marker of your wrongdoing and would serve as a lesson for your community of the ramifications of poor behaviour.

Banishment was regarded as a rather extreme punishment – as Kii'iljuus notes *the highest form of making things right that you can do is your family deciding that you need to be banished*. Without appropriate resources or assistance from ones' family, clan, and community, *banishment was like a death sentence in some cases* (Tahayghen). Michael Nicoll Yahgulanaas shared a story that demonstrates women taking control of punishment for wrongdoing and a form of self-banishment. To punish a *man...who was a [sexual] predator ...the women of the village took devil club sticks with the spines on them and they whipped him in public and he moved out and lived at Tow Hill*. However, some of the stories included instances in which other villages took the abandoned individual in and allowed him to live on the outskirts of town.

An interrelated form of punishment included shaming done through art (poles, house posts, etc.). Gwaliga shared a story about a house post depicting two YaatsxaaydaGa (*Iron people/white/European people*; SHIP, 2016, p. 439, see Figure below) who had wronged the Haida and in return, they carved a depiction of them and would spit up at it every time they walked by. As MacDonald (2008) notes “figures of Judge Pemberton and the court clerk who put the chief of this house in jail in Victoria were added to the corner posts as figures to be ridiculed by passersby” (15:19m). He further explains that the chief had “been arrested and stood trial for drunk and disorderly conduct,” and once he returned home to Skidegate “he sought to erase the indignity of his imprisonment by having carved and erected on the corner posts of his house the

images of the two men...relieving the stigma of the chief" (MacDonald, 1983, p. 45). These two descriptions of the story are slightly divergent however, they shed light on the use of self-shaming or directed shaming in old times. Dr. Woody Morrison shared a similar story about the use of a shaming pole in Hydaburg, Alaska of a different government official. A more modern example of self-shaming through art was recalled by Gadgaas, Erika Stocker who mentioned an individual who was a *terrible pedophile for a long time* [had been working towards carving a totem pole and that she had been told that] *he was going to raise it in honour of the people that he had harmed as well as potlatch and gift them*, however, he passed away before the pole was complete. Thus, self-shaming offered another way to take accountability for one's actions. However, these instances were all guided by the individual taking full responsibility for themselves and trying to right their wrongs on their own.



Figure Grizzly Bear's Mouth House Model Figures. Photo: Bill Reid Teaching Centre Collection, Simon Fraser University. Reproduced with permission.

‘WaahlGahl (*Potlatch*; SHIP, 2016, p. 632).

The ban on the potlatch had specific implications for the Haida as the potlatch served as our government, social system, the place where disagreements were settled and made right, marriages occurred, births were celebrated, and deaths were mourned. As Swanton (1905) explains they were “the great event upon which a Haida’s social life turned” (p. 155). Participants mentioned a multitude of different kinds of potlatch or feasts that were utilized to right wrongdoing. These examples of different kinds of ‘WaahlGahl included: *saving face* [iihl ka jaad k’iinaas; Gadgaas, Erika Stocker; Kihlguaans]; *shaking hands* [GwaaGanad]; and *pick myself up* [Dr. Woody Morrison]. Participants further discussed ways in which ‘WaahlGahl and feasts could be utilized to right wrongdoings. As Gadgaas, Erika Stocker explains *I think they righted a lot of things in potlatches if somebody did something wrong you would have to make a public statement about it to tll yahda (make it right)*. She notes the importance of making payment publicly- *you had to pay people until the person or, the victim says that’s enough*. Payment is given to witnesses at a potlatch Guujaaw explains *if it was public and they wanted to end it they would agree on how they would do that. It usually meant property being given out- so again the people benefit*. This statement offers further support to the importance of community well-being.

The role of witnesses is another essential component of ‘WaahlGahl (potlatch) that is described by Kihlguaans as follows: *the witnesses are there...to make sure things are done properly, respectfully. [And to] show their agreement with what is happening...and there are ways of showing their disagreement too*. This role of witnesses and the importance of payment and doing things in public will be unravelled in the following sections. The importance of ‘WaahlGahl to community functioning in olden times is demonstrated by GaaysiiGas:

In the past hereditary leaders were naturally empowered through years of investment to govern and to make decisions that were wise and carried us through time without us killing each other. Without anyone getting too upset...Part of that governance is learning how to make necessary compromises you can’t always get 100% of what you want. There is bartering back and forth within the potlatch system and sometimes there is competition...in terms of whose word is going to be law. There is give and take within the system, but that flexibility also means you don’t have prisons or, police running around beating people up. You don’t have all kinds of problems...social problems; because

everybody feels good about themselves. You don't have addictions, all of that is gone.

Therefore, bringing forward elements of 'WaahlGahl may prove important to ensuring the strengthening of clan and community accountability.

Let the Kuuniissii (ancestors) guide us towards Haida Tll Yahda

It is absolutely integral to our justice system that it be...framed in our Haida ways. Let our [Kuuniissii] ancestors guide us, the way we did things, what we can gather from all of that to best understand how to build upon that framework. To keep that framework going as best as possible (Gwaliga).

Gidin Jaad spoke about the importance of learning and thinking in the Haida language she explained that she is *just the channel, I am just the voice of my grandmothers and ancestors...they are just working through me*. The awareness of having survived despite all that was against us and the resilience that has fostered within is incredibly important. As GwaaGanad explains: *every day the first thing we should always do is thank our ancestors who survived all of that for us. A handful lived, and here we sit. We could have been wiped out entirely*. Had I not experienced the power of my Haida kuuniissii I would likely be filled with a healthy dose of western skepticism that confines us to viewing the world through a colonial lens. Captain Gold shared stories of his time in SGang Gwaay Llnagaay and the power of the place and the kuuniissii around him:

I canoed across. I was racing a building storm when I was going over and trees at the entrance [to the village] were just bending over they were so strong. Right in the passage going into the village, there was a rock- kids were diving off the rock right in front of me. I didn't look at them I just moved over and then I went in further and I saw the rest of the village. What a powerful feeling, I will never forget that.

There is much to be learned from our kuuniissii and principles that can be brought forward from old ways to inform Haida tll yahda today. Palmater (2017) echoes this sentiment when she notes that "our ancestors are walking behind us as we revitalize our cultures and identities," and reclaim what is rightfully ours (p. 78).

6.1.2. Those were good laws, they might have been harsh at times, but they kept us going for thousands of years²⁸

Good old ways can transform and uphold so good laws can come forward to today and still be useful. That is a good law, and I believe that we have good laws and so keep that in mind as you work that those were good laws they may have been harsh at times but they kept us going for thousands of years, and we need to have order now. We need to be respectful, to take everything into consideration, to look after everything, all of those things that our ancestors were aware of we need those now (Kii'iljuus).

Guudee gud dlaaya described the importance of ensuring that old ways make sense in today's context and how divergent old ways can be from the imposed western ways of responding to wrongdoing- he notes that *both systems are very different, they came from different principles Haida's were here for themselves, and they had to administer justice amongst themselves*. [But it is important to keep in mind that over time] *those principles shift and change*. The importance of community is still prevalent and is something that can be looked upon for the reclamation of Haida justice. Jaskwaan explains

I think our Haida stories really show this tapestry that we are all a part of and thinking about the world like that is important because it helps us kind of become more of who we are as Haida people...We are here together. It is difficult because this modern society wants us to be individualized.

Ensuring community involvement and consultation as we bring forward and revitalize old ways is important to the achievement of the "ultimate goal of Indigenous self-determination over criminal justice" (Milward, 2008, p. 98).

The importance of community is interrelated with principles from potlatch which were discussed as having potential relevance to today's Haida Tll Yahda system. Payment, witnesses and having business done in public are all elements of importance in 'WaahlGahl (potlatch). Gwaliga explains *doing business out in front of everybody* [means that there] *is full transparency*. Gidin Jaad further notes the importance of oral histories: *every little lesson and word or phrase...seems to be rooted in some sort of teaching around yahguudang, respect*. The role of women within Haida society is demonstrated when one considers coming of age ceremonies and protocol. Gadgaas,

²⁸ Kii'iljuus

Erika Stocker notes that *we believed that women were so powerful that young girls [at the time of puberty] couldn't even look at the river [for fear they would impact the salmon run]. The whole household behaves in a certain way out of respect for that immense power...girls don't feel that power today, they don't feel that respect today. If we get our whole community to focus on that again, about how important that is there would be less domestic violence and abuse...less elder abuse...less child abuse and a more healthy, functional society.*

Rediscovering and reclaiming old ways cannot be done without an understanding of the impact of genocide on the Haida. The following story shared with me by Captain Gold illustrates the devastating impact of genocide:

Henry Geddes told me a story about the young people during the Smallpox epidemic who would visit every house, every day to look for victims, and they would gather all of the victims into one longhouse. Pack it with all kinds of fire material and burn the whole house at the end of the day. The young ones would eventually catch the disease of smallpox. Henry said it was really sad- he said all of the young ones that were doing that were trying to save the village, but they were getting sick. He said that when they got the sickness they went into the field behind the village and gathered in a big circle and sang all the songs they knew. Towards the end, they started dropping one by one. That was one of the ways of looking after the people I guess you could say, they sacrificed themselves trying to stop the smallpox.

6.2. The Impact of Genocide: There can be no justice without healing

The impact of genocide both in terms of the intentional infliction of disease; colonialism and its impacts on culture and community; and the ongoing impacts of genocide in terms of destruction of the land, peoples and impoverishment were discussed by participants as needing to be addressed before Haida tll yahda could be fully realized. Guujaaw explained that *the colonizing process involved [the] deliberate impoverishment of people. You're up against this thing that otherwise looks like a wonderful system that is put up to keep law and order; but yet, it is a dirty, rotten system.* Manuel (2017) argues that "our poverty is not an accident...it is intentional and systemic," and results in cycles of intergenerational impoverishment and criminality (p. 21). The systems that were imposed upon us through colonialism were implicated by

participants as the root cause of many of the issues the Haida community is grappling to overcome.

6.2.1. It is [all] just genocide²⁹: Genocide is ongoing...

Tahayghen explained how genocide is ongoing within our communities today:

I don't think there is any Native that ever agreed to the *Indian Act*. That is just another form of genocide written by cruel and evil people...their judicial system doesn't work for us it is made for the colonizers. It is not made for us. It is used against us. To have a couple of thousand missing women and girls- they act like there is some sort of evil genius that is going out and killing native women that the police are so stupid they can't find them. They know...who the perpetrators are yet they let them go in the hopes that they continue doing this. It is not just the woman or girl they kill...they killed all of the potential children that those women would have. It is a form of genocide- and then on top of that, it's like a double-edged sword because now the pain and suffering that loss has caused the family and community. They are hoping that they turn to drugs and alcohol to destroy themselves. It just goes on and on. Then if they ever do bring anybody to supposed justice after they have murdered so many people like Pickton they probably knew about it from day one. They make sure that he has lived his entire life out and has done all of the damage that he possibly could before they supposedly take him to justice. That is cruel. You would almost have to say that the RCMP [is] complicit in it and so are the government. It's all just genocide.

The ripple effect of trauma can be seen within the Haida community. As Skil Hiilans³⁰ explains *there are ...so many factors to people's traumatic experiences, it's not just rooted in residential school and that kind of historic trauma but continues today through the continuation of harm by the Canadian state and lack of reparation or healing for the trauma that we have all experienced*. However, our resilience should be celebrated as we move forward as Palmater (2017) argues in moving towards decolonizing ourselves and our communities we need to “withdraw from harmful government processes and relationships and re-engage in those relationships that have sustained us for millennia- with the land, the water, our people, and our cultures” (p. 77). Moving away from genocidal policies and practices is difficult to do within imposed colonial systems that are arguably complicit in our criminalization and death.

²⁹ Tahayghen

³⁰ Pseudonym was George in McGuire (2019).

Repercussions of the church and residential school are ongoing as they *taught generations of people that they were incapable and unworthy* (Jaskwaan). This often results in the internalization of feelings of being lesser than. K'iinuwaas explains this feeling of incapability limiting our capacity in that *you don't even know what it is that you can't do*, but self-doubt can keep us from trying. Tahayghen described the impact of residential school on his family: *it was so ingrained in us that our culture and our language were stupid and dying... residential school...destroyed the fabric of the families*. The perpetuation of intergenerational trauma has lasting impacts resulting in mental health, addiction, and criminality. Noting the impact of intergenerational sexual abuse Tahayghen further explains,

[W]hen I see young people committing suicide some of that is a direct result of that kind of abuse...at that point the perpetrator should be charged with second-degree murder or something because that abuse set the wheels in motion for these kids to turn to drugs and alcohol and self-destruct. It is also quite a delicate issue because some of these people have hidden this away in the back of their minds, they may not be able to handle the emotional trauma that will come with having it dragged out in front of them.

The hate to which we have been subject manifests in these outward symptoms of its internalization.

The importance of belonging was addressed by multiple participants in light of *Indian Act* gender discrimination and growing up as mixed blood. Moving forward we must begin to unravel the roots of the hate we have internalized and act to ensure that all Haida peoples feel a sense of belonging, culture, and identity. *That is probably...why our people get into the justice system even more so now because of that loss of identity or loss of belonging or confusion because it is so important to feel like you belong* (iihl ka jaad k'iinas). Community healing is necessitated because *bringing each other down is such a useless exercise that really does cement the colonialism that separated us* (Guudee gud dlaaya). It is important that we “forgive ourselves for being colonized and lay the blame properly at the feet of our colonizers” and stop the cyclical self-hate that holds us back (Palmater, 2017, pp. 77-78; Victor, 2007).

The impact of the anger, trauma, and pain that we collectively feel results in hurting ourselves and one another. *There is lateral violence or self-inflicted violence within the Haida community because people are grappling with the impact of*

intergenerational trauma (Kihlguulaans). Often this impact results in mental health issues and resultant self-medication and a cycle of self-harm and harming others. Sandlaneé Gid shared her experience with identity and cultural losses that stemmed from *being adopted* [out and not feeling] *a sense of belonging* within the Haida community. She explained that on her first trip to Haida Gwaii: *I put my feet in the water and... everything in my body relaxed...for people that are displaced and have gone through childhood trauma, we are always on this really heightened survival mode* (Sandlaneé Gid). The importance of Haida Gwaii itself, language, as well as the culture in its many iterations, was mentioned as vital to participants' respective journeys to health and healing. Jisgang explains *I think you can improve your mental health through culture because I have seen that happen with a ton of people. [But,] I don't think there is a prescription for it, it is very individual. For some people, culture might trigger them and make it worse.* The individual aspect of healing is important to keep in mind as we move forward as a Nation in our assertion of Haida Tll Yahda.

Healing from the abuses inflicted upon us is no small feat and to expect a severely traumatized peoples to heal themselves is further evidence of Canada's complicity in our suffering.

Number one is it is not just our responsibility to heal. There is really a big responsibility of the justice system of Canada to make things right and that means provide us with resources and capacity building tools- and this is kind of the catch 22 that we always run into...it is really kind of set in stone in the minds of the Canadian consciousness that Indigenous peoples are constantly taking, taking, taking things that they are not entitled to that they should just get on their own. But the reality is that- that is just what is needed because there is a real need for making things right on their end- they need to participate in this...It cannot be just that... the burden of making all of this wound heal from colonization be on Indigenous peoples the ones who are the most wounded. You go ahead and fix yourself you go figure it out, we know you are totally damaged but you're resilient. Yeah, we are resilient, we're still here, we are alive (Jaskwaan).

However, this healing is made more challenging by the fact that "Canada refuses to let go of its death grip on Indigenous peoples and our lands," and to make adequate payment for the harm they continue to cause (Palmater, 2019, p. 136).

6.2.2. Impacts of Genocidal Policies: Cultural, community and language losses

Most of what we do as a Nation is quite organic, based in old ways alternatively some of what we do is almost completely colonial (Jisgang³¹). With contact came systems that over-ruled the existence of Haida ways of doing things and as such we have grappled to find a middle ground in today's world. Despite the losses that we have suffered, participants reflected upon the role of culture in their lives and their respective journeys to learning about their Haida-ness.

Language losses through imposed colonial systems have impacted how we see the world. Alfred (2009a) posits that “our bodies may live without our languages, lands or freedom but they will be hollow shells” (p. 12). Participants discussed the notion of western law and language losses resulting in us having to formalize our values, principles, and ways of life by writing them down to prove that we were self-governing peoples. As GaaysiiGas explains *it is beyond the English vocabulary...to describe what embodying Haida law actually is. Kiidlajuwee* problematizes the use of the term law to describe Haida way of life *the way I was taught to live is the way I live, I don't know if that is Haida law but that is the way my grandparents and my Dad lived. Guujaaw* notes *there wasn't something saying this is Haida law and we have a book on Haida law. It was the way that we interacted with the world around us. Gidin Jaad* who has decided to dedicate her life to language learning and teaching noted that the language holds *all that ancient wisdom- everything you need is in the language...The language is going to start to shift and heal our people, wake them up. Jisgang* notes that in her work she will often *find a word the Elders have translated into English, and the translation is so steeped in a Haida way thinking that it transforms my own thinking, even when using English. All of a sudden I can use these Haida words and their English translations to change someone else's way of thinking.*

Grappling to rediscover our place in the world is exacerbated by the fact that we are all colonized, and we are all learning how to decolonize ourselves; because unless we do it how can we expect anybody else to do it (Kii'iljuus).

³¹ Pseudonym Jennifer in McGuire (2019).

6.2.3. The law, the government treated the Indians pretty rough, eh?³²

The sentiment of most participants was that healing has to come from within *and from our own; that is how we could really fully heal* (iil ka jaad k'iinas). Displacement from land, resources, denial of access to economies, and placement upon reserves coupled with traumatic experiences has resulted in poverty within the Haida community that often results in or exacerbates desperation, addiction, mental health issues, and criminality. GaysiiGas explains that the impact of capitalism and imposed economic systems upon the Haida results in poverty and out of that subsequent *terrible uninformed, instinctive, desperate decisions- one of those is drug use*. Kihlguulaans suggests that most criminal activity stems from a *social problem* of poverty that has been intergenerational in some cases. Palmater (2017) asserts that underneath this poverty and other social issues is “the ongoing fact of land dispossession, oppression and institutionalized racism maintained and defended at all costs- financial and human- by successive Canadian governments” (p. 75).

The historical criminalization of Indigenous peoples began a vicious cycle of victimization and criminalization. *We have been criminalized...you couldn't potlatch, you couldn't speak your language, you were actually just a criminal by existing. It was illegal to participate in the economy...to get your education, to serve in the military, etc.* (K'iinuwaas). The intergenerational abuse and feelings of inferiority that began with residential and day schools are ongoing as Jaskwaan explains *sexual abuse is such a perversion that was brought by colonization...it's a symptom of colonization* that is continually impacting our communities. The overriding sentiment was that this criminalization is ongoing as Kihlguulaans notes *the colonial notion of justice is if you are a person of colour you're guilty until proven innocent...and I see them getting away with that...there is no justice in that system*. As a people whose colonial wound is still festering, it is difficult to face the issues ahead of us.

³² 7idansuu

6.2.4. Not dealing with the real issues: *healing doesn't come from anybody else* [SGaana Gaahlandaay,³³ Alix Goetzing]

Dealing with conflict within the Haida community and amongst ourselves was noted as necessary to foster healing. Sandlane Gid notes that we are *keeping each other down* preventing ourselves from moving forward. Laanas furthers this sentiment when she describes how it is up to people to speak out and say things when they *see things that are not right because otherwise...it is never going to change*. Holding ourselves and each other accountable was noted as a key challenge that is halting our progress as a Nation. Denial, *fear of facing* [the] *truth* is keeping us in colonized positions (Jisgang). As a result of children being taken away into residential and day schools and the foster care system, there is an unhealthy tendency to coddle or hold our own too close. As Kihlguaans notes we do have people that *protect the guilty* - those who deal drugs, abuse others and take too much. Herb Jones also described a *parental coverup* that leads to a lack of justice and accountability for those who do wrong in the community.

The importance of facing harm in order to begin the process of healing was noted by participants- some of whom warned against *pressing our emotions down* (iihl ka jaad k'iinas) and ignoring the trauma to which we have been subject. There is a need to face the intergenerational abuse that exists in our community and is even present within hereditary leadership.

The Haida Nation is not prepared to return to this system 100% right now- because the current generation of name holders is traumatized and [have been victimized and some have abused others]. They have not been trained rigorously by 20 aunties and uncles to behave well. Holding a name used to be your entire life. That was your whole life... We don't have that level of mentorship anymore because we are so traumatized (GaaysiiGas).

The perpetuation of intergenerational abuse and the mentality of sweeping things under the rug was a source of frustration for many participants. As Gwaliga explains

People that are walking around that have done things like that. That has always been confusing to me. How haven't we dealt with that in our way?...In my opinion, we are being too relaxed or respectful of the colonial system...People want to beat them to a pulp or whatever in order

³³ Pseudonym Rebecca in McGuire (2019)

to deal with it...It doesn't make it right for this person that has been a victim and now they live with this incredible amount of trauma coupled with shame.

Gidin Jaad suggests that *if we don't stop these...hard vicious cycles, it is just going to continue...We are going to have to rip off the band-aid and start somewhere. Maybe we flail for a couple of years, and maybe it is hard, but it is better than nothing.*

Culture, community, and language were exemplified as key to beginning to heal, rediscover and reawaken ourselves. *Everybody is looking for answers and the answers are right here* (Guudee gud dlaaya). Guujaaw mentioned the importance of just *being on the land...it cleanses you just going for a walk on the beach...and experiencing it all.* GwaaGanad explains that there is a lot of work to be done for us to continue to move forward as a Nation, and that *we need to do more work on helping each other.* Tidansuu pushed the importance of *feeling a connection to space and culture...bringing forward a mentorship or a cultural aspect might be able to help change the trajectory of someone's life.*

While we begin to face all that has tried to harm us it is important to note how much we have to overcome and to be patient in the process. Kii'iljuus notes that we need to remember that we have

over 600 years of trauma in various forms being pressed down and we are expected to get on with life. When you look at resilience, resilience is in spite of it all. When we talk about a resilient people it is how we have managed to get up when they used a sledgehammer on the back of our heads... and we still managed to get up and move forward without turning around and using the sledgehammer on them.

We have got a National grief, we carry upwards of 30,000 people's grief and trauma, that is a lot to wade through (Jisgang). With this trauma in mind, the mental health issues facing the Haida community should not be surprising. Multiple participants mentioned that a healing centre on Haida Gwaii might be a good place to start in forming Haida TII Yahda. Healing the harm that we have been subject to and grappling with mental health issues is necessary for change to occur.

Education was noted as an essential component of healing – educating ourselves about our history as a Nation; colonialism and genocide; oral histories; ceremonies and culture; song, dance, and art were all discussed as important in building

resilience and confidence. Captain Gold explains *the cultural teaching gives you a solid footing [in terms of how to] handle yourself ...in life...a pride in who you are as a Haida person*. Gidin Jaad posits that she is

hopeful that as we educate, and we start to re-surface these old ways that we are going to see a healthier people. Our clan systems, matriarchs, chief, and potlatch law- I see that serving us better than western colonial [systems]...when we start just dealing with things head-on, being the change and the model, it is going to start shifting individuals, families, and clans. The rest of the Nation will start giving ourselves permission to do it like we did. Having the courage and just doing it, holding ourselves accountable, teaching our children to be better and to expect better.

However, it is also important that we be cognizant of our capacity. Jaskwaan expressed concern around how to build capacity as a Nation, she notes: *we are a really small Nation and we take on a government of 30 or 35 million people in Canada and yet, we are still hard on ourselves...what I struggle with is how do we build capacity to take on more as a Nation*.

There was an overriding sentiment among participants that capacity building needs to begin, *we cannot wait until title to learn, live and understand, it needs to happen now* (Sandlane Gid). Gidin Jaad expressed a similar concern: *as rights and title evidence is being presented in Federal Court, I am a bit concerned about how people understand what rights and title mean to us as Haida People* and whether we will be prepared as a Nation. Frustration with the pace of asserting and achieving rights and title which is the CHN's main focus and fear that we will not be prepared when we do get title was further noted. In particular, as Tahayghen explains continual court cases over resource extraction and land ownership seem to operate as a *stalling practice so that while we are fiddling around eating donuts and coffee with them they are out there mowing all our trees down and taking all of our resources*.

Chapter 7.

Self-Governance: *If things don't adapt they die*³⁴

This chapter will examine the potential formalization of a Haida tll yahda system. This examination will include the resurgence and reclamation of old ways and how they may be adapted to fit today's context. The impact of western imposed systems is problematized as well as the potential of Haida-izing imposed systems. Options for asserting our sovereignty over Haida Tll Yahda and reclaiming our ability to respond to wrongdoing within the community are discussed.

7.1. *Haida Gwaii is a Satellite Village of Canada*³⁵

Our distinctiveness from Canada as a Nation was presented as a roadblock to achieving justice. *Our culture is unique in comparison to the rest of the cultures of the world....The Canadian system... is another peoples' culture. We are completely different* (Gwaliga).

7.1.1. Everything that happened in ...potlatch that was our governance³⁶

The potential to reclaim old ways of life or elements of them was discussed by multiple participants. The potlatch ban dismantled our justice system in that making things right (tll yahda), an essential part of governance, was effectively banned along with the potlatch.³⁷ The importance of potlatch was demonstrated, GaysiiGas called the potlatch a *completely holistic approach to justice where things are hashed out, paid for and people are redeemed in public from their mishaps and mistakes*. The notion of utilizing elements of potlatch to right wrongdoing would mean bringing forward apology, witnesses, and payment into the formalization of a Haida Tll Yahda system.

³⁴ Michael Nicoll Yahgulanaas

³⁵ Captain Gold

³⁶ Captain Gold

³⁷ Making things right through potlatch never stopped – but, it was momentarily *disrupted* through colonially imposed laws and regulations.

Daamxaangang notes the importance of culture *it has to be intertwined in every single part of our lives and that's the Council of the Haida Nation... Yahguudang...that's not a Haida law that is written, it is a part of our culture.*

As was noted earlier, potlatch has been used to right wrongs in the modern-day. Laanas describes potlatch as follows *that is our ceremony, that is our courtroom* and we can use it today. Using potlatch to right a wrongdoing was further explained by Hilang Jaad Xylaa who notes that *when I think of justice I think of my dad's potlatch, the making it right potlatch that he did...Taking that responsibility and then taking it even further and apologizing to the people it affected in a good way.* The role of re-centering potlatch in Haida tll yahda will be discussed further within the next chapters.

The importance of family, clan, and community in ensuring proper behaviour and accountability was noted as essential to Haida way of life. Herb Jones explained when he was a kid everyone *worked together* in all aspects of their lives which helped ensure balance and peace within the community. Hilang Jaad Xylaa described the Haida as a *matriarch fearing people; because we know there is a standard we are supposed to live up to an expectation of us living in these Haida values that you fear [the matriarchs]; just that one look makes you want to do right.*

Jaskwaan explains that Haida justice and values are contained within the Haida language. *I hear it in our language, in our old language... I can hear yahguudang and I hear tll yahda...but some things that we need to state explicitly were not stated explicitly before* (Jaskwaan). The importance of following interrelated and overlapping xaaynang.nga kuuyada (*life values*) were expressed; these include accountability, permission, balance, tll yahda, interconnectedness, potlatch, responsibility, and yahguudang. There was support for revitalizing and fostering accountability in a Haida way recognizing the importance of relationships. When things are made right within a potlatch as Gadgaas, Erika Stocker notes *it teaches people accountability to have to make payment...[they] are taking full responsibility for the damage that they have caused and to allow a victim to determine what justice is for them.* Witnesses to events, feasts, and potlatches play a vital role in ensuring a record is taken which fosters accountability as Gwaliga notes *they overlap, it all works together.* While Hilang Jaad Xylaa suggests that the payment or gift-giving at the potlatch ensures *real accountability.*

7.2. Navigating self-governance and colonial impositions

The imposition of western systems is hard to reconcile with Haida life-ways as they are often divergent from one another. GaaysiiGas explains

As far as our relationship with Canada is concerned...they say we want to reconcile what we should say is if you want to reconcile – all of this stuff is broken because of you. That starts with healing- addictions healing, counselling, education, trips out on the land. Funding kids to go hunting and fishing. Making sure kids are taken care of and figuring out how to leave them in the community. Oh, they can't go stay with their Aunty who is a functioning person because they don't own a big enough house. Well, that means that Canada has to buy a bigger house for the aunty so they can ...stay here. It means that you get to pay for a healing centre here on Haida Gwaii...Where we get to send our citizens who are hurting, and it is staffed with well-paid staff who know what they are doing. There is no struggle, there is no "we don't know where the next cheque is coming from." It is like no, Canada signed a reconciliation agreement, and this is all paid for. That is what it looks like. It also means that the Haida get to control who has access to our land and resources. If we allow it- then we get a significant amount of that cash that we can put into healing programs. It also means that anybody who wants to learn Haida gets to do so and they get paid, funded. That is what it comes down to is payment. That is why payment is at the centre of redemption in Haida law, in potlatch. That is why just saying sorry is so weak in other societies...Canada would need to pay. That is where the conversation is.

The notion of holding Canada accountable under potlatch law provides insight into the divergent value systems between the Haida and our colonizer. Palmater (2017) suggests that

Canada works very hard to get in the way of real decolonization, as that would mean a substantive shift in power and wealth back to Indigenous peoples- something no government has yet to put on the table for negotiation. This means that Indigenous peoples must engage in the exercise of decolonization in a context that is politically, socially and legally complex (p. 77).

If Canada wants to live up to its rhetoric of reconciliation, apologies and put its money where its mouth is would have to make a significant public payment.

A recognition that Canadian systems do not work for us was exemplified by Gidin Jaad who notes that they are *just failing our people miserably*. K'iinuwaas further suggests that *the criminal justice system is a joke* and results in a lack of action that leaves us oppressed, criminalized, and imprisoned. Being such a small Nation means

many of us know who the abusers and the drug dealers are and are faced with challenges in unravelling and facing the pain that they cause. Jurisdictional issues and a lack of cultural awareness and training lead to further harm when people go to the Western system for help, which subsequently creates a *big huge gap in service provision* (Hilang Jaad Xylaa).

The notion of reclaiming sovereign systems was often conflated with alternative or restorative justice by participants. This is not surprising given the foundational aspects of restorative justice as rooted in 'Indigenous' cultures (Tauri, 2016), which put into practice "selected notions of Aboriginality" (Andersen, 1999, p. 318). There has been a recent move towards utilizing more and more restorative justice in the community – most often to deal with inter-governmental disputes, resource extraction and related issues, and less serious criminal acts.

The establishment and governance of our Nation through the CHN was also exemplified as important to understand in order to move forward in formalizing Haida tli yahda. In particular, participants mentioned using the Haida constitution as a *guiding document* [that can be used] *to establish the system* (Captain Gold). Expanding CHN and moving towards being truly self-governing involves the slow process of taking over imposed western systems.

There was a varied response to the potential involvement of the CHN in the formalization of a Haida Tli Yahda system. Tahayghen said that *if we do want justice it has to come from CHN because ...we should be the ones looking after our own people*. However, before CHN becomes involved the community must become better educated on the CHN's function and the difference between it and the *band council Indian Act business* (Gidin Jaad). Once again, band councils are controlled by the "federal government" (TRC, 2015, p. 55), with "no sizeable or significant power," or decision making authority (Monchalin, 2016, p. 115). Others expressed concern that although CHN should be involved there is a need to continue developing existing systems and build capacity because *we are not there yet* (Guudee gud dlaaya). There was more support for the formation of a Haida Tli Yahda system that could become a wing of or a partner to the CHN. Generally, the sentiment was that CHN needed to be involved in some capacity but that a healthy level of distance should exist to protect a Haida Tli Yahda system from being impacted by changing political structures and elections.

Taking steps in moving towards the formalization of a Haida Tll Yahda system is also important as Michael Nicoll Yahgulanaas notes *we need to be very thoughtful* and plan out how we approach it. Although reclaiming and rebuilding were deemed essential components of Haida tll yahda, participants also noted the importance of flexibility in its formation as critical to its success.

7.3. Resilience, Resistance, and Revival

The importance of the community itself including extended family, clans, and women was noted as vital to our resilience as Haida peoples. Moreover, culture is deemed integral to our collective healing including the land itself, song, dance and art, language and revitalizing old ways while being aware that culture is not stagnant. Lastly, the importance of facing cycles of abuse in the community was identified as an integral first step towards the formalization of Haida tll yahda.

7.3.1. Human contact is so important, it is almost like a lost art³⁸

As has been demonstrated thus far, the community itself was historically and is continually important to Haida peoples. However, the impact of modern life has resulted in a loss of connection, lower frequency of community gatherings, helping each other and visiting that fostered a strong sense of community. Gidin Jaad suggests that *collective living has been lost...[and that moving forward] we can't do it alone, we need each other*. Herb Jones describes the importance of communities coming together: *as Nations if you are divided you are not going to get anywhere, but united you are going to be a strong force*. The importance of taking care of one another on a *community level...making sure that things are right between our families, communities and how we do governance here* is vital to ensuring healthy relationships not only within our Nation but with the outside world (K'iinuwaas). Kiidlajuwee expressed concern that people seem to come together most often around death and funerals, but that *compassion for one another* should be there all of the time. When wrongdoing occurs the implication of being Haida is *that you know who the person is, you know their clan, their family, their history* which is divergent from the western way of being and CJS (Laanas). This leads

³⁸ lihl ka jaad k'iinas

to the potential for more community accountability to be fostered when wrongdoing occurs.

The roles of the extended family continue to be important. However, there has been a loss of the mentorship that maternal aunts, uncles, and grandparents served in olden times. Kihlguaans suggests that in olden times children *had mentors to be brought up with and they would learn their roles and responsibilities in their life in the community*. If things were out of balance and hurt occurred that *doesn't diminish your value...it diminishes your entire family's value, so we need to deal with this ... at this potlatch (GaaysiiGas)*. *The person maybe doesn't want to do it but, it doesn't matter because their whole family is there supporting them (GaaysiiGas)*. Strengthening families was deemed important to community healing as Jaalen explains unhealthy families and intergenerational abuse are often the reason *why people get into trouble in the first place*.

Strengthening the clan system was also deemed important by participants to tll yahda. As Gadgaas, Erika Stocker suggests: *if everybody was responsible for their own clan that would be great...it would make everybody tighten up a little bit...every system of governance would be elevated when you know your place in your society you are less likely to act out*. GwaaGanad suggests that *if the clans get really strong I think that is when we will be ready to bring out our form of justice and adapt it for today*. Strengthening clans was also deemed important in terms of raising chiefs and matriarchs from a young age and dealing with wayward leadership. Hereditary leaders have a role within CHN, which muddies the waters tremendously when CHN denotes chieftainship as *clan business* while those who have been allegedly hurt by hereditary leaders would rather those individuals were not deemed *spokespeople for our Nation (Sandlanee Gid)*.

The importance of strengthening the role of women both within the clan and community was also highlighted. K'iinuwaas notes *in this community it does feel like the women are our real movers and shakers and do-ers and [it is important that] other women [start] taking on more roles and stepping up to the plate*. Sandlanee Gid further explains that *there are so many amazing strong women without our culture and I am not seeing them take up space*. Involving women within CHN was expressed by K'yalts'ii as essential to moving forward as a Nation *women have had the most harm done to them in*

our communities and they should have a say in defining Haida ...justice. Reclaiming the role of women and their importance necessitates re-centering them as leaders and decision-makers in the community.

7.3.2. Culture saves lives³⁹

The importance of culture to *identity* and belonging and in fostering resilience was deemed essential to moving forward as a Nation (iihl ka jaad k'iinas). Kovach (2009) suggests that "culture holds knowledge, knowledge holds culture; they are iterative, interdependent and alive," despite the ramifications of colonial, genocidal harm (p. 163). Hilang Jaad Xylaa described the role of culture in her life as follows: *it gave me a sense of purpose, a sense of belonging, learning the history and being around it and then having people like Uncle and Dad who were actively learning and actively teaching as they were learning...it made me more confident.* The internalization of colonialism can be countered through culture. K'iinuwaas notes that *to have that cultural knowledge and exchange...kind of fills up your spirit.*

Getting out onto the land and being amongst the same forests, villages and beaches that our kuuniissii (ancestors) were, was deemed an important element to the Haida culture and way of life. It promotes resilience and strength as GaaysiiGas explains

The racism becomes a giant joke- all of the things you can ...remember people saying about the Haida. You look at the poles...the cedar monuments the amount of work, intelligence, cooperation, and honour and integrity it would take to build that... I can remember that feeling going down there for the first time and seeing the monuments and thinking all of that racism against my Nanaay⁴⁰ and my mother is a massive joke.

Our connection to the land is essential to who we are as a people and our lives and survival used to be dictated by that interrelationship. Guulas notes that because of displacement from our territory *a lot of people don't get the opportunity to see Haida Gwaii, to see where we are from and I think that kind of does impact their connection and understanding of our place in the world.*

³⁹ iihl ka jaad k'iinas

⁴⁰ Grandmother

Culture has been resurgent through song, dance, art, and language as Hilang Jaad Xylaa posits *the opportunity to be Haida is everywhere here*. However, that evolution towards reclamation has been fairly recent as Kiidlajuwee remembered a time when they only knew a few songs and they first started dancing. Whereas for many Haida peoples now such as Kihguulaans *culture is basically, it is my life*. The push towards learning and teaching language was also noted as fostering a grounding in our Haida-ness. Gidin Jaad shared that *there has been a peace that the language has brought me...having a really traumatic childhood and seeing a lot of traumatic things it is a new place of ease, comfort, security and knowing...The language is going to start to shift and heal our people, wake them up*.

The culture that we know now has shifted and continues to be revitalized in new ways that reflect the changing world around us. Jaskwaan sums up the need to shift our perspectives, revitalize and re-examine our old ways as follows

There was a real sharp edge- we live on Haida Gwaii. The world is as sharp as the edge of a knife, and we lived that. We live that in a whole different context now in terms of what we have faced in the colonized world. Amongst ourselves we have changed our idea of justice- we have in terms of how we do it in a potlatch-ing sense in what we are framing and continuously practicing now doesn't include that same sharp edge. We have enough coming at us.

The importance of shifting the context over time was exemplified further by K'iiinuwaas who explains that *we were always evolving with the times...always evolving with new relationships and what was happening, and we can still live by [those] values and principles in today's world*.

Chapter 8.

Tll Yahda: *it is not just individual, it is about the bigger picture*⁴¹

Establishing a Haida Justice System (HJS) involves defining a Haida notion of tll yahda and capacity building to begin taking steps towards that goal. This chapter will further the examination of what justice means to the Haida and include participants' recommendations towards formalizing a HJS these included: flexibility, Haida-izing existing systems, elements of isolation or banishment, land-based learning and an overall focus on strength-based positive approaches.

8.1. Building Capacity

8.1.1. Defining Tll Yahda: Wrongdoing represents an imbalance⁴²

The notions of balance, interconnectedness, tll yahda, and the world is as sharp as the edge of a knife were deemed important values moving forward. *It's beautiful, it is balance; life is as sharp as the edge of the knife- swing one way or the other, positive and negative space, that is one way of describing our system and it is absolutely reflected in our art form and way of life (Gwaliga). There are a lot of checks and balances in our culture and in our way of life justice is represented by that balance (Jaskwaan). Kii'iljuus describes balance or make things right as how we view our world it is like sitting on a teeter-totter...our old ways tell us that we all share and look after each other. Dr. Woody Morrison explains justice was always restoring the balance. As a community ensuring that we move forward positively and recognize each other's strengths through positive acknowledgements were recognized as important to ensuring balance and community wellness (K'iinuwaas). 'Laa guu ga kangllns (responsibility) and yahguudang (respect) are also representative of Haida ways of life. In Haida way, you must take responsibility for yourself, family, clan, and community.*

⁴¹ Jaskwaan

⁴² Jaskwaan

Tll yahda (*to make things right*) further involves accountability, witnessing, responsibility and truth (Kihlguaans; GwaaGanad). Guujaaw describes Haida tll yahda as the recognition that if you did wrong you needed to *address it* to move forward, which most often means making payment. Haida families, clans and community are also included in the notion of tll yahda as Jaskwaan explains *justice is part of a bigger web...it is not just about this individual*. Sandlanee Gid adds that a Haida notion of tll yahda must also include tangible *action*- meaning that something needs to be done to ensure acknowledgement and accountability. Captain Gold explained that ensuring *equality between the action and punishment* is important which echoes the discussion around balance in chapter 7. Kihlguaans noted the importance of both *finding out the truth* and telling the truth. Haida tll yahda was also explained as being rooted in the potlatch and principles of witnessing and payment GaysiiGas notes that *our predecessors have left us this beautiful system*. He further explains that Haida tll yahda should include integrity because *ultimately that is what you are trying to develop is a population that does not need a criminal justice system, that is what potlatch was, a system that was designed so that you didn't need to monitor anybody*. Accountability involves an understanding of the impact of your behaviour as Gidin Jaad explains *if I do this, then my chief and matriarch are going to get together with this persons chief and matriarch and it will be talked about and I am going to have to do [A, B, and C to make it right]*. Hilang Jaad Xylaa describes tll yahda as including taking *responsibility for the wrongdoing* [and then] *apologizing* [and that these elements of potlatch are] *transferable* to a lot of different situations.

The importance of finality was another important element to tll yahda. Making things right involves the possibility of redemption from wrongdoing with the *capacity to move forward* (Jisgang). Once incidents are dealt with through the potlatch system and are made right and *payment is accepted* they do not need to be brought up again (GaysiiGas). In other words, if the wrongdoing *has been dealt with properly you don't need to talk about it again* (Guudee gud dlaaya). An understanding of this finalization once things are made right, was a source of my hesitancy in speaking to Kiidlajuwee about his potlatch. He made it right with the people that he harmed, he changed his life, he made it right with himself, his family, his clan and his community. Hilang Jaad Xylaa explains that *what he did was have that tough conversation with the community to say you know what? I did this*. Jisgang explains the notion that we do not need to talk about

things once they are made right as follows *there is a gentleman ...who hurt someone once by drinking and driving and he worked really, really hard for years and held a big doing to make things right and paid that person and his family until they said enough...that means it never has to be gossiped about.* However, after talking to Hilang Jaad Xylaa I spoke to Kiidlajuwee and he explained that initially, it took him a long time to be okay discussing things but now he is okay, *things don't affect me any-more the way it used to.* His strength in being accountable and making things right provides insight into the potential use of potlatch within a Haida TII Yahda system. K'yalts'ii explains that this kind of resolution for all people involved is non-existent within the Canadian system and as a result, it *doesn't really make it right.*

8.1.2. Building Capacity: it is already happening⁴³

I think it would be better to start on a small scale, and build up, learn, build experience, and expand the system over time, it would have to be incremental (Guulas). Building capacity involves education first and foremost in terms of the continual development of our National government and Constitution (Captain Gold; Jaalen). Educating ourselves including doing research into Haida life, oral histories and *bringing our stories forward (7idansuu)* was noted as contributing towards healing and strengthening capacity. *The power of jurisdiction needs to be taken by the CHN and acknowledged by the Provincial and Canadian government (Jaskwaan). 100% sovereign is the dream...[but it is important to remember] it is not the destination it is the journey...sovereignty is our driving force in everything (Gwaliga).* Gwaliga further explained that we developed our National government the CHN to *counter the Canadian government* and we could develop a HJS in a similar manner. GaysiiGas calls establishing a fully functioning Haida justice system a *lifetime's worth of work* [and beginning the process involves] *developing the systems so that we are able to heal ourselves.*

Healing and health are important to fostering capacity. By strengthening our families, clans and communities wrongdoing will *naturally decrease* (Guujaaw). 7idansuu explains that *we have a long way to go towards healing, but we are heading in the right direction.* Education around the interconnection between trauma, mental health and

⁴³ Gwaliga

addiction were also noted as needing *to be a part of the justice system*, because they often led to the offence in the first place (Jisgang). Understanding the root of trauma is essential to moving beyond its reverberations. The importance of caring for *Haida Gwaii and one another* is also essential to ensuring our collective health (K'iinuwaas). Strengthening existing systems of potlatch, community and ceremonies and healing go hand in hand.

Ongoing conversations and consultations with the community as Haida tll yahda is developed were deemed essential components in ensuring its success. To ensure the community supports Haida tll yahda Michael Nicoll Yahguulanaas suggested that its establishment should be done incrementally and be well planned out- *that is the beauty of the possibilities that are in front of us on Haida Gwaii*. Moving past families protecting one another, hierarchies in terms of who gets held accountable and ensuring things are dealt with are other challenges noted by participants in terms of establishing a Haida Tll Yahda system. Training and building capacity could also be done incrementally.

Many participants noted *over-harvesting and lack of consultation* as a potential area a HJS could address (Jaskwaan). Jaalen further posits that focussing on *land use laws and creating a way to enforce them* would be a good place to start. The appropriation of our resources for profit is often of little to no benefit to us as a people as we are against damaging resource extraction as a Nation and we “do not significantly share in this bounty,” as such, frustration mounts when our land and waters are continually desecrated with no reparation or meaningful consultation (Green, 2011, p. 23). Kihlgulaans notes that a lot of this overharvesting comes down to *greed*, which in itself can be tied to the individualistic nature of the imposed society. Others felt that dealing with these issues when it is our people doing the over-harvesting may be more challenging than responding to criminal issues. For instance, Jisgang explains that *I think it would be easier to take over criminal issues than our people respecting the land... I think it is easier to deal with people...than crime against the land*. This sentiment is illustrative of the aforementioned internalization of colonialism through greed and disregard for the land and each other. This impact of colonialism is demonstrative of a major violation of Haida values – in Haida way we are not separate from the land and waters around us.

Tahayghen notes that the Canadian system does not seem to care about wrongdoing against us as long as we are only hurting ourselves or each other- *CHN is going to have to somehow step up and say enough is enough if you guys won't do anything about it we are going to have our own system of justice and start dealing with these people that are selling drugs, abusing or stealing.* This mounting frustration at the Canadian system's lack of or inadequate action provided support for a Haida way of doing justice. Getting to the root of the problem was deemed essential to Hilang Jaad Xylaa - *if we create a strong enough system we will be able to address everything.*

Bringing cultural elements forward in order to strengthen ourselves, our clans and communities will be essential as we continue to face cycles of abuse. The importance of flexibility, healing, anonymity and structures of support and accountability were deemed vital to fostering the strength needed to face abuse. As Kii'iljuus shared those feelings of shame and hurt caused by abuse can become *deeply buried* and exacerbate trauma. There were some divergent opinions on how exactly to deal with cyclical abuse and forgiveness. For instance, 7idansuu explained *I don't like that forgiveness bullshit* however, Jisgang noted that forgiveness was hard but essential to her because it meant *that whoever or whatever has hurt me no longer has power over [her].*

The Nation is grappling with overcoming sexual and physical abuse and this was one of the main issues that people focussed on in terms of something that we could respond to more effectively. In particular, they mentioned focussing on *family wellness*, communication, boundaries, and healthy relationships to prevent continual cycles of abuse (Hilang Jaad Xylaa). When families become healthier they can face the intergenerational abuse to which they have been subject Kiidlajuwee posits that *it has to come from the family in order to work.* Kii'iljuus suggests that healing from abuse involves seeing your *value when someone has taken away your power...can we expect this government to give our power back. No, but we can make our own power.* Empowering women *and making them feel heard and safe* were noted as important moving forward (Laanas). Sandlane Gid argued that facing the abuse that exists within the community *needs to be prioritized* so the hurt, pain and violation of our peoples can end. The pathways between being subject to abuse through colonial institutions such as residential and day schools, and the foster care system, and consequently abusing

others, or turning to self-medication, and subsequent addiction and criminalization have been exemplified (TRC, 2015).

There were multiple suggestions put forward in terms of how we might respond to abuse cases. These included public accountability and a general sentiment that we need to talk about it in order to move forward as Gadgaas, Erika Stocker posits *who cares...somebody has to say it*. In modern-day the band councils have used banishment to deal with abusers however, the issue with this is that it *just sends them off somewhere else to do the same thing* (Guujaaw). The use of banishment seems to operate in a similar manner that imprisonment does in that it removes the problem without getting to the root of the issue or any substantial, constructive change resulting in them continuing to harm others or even getting worse. Hilang Jaad Xylaa notes that *I have always worried about the banishment part because it is like the humanity part of us should feel some empathy. I feel empathy for people who abused me as a kid*. It was a learned behaviour. Ensuring women are involved in the formation of responses to abuse was also highlighted. Tidansuu notes a group of *older women...could talk about* [the incident but] *it all depends on what they do and how serious* each case is. Whereas, Laanas suggested that it might be a good place to start by discussing *the impact that has on women, how it affects them in their lives, every decision they make from that point on*. Again, supporting each other and beginning to heal was noted as something that had to come from us as a Nation. Laanas and K'yalts'ii both discussed the importance of doing things with witnesses and utilizing elements of potlatch in abuse cases, as Laanas notes *think of how powerful it would be to stand up publicly and say this is what I need from you for me to be able to live in this community and see you every day* and would allow for more individualized responses.

Addiction and drug dealing were further mentioned as a justice issue crippling our capacity as a Nation. There is a general frustration with the lack of action by the Canadian system to respond to the drug issue as Herb Jones notes *it is a big issue, a very big issue*. Learning from one another about the impact of over-consumption was mentioned as serving a preventative measure. Hilang Jaad Xylaa told a story about her son asking why there were street-lights in an area and explaining to him that those were put there because *Chinnii was drinking and driving...he didn't know, and I was like can you imagine? That is such a foreign idea. But I think that in itself was a good enough lesson for me as his daughter*. Once again, understanding the impact of trauma and

healing is important to understanding self-medication and mental health issues (Monchalín, 2016). K'iinuwaas notes that *I think a big issue here is with drug use and drug dealing and I always think about well... if we had access to fancy doctors and prescription medicines, we would be in treatment for this colonial trauma that has impacted us, and we would be medicated through the health care system.* Once again, understanding the root of the issues and the importance of facing things in order to heal is essential. For instance, theft is often rooted in poverty, addiction, and desperation or mental illness. Tahayghen explains *the drugs...are driving these people to do things that they normally would never do.*

Letting go of judgment of others and allowing people to grow were noted as important to promoting healing. If we keep these judgments of people in our minds people will not have *the opportunity to learn from and grow from their mistakes* (K'iinuwaas). Taking the onus to stop the perpetuation of harm involves taking steps to *learn how to prevent the trauma by giving our children tools and preparing them* (Hilang Jaad Xylaa). Proactive responses to right wrongdoing were also mentioned as important instead of holding each other down we need to be accountable and take steps towards our collective healing. For instance, Kiidlajuwee explained the importance of him *being accountable for [his] own actions publicly* noting *that it changed his direction... and the way he sees things.*

8.2. Establishing Tii Yahda: *it is a huge piece of work*⁴⁴

8.2.1. Flexibility: they warrior up and deal with it on their own⁴⁵

We need to ensure that there is flexibility in terms of the issues that we can respond to and how we respond. Adapting ideas from old ways was represented by Gadgaas, Erika Stocker in a discussion over the *eye for an eye nature* of Haida society that would sometimes result in death. In terms of bringing an element forward from our old ways she notes

Maybe it would be a newer thing...we have a ceremony that marks the death of a person, that part of you can never exist again. An identity

⁴⁴ Michael Nicoll Yahguulanaas

⁴⁵ Sandlanee Gid

death maybe the death of their trauma or, what it is that caused them to behave that way. That could be really interesting because something would really have to change. People that are capable of that cannot just fix themselves...I think Haida justice has to come from us.

This kind of adaptation and flexibility is necessitated given the varied forms of trauma, victimization and subsequent criminality that exist within the Nation. Laanas notes the potential for the development of a HJS can begin with *instituting a framework under the Haida Constitution* while allowing for policy to be dealt with more flexibly. Nang Jingwas explains that there is a lot to consider within each case *you have to look at the individual and the family, the community in terms of what the impacts are of both the action and how you address that harm*. Overall, the importance of doing things *case by case* [in light of the complexity of] *family dynamics and relationships* and variation in terms of *personal resiliency* [were deemed essential] (Sandlanee Gid). Measuring the level of hurt the alleged wrongdoing caused was noted as important to formulating an appropriate response.

Oftentimes, when there is a lack of resolution within the Canadian system the Haida community will come together to deal with things. Sandlanee Gid explains there are people that take it upon *themselves in the community when people find out about someone that sexually assaulted someone....and it is not being dealt with through the justice system, they warrior up and deal with it on their own*. There is a potential for a Haida system to provide *more resolution than the imposed Canadian system* (Guulas).

8.2.2. Haida-izing western systems: maybe it can be Haida-ized, taken, molded, and reframed in a Haida way⁴⁶

Participants spoke about forming committees, taking back elements of restorative justice, using juries and judicial tribunal councils (as per the Haida Constitution), and making them ours. This could potentially occur alongside a reformulation of what Haida *tll yahda* means to us today. Captain Gold discussed using a jury as we begin to develop our ways *we have to go through trial and error on this whole system* he further notes that instead of sending people away maybe we have to consider whether we may need some form of a *correctional institution on Haida Gwaii*. As was discussed earlier restorative justice has been becoming more and more popular in the Haida community. In

⁴⁶ Jisgang

particular, an element of RJ with relevance involves including a support system within the process for both the victim and the accused (Gadgaas, Erika Stocker). Jisgang notes that there might be some *aspects of the western justice system at least restorative justice that would be helpful...we have Haida-ized and turned it around we have made it work for us.*⁴⁷ Further, just as in potlatch much of alternative or restorative justice is done *with witnesses* (Kii'iljuus). Whether or not this stems from an appropriation of our ways or not is beyond the point; we can reclaim this as a part of our systems regardless of its origination. This finding was interesting because the emergence of restorative justice was influenced by Indigenous justice. Monture-Agnus (1995) warns against more than a short-term adoption of these imposed notions of justice because "they require nominal energy, nominal commitment and nominal resources from the existing system...these kinds of initiatives are both inadequate and insufficient if the goal of our joint efforts is to ameliorate [our] existing oppression and discrimination" (p. 254). Therefore, we must be careful and self-critical in adopting and accepting the indigenization of western systems.

The judicial tribunal council (discussed in Chapter 4) outlined within the CHN constitution was originally set up to deal with *internal matters* (Guujaaw), within the government. However, Nang Jingwas notes that *there was an intention to use that kind of system in certain circumstances, but it does not define what those circumstances are.* He further explained there needs to be an agreed-upon system for *selecting the tribunal...that is seen as valid within the community* (Nang Jingwas). Guulas suggests that we can use the judicial tribunal process as a *starting point* from which to expand.

Participants also suggested the establishment of a Haida board or committee that could help guide a Haida TII Yahda system. For instance, Kiidlajuwee noted that it should be a board that includes a lot of different people, knowledge and *cultural [expertise] that you want in this system.* Ideas around operation included having CHN take over the *administrative side* and ensuring a separate committee (Gadgaas, Erika Stocker). Once again, ensuring women are involved was deemed essential as Jaskwaan notes *I just imagine a Haida justice system with a bunch of Nonni's, what would the Nonni's do?* Laanas posits that *we are always more successful when we have a group*

⁴⁷ She utilized my process in education as an example of what it needs to Haida-ize: *using a western education system to bring back a Haida justice system or create one based in our history but made to work today.*

[because] *we can see ourselves* reflected within that group. Thus, group and community consensus and involvement were deemed essential components to Haida TII Yahda.

8.2.3. Strength-based approaches

There was a variation in responses in terms of the possibility of using isolation and banishment today. Captain Gold suggested that it might be more *acceptable to everybody* he added that the individual could be allowed back at a certain point once they had *made peace* with the community. However, in banishing people today there is a need to be cognizant of the modern world we live in as Gadgaas, Erika Stocker notes, *the last person that was supposed to be serving isolation time at Copper Bay (a Haida fishing camp) they probably dealt drugs out of there, that didn't help anybody*. 7idansuu suggested that we should continue to utilize banishment in cases where individuals are *causing a lot of trouble*. Whereas, K'iinuwaas noted that the notion of *ostracising, alienating, or banishment ...really doesn't...feel right and good in my heart*. Kiidlajuwee posits that it has to be *a community thing to make it work* [and that if it is not done properly we are] *just sending the problem to another town*.

The notion of self-isolation or getting out on the land to heal were also discussed. Guujaaw suggests that when you get out and explore Haida Gwaii you do not have the distractions of modern life and you are able to reflect and process *when you process it [trauma] then you can move on*. GwaaGanad and Jisgang shared a story about a person utilizing getting out on the land as a means to quit abusing substances and reconnect, by themselves, *with nothing to do some healing*. Ensuring there are *support systems* in place was deemed important should we decide that isolation or banishment is necessitated... *we cannot just banish them, we need to offer support* (Jisgang). Kiidlajuwee suggested that this support could include learning *life skills*. Education was deemed essential to ensuring the safety and health of the community and could potentially be utilized along with isolation in certain circumstances.

Land-based learning and exploration were also noted as key to healing and subsequently as having a potential role in certain cases. Multiple participants mentioned the two rediscovery camps⁴⁸ on Haida Gwaii as offering insight into the power of land,

⁴⁸ Swan Bay Rediscovery 'Laanas Dagang.a and T'aalan Stl'aang Leepas Bay.

healing, culture and leadership. The interrelationship between us and Haida Gwaii is integral and *we have a responsibility to treat it [Haida Gwaii] with respect because it is all we have got* (SGaana Gaahlandaay, Alix Goetzinger). Strengthening our relationship with the land is a part of reclaiming our cultural space as a sovereign Nation. The yahguudang for all of Haida Gwaii *exemplified through potlatch law is so functional, when it is functioning* (GaaysiiGas).

There was a focus on utilizing existing systems within potlatch to move forward towards reclaiming strength-based positive approaches to tll yahda. Alfred (2009a) argues that reclaiming our governance systems results in “freeing our collective souls from a divisive and destructive colonized politics,” within the Canadian system (p. 104). Gidin Jaad argued for the strengthening of potlatch and clan systems in order to result in *a natural progression* towards Haida tll yahda noting that *we have already seen a couple of making it right potlatches and feasts*. Strengthening our system involves recognizing and remembering that the *potlatch was our law court and we have to find a way to be strong enough to* (Guudee gud dlaaya) revitalize it moving forward. As Jaalen notes dealing with things and making them right through potlatch *is not easy* noting that in potlatches renouncing chieftainships *families are torn and no one really enjoyed it...but it seemed like it had to be done...and it was done in our system*. The public accountability fostered within potlatch was deemed an essential component of reparation that is not present within the western system.

The notion that responsibility reverberates outwards beyond the individual is exemplified through potlatch. *The clan takes responsibility for the actions of someone...those are examples that could potentially be drawn from for a modern system* (Jaalen). GaaysiiGas explains the *beauty of potlatch when you treat people well and provide for everyone, in the past the crime rates must have been absolutely pitiable [because] there is no reason to steal anything...no real reason for violence...that is why potlatch is so effective*. The notion of *public apology in order to make it right* is an element of potlatch that demonstrates the reciprocal relationship between all Haida peoples (Gadgaas, Erika Stocker). Doing things in public can be done on a large scale but it also can be done on a smaller scale (with one or two witnesses from opposing clans) and can be flexible to a variety of wrongdoings.

Hilang Jaad Xylaa notes that through potlatch and taking responsibility her Dad was able to make it right, but it is important to remember that *he was raised with those types of values to say I am going to make it right*. Not everyone has that capacity to do that on their own. Kiidlajuwee utilized the elements of potlatch to make things right and *met with the person who had been harmed to understand what they wanted. I hit him [with my car] and he lost part of his leg. I am recognizing my part of the incident because I am a part of it...we gave gifts to all of his Uncles and Aunts...his grandmother...it was just packed...I spoke on my part of it all...every hour we gave them something* and there was food distributed to the crowd every hour. Thus, payment and public apology were utilized to right his wrongdoing. This kind of personal accountability may not be possible in all cases and thus, turning to the family, clan and broader web of interrelationships may be essential.

Payment involves accepting the food and gifts distributed within a potlatch symbolizing your agreement with what is happening. Reflecting upon Kiidlajuwee's potlatch K'yalts'ii notes *after that potlatch and payment to the family and community he was able to move forward with his life, and really the events haven't been spoken about since then...the potlatch allowed for a true resolution of conflict in a way that I don't think would have happened otherwise*. Skil Hiilans noted that witnessing that potlatch allowed him to understand the potential of *bringing those types of things forward to where we are at now...* [noting that they] *could play a huge role in a justice system*. Participants also noted that not every case needs to be dealt with on such a large scale whether that be *mini potlatch style* (Gadgaas, Erika Stocker); or the *matriarch and chief* [of both people] *coming together to address the issue* (Gidin Jaad); it is important to remember that *not all law has to happen in front of 600 people* (Jisgang), and; there needs to be *flexibility in terms of how it is applied* (Laanas). Upholding one another through potlatch and other strength-based approaches were deemed integral to implementing Haida justice when we are still healing from the residual impacts of genocide and colonialism.

Positive approaches that foster resilience were emphasized. Addressing things through community events, feasts or potlatches was identified as a way to prevent the internalization of *dangerous emotions...there has to be a way to resolve those issues within themselves* because... *that shame can latch a hold of who we are and has impacted us in such a detrimental way* (K'iinuwaas). Ensuring that we build each other up instead of tearing each other down involves the recognition and appreciation that

everybody has a gift or something to offer [and sometimes it just takes the right mentor or role model to] *help change* someone's life (iihl ka jaad k'iinas). Gidin Jaad suggested that we have the tools and the capacity to move forward towards establishing Haida tll yahda, we just need to *quit talking the talk and start walking the walk together, with each other, and with our families* which will create a ripple effect in the community as more and more clans are strengthened. She further pondered whether formalizing a Haida Tll Yahda system could be a way for us to turn *something negative* [(the wrongdoing or criminal act) into] *something positive* like the person bettering themselves through language and culture (Gidin Jaad). Hilang Jaad Xylaa expressed hope that *more and more groups will start up around learning* culture, song, dance and way of life to both prevent and more effectively respond to wrongdoing through cultural avenues. However, she further suggests that although there needs to be flexibility in terms of punishments it is also important that there be *consistency through time* (Hilang Jaad Xylaa) for instance having a singular staff person or office space.

The value of having formal or informal mentors whether they are a part of ones' extended family or not, was deemed important to preventing criminality as well as fostering confidence and cultural pride in those involved in criminal behaviour. We could utilize some of the monies that go into criminalizing us within the western CJS to rebuild and strengthen systems to prevent wrongdoing. Kihlguaans reflected upon his role as a mentor noting that *some of them were dropping out of high school, some of them were getting into trouble with the law...getting involved with drugs and alcohol, by taking them in I was able to refocus them on something that was positive, to keep busy, be proud of their accomplishments...I gave them some tools that could help them choose a different path in life.* Gidin Jaad continues along this line *I am going to have to be that person, that auntie like my aunties who invested in me, encouraged me to listen to my spirit and intuition...you need to step in to fill these roles...looking after each other and each other's kids will be healthier for everybody.* When we come to understand how colonialism and trauma have impacted our families we can *shift and come to a place of compassion and forgiveness rather than anger and resentment.* Educating one another, caring for each other and fostering respect, resilience, and love can begin our journey to formalizing a Haida Tll Yahda system.

A part of this education must include an awareness of the ongoing covert and overt tactics that the colonial government uses to keep us oppressed (Alfred, 2009a).

However we “were [and are] in no way passive victims to genocide” or colonialism (Palmer, 2019, p. 142).

Chapter 9.

Discussion and Conclusion

The primary goals of this research - to define and conceptualize a Haida notion of justice and examine the potential implementation of a sovereign Haida Tll Yahda system – were achieved; however, more work needs to be done to push these findings into action. The rest of this chapter includes a reiteration of the key findings and recommendations provided by participants. I address the strengths and limitations of the present research, and conclude by suggesting potential steps to take to move this research forward.

9.1. Key findings and recommendations

Haida tll yahda was and is defined by our interrelationship with the lands and waters of Haida Gwaii. Old ways and stories contain the ancient wisdom from which we can revitalize and reimagine our systems today and provide insight into Haida ways of life. Turning to these stories helped contextualize and plant the roots of these findings within that worldview. The focus on interrelationships between the individual, clan, community and Haida Gwaii itself is central to our conceptualization of tll yahda both in the past and today.

These findings suggest that Haida tll yahda must first and foremost be grounded within the community. This community focus was evidenced on multiple levels throughout this research. Firstly, in terms of the importance of rebuilding and reclaiming some foundational aspects of communal living including heightened family, clan, and community accountability. Secondly, the notion that responsibility for one's actions is not just individual but reverberates outwards. Lastly, there need to be witnesses for everything, which once again comes back to the importance of family, clan, and community. Laanas suggested that as we formalize Haida tll yahda we can begin to

Incorporate as we are building our clans, incorporate culture, song, and dance, and then really celebrating what this could be. Really celebrating it- like this is an extension of who we are- just like our Constitution. Building it up so that it is a positive step towards this justice system. What will we call it? What is the Haida name for that? How do we know

this is the right thing for us to do? And by having a huge celebration when it is in place.

This continual involvement of the community at all stages of implementation is necessitated in order to ensure that the formalization of Haida tll yahda is done with yahguudang (respect).

The strongest findings from this research were around moving elements of potlatch forward. Our governance and legal structure was and is represented through 'WaahlGahl. There was strong support by most participants for: (1) strengthening this system, (2) bringing forward its elements (accountability, witnessing/public, payment, and responsibility) for use on a smaller scale where necessitated and, (3) that there be flexibility in how these principles are applied depending on the particular case or situation. The potlatch was and is integral to our lives, the social and political functioning of our communities, tll yahda (making things right), and ensuring balance is maintained (Collison, 2014; Swanton, 1905). 'WaahlGahl has been reinvigorated and strengthened over the years and it has been utilized to tll yahda (make it right) wrongdoing in modern-day potlatches. These findings suggest a willingness to continue to revitalize our governance systems (including Haida tll yahda) through 'WaahlGahl.

Strength-based approaches were also deemed important in the formalization of a Haida Tll Yahda system. There was some support for the use of isolation and life-skills learning in certain cases in which the accused would benefit from that time spent on the land and waters of Haida Gwaii. Overall there was a consensus that we are dealing with incredible trauma that we were not when Haida tll yahda was originally in existence and in light of this we need to focus on strength-based positive approaches not the more adverse punishments of the past. This positive approach was representative of the need to heal and foster resilience in our communities. Examples of such approaches were potlatch; using formal and informal mentorships around culture (song, dance, art and land connection), language and history; teaching people skills such as food harvesting that may not have been passed on to them; and facing our grief, trauma and abuse. Facing vicious cycles was noted as necessary before we can truly begin to imagine a Haida Tll Yahda system because of how interrelated our trauma is with our wrongdoing.

The incremental formalization of a Haida Tll Yahda system was another key finding. The overall sentiment was that each stage of implementation needed to be

grounded in the community to ensure an adequate understanding of the complexity of the issues and support for each step in that direction. As Captain Gold explains it is a *new field for everybody so if it is done in a good way those steps have to be key, they have to be productive, [and over time as people see] these steps implemented they will gain confidence* in their results and the program will receive community support.

9.2. Strengths and Limitations

This research follows the recommendations for Indigenous researchers provided by Alfred (2009b) that

we have a responsibility to generate and sustain a social and political discourse that is respectful of the wisdom embedded within our traditions. We must find answers from within those traditions, and present them in ways that preserves the integrity of our languages and communicative styles. Most importantly, as writers and thinkers, we should be answerable to our Nations and communities” (p. 179).

This research was and is grounded in the community, conducted by a Haida researcher with the permission of the CHN. Its strengths stem from the trust that participants had in me and the stories that they shared. By essentially Haida-izing this research through forming a methodology and reflexive practices grounded in Haida values and examining literature that was focussed on the Nation I was able to take steps towards reclaiming research. This was and is a significant strength of this project and its findings. These findings are grounded in our oral histories and values, the strength of the Haida Nation and being written on Haida Gwaii changed the lens through which they were interpreted.

As I have been here conducting this research I have attended funerals, basketball games, volunteered and spent time in the museum and on the beach when I needed inspiration. At the same time, I watched my community grapple with banishing alleged abusers, drug overdoses and addiction, and holding drug dealers accountable who are often protected by their families and clans. The heaviness that exists in my heart has weighed me down as I try my best to move as efficiently as possible towards our sovereignty so that we can stop losing our people to suicide, addiction, and criminalization which are both rooted in and intertwined with our ongoing genocide. I am not alone in our Nation’s battle to move forward, to harness our strength, but sometimes I feel that all of the compounded trauma that we have faced is too much. It is in those moments of weakness I found solace in letting emotion hit me and recognized that it is

ok to feel grief because it is part of building strength and the tenacity to continue towards the ultimate goal of sovereignty. Jisgang recalled that on the morning of our interview *she woke up with so much grief, I have no idea what for...but you learn ...to navigate it...not live with it navigate it...I think so many of us want to be healed, but that is an ongoing process, not a prescribed solution.* Our collective responsibility to each other includes the need to recognize that our “communities cannot be healthy if the individuals which comprise those communities are not healthy” (Monture-Agnus, 1995, p. 240). Education as to the impact of colonialism, genocide and imposed systems was also found to be key to fostering resilience, cultural re-connection and beginning our incremental work towards learning how to navigate and subsequently begin to heal our collective experiences of trauma and grief.

As has been addressed, the impacts of trauma, genocide, and internalized colonialism are key limitations of the present research. Another key limitation of this project is that I did not explore how the formalization of Haida tll yahda would operate for Haida citizens in Hydaburg, Alaska. They are recognized citizens of the Haida Nation but, they fall under the imposed governance of the United States of America. It was beyond the scope of the current project to examine this jurisdictional issue and to consult with more participants from Hydaburg. Participants mentioned this as a challenge that we would need to address as we begin to formalize Haida tll yahda. Thus, future research and policy formation on Haida tll yahda should address how not only Canadian but American policy may impact our sovereign assertion of justice.

9.3. Next steps: where do we go from here?

This research was and is guided by the Haida proclamation. In particular, it was a statement of my place as a part of the living generation who “accepts the responsibility to ensure that our heritage is passed on to following generations” (Constitution of the Haida Nation, 2018, p. 1). I consider this project, grounded in community knowledge and ancient wisdom, as a part of preserving that heritage and moving it forward for the next generations of Haida. There is so much that we have yet to unravel and to rebuild so that future generations can live as proud, strong and resilient Haida citizens without having to fight for our identity, belonging and Nationhood. I hope that future Haida citizens will have the opportunity to tll yahda (make it right) through our own system so that they can take responsibility for their wrongdoing and move forward with their lives. I

hope that this research will assist my Nation in establishing our full sovereignty by informing future discussions, meetings, and consultations on Haida tll yahda. I am hopeful that my Nation will continue to imagine and work towards a post-colonial vision of ourselves informed by our old ways and re-imagined for today. I hope to be a part of our collective journey to freedom from the colonial stronghold.

The festering wound of lingering colonialism and criminalization within imposed systems limits our potential to tll yahda (make it right) with ourselves and each other. Alfred (2017) sums up our collective journey as follows

For many generations we Indigenous peoples have been in a life and death struggle for survival, for respect for our humanity, restoration of our Nationhood, and recognition of our rights. This whole time, a constant surge of ancestral memory running through our veins has empowered and enlivened us and given us the gifts of tenacity, anger, patience and love, so that the people may continue and so that the generations that are yet to rise from the earth may know themselves as the real people of their land” (p.11).

We have the power to begin the process of healing, to reclaim, to revitalize and re-imagine and to move forward as a Nation.

When I first heard the translation for decolonization Gam yen asing *k'aa.ngasgiidaay han hll guudang Gas ga*,⁴⁹ which translates in English to *I will never again feel that I am less than*, I was struck with emotion and grief. That grief permeates my existence. I grieve for what could have been had I grown up proud of my Nationhood, culture, and speaking my language. I grieve for my kuuniissii (ancestors) who were not only subject to introduced disease and genocide but whose bones were stolen and placed into museum storage. I grieve for the continual loss that impacts my community from suicide, overdoses and those who are continually taken away and placed into the foster care and prison systems. I grieve for the women whose lives have been lost through the strategic blindness to their deaths and disappearances along the highway of tears (and across this Country) that I pass through every-time I drive home to Haida Gwaii from Vancouver. That collective grief has held us back, but it also pushes us forward. We hold a National grief, but we also hold a National anger. That anger should not be internalized but instead utilized to move us forward towards reinstating our place

⁴⁹ (Betty Richardson as cited in SHIP, 2019).

in this world, reoccupying our lands and waters, and strengthening ourselves and each other by facing our collective grief. This will not be an easy journey, but we can begin to move towards healing by educating ourselves and finding our place. There is a post-it on my door that reads 'you belong here,' it is a reminder every day of my family's journey and collective struggles to overcome racism, shame, trauma, and addiction. As Alfred (2017) explains the best way that you can "fight colonization is by re-culturing yourself and re-centering yourself in your homeland" (p. 12). When I close my eyes I can see a world in which my nieces and nephews renounce their Canadian citizenship and move home to be a part of the Haida Nation. I hope my father lives to see that day so that he too can come home.

Holding Canada to account is another key aspect of this process and something that needs to be explored through future research. This approach is something deemed impossible because it calls into question the legitimacy of the colonial state and post-colonial visions of Nationhood (Alfred, 2009b). However, the rhetoric of impossibility only serves the colonial state and limits our capacity. Settlers on Indigenous land across this country could assist us "in turning the conversation around so that Canada is required to be accountable for the wrongs it has perpetuated" (Monture-Agnus, 1995, p. 253). This accountability cannot simply be in the form of payment but must include a recognition of our Nationhood and action (Alfred, 2009a). State defined notions of rights, sovereignty and self-determination will always privilege the interests of our colonizers who will continue to deny any true responsibility or make adequate payment (Coulthard, 2014). Filtering some of the monies that it used to criminalize us through the western imposed system is not so far-fetched as GaaysiiGas notes *Canada must make payment for what has occurred here on Haida Gwaii*. That payment could subsequently be utilized to fund healing, land, language, and culture-based initiatives as well as to support one or two full-time staff and to provide some monies for the day to day operation of our program. He further suggests beginning with negotiating an interim agreement *before we have title [and working with] structures that have already been built* such as CHN to formulate policy and capacity. *lihl ka jaad k'iinaas* adds that *we do have the capacity, it takes time, but I am sure there are people, grants, monies and connections that we could use to help us* in formalizing a sovereign Haida Tii Yahda system. Thus, future research should examine pathways to sovereignty under international law, payment, and action that Canada could take towards true reconciliation by decolonizing its approach.

The process of rebuilding our “Nations,” includes developing the capacity for all aspects of Nationhood including our right to respond to our peoples’ wrongdoing or criminality (Monchalin, 2016; Victor, 2007). We must be innovative, critical, and logical in our pathways forward as a Nation in order to continue to resist the colonial smokescreens and actors whose goal it is to appease colonized minds.

This research has demonstrated that the formalization of a Haida Tll Yahda system is a tangible possibility as a further assertion of the Haida’s National sovereignty. Haida conceptualization of tll yahda is still present within our societies, exemplified in our day to day interactions and in ‘Waah!Gahl. We cannot wait for the colonial court system to recognize our Nationhood, rights, and title- we must begin our pursuit for tll yahda amongst ourselves and for ourselves. There is no other way- T’alang XaaydaGas gudad t’alang giixaang dii- *we Haida people need to stand together* (Golie Hans; as cited in SHIP, 2016, p. 812) and channel our collective anger, tenacity, and intelligence to achieve Haida Tll Yahda.

9.4. Looking towards the future.



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Appendix.

Interview Guide

The framework of this project is around contesting the imposed colonial system of justice and reclaiming the self-governance powers that are rightfully ours. Self-governance includes the right to regulate and control wrongdoing within our community through the reclamation of sovereign justice.

1. Tell me a bit about yourself- where did you grow up? If from HG- what was it like here when you were a kid.
2. What comes to mind when you think of Haida justice?
3. Do you know of any Haida stories/ oral histories that illustrate a Haida notion of justice?
4. What can you tell me about how we dealt with trouble (violations of Haida law/values) before the settler Europeans arrived?
5. Can you think of any principles or values from old Haida stories and laws that could have relevance to a HJS
6. **If you were to develop a Haida justice system, what would it look like:**
 - What sort of situations would it be used for?
 - What values or laws would guide it?
 - Who would be in charge of it (CHN's role) ?
7. How do you think a Haida justice system could operate? [structures]
In the preliminary project I conducted, some of the words that came up to describe Haida justice included accountability, witnessing and responsibility.
 - Would you add any more principles values or laws that you think should inform Haida justice?
 - How do you think these principles could be operationalized within a HJS?
8. How would you distinguish a Haida conceptualization of justice from Canadian justice?
9. How could you see a HJS responding to a typically 'criminal' violation?
10. What supports do you think would need to be put in place in order to implement Haida justice?