

**EMERGING FROM COLONIAL QUICKSANDS**

CULTURAL HYBRIDITY AND THE STÓ:LŦ TRANSITION TO SELF-RULE:  
EXAMINING STÓ:LŦ DISCOURSE AROUND THE EXPERIENCE OF  
TAKING ON RESPONSIBILITY FOR THE DELIVERY OF CHILD AND FAMILY SERVICES

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## EMERGING FROM COLONIAL QUICKSANDS

### CULTURAL HYBRIDITY AND THE STÓ:LŌ TRANSITION TO SELF-RULE: EXAMINING STÓ:LŌ DISCOURSE AROUND THE EXPERIENCE OF TAKING ON RESPONSIBILITY FOR THE DELIVERY OF CHILD AND FAMILY SERVICES

*“Yeah, we’re going to make mistakes.  
Yeah, they may take the delegation away from us from time to time,  
and yeah, there’s going to be internal conflict.  
But all that, we’re going to learn from it.  
We’re not going to stop just because we’re going to make mistakes.  
We’re not going to stop just because we have internal conflict.  
We’re not going to stop just ‘because’...  
We’re going to keep on going.  
Government is going to happen here.”*

*Steven Point<sup>1</sup>*

## INTRODUCTION

This paper is the outcome of a series of interviews conducted from June 20 to July 27, 2007, with members of the Stó:lō Nation belonging to a number of different tribes whose traditional territory extends along the Fraser River, in the south-western part of British Columbia.<sup>2</sup> The research topic was set, in broad terms, in consultation with the staff of the Stó:lō Research and Resource Management Center. They asked me to gather and analyse perspectives on Xyolhemeylh (“[Hee-oth-e-meeth](#)”), a program established by the Stó:lō in 1993 to take on responsibility for delivering child and family services to their own people.<sup>3</sup> Xyolhemeylh operated under the control of Stó:lō

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<sup>1</sup> The Honourable Steven L. Point, carrier of the Stó:lō name *Xwelixweltel*, served as the elected Chief of the Skowkale First Nation for 15 years. He served as Chairman of the united Stó:lo Nation Tribal Council from 1994 to 1999, went on to serve as a Judge on the British-Columbia Provincial Court and then as Chief Commissioner of the BC Treaty Commission. On October 1<sup>st</sup>, 2007, he was sworn in as British-Columbia’s 28<sup>th</sup> Lieutenant Governor. The “mistakes” and “internal conflict” he refers to in this excerpt from our June 29, 2007 interview have to do with the administration of the child and family services program discussed in the present paper. As will be explained hereafter, the Stó:lō acquired the authority to administer the program through a delegation agreement with the province of British Columbia. When the Stó:lō leadership split in 2004, the authority to run the program became internally disputed.

<sup>2</sup> I wish to extend my warmest thanks to all of my interviewees. They are, in the chronological order of the interviews: Doug Kelly, Gwen Point, Dan Ludeman, Tillie Gutierrez, Keith Carlson, Kat Pennier, Glenda Campbell, Patricia Charlie, Helen Joe, Verna Ludeman, Herb Joe, Darin Park, Virginia Peters, Michelle Julian, Tyrone McNeil, and Joe Hall. All interviewees are Stó:lō, with the exception of Dan Ludeman, Keith Carlson, and Darin Park.

<sup>3</sup> At its inception, the agency was entrusted with the care of all Stó:lō families living on reserve. As soon as 1997, the delegation was extended to encompass all Aboriginal children living on Stó:lō traditional territory (referred to as “the catchment area”), be it on or off reserve. This *more than tripled* the organization’s responsibility, both in terms of the number of children in care, and in financial terms (Michelle Julian: July 24, 2007 interview, circa 51:00, and January 10, 2008 note to A. Boisselle). Xyolhemeylh’s jurisdiction over children pertaining to Aboriginal communities other than the Stó:lō bands regrouped under the tribal council known as “Stó:lō Nation Society” depends on the consent of the parent or Aboriginal community concerned: see Appendix B, Section B of the *Stó:lō Nation Delegation Enabling Agreement* (November 20, 1997) [hereafter “Delegation Agreement”], on file with the author.

Nation for approximately thirteen years, through renewed delegation agreements with the provincial and federal governments. But in 2006, the program was temporarily removed from Stó:lō control and placed under the direct supervision of the Minister of Child and Family Development, due to conflict within the Nation itself as to who should run it, and how.<sup>4</sup> This was still the case as of July 2007.

There are so many important and complex issues woven into that of Aboriginal child welfare that each of them, taken separately, could account for Xyolhemeylh being a focal point of intense political debate among the Stó:lō – how to heal the deep wounds of colonialism, how to manoeuvre around its remaining grip, how both to retrieve and reinterpret one's own culture, how to build the legitimacy of the rules and mechanisms that allow for settling conflict, how to understand autonomy and interdependence. Talking about Xyolhemeylh led my informants to touch on all of these issues, providing a glimpse into where the Stó:lō are at with respect to each of them. But before we listen to their words, two historical episodes must be mentioned in order to provide the minimal context for understanding their discourse – especially for the non-native reader, considering that much of the State's policy regarding First Nations has, as Christopher Walmsley points out, “operated outside the consciousness of the Euro-Canadian public.”<sup>5</sup>

A fuller understanding of how First Nations are presently struggling with the difficulties of reasserting self-government, as well as the various ways in which this struggle relates to child welfare, requires acquaintance with a larger historical background than I can possibly provide here. Other researchers have exposed the various manifestations of the State's assimilation strategy and demonstrated how the First Nations' cultural autonomy with respect to the care of children, obviously essential to their survival, has been curtailed to the point of inflicting upon them severe and durable harm.<sup>6</sup> For present purposes, I will only say a few brief words about the residential schools and the “sixties' scoop,” since they led directly to the establishment of Aboriginal child care programs such as Xyolhemeylh.

The residential school system, which ran from 1876 to 1986 under the supervision of the federal government, aimed at “separating generations of children from their families, suppressing their Aboriginal languages, and resocializing them according to the norms of non-Aboriginal society.”<sup>7</sup> For many who went through it, those aims were indeed harshly concretized, tearing asunder their lives and communities – as Chief Cinderina Williams, of the Spallumcheen Band, explained to the Royal Commission on Aboriginal Peoples:

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<sup>4</sup> Joe Hall: July 27, 2007 interview (circa 3:00).

<sup>5</sup> C. Walmsley, *Protecting Aboriginal Children* (Vancouver/Toronto: UBC Press, 2005) at 11.

<sup>6</sup> See Walmsley, *ibid.*; S. Fournier, and E. Crey, *Stolen From Our Embrace: The Abduction of First Nations Children and the Restoration of Aboriginal Communities* (Vancouver/Toronto: Douglas & McIntyre, 1997); J.R. Miller, *Shingwauk's Vision – a History of Native Residential Schools* (Toronto: University of Toronto Press, 1996); J.S. Milloy, *A National Crime : the Canadian Government and the Residential School System, 1879 to 1986* (Winnipeg: University of Manitoba Press, 1999).

<sup>7</sup> Walmsley, *ibid.* at 9 (summarizing the findings of the Royal Commission on Aboriginal Peoples, 1996, 1:chap. 10).

“Later when these children returned home, they were aliens. They did not speak their own language, so they could not communicate with anyone other than their own counterparts. Some looked down on their families because of their lack of English, their lifestyle, and some were just plain hostile. They formed no bonds with their families, and some couldn’t survive without the regimentation they had become so accustomed to... Perhaps the greatest tragedy of this background was the unemotional upbringing they had. Not being brought up in a loving, caring, sharing, nurturing environment, they did not have these skills as they are not inbred but learned through observation, participation, and interaction. Consequently, when these children became parents, and most did at an early age, they had no parenting skills. They sired and bred children, but were unable to relate to them on any level.”<sup>8</sup>

When the federal government started closing residential schools in the sixties, the provincial child welfare system took its place in continuing to separate Aboriginal children from their families. In part as a direct consequence of the difficulties faced by the new generation of Aboriginal parents in raising their own children, as explained by Chief Williams above, and in part because social workers coming on reserve were applying a non-Aboriginal value system and worldview to the evaluation of risk to the well-being of children, a practice developed of apprehending and removing Aboriginal children from their families and communities, on the grounds that they were neglected and living in poverty. Pursuant to this practice,

“[m]ost children were placed in non-Aboriginal foster homes or care facilities, but a significant number were adopted. Between 1971 and 1981 75 percent were adopted into non-Aboriginal homes. Prior to the late 1970s an unknown number of Aboriginal children in Canada were adopted in the United States.”<sup>9</sup>

Through the pioneering work of Manitoba chiefs – whose communities saw so many of their children adopted into foreign, non native families well into the 1980s, through undocumented practices that kept this hidden from the general public<sup>10</sup> – and, in BC, of the Spallumcheen band,<sup>11</sup> a process of law reform was undertaken. In BC, it led to the gradual delegation of authority for delivering child and family services to about twenty Aboriginal communities, between 1987 and 2002.<sup>12</sup> The new policy, eventually entrenched as a “Service delivery principle” in the 1996 *Child, Family and Community Service Act* (CFCSA) states that Aboriginal peoples should be involved in the planning and delivery of services to Aboriginal families and their children.<sup>13</sup>

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<sup>8</sup> *Ibid.* at 12 (quoting from RCAP 1996, 3:chap.2, 35).

<sup>9</sup> *Ibid.* at 14.

<sup>10</sup> A public enquiry uncovered the full extent of this in 1985. Justice Kimmelman, leading the enquiry, alludes to the general public’s ignorance when he writes: “In 1982, no one except the Indian and Métis people really believed the reality – that Native children were routinely being shipped to adoption homes in the United States and to other provinces in Canada... No one fully comprehended that 25 percent of all children placed for adoption were placed outside of Manitoba. No one fully comprehended that virtually all those children were of Native descent”: Walmsley, *ibid.*

<sup>11</sup> *Ibid.* at 24-25.

<sup>12</sup> For a list of the delegated authority agreements between the Director of child welfare and Aboriginal organizations in BC for the provision of child welfare services to Aboriginal children and families, as of 2004, see Walmsley, *ibid.* at 29.

Within the Stó:lō delegation agreement, this translates into an understanding that Xyolhemeylh will deliver services “directed toward the safety, well-being and protection of Stó:lō children and will promote positive cultural identity and the recognition of the role of the extended family, and will encourage First Nation Communities’ participation.”<sup>14</sup> The purpose of the agreement is “to establish administrative, funding and protocol arrangements whereby Xyolhemeylh will provide community based family and child services with an aboriginal perspective”<sup>15</sup> and will “deliver them in a culturally sensitive mode that encourages the involvement and hiring of aboriginal employees.”<sup>16</sup>

But the agreement remains a simple delegation – it is not a treaty.<sup>17</sup> It does not reallocate jurisdiction, does not recognize the Stó:lō people’s authority to change the provincial law or discard any part of it. It states expressly that services must still be delivered in a manner “consistent with” the CFCSA,<sup>18</sup> and the CFCSA Director has the final say on interpreting that “consistency” as far as the implementation of the standards and policies that Xyolhemeylh is empowered to formulate is concerned.<sup>19</sup> And while the Executive Director of Xyolhemeylh is designated by Stó:lō Nation,<sup>20</sup> and as such must answer to the Nation, the director and his/her staff are the direct delegates of the Ministry and represent solely the Ministry, not Stó:lō Nation, in the exercise of their delegated authority and in any proceedings under the CFCSA.<sup>21</sup> In that respect, Xyolhemeylh is somewhat of a strange cultural hybrid, at the crossroads of the reassertion of control by the Stó:lō over themselves. It allows for the exercise of governance, if not yet of government.

Weariness and hostility at the continued imposition of the Western value system is sometimes obvious in the discourse of my informants – and understandably so. But if we listen carefully to what they are saying, they are not buying into the simple dichotomy “us-them” when it comes to their identity and to their conception of the achievement that is living together. Emerging from their discourse is a complex and careful relationship with hybridity, manifested by ambivalence and ambiguity with regard to the incorporation of Western values and ideas to their traditions; creativity in the reappropriation and reinterpretation of their culture; and a deep desire to *voice*, and *hear*, what they have to say to each other, to be involved and get their communities involved in decision-making – in other words, to be part of the conversation on how to handle diversity and disagreement. As listening to them teaches, the collective act of grappling with these interwoven themes, clustered around cultural hybridity and

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<sup>13</sup> *Child, Family and Community Service Act*, RSBC 1996, c. 46, Part 1, Section 3, “Service delivery principles,” Principle (b) ([http://www.qp.gov.bc.ca/statreg/list\\_statreg\\_c.htm](http://www.qp.gov.bc.ca/statreg/list_statreg_c.htm)).

<sup>14</sup> Delegation Agreement, *supra* note 3, “Whereas – A.”

<sup>15</sup> *Ibid.*, Section 2, “Purpose - 2.1.”

<sup>16</sup> *Ibid.*, Section 3, “Principles - 3.3.”

<sup>17</sup> *Ibid.*, Section 2, “Purpose - 2.2.”

<sup>18</sup> *Ibid.*, Section 2, “Purpose - 2.1.”

<sup>19</sup> *Ibid.*, Section 9, “Standards and Policy – 9.3.”

<sup>20</sup> *Ibid.*, Section 1, “Definitions - 1.11.”

<sup>21</sup> *Ibid.*, Section 5, “Separation of the Delegatee Role from Statutory Role of Aboriginal Community or Indian Band.”

distinctiveness on the one hand, and conflict, law and political organization on the other, is what the transition to self-government is all about.

After touching on some of the theory that informs my understanding of the interviews (section I), I will analyse my informants' discourse in two parts, starting with how they addressed the settlement of conflict within the family, that is, the direct functioning of Xyolhemeylh (section II.A), then moving on to a wider discussion about law and politics (section II.B). The latter discussion resulted from my attempt at understanding the nature of ongoing disagreements pertaining to who should be managing the program, and how.

## **I. THEORY**

In order to be sensitive to the subtleties of Stó:lō discourse about Xyolhemeylh and self-government, it is helpful to take a look at some of the theoretical reflections on two main issues at the core of the interviews: What is culture? What is law?

Anthropologist Bruce Miller has recently discussed a few of the challenges faced by First Nations as they seek to define their contemporaneous cultural distinctiveness in order to reassert self-government. Among those difficulties are the need to find their bearings after “a long period of disruption imposed by the state and of heightened differences between members of the community based on wealth, education, religion, and so on,”<sup>22</sup> and to create governance mechanisms that will have legitimacy both in the eyes of their own community members and in those of the non natives. The idea of cultural distinction itself poses a serious challenge, even as one recognizes that “indigenous peoples have their own distinct ways of managing social relations and of conceiving of and maintaining humankind's place in the world,”<sup>23</sup> for that world, in its “real, current” form as Miller puts it, “is more complex than can be captured by the ideas of cultural distinctiveness or social separateness; there have now been many decades of interpenetration of peoples and of ideas.”<sup>24</sup>

Miller alerts to the dangers of denying the complexity brought about by that interpenetration. Such denial often takes the form of presenting indigenous ways and practices as the opposite of whatever mainstream practices might be, since they are “distinct.” The automatic rejection of any idea by virtue of its being espoused by the mainstream can even lead some communities to deny the existence of disagreement in their midst. Disagreement, stemming from diverse, divergent views among a polity, is indeed seen as a defining feature of the mainstream world, structured around democratic politics and an adversarial justice system – institutions meant to address conflict and plurality. An associated argument, which sits easily with the view defining “Aboriginal” in opposition to the mainstream, is “that only indigenous peoples can

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<sup>22</sup> B. Miller, “Justice, Law, and the Lens of Culture” (2003) 18:2 *Wicazo Sa Rev.* 135 at 136.

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

administer justice to indigenous peoples because members of one cultural group cannot understand or empathize with those of another.”<sup>25</sup>

Ironically, seeking to strengthen the claim to distinctiveness by drawing clear boundaries around native culture not only prevents the borrowing and adaptation of ideas from a variety of sources into native culture (as well as the recognition that something can be exchanged between communities), but it also impairs the reappropriation of complex prior local practices, obscuring the identification and understanding of mechanisms already present within the culture. By “framing the discussion of their own indigenous practices in reaction to the mainstream,” Miller explains, some indigenous communities “thereby distort their own legacy by emphasizing harmony and deemphasizing real-world problems.”<sup>26</sup> The idea that harmony is the natural state of native society suggests “that people simply live in conformity with cultural norms,”<sup>27</sup> or that such norms amount to a simple “template providing an unambiguous answer to carrying out the practice of justice.”<sup>28</sup> This flattens the culture and threatens the freedom and flexibility necessary to hold debates and address internal disagreement, in other words, to conceive of the mechanisms of politics and lawmaking. It delays the necessary work of furthering sovereignty, for the community has stripped itself of the resources allowing it to resolve internal dispute.<sup>29</sup> Its own representation as a cultural automaton is a means of domination, both by inside and outside forces.<sup>30</sup>

This is not to say that boundaries are not important. Indeed, it is difficult to think about identity and distinctiveness at all without a notion of boundaries, but these, as Miller suggests, only appear *through* interaction and conflict:

“My argument here is that innovative, community-driven justice initiatives must find a way to struggle against the impulse to misuse the idea of culture and engage in ‘us-them,’ oppositional, compartmentalizing, and dichotomizing thinking in developing new justice projects. Instead, perhaps ironically, establishing a recognizable, distinctive, identifiable indigenous program of justice requires a shared field of ‘we-you’ interethnic discourse and interaction through a kind of complementarization [Eriksen]. This perspective follows from the insight that the forms of group distinction referred to as ethnicity arise from conflict, yet require various continued forms of interaction. Ethnicity in this sense is relational rather than a discrete entity [Sider, Sharp, Comaroff]. Culture, the content of ethnicity, has particular relational properties; it marks off difference, but cultural boundaries are also transcended and culture transformed by contact.”<sup>31</sup>

Contact and conflict with the outside should hence be embraced as essential components in the dynamics of culture. But internally as well, it is important to

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<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.* at 140.

<sup>27</sup> *Ibid.* at 148.

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.* at 137.

recognize that “indigenous communities are places of conflict and that justice concerns, in part, the resolution of conflict.”<sup>32</sup> In other words, that harmony is “the outcome of human actions rather than merely [...] a state of affairs.”<sup>33</sup>

Here, Miller’s account of justice and harmony echoes an account of the legal order whereby law consists in “the act of defining a common position, in the face of continuing disagreement.”<sup>34</sup> Indeed, as the constitutionalist Jeremy Webber has argued, representing the emergence of legal norms as natural and spontaneous obscures “an important and contested judgment inherent in [that] very emergence.”<sup>35</sup> In other words, law “is based on the desire to make a normative order, to have some order established, even in the face of continued normative diversity within society at large.”<sup>36</sup>

This explanation of the legal phenomenon, emphasizing human agency in the creation of legal order, is important in light of the previous discussion of the dangers awaiting native communities transitioning to self-government. But to understand what law and self-rule are about, I believe that the notion of agency which they contain must yet be “thickened,” for it consists in more than mere *will*, the purposeful exercise of a capacity to choose, or a moment of “decision or imposition.”<sup>37</sup>

A legal order is brought about when decisions and rules are *generally felt as legitimate* by a community – which is why Miller directly reaches for the term “justice” to talk about it. But what is legitimacy made of? It can be said that both rules and rulings are legitimate when they *make sense* of the experience of the community that they purport to apply to.<sup>38</sup> Put differently, legitimacy is about the relative persuasiveness of certain meanings over others.<sup>39</sup> A legislator and a judge do *make* law when they articulate rules or interpret their meaning for application to a particular case. But their utterances only “feel” legitimate when it seems as though they are somehow speaking norms that already exist, that they are articulating a tacit normativity already present, as it were, *in the background*. Thus, both law and human agency can be defined in a central way by what underlies them, something not captured by the idea of will but by that of *shared understandings*.<sup>40</sup> Only a small portion of those meanings is actually articulated at any given time. This is precisely what anthropologist Clifford Geertz refers to as “background information,” that is, “most of what we need to comprehend a particular

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<sup>32</sup> *Ibid.* at 148.

<sup>33</sup> *Ibid.* at 138.

<sup>34</sup> J. Webber, “Pluralism and Human Agency” (2006) 44:1 *Osgoode Hall L.J.* 167 at 179.

<sup>35</sup> *Ibid.* at 178.

<sup>36</sup> *Ibid.* at 177.

<sup>37</sup> *Ibid.* at 180.

<sup>38</sup> See J. Webber, “A Judicial Ethic for a Pluralistic Age: Responding to Gender Bias, Class Bias, Cultural Bias in Adjudication” in *Multiculturalism and Law : A Critical Debate*, O.P.Shabani, ed. (Cardiff, Wales : University of Wales Press, 2007).

<sup>39</sup> See S.L. Winter, *A Clearing in the Forest : Law, Life and Mind* (Chicago: University of Chicago Press, 2001).

<sup>40</sup> See C. Taylor, “Lichtung or Lebensform: Parallels between Heidegger and Wittgenstein” in *Philosophical Arguments* (Cambridge: Harvard University Press, 1995) 61 [hereafter “H&W”] and C. Taylor, “To Follow a Rule” in *Philosophical Arguments* (Cambridge: Harvard University Press, 1995) 165.

event, ritual, custom, idea, or whatever,” and which is inevitably “insinuated” right away “before the thing itself is directly examined.”<sup>41</sup>

Those meanings are public, as Geertz points out,<sup>42</sup> which amounts to saying that culture is a set of shared, interrelated meanings that no single person has *control over*, but that we are not fully *controlled by* either. We live by meanings which are shaped by our common human experience, at this time and in this place, and everyone participates at once in their constant but always partial reformulation. Self-determination is about being ruled by the meanings which are “ours,” that is, those we can act on and change. But we can only do so little by little, as we come up with new meanings that make better sense of our experience – itself in constant evolution. The phenomenon can be better understood by narrowing it down to language, as described by the philosopher Charles Taylor:

“[I]f the language capacity comes to be in speech, then it is open to being continuously recreated in speech, continually extended, altered, reshaped. And this is what is constantly happening. Men are constantly shaping language, straining the limits of expression, minting new terms, displacing old ones, giving language a changed gamut of meanings. But [...] the new coinages are never quite autonomous, quite uncontrolled by the rest of language. They can only be introduced and make sense because they already have a place within the web, which must at any moment be taken as given over by far the greater part of its extent. [...]

What then does language come to be on this view? A pattern of activity [...] deployed against a background which we can never fully dominate; and yet a background that we are never fully dominated by, because we are constantly reshaping it. Reshaping it without dominating it, or being able to oversee it, means that we never fully know what we are doing to it; we develop language without knowing fully what we are making it into.”<sup>43</sup>

This applies as well to the wider background of our tacit understandings: they are something we never “fully control and oversee,” grounding the meaning and legitimacy of stable legal orders beyond individual consent or even acquiescence. As Taylor puts it,

“The background understanding we share, interwoven with our practices and ways of relating, isn’t necessarily something we partake in as individuals. That is, it can be part of the background understanding of a certain practice or meaning that it is not mine but ours. [...] Bringing in the background allows us to articulate the ways in which our form of agency is nonmonological, in which the seat of certain practices and understandings is precisely *not* the individual but one of the common spaces between.”<sup>44</sup>

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<sup>41</sup> C. Geertz, “Thick Description: Toward an Interpretive Theory of Culture” in *The Interpretation of Cultures: Selected Essays* (New York: Basic Books, 1977) 3 at 9.

<sup>42</sup> *Ibid.* at 12.

<sup>43</sup> C. Taylor, “Language and Human Nature” in *Human Agency and Language: Philosophical Papers 1* (Cambridge: Cambridge University Press, 1985) 215 at 232.

<sup>44</sup> Taylor, H&W, *supra* note 40 at 77.

This, I believe, helps to think about self-rule with more detail and accuracy than by simply saying that it's about a community making its own laws. Laws which make any sense at all are at once *found* and *created*. And self-rule encompasses much more than what we, at least in the West, have come to think of as lawmaking: it is what happens when a community, free to be in conversation with itself and with the world that makes up its experience, fully engages in the stretching and shifting of the meanings which enable it to understand such experience.

Whether it be played out in an oral tradition mostly through what some call “custom,” formulated as short, general, written statements called “laws,” or taking the form of judges’ pronouncements generated through grappling with specific cases, a community’s “Law” consists, at any given time, in a snapshot: the set of articulations, there and then, of the culturally shaped meanings, or underlying normativity, that inform community members’ expectations toward each other. Those meanings come to shift in relation to the new experiences that arise and to the need to make sense of them. The act itself of explicating norms and of “implementing” them, that is, of applying them to determine which action to take in specific circumstances, can change experience and in turn, influence further interpretations.

Interaction with other cultures can also produce shifts in meaning, since it can lead a community, over time, to throw part of its own culture – or corpus of understandings – into question, and to revisit it in light of a different set of interpretations providing order to human interactions. This is what I refer to in this paper as “cultural hybridity”: the reinterpretation of cultural understandings that arises specifically from contact with another worldview – although, as that reinterpretation occurs, I acknowledge that it becomes instantly very difficult to neatly delineate the genealogy of a given meaning, that is, to trace it back to a “culture of origin.” Still, the notion of “hybridity” seems to me to illuminate current Stó:lō articulations of meaning – something my informants’ discourse provides a glimpse into.

## **II. ANALYSIS**

### **A. ON SETTLING CONFLICT WITHIN THE FAMILY : XYOLHEMEYLH AND THE “STÓ:LŌ WAY” OF CARING FOR THOSE IN NEED OF CARE**

As the all too brief historical and philosophical context provided above shows, taking on the responsibility to care for their own children and families puts the Stó:lō in the very difficult and heart-wrenching position of having to deal with problems and sicknesses that are in part a result of colonialism itself – and of having to do so within what is still a colonial framework, for it is one that is imposed on them and draws on a worldview very different from theirs. Raising children is about the passing on of the culturally determined meanings that perpetuate community and as such, it is a political act. It follows that intervening in child-raising, which is what child “welfare” or “protection” involves, is a political act as well.<sup>45</sup> In this section, I seek to present how my informants conceived of the problems giving rise to the need for child protection,

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<sup>45</sup> This point is also raised by Walmsley : see *supra* note 5 at 62.

and of that work itself. Their thoughts on these issues revealed their ideas on cultural content and transformation (subsection 1) and their attitudes towards the role of outsiders in the processes of cultural reappropriation and change, as they talked about direct non-native involvement in those processes (subsection 2).

## 1. THE “STÓ:LŦ WAY”: ON CULTURAL CONTENT AND CHANGE

The Stó:lŦ worldview is fundamentally relational. The name Xyolhemeylh itself describes a relationship between one who requires care and one who provides care, a relationship based on love and respect.<sup>46</sup> This makes direct reference to family relationships, which are primordial to the way the Stó:lŦ conceive of themselves. The main manifestation of this is found in the fact that their whole political and resource-sharing system has historically revolved around statuses derived not only from personal achievement, but from family relationships, bringing with them hereditary privileges. As Keith Carlson reports, “People from low status families were typically referred to as *s'téxem*, which translates as ‘worthless people.’ [...] Elders explain that *s'téxem* implies ‘people who have lost or forgotten their history.’”<sup>47</sup> To the Stó:lŦ, “knowing your history” means knowing *who you are related to*. Each person has ties that run across the various Stó:lŦ tribes, throughout the whole of the nation’s territory. This is how **Herb Joe**<sup>48</sup> explained to me what he tells the program’s non-native social workers, whom it is his responsibility to train in “what it means to live in a Stó:lŦ community”<sup>49</sup>:

“It certainly is different than living in the mainstream Canadian culture. There is a distinct difference. For example, in mainstream Canadian culture mobility is a part of that culture. For yourself, for instance, as I understand you’re from Quebec, you’re now living in British Columbia, in Victoria. So there’s a degree of mobility there, and that mobility isn’t historically a part of our culture. This was our territory, it has been since time immemorial – according to our traditions and customs, since the beginning of time, our people have been here, and we will continue to be here until the end of time. [...] These families I’ve lived with all my life. And when I pass on, my children are going to live with their children until they all die.”<sup>50</sup>

As Herb Joe points out, “some of the social work practice sort of contravenes traditional family practice here, because you have to learn to be the mediator in your own families.”<sup>51</sup> The “traditional family practice” that Herb refers to consists in bringing the extended family together to discuss crisis and work toward a consensus aimed at the well-being of its members, children as well as adults. Keeping within the larger Stó:lŦ community (and ideally within their own extended family) those children

<sup>46</sup> Herb Joe: June 28, 2007 interview (circa 15:00), and Michelle Julian (January 10, 2008 note to A. Boisselle).

<sup>47</sup> K.T. Carlson, “Stó:lŦ Social Structures and Government Assimilation Policy” in *You Are Asked to Witness : The Stó:lŦ in Canada’s Pacific Coast History*, K.T. Carlson, ed. (Chilliwack, B.-C.: Stó:lŦ Heritage Trust, 1997) 87 at 90.

<sup>48</sup> Herb Joe carries the Stó:lŦ name *Tixwelatsa*. A Stó:lŦ *Siyá:m*, he is a social worker, and one of the main Cultural and traditional counsellors for Xyolhemeylh.

<sup>49</sup> Herb Joe: June 28, 2007 interview (circa 32:00).

<sup>50</sup> *Ibid* (circa 32:00).

<sup>51</sup> *Ibid* (circa 34:00).

that need to be removed from the direct care of their parents for a while is understood as one of the most important factors defining “well-being.” Explaining the spirit that guides his work as a mediator among his people’s families, Herb Joe summarizes the main ways in which Xyolhemeylh’s model differs from the mainstream:

“Our old people taught us that if we’re going to be healthy, [if] we’re going [to] be ‘well people,’ we need to be in harmony and in balance with ourselves. We need to understand that there’s four parts to each human being. There’s the physical part, that’s our bodies; the mental part, the way we think, the way we see the world; the emotional part, the way we feel about it all; and the fourth part, [...] that’s spirituality, your spirit. So all four parts of you have to be in harmony and in balance if you can expect to be healthy and well. [...]

When I explain that to my clients, I tell them that we need to draw on all of our strengths, and even though you may not be a ‘religious person,’ spirituality is very much a part of who we are, and if we are going to be doing this in a healthy way, in a good way, then spirituality necessarily needs to be a part of the process that we are going to go through, that we are going to use. I tell them that we need to take a very holistic approach to resolving problems, and that holistic approach means all four parts. That means that there’s going to be a spiritual part to this, and then I ask them permission if I can introduce the spiritual part. And I’ll start the mediation or the circle or the case conference or the family meeting, with the permission of the family and the people involved, with a prayer. And the prayer is to establish a good place for us to do the work that we need to do, at any given time. The prayer is to, in establishing a good place for us to be, also set the environment that we’re going to work in, prevent definite mindsets from becoming dominant and dominating the process, so we keep a holistic approach about the way we do the work that we need to do on any given day. And that’s basically how I do it. And then we need to necessarily just let the work evolve as it needs to, cause each case is unique, each case is special. And there are special needs that need to be addressed in each and every case. It can differ from husband and wife to child to grandma and grandpa who are there as well. Each of them has different needs that need to be addressed and included in the discussion so that in the end, all of the needs are being met, are at least being addressed. And in the end we try to work towards consensus, work to a place where all can agree that this is what we need to do if we’re going to move forward. It may not be what you like or you like or you like... in total, but we can all live with it, and we can all work towards the well-being, and in this case the safety and well-being of the children.”<sup>52</sup>

Asked about the philosophy informing Xyolhemeylh, **Helen Joe**<sup>53</sup> speaks of “cultural values” which she describes as “mainly family. Our families are *very, very* valuable to us.” Like Herb in the first quotation above, she approaches the topic through a comparison with the mainstream, where, as she sees it, you have to take care of yourself on your own:

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<sup>52</sup> Herb Joe: June 28, 2007 interview (circa 1:52:00 to 2:00:00).

<sup>53</sup> Helen Joe is Cultural and traditional counsellor for Xyolhemeylh.

“With us, it’s kind of the opposite. We keep our family close, we keep our children close. And if the parents are going to go out and try to find a job, to get an education, they can go out and do that, but it’s always ‘Don’t forget who your family is, don’t forget where you come from. And teach your children who your relatives are. Because you’ve got relatives all over the place.’”<sup>54</sup>

If the Stó:lō relational mode of being is presented in contrast to the mainstream’s, more individualistic – the idea of drawing from both does not seem to be problematic, as Helen’s comment that it is fine for people to “go out” and “get an education” already illustrates. It is only when the importance of relationships is altogether discarded, when one way is forgotten and the other seems to take over completely, that people are perceived as having “lost their way.” **Virginia Peters**<sup>55</sup> brings up both the notion of “blending” and that of losing one’s way when contact is severed with one’s Stó:lō community and culture:

“The governments thought they knew best what policies to put in place for our people, but they were missing out on a big part of it, the inclusiveness of our traditions, our culture, our spirituality. Our families had systems in place to make sure they would be taken care of internally. [...] We understand the policies at the provincial level are very different. But our ways need to be blended in so that there’s a comfort level for the families who need help – that they be receiving the kind of help they can accept, that it not be outsiders coming in with their rules and regulations, as important as they are. [...]

A lot of the people get themselves into these kinds of situations because they have lost their way. Through residential school, their parenting skills are lost as well as our traditional ways and our culture, having pride in oneself. [...] They’ve had no upbringing, the teachings haven’t been passed on in their family, and that’s gone on for generation after generation.”<sup>56</sup>

Virginia goes on to illustrate what those teachings consist in and how Xyolhemeylh has to struggle to implement them, given that many members of the community apparently do not know much if anything about them. Instead of thinking about themselves in terms of their place within their extended family, members of nuclear families have become “individualized”:

“There’s great confusion, ‘mind your own business.’ In the past, there was a leader for each family, and if things weren’t going the right way, they’d have a family meeting and deal with it. Bring the teaching out. There’s always a better way of doing things. And whatever is going on, it’d be done in a way where you’re not downgrading the person, but giving them an opportunity to face whatever they’re going through and deal with it and realize that there’s support within that extended family to help them along. But through all the changes that

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<sup>54</sup> Helen Joe: June 27, 2007 interview (Part 1, circa 17:00).

<sup>55</sup> Virginia Peters, former Chief of the Chehalis First Nation, is now Chehalis’ Health and Family Services Manager.

<sup>56</sup> Virginia Peters: June 29, 2007 interview (circa 8:30).

we went through, and families becoming individualized, they feel like ‘it’s none of your business.’”<sup>57</sup>

The interpretation suggested above – that it is acceptable to mix conceptions and practices perceived as coming from the mainstream with ancient Stó:lō ways – is corroborated by Virginia’s conception of cultural distinctiveness, which acknowledges, indeed celebrates, hybridity. This is evident in her discussion of her own spirituality – an important theme since, like Herb Joe, she speaks of the possibility of recovering from the deep wounds of abuse or addiction in terms of regaining spiritual strength. As Virginia recounts the reappropriation of her Stó:lō spiritual heritage, it soon becomes clear that she hasn’t discarded her Catholic upbringing:

“When this happened [speaking of her husband’s initiation to the winter spiritual dance], it was more alive, the spirit became more alive, within me as well, and I had a greater appreciation for God, or God as you understand him... and to me, the God is always the same one our mom taught us he was. [...]

And I know that we can blend the two [the Catholic faith and the Stó:lō spiritual dance] and make ourselves stronger... Some teachers say that in order for us to be spiritual dancers, we have to leave the church. And that happened with our grandma, she wore the paint, and when the churches came in, they made her make a choice, that ‘either wear the paint, or you go to church,’ and they said that, our uncle was in the war and if you didn’t come to church, your son was going to be killed, and he’s never gonna come back. So she gave up the paint and continued to go to church. But eventually, we’ve seen that her spirit really died. And there was a real void. And she had to fill that void with something and she became an alcoholic. And eventually it killed her. [...]

I do that [wear a Virgin Mary medallion] because that was the way I was brought up. I still go to church. But I really follow the longhouse too. And the one upholds the other. It just makes my belief a whole lot stronger. It really makes me who I am, I think.”<sup>58</sup>

Virginia thus rises above the harm done to her family and to her people by the Church and, resisting the impulse to reject it wholesale, keeps what she has found to be valuable in the Christian faith and practice. On other topics, other interviewees show different ways of transcending the harmful consequences of contact and colonialism. In a discussion with Helen Joe about the meaning of *xwelitem*, the term defining newcomers as “the hungry ones,” I suggested that it might be referring to their insatiable hunger for resources. Greed, Helen replied, is a temptation that can take over people from any culture. She even turned the gaze to herself, talking about how she sometimes derogates from the principle she holds as basic wisdom, that of “taking only what we need.”

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<sup>57</sup> *Ibid* (circa 25:00).

<sup>58</sup> *Ibid* (circa 55:00).

Her husband Herb Joe's approach to the mainstream came up through discussing child protection itself. Acutely conscious of the damage and suffering incurred by the non-native system's past practice of removing children from reserves, Herb chooses to give the benefit of doubt to those who carried out those policies, interpreting their intentions through a reflexion on the inevitability of reading the world and acting upon it through the lens of one's culture: "So the social workers who, I believe – and I *have* to believe for my own peace of mind and my own sanity, I *need* to believe – that the social workers were acting on what they believed to be the best interests of the child."<sup>59</sup> He develops this idea further as he offers his understanding of the difficulties faced by the non-native social workers currently working with Xyolhemeylh, which requires them to try and implement its Stó:lō model of conducting child care:

"[Native people] have a very distinct and very specific way of seeing family crisis. So values and standards in those situations are very much at the core of how you approach and try to resolve those family issues. And people from mainstream Canada aren't taught that in their own family upbringing. They're taught with a very different education model, a very different societal model. So when they come to work for us, we need to introduce them to that way of doing social work, and we – I found, I shouldn't say "we" – I have found that when our social workers get to a place where they're being overloaded with work, where their caseload has gone too large, they often will go into crisis mode themselves, and through no fault of their own, they are going to resort to their strengths, and their strengths, of course, are how they were raised. They don't have to *think* about how to react, how to see the world, how to see family situations in a very different way. They react in the way they were brought up. And what does that bring into the picture? Different set of values and different set of standards again, so when we have social workers overloaded, overworked, they resort to their strengths which is of course their own culture."<sup>60</sup>

Herb takes the same approach to thinking about the more global challenge faced by Xyolhemeylh: "I don't think the problems are going to go away, because you have a piece of legislation that was written based on cultural biases of the authors of the legislation, who are not First Nations."<sup>61</sup> He completes this thought later on, explaining how he sees "the problems" he is referring to:

"What has happened is that the provincial legislation won't allow us to completely involve and include all of the traditional standards and values in the [...] delivery system, because of the law, because of the policies that flow out of the law, and the protocols that are established to maintain those policies, so we're having difficulty translating these standards and values into a contemporary bureaucratic system – and that's, to me, the basis of the problems that have arisen."<sup>62</sup>

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<sup>59</sup> Herb Joe: June 28, 2007 interview (circa 5:00).

<sup>60</sup> *Ibid* (circa 36:00).

<sup>61</sup> *Ibid* (circa 1:00:00).

<sup>62</sup> *Ibid* (circa 1:18:00).

Clearly, the requisite freedom to do one's own blend is still missing. But Herb Joe believes in working towards an understanding between the two cultures, and conceives of what he himself is doing in terms of drawing from both in order to help his people:

“I received a very traditional education on top of the formal, university education. I've combined the two to try to establish a level of understanding of what the needs are in my communities and how to address them in a way that both the community can understand and relate to, as well as the administration can understand and be able relate to. It's a very difficult position in that you have two very different worldviews seeing the same object, but seeing it in a very different way.”<sup>63</sup>

As Herb goes on, the picture that emerges is of a world of relations between indigenous and mainstream societies where differences must be stated, but where points of contact also exist and must be given attention; the interaction is there to stay and as such, has to be engaged in. His thoughts illuminate the difference between the hybridity he welcomes, which entails borrowing ideas and adopting attitudes to reinforce and reinterpret one's own culture, and the assimilation he dreads, which happens when one does not even know, has forgotten or not been taught the resources of one's own cultural background to approach the world:

“How do we get the different cultures, people of different worldviews to work together to provide services that are appropriate, culturally appropriate as well, and services that the people are able to relate to, and understand? I think you need to continually work at it, communicate, you need to continue to talk to get people to understand our differences. [...]

In today's world, we have, as First Nations, evolved into a people who are in transition. We are survivors, as a people. And to survive you have to continue to grow, continue to evolve, continue to change. And if you don't, then you become extinct, like the dinosaurs. So our people have been moving in this transitional process, from a historic culture, into a culture where hopefully historic values are going to be brought and included in a more contemporary First Nation's culture, a more contemporary First Nation's society. [...]

I was raised when there was just our own very small community, very small inclusive group of people who stayed on the reservation all their lives, and had a very definite and specific worldview, based on their experiences growing up, and learning and evolving in that community. And now that is changing. So our community profile is changing, the needs of our community are changing. We are definitely a people in transition. And where are we transitioning to? I really don't know. But I'm going to try my hardest to make sure that our community members know our history, know the Tzeachten [his own First Nation] history, so that as they continue to grow and evolve, they include that part of themselves in determining who they will be in the future, so that they maintain a continuity, a cultural continuity [...]. [W]e have people in all different degrees of assimilation, assimilation into the contemporary BC and Canadian culture. We have some who

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<sup>63</sup> *Ibid* (circa 52:00).

don't know anything about Tzeachten historic First Nation culture. They don't know because they've never been taught, they never were around it."<sup>64</sup>

Once the teachings have been “brought out” and the people know “who they are,” “know their history,” self-recognition allows them to engage with “outsiders” and welcome their active involvement in the community as a source of cultural vitality among others. We will now turn to this briefly by touching on informants’ attitudes toward outsider participation in cultural interpretation.

## 2. ATTITUDES TOWARD NON-NATIVE INVOLVEMENT IN THE INTERPRETATION OF CULTURE

My informants’ rapport to the reappropriation of their culture and their careful openness to the mainstream culture takes a more concrete flavour when we are able to witness the way in which they relate to an actual outsider – and one who purports to get close, to learn about their culture and then act upon his perspective on it. A small, but in my eyes certainly not insignificant such relationship was the one they agreed to have with me as a researcher. Consider the topic I was asked to work on in the first place: the delicate handling of child protection, an inherently contentious matter involving crisis at the heart of the most intimate of all places, family. Not only have I had no one turn down my request for interviews on both sides of the Nation’s current political divide, but two informants have specifically addressed the value they place on sharing their thoughts and on teaching me their ways, and have hinted at the fact that my outside perspective was valuable to them as well. One is, again, Herb Joe:

“I really hope that we maintain some of those cultural values and standards that made us unique, that made us special. If we allow that to change, and we allow our culture to change that significantly, then in my opinion we lose something very very valuable. We lose an identity that is very worthwhile; is worth fighting for. And I personally, I guess I’m committed to fighting for the maintenance of those old standards and values and in doing so, of course, fighting for the culture, the historic and traditional Stó:lō culture. And I guess I necessarily need to do that in my own way... [like] conversing with you here today. You’re going to write a paper that is going to eventually talk about some of those values and standards, and you’re going to write about it from your understanding of what I and others have explained to you, but it’s going to come from your personal biases, from the way that you were educated and raised in Quebec. [...] We all have our own truths. [...] We see things in very different ways. And that’s the beauty of the world that we live in.”<sup>65</sup>

**Gwen Point**<sup>66</sup> too alludes to the teaching that has to take place, astoundingly including the research of my group of ethnohistory students in her talk about the responsibility that knowledgeable people in her community have towards their people:

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<sup>64</sup> *Ibid* (between 59:45 and 1:19:00).

<sup>65</sup> *Ibid* (circa 1:43:00).

<sup>66</sup> Gwen Point is a respected Stó:lō teacher and healer. She teaches in the History Department and School of Social Work and Human Services of the University College of the Fraser Valley and is currently working toward a Doctorate in Education at Simon Fraser University.

“[...] my challenge to my own people is that they have to become independent, in a good way. It’s not about individual gain and material wealth. If it’s founded on who we are, what we do and what we say today impacts seven generations. And those people that carry the teachings, that understand our traditional ways, have that responsibility. There’s not that many of us. But there’s more and more everyday. [...] We’re supposed to learn from things. But no one individual can do it. That’s why research is important. A lot of our people don’t know what happened. There’s lots of work to do.”<sup>67</sup>

The relationship with yet another outsider is even more significant, especially in light of the potential argument, critiqued by Miller above, that perhaps “only indigenous peoples can administer justice to indigenous peoples.” I am referring to the fact that an influential person in the history of Xyolhemeylh is Dan Ludeman, a non-native experienced social worker who was hired by Stó:lō Nation to be the program’s first director. Ludeman brought together a team of Stó:lō cultural advisors to conceive and implement the program’s distinctive cultural approach to delivering services. He recruited Patricia Charlie, her son William Charlie, and Herb Joe – who recognizes Dan’s leadership and contribution at the program’s inception:

“That was [Dan Ludeman’s] dream, the vision that he had, to have a program that met the requirements under the mandate established by the BC legislation regarding child welfare, but the actual delivery of the services would be done in a such a way as to be able to connect with the people, have the people understand and be able to relate to the services so that they would eventually, the people, take ownership of the program and its services. That vision was what convinced me to [...] come over and work for the Stó:lō child welfare services.”<sup>68</sup>

Virginia Peters, who also worked with Dan Ludeman in the first years of the program, directly addresses the fact that he is not Stó:lō:

“As important as the rules and regulations is the revival of the culture and traditions. The way we started out was a really good way. The manager for the program had cultural workers working beside him. We strongly believed that it takes all of us put together to make a whole. And the white people have had the education and the training to ensure the quality of the program and the policies and procedures. But we also need that other part to help our people feel like, make them proud of themselves, and make it possible for them to move themselves onto a better road. So that was a really good blend, I think, and we really believe in that blending, to this day.”<sup>69</sup>

**Michelle Julian**,<sup>70</sup> Chief of the Matsqui band at the program’s inception, and first Chief to hold the “portfolio” for Xyolhemeylh within the unified Stó:lō Nation (that is, to be entrusted with the program’s accountability to the tribal council), tells of how she became the primary political advocate for child welfare at the council’s table, through

<sup>67</sup> Gwen Point: June 20, 2007 interview (circa 31:00).

<sup>68</sup> Herb Joe: June 28, 2007 interview (circa 25:00).

<sup>69</sup> Virginia Peters: June 29, 2007 interview (circa 11:00).

<sup>70</sup> Michelle Julian, former Chief of the Matsqui First Nation and Stó:lō Nation portfolio Chief, is now completing a Bachelor’s degree in social work at the University College of the Fraser Valley.

Dan's sharing of his experience and knowledge with her: "[He had] a multitude of incredibly exciting ideas as far as developing a program that would provide services in a very unique way, that was very different from the way services had been provided in the past."<sup>71</sup>

Gwen Point also tackled the more general issue of current non-native involvement in the sensitive issue of child welfare. Interestingly, she did so at the end of an interview where she recounted her experience of racism, and more specifically, in the flow of comments around the internal Stó:lō debate over Xyolhemeylh. Gwen here shows the importance she places on having a political culture where all people can voice their opinions:

"The fact that our people are standing up and saying: 'I don't like this' [the way Xyolhemeylh is being run]– it's not necessarily a bad thing. That some chiefs are being called on, made to answer, that some of the leadership is changing, it's not necessarily a bad thing. In my view, what's important is we're a part of it. All I know is, we have to do what's right for those children. Does it mean it has to be all Indians doing it? Maybe not. In my view, so long as they keep their mind on what it is that's best for those children... It's not about who's riding, who's making decisions. It's about doing right by those children."<sup>72</sup>

The ambivalence of others toward non-native involvement is reflected as **Steven Point**<sup>73</sup> recounts the difficulty of establishing, in the eyes of the larger Stó:lō community, the credibility of a program that remains framed by, and ultimately accountable to, the provincial government:

"[...] to take on the responsibility of apprehending children, you have to have a specific designation from the provincial government under the Child Protection Services [...], you have to have a certain kind of training, you have to have a certain kind of experience and then you get designated as a child protection person that can actually go out and apprehend someone. So that was one of our first challenges. We didn't have qualified people, we had to bring those people in from existing agencies. So, immediately – we wanted to do things culturally, but we didn't have the education, so we had to bring people in from outside the culture to do what we wanted to do culturally. We didn't think about *that*. [...] So what we were doing was contrary to the general philosophy of 'doing it *our* way': we had to import people in to do it *their* way. So there was immediately a conflict between the rules that were in place, that the provincial government employs, and our capacity [...]. People were going: '?!' 'You changed the name on the door, but it doesn't really look like you're doing anything differently' – which was true, and in the beginning we were saying, 'well, okay, if you look at it in the short term yes,' but if we're doing the long term objectives, we had to develop the policies and procedures in consultation with the communities [...]."<sup>74</sup>

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<sup>71</sup> Michelle Julian: July 24, 2007 interview (circa 10:00).

<sup>72</sup> Gwen Point: June 20, 2007 interview (circa 29:00).

<sup>73</sup> About Steven Point, see *supra*, note 1.

<sup>74</sup> Steven Point: June 29, 2007 interview (circa 10:00).

Those two last passages from the interviews with Gwen and Steven Point form a good segway into the next section, for they lead us, through the ideas of political accountability and community consultation, beyond the direct functioning of Xyolhemeylh, into the wider Stó:lō political arena.

#### B. ON DEALING WITH CONFLICT WITHIN THE NATION: XYOLHEMEYLH AND THE WIDER POLITICAL ARENA

The following anecdote about the ceremony for the inauguration of Xyolhemeylh takes us to the heart of the issue presently dividing the Stó:lō Nation over the program: How to make Xyolhemeylh appropriately accountable to the Stó:lō people? That issue is actually made up of a host of other issues, all represented in this story: the fact that the Nation is still tangled in the web of colonialism; the influence of the elders on the community; the fact that elders are not necessarily “healthy” themselves and able to care for their children; the challenge of having to rediscover and discuss the ancient ways, which can only be done over time; the closely knit character of the Stó:lō community where everyone not only knows everyone else but even has family ties to most people. The narrator is Steven Point:

“So right at the ceremony where we’re signing this off, and the [Government] Minister is there, and the media, and it’s a big hype, one of the elders stands up – cause we’d already been operating by then – and she’s a relative of mine, and she says to the staff, and she’s very angry, cause she says she wants her children back, she says we’d apprehended her children, which was true! and all the staff – I mean, we’re such a fragile organization – they all come running to me, saying ‘Steve, what are we gonna do? She’s standing up right in here...’ and I’m going – well – this is a big political problem! Here we are, inaugurating a brand new ship, and all of a sudden, we’ve got serious problems, not just from a parent, but from one of the elders sitting on what would be our advisory group, essentially saying that we wrongfully had apprehended her children. I don’t know anything about it, I’m a politician, I have no idea as to what the intricacies – these are confidential matters, right? We’re not supposed to know anything about it. *They* know what’s going on, but *I* have no idea... I don’t know anything about what happened there. But I do know *this* is happening: all of a sudden, we’re looking like we’re extremely incompetent, we’re *feeling* incompetent... And I’m going, ‘this ship could sink right now...’ So I got to the microphone, cause she was at the microphone, and I said to her: ‘No. We’re not gonna send your children back. Not until we think that it’s safe to do so.’ Boy, you could hear a pin drop in that room. And the elder accepted that.”<sup>75</sup>

This story illustrates the sheer contentiousness of child protection and the fact that, avoiding as much as they can to resort to the non-native Courts for judicial review – a process from which they feel disconnected<sup>76</sup> – community members complain to their political leaders when they feel they have been wronged by the administration. As Michelle Julian points out,<sup>77</sup> a dispute resolution process was developed by the

<sup>75</sup> *Ibid* (circa 19:00).

<sup>76</sup> Michelle Julian: July 24, 2007 interview (circa 32:00).

<sup>77</sup> Michelle Julian, January 10, 2008 note to A. Boisselle.

leadership and elders to respond to these complaints. As a result, a number of changes to the program's operations were brought to the leadership table for input and ratification through the years. Each community has the ability to adopt and amend their individual Community Protocols with Xyolhemeylh, protocols which define and determine the respective responsibilities of Xyolhemeylh and of the community. Those protocols set out the dispute resolution process, the steps to be taken when there is a child at risk, define accountability measures, outline the consultation requirements, determine the role of Chief and Council, Band staff and community members, as well as the make-up of their community care committees. While the program's mechanisms of accountability are thus undeniable, it is still the target of attacks as an originally colonial structure, amenable to a measure of administrative change, but not open to legislative redrafting by the Stó:lō themselves.

The main problem with the current state of affairs, then, would seem to be that the Stó:lō have not yet signed a treaty defining their jurisdictions, their ability to legislate on their own over certain matters. In the face of their lack of authority “at the top,” over the law itself, not all leaders have reacted as Steven Point did in the above-quoted story – by standing behind the program's decision-making mechanisms. Some have stepped in and tried to intervene directly into the decision-making process, something others have denounced as political interference. As Chief **Joe Hall**<sup>78</sup> recalls, the split of the Stó:lō Nation into two tribal councils in 2004 occurred at a time when the chiefs were facing off, among other questions, on the proposal to give Xyolhemeylh the status of an independent society with its own board of directors, to remove it from the direct pressure of politicians.

But some of the interviews suggest that the Stó:lō context might call for a slightly different way of looking at things. For Grand Chief **Kat Pennier**,<sup>79</sup> the leaders' role – that of taking care of their people – will often entail that they be involved in the child protection cases that arise in their own community:

“[...] the agency tried to keep the chiefs out of the picture because they said that that would be political interference. But in terms of how it's done, we're just saying we're advocates for our families and if they're not having their issues resolved, they come and talk to us and we refer the problem to someone outside the agency so that they can deal with it, because trying to go through the agency, the staff in the agency, it wasn't working, still doesn't work to the way it should be. Some other chiefs have provided advocacy role because that's what the family have requested them to do so. Yet some have called this political interference and it isn't. Cause they've been asked by those families or their own families to try to help them keep their children and families together. So discussions were held among chiefs, but they said you can't really get involved in those particular kinds of issues because it's deemed political interference.

So you know, we do sit down, because individuals, parents, or families want to talk about the problems. We sit down and we listen to them and we fire off an

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<sup>78</sup> Joe Hall is Chief of Tzeachten First Nation, Chairman of Ts'elxwéyeqw tribe and President of Stó:lō Nation Society.

<sup>79</sup> Clarence (Kat) Pennier is President of the Stó:lō Tribal Council.

email to this person or that person just so that they can see that there's a problem there and somebody has to look after it. Xyolhemelh is supposed to have a dispute-resolution process, but it really didn't work for people because there are too many layers, and people would say the social worker has too much authority."<sup>80</sup>

Qualifying these criticisms, Michelle Julian highlights that the limitations put on the leaders' involvement in the program's operation are presently left to each family and to each community to decide:

"All extended family are invited to attend the family meetings when a child is deemed at risk and the family can invite anyone as an advocate. Communities can also indicate in their community protocols that Chief and Council are automatically part of their community care committees, and in fact I've been signatory to some that do indicate this. However, I've also been signatory to some who specifically do not allow Chief and Council to be part of this committee. The bottom line that I think many Chiefs/Council take exception to is the fact that they do not have the power to 'direct' staff, only the Provincial Director has this power. But the important point is that Chief/Council do have influence over the program through protocols, the complaint process, care committees, and community consultation."<sup>81</sup>

With respect to the role of chiefs more generally, Herb Joe explains that traditionally, and until very recently, Stó:lō political leaders were expected to play a variety of roles in order to safeguard, guide and insure the comfort of their community. More generally, research has shown that the traditional Stó:lō political and social structures did not rest on a clear-cut definition of roles.<sup>82</sup> Consequently, some of the actions seen as giving rise to conflicts of interests in mainstream society – acting as a lawyer or doctor for your own family, for instance – are, in Herb's terms, "very much a part of who we are. You learn how to work with your own people because, you know, you've been here since the beginning of time, and you'll be here til the end of time, so if you don't it, who's gonna do it?"<sup>83</sup>

These insights suggest that the small scale of the Stó:lō communities makes a sharp separation of powers on the mainstream model, from which the notion of "political interference" is drawn, potentially difficult and even inappropriate for the Stó:lō. Their traditional processes of accountability, whereby leaders or *si:yám* could be deposed,

<sup>80</sup> Kat Pennier: June 26, 2007 interview (circa 12:00).

<sup>81</sup> Michelle Julian, January 10, 2008 note to A. Boisselle.

<sup>82</sup> See Carlson, *supra* note 47 at 91-92: "Being recognized as an extended family *si:yám* did not mean a person was the leader over all aspects of family or community life. While the term *si:yám* is generally used to describe people who are recognized as political or social leaders, other people had expertise, responsibilities, rights, and privileges in other fields. [...] Thus, even today leadership and *si:yám* are distributed within Stó:lō society. People with special skills, knowledge, and spirit power become acknowledged as leaders within certain fields. Commenting on the flexible and informal nature of traditional Stó:lō leadership, anthropologist Michael Kew observes that 'there was a lack of uneasiness among the Stó:lō over the imprecision of social roles.' In other words, the Stó:lō were not overly preoccupied with assigning prescribed political authority to particular leaders."

<sup>83</sup> Herb Joe: June 28, 2007 interview (circa 34:00). Steven Point hinted at similar ideas when we discussed the issue of political interference.

stripped of their honorary titles, or otherwise deprived of influence and status,<sup>84</sup> were tailored to the dimensions of their political community and to the affinities and affiliations that existed where and when those processes took shape. While some of these conditions and characteristics still hold true, others have changed over time. For instance, Stó:lō villages sharing the same subwatershed, common immortal ancestors and the same microdialect of *Halq'eméylem* used to have special ties to each other. They formed tribal groups of political import, sometimes co-operating “for common defence and economic reasons.”<sup>85</sup> Through the loss of language, the banning of potlaches – an important mechanism of social ordering<sup>86</sup> – and the direct recarving of Stó:lō political landscape by colonial authorities, who drew reserve boundaries taking no account of family ties and treated each individual “band” as a self-contained political entity,<sup>87</sup> the tribal ties that historically provided cohesion to sub-groups within the larger Stó:lō Nation have loosened – or, as Chief Joe Hall puts it, gone dormant.<sup>88</sup>

After decades of working within and around colonial parameters, the reactivation of such ties is a complex issue and in any event, only one of many possible ways of structuring decision-making to respond to the needs of the present-day community. Tribal chiefs on both side of the current political divide seem to agree that a system whereby each band is simply assigned one vote, within a nation-wide tribal council, might not be the best decision-making structure for the Nation – that is, one both culturally relevant and efficient in terms of contemporary needs. The representativity of the “one-band, one-vote” system is challenged on the one side for its neglect of ancient tribal affiliations,<sup>89</sup> and on the other, for its failure to take into account the size of the communities involved.<sup>90</sup>

The difficulty of adopting an adequate decision-making structure is compounded by the fact that the term of office for most band Chiefs is of only two years, and that the electoral schedule of the different band councils is not coordinated. By the time new tribal council members are properly informed and become conversant on the constitutional issues facing the Nation as a whole, other members have to leave the discussion table. Beyond the term of office, the electoral system itself is questioned as the proper way to select leaders. In the past few years, the Stó:lō community of Shxw'ōwhámél has experimented with the retrieval of a traditional way of selecting leadership, replacing the elected offices of chief and councillors with family appointed *sí:yá:m*. It has found that the retrieval of traditional models does not go without hurdles.<sup>91</sup>

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<sup>84</sup> See Carlson, *supra* note 47 at 93-94.

<sup>85</sup> K.T. Carlson et al., *A Stó:lō-Coast Salish historical atlas* (Vancouver : Douglas & McIntyre, 2001), Plate 8A at 24.

<sup>86</sup> See Carlson, *supra* note 47 at 99.

<sup>87</sup> See Carlson, *supra* note 85, Plate 30 at 94-95; and K.T. Carlson, “Colonial Fracture and Community Cohesion – Governance in the Stó:lō Community of Shxw'ōwhámél,” May 2007 (on file with the author).

<sup>88</sup> Joe Hall: July 27, 2007 interview (circa 19:00).

<sup>89</sup> *Ibid.*

<sup>90</sup> Tyrone McNeil: July 26, 2007 interview (circa 21:00).

<sup>91</sup> For an explanation of that government model and a review of both its difficulties and its successes, see Carlson, *supra* note 87.

While the Stó:lō are still debating the specific mechanisms of representativity and accountability that are best tailored to their community, it seems to me that underlying their debate is an unmistakably democratic ideal – that of allowing each and every voice to be heard in decision-making. In my informants’ discourse about how decisions should be made at Xyolhemeylh regarding the safety of children and the well-being of the family as a whole, this ideal often took the form of “consensus.” Michelle Julian here gives expression to the same idea in the context of wider Stó:lō politics:

“In my opinion, all Stó:lō people have a responsibility, if not obligation, to ensure that all the appropriate people are involved in decision-making. That's why, traditionally, there was no ‘hierarchy’ *per se* when it came to making decisions. Sure, there were certain people responsible for different areas, but decisions were made by community consensus. Although today there are many barriers that prevent this from occurring in the same fashion it did historically, this is not an excuse to at least provide the opportunity for community members to be respectfully and meaningfully involved in decisions that impact their lives and the lives of future generations.”<sup>92</sup>

Michelle sets out two principles informing the ideal decision-making process: that of having the input of wise or especially knowledgeable people on the issue at stake, and that of ensuring the participation of all people potentially impacted by the decision. Seen in this light, consensus does not amount to the naturalization of harmony, the danger Bruce Miller warned against. It is rather understood as an ideal to work toward, within an inclusive collective debate. A similar discourse valuing all voices and acknowledging the variety of points of view is manifest in Tribal Chief **Tyrone McNeil**’s discussion of representativity,<sup>93</sup> in Chief Joe Hall’s emphasis on community consultation,<sup>94</sup> in Herb Joe’s reflection as a whole (i.e.: “I shouldn’t say ‘we’ [...];”<sup>95</sup> “We all have our own truths. [...]. We see things very different ways.”<sup>96</sup>).

But isn’t there a tension between the idealization of consensus and the democratic principle of respect for each person’s opinion, if we really acknowledge that people of different experiences and points of view may disagree, deliberate with each other... and continue to disagree? Notwithstanding the pragmatic compromises that the Stó:lō may eventually make with the ideal of consensus, by choosing mechanisms and retrieving traditions allowing some decisions to be taken in the absence of full agreement, the ideal itself remains meaningful. It carries a powerful ethos of open-mindedness and sensitivity. It is a call to constantly broaden one’s own experience, to improve one’s ability to listen to and understand what others have to say. It speaks to the spirit one must cultivate and to the practices one should engage in, in order to nurture good relationships and be an active participant in the constant work required to achieve collective harmony. As described by Herb Joe, it is a responsibility and a path:

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<sup>92</sup> Excerpt from Michelle Julian’s email to Andrée Boisselle: July 31, 2007.

<sup>93</sup> Tyrone McNeil: July 26, 2007 interview (circa 21:00).

<sup>94</sup> Joe Hall: July 27, 2007 interview (Part I, circa 24:00).

<sup>95</sup> Herb Joe : June 28, 2007 interview (circa 36:00).

<sup>96</sup> *Ibid* (between 1:43:00 and 1:47:00).

“[T]here’s a saying in our language that relates to how we approach our tasks in life, and how we approach our relationships with other human beings that we meet in our lives. And the saying basically is, [...] ‘We must learn to live together in a good way.’ What does ‘in a good way’ mean? It means, to rise above all of these other lesser issues and deal with the issues that concern all. And if you have a good mind and good heart and you use that good mind and good heart to approach each and every issue, each and every person, then you don’t become involved in the personal and smaller issues that are a part of it. And it’s a very difficult thing to explain to anybody who hasn’t been instructed or taught from that traditional educational model, and even in our own people, there are very few of our people who have been able to rise to that level, to rise above it, and the ones who have been able to rise to that level are the ones who live the longest and become described in today’s contemporary language as “elder”: someone who has understanding, who has a good knowledge base, has practical experience and has a truckload of patience. And you put it all together, and what do you get? You get a good definition of what an elder is in our culture.

Young people aspire to these things and they go through life cycles and they play different roles in each of those cycles of life. And as you go along you accumulate more and more knowledge and experience and in the end, you put it all together in a way that it makes sense. I like to use the analogy of a jigsaw puzzle: each time you learn something new, that person that’s teaching you is giving you a gift. And what is that gift? It’s a little piece of the jigsaw puzzle. And each time you learn something new, you accept that gift and take it as your own and you keep it [...]. Each time you learn something from one individual, one person, the information that you get isn’t really meaningful. It’s simply a small, irregular piece of information. But if you accumulate enough pieces of the jigsaw puzzle, enough little pieces of education, of knowledge, you start accumulating enough of them to put together so that they start to connect. Eventually it starts to form a picture. And what is that picture? That picture is understanding. It’s these kinds of traditional teachings that lead you to a place where you’re able to finally put everything together and start to understand it. And once you start to understand it, then you’re able to apply this universality of working with people, you’re able to work with them all with the same respect, the same way of delivering the services to these people without prejudice, without being influenced, overly influenced, by your own biases. And we all have them. That’s something that I try to get beyond everyday. And so far I haven’t been able to. I’m 63 years old, and I’m still working on it, and maybe, probably, I will have to work on it for the rest of my life.”<sup>97</sup>

Herb offered these thoughts in the context of a question pertaining to political interference, the issue with which we opened the present section: How is ethical decision-making expressed within Stó:lō culture, in the circumstances of a closely-knit community, where everyone knows – and often has family ties to – everyone else, where there can be no real distance between decision-makers and the issues and conflicts that arise in the community, and whereby, given its size and culture, the same leaders assume a variety of roles? Herb’s account of the wisdom and role of the elder is obviously deeply rooted in Stó:lō traditions, suited to his community culture,

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<sup>97</sup> Herb Joe: June 28, 2007 interview (between 55:00 and 1:00:00).

context, and needs. Strikingly, however, it *also* has significant points of contact with the following account of the judge's role in a large, Western, pluralistic society – where judicial ethics consist in a rich notion of impartiality, conceived as the attempt to achieve a just conciliation of varying points of view within the framework of the wider community's understandings and expectations:

“Given that judges must use pre-conceptions – conceptions that are, as argued above, in part a function of their sex, class and culture – how are they to replace these visions with better conceptions, approaching the ideal agreement sketched above? The method has two steps: first, the court should attempt to understand the contending visions as they appear to groups holding those visions; second, it should seek to bring the visions together by fashioning an appropriate synthesis.

The first step follows from the demand to achieve an outcome that the parties themselves might have assented to. [...] This means that the judge must attempt to grasp the contending visions of the world on their own terms, so that he knows what he is attempting to synthesize. He must try to understand each vision as an attempt to make moral sense of the world, he must see what aspects of experience are considered important and why, he must seek to comprehend how the entire scheme fits together. [...] The judge should approach the conception on the assumption that it has an integrity relevant for him – that although rooted in an experience different from his, perhaps even ordering that experience using alien categories, it constitutes a valid interpretation of the society of which he is a part, an interpretation that is worth appreciating on its own merits. Only to the extent that he succeeds in understanding the other perspective can he hope to do more than reproduce his own beliefs.

Can this be accomplished? I believe that there is considerable scope for the imaginative reconstruction of others' perspectives (although it is certainly true that not everyone exercises this capacity or sees its value). Despite our differences, there are similarities – sometimes more, sometimes less – in the situations we have encountered. Even if we have not experienced the same circumstances, there is room for building our understanding on the experience of analogous ones. And because of this intersection of experience, our moral language provides significant potential for translating among moral visions (although this translation may well be cumbersome, requiring the communication of large parts of the framework in order to understand the detail). Beginning with our experience of analogous circumstances, then, attempting to understand how these fit into a coherent whole, testing this tentative conception of the whole against the party's own conclusions in particular cases, and readjusting the whole to reproduce as nearly as possible the conception of the party, one can approach an understanding of even a dramatically different vision of the world [Stout]. [...]

Having tried to understand the contending conceptions of right in their own terms, the judge must then attempt to construct a synthesis that speaks to the concerns of both parties – that constitutes a vision of justice based on a broader range of experience than that possessed by the judge at the beginning of the hearing. [...] Achieving the synthesis is a creative process, one that does not lead to a single determinate outcome, although the process is not unconstrained. [...] Legal reasoning is a perpetually critical and creative enterprise, in which (if we

are doing our jobs) we are consistently broadening the range of experience on which our conceptions of justice are based, and in which we re-evaluate and remake both premises and conclusions to maintain the connection between our legal norms and our best conceptions of the social order.”<sup>98</sup>

What does this comparison between Herb Joe and Jeremy Webber’s accounts of the challenge of impartiality, within the larger discussion of frameworks of deliberation and decision-making undertaken in this section, tell us? Perhaps, that societies of widely different scale and culture might need different forms to express similar ideals. In other words, on the one hand, that even as the Stó:lō and the Canadian mainstream societies have interacted and their respective worldviews, constantly in motion, have come to exert an influence on each other, many important differences remain in our outlooks on the world and in our accounts of our place within it. But on the other hand, that the careful, tentative articulation of some of the principles that we strive to live by provides us with a language to communicate, engage with, and learn from each other across our cultural differences. Hopefully, as we continue to work towards understanding and respecting those differences, we will be able to let this language, the vehicle and fabric of our mutual recognition, bloom.

## CONCLUSION

At this time of Constitution drafting and Treaty negotiating, the Stó:lō are rethinking the relationship they have with each other, as well as seeking to redefine the one they have with non-native society. Their challenge, as Bruce Miller put it, lies “in addressing the commonplace details of life, and in discovering and acknowledging what has worked in the past and can work in the present.”<sup>99</sup> This paper has sought to provide a glimpse into the complexity of this endeavour of cultural reinterpretation, and to show that the Stó:lō are actively engaged in it. Their discourse on the values informing the work of Xyolhemeylh reveals how they are going about reconnecting their experience and their social structures to norms that make sense of the ties they have with each other and with the world as they know it, after decades of disruption brought about by colonialism’s assimilative strategies. Revisiting their traditions, but also adapting and appropriating ways of doing and thinking that might have been foreign to their ancestors is part of this process of cultural recrafting that has allowed them to resist assimilation in the first place, and that allows them to make sense of their world in the present. The openness and intensity of their internal debate over these shifting collective understandings, over the content of their values and the best mechanisms to give them expression, testifies to the fact that even though the colonial State hasn’t yet fully released its grip on them – still requiring them to “administer services” rather than freely govern – they are nevertheless already engaged in self-government.

However, leaving colonialism behind is about changing the very nature of a relationship, something which, by definition, cannot be achieved by one of the parties alone, no matter how resilient, self-reliant, generous and creative. For the relationship

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<sup>98</sup> Webber, *supra* note 38.

<sup>99</sup> Miller, *supra* note 22 at 148.

between the Canadian settler society and the Stó:lō people to change, a new space has to be found within the Canadian legal and political order for the expression of Stó:lō understandings, implementing a genuine desire to open up the channels of communication allowing for real reciprocal cultural influence and the development of the *shared* understandings which, alone, can ground our life together in freedom for all. In that respect, the signing of a treaty between the Stó:lō and the Canadian peoples, and the ongoing interpretive *dialogue* to which it should give rise, form the issues for the next, and hopefully more promising, chapter of our common history.

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