

Countering Imperial Justice: The Implications of a Cree response to Crime

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ABSTRACT

This paper explores the concept of justice through the perceptions of six Omushkegowuk (Swampy Cree) elders Indigenous to northern Manitoba. The work discusses restorative justice in relation to the educational ideas, principles and practices of traditional Swampy Cree philosophy. The work is entitled, Countering Imperial Justice: The Implications of a Cree response to Crime because Indigenous people tend to view justice in terms of healing rather than punishing. Informed by Swampy Cree elders, I have provided a narrative and comparative understanding of Indigenous justice. Although the work is based on the Omushkegowuk experience of northern, Manitoba, its message may resonate with other Indigenous groups.

Countering Imperial Justice: The Implications of a Cree response to Crime

The downfall of Indigenous people in Canada and many other colonial countries is their alienation from their original justice systems. The justice prescribed to them is not that of their own culture or customs. What has been imposed on them is Western justice, more specifically, Western State-sanctioned justice; a retributive justice system that has been used to colonize and marginalize Indigenous peoples (Sutherland, 2002; Aboriginal Justice Inquiry of Manitoba, 1999). Such imperial and state sanctioned justice has played a major role in the development of an incredible overrepresentation of Indigenous peoples in the penitentiary. The relentless racial discrimination against Indigenous people in the criminal justice system is now recognized by many as immoral, simplistic and crude. As Elizabeth Comack notes, “Clearly race and racialization come into play here. An inescapable connection exists between the historical forces of colonialism that have shaped contemporary Aboriginal communities and the over incarceration of Aboriginal people” (2012: 86). This paper aims; first, to challenge the retributive and punitive discourse exhibited by the prevailing criminal justice system. Second, the paper aims to discuss an *Inninee* (Cree) approach to dealing with crime.

Traditional Indigenous interpretations of justice are rooted in the philosophy of restorative justice and community involvement (Weitecamp, 1999; Yazzie, 2000). Indigenous peoples such as the Cree have long emphasized repairing harm and healing from crime (Johnstone, 2002; Commission on First Nations and Métis People, 2004). What Cree peoples stressed in our traditional justice process became the basis of healing and speaks of restorative justice. For the Cree, it is crucial for an offender to repair

harm, which determines the purpose and method of justice. Restorative justice is to exercise accountability. What the elders emphasized in a traditional justice process is congruent with accountability and speaks of restorative justice. It embraces the premises that Cree individuals and communities can be healed by restoring our inherent justice process based on healing and traditional teachings.

A traditional Cree approach to resolving conflicts has some spiritual qualities and healing characteristics, which give this human society, a conflict resolution process that can be termed Cree *Restorative Justice*. The ideas the Cree elders convey were that justice has a duty to seek understanding of the wrongdoing and to learn the impact of the harm and thereby take measures in order to prevent the wrongdoing from happening again. They sought to do this by ‘teaching gently’, that is, by teaching the wrongdoer how they may repair the harm and also themselves. The Cree culture and language contain the peacemaking knowledge of our ancestors, and it is imperative that we continue to explore the inherent principles within our own thinking structures in order to promote Cree restorative justice traditions. The Cree word, Poonā ‘yétum, for example, describes the ability to heal from wrongdoing by utilizing the processes of accountability, repairing harm and reconciliation. It is, in other words, to carry out restorative justice.

Introducing the Elders, the Participants of this Study

When conducting this research I interviewed Six Cree elders from Northern Manitoba who shared stories of justice from a Cree perspective. The terms I use for describing the people: Swampy Cree, Omushkigo or Omushkegowuk (which means ‘people of the muskeg’) are the section of the Cree people who live in swampy areas throughout northern Ontario (along James and Hudson’s Bay) and northern Manitoba. In the n-dialect of the Cree language spoken by the Omushkegowuk the people are just called Inninew, which means the people. In order to demonstrate respect to the grandmothers I would like to introduce them first. *Stella Neff* is a respected elder and fluent Cree speaker from *Misipawistik* Cree Nation or Grand Rapids First Nation, a Cree community some 400 kilometers north of Winnipeg on Highway 6. Misipawistik translates as ‘rushing rapids’ and is located at the exit of the Saskatchewan River before flowing into Lake Winnipeg.

Sylvia Hansen is a respected elder born on the Opaskwayak Cree Nation in 1937 and for the most part grew up in her home community. Like most Cree children of her era she was shipped off to residential school during her childhood. Since Sylvia’s first language is Cree she is familiar with the stories, unspoken nuances and values within Omushkegowuk societies.

William G. Lathlin is a former chief of the Opaskwayak Cree Nation. William has a sense of humor and he is a good speaker in both the Cree and English languages. William also sits on the Opaskwayak restorative justice committee.

John Martin is recognized by many as a traditional elder. John is fluent in the language of his people. He was born and raised on the *Mosakahiken* Cree Nation or Moose Lake reserve and which is situated about 75 kilometers northeast of The Pas, Manitoba. Like many Aboriginal children of his generation, he too was shipped off to the residential school during the 1950’s.

Jack is the pseudonym for one participant. One elder participating in the study chose to remain anonymous, so a pseudonym was used to refer to him (meaning his name will not appear in any publication).

Dennis Thorne, an elder of mixed Indigenous ancestry, primarily that of Cree descent, but including Dakota and Ojibwa, was born in 1939 in Wanless, Manitoba, a small Métis community located about 50 kilometers north of *Opaskwayak* Cree Nation on Highway 10.

The elders shared stories of conflict resolution ideas and practices that they have heard, witnessed or experienced in their own time. These stories were largely related to the notions of reparation, reconciliation, and restoration. Such ‘restorative justice’ constructs offer different ways of viewing justice that challenge the mainstream judicial system. It also suggests that the Omushkegowuk world was practicing effective peacemaking methods that allowed them to arrive at harmony.

All interviews were conducted in the Opaskwayak community and, all interviews, with one exception, were tape recorded with permission. I use the term Opaskwayak to refer to the land both on the reserve and in the town of The Pas, Manitoba. Opaskwayak is an Omushkegowuk, Swampy Cree, community some 600 highway kilometers northwest of Winnipeg near the Saskatchewan border. It is situated beside the junction of the Saskatchewan and Pasquia rivers and it has an on-reserve population of about 2, 739 with about the same number of band members living off the reserve (Statistics Canada, 2006). The name, Opaskwayak translates as, ‘the narrows between the woods’ and is the home nation to over 4500 Cree.

‘The Pas’, Manitoba is situated across the river from Opaskwayak and this town is known as the ‘*Gateway to the North*’. It has a population of over 15,000 residents (including the Opaskwayak community). The name ‘The Pas’ derives from the Cree word “pasquia” means ‘wooded narrows’.

In terms of the political and social structure, the Opaskwayak community elects a chief and twelve councilors every two years, which is of course, a political structure imposed by the Indian Act. Joe A. Ross School opened in 1995 and serves the people offering education from kindergarten to grade twelve. Before this band school opened children were sent to schools in the town of The Pas. “OCN is a thriving community, which, since the 1960’s, has pursued the road to autonomy through the development of strategies that enhanced its economic base while controlling its own commercial enterprises, education and health services, community works, and finances (Opaskwayak Cree Nation, 2012, p.1).

The Opaskwayak community also has a restorative justice committee comprised of eight band members and three elders. The committee works with the courts and deals with minor offences and primarily focuses on the youth who have had conflicts with the law. It utilizes traditional teachings and has been in operation since 2002. The current work of the Opaskwayak restorative justice committee is an example of how partial incorporations of traditional justice practices are being utilized in the mainstream courts.

Perhaps one of the most crucial features the elders spoke of was that a Cree approach to justice holds wrongdoers accountable and that repairing harm is essential to promote healing for the victim, offender and the community. According to the elders the harm of one is the harm of all in the Aboriginal community. Such insight helps to explain why the community is included rather than excluded in the

justice process. Justice for the Cree does not demand punishment, but rather emphasizes a process that is concerned with healing from the harm caused by the wrongdoing. Accountability encourages one to learn the consequences of wrongful behavior and it offers the community the means to act responsibly. As the concept of *consequences* is very often misinterpreted as the punishment that follows the wrongdoing, we will clarify here how the concept is used in this article: Consequence is the pain, disharmony or destruction caused by an action. It is the imbalance that has to be fixed by restorative justice. It is not the action of fixing the problem by punishing the wrongdoer. So, the consequences a wrongdoer has to learn or become aware of is the pain and disharmony her/his actions have caused in others. Only when this is understood can a wrongdoer understand accountability.

Since unrecorded time, Indigenous people such as the Cree practiced a justice system that was able to meet the needs of the people. When a member of the community did something wrong the people came together to deal with it. However, Adams (1999) notes that the “Colonizers saw themselves as ‘grand organizers.’ Only they could bring ‘civilized order to primitive chaos.’ They never admitted that order already existed in prevailing Native civilizations and had for thousands of years” (p. 3). Adams (1999) maintains that “colonial domination on the Indigenous society is total. It exploits the oppressed people, destroying their national society and replacing Indigenous cultures” (p.6). We would have to see that the colonizers thought that the colonized did not have a concept of justice or how to deal with it, because they, the colonizers, did not see any evidence of how justice was enforced in the only way the colonizers understood it: by punishment. In their view of the world, the colonizers, of course, did not see any jails or police in the Indigenous societies. However, we know from documented evidence that restorative justice was widespread among many Indigenous societies, and that colonization subjugated Indigenous justice (Weitecampe, 1999; Braithwaite 1999; Johnstone, 2002).

It is important to understand that the essence of survival of tribal societies is working together and this cooperation is reflected in the system of restorative justice. Current ideas on restorative justice have been explained in many ways which make it unlikely that any particular definition will incorporate all of its ideology. It is important to understand that restorative justice is based in a cooperative society, one that has no hierarchical order and, consequently, has no concept of *ruling* in the sense of individuals or one group of people dominating the others. Having said that, the *Law Commission of Canada* (2003) has written that restorative justice is “a process for resolving crime and conflicts, one that focuses on redressing the harm to the victims, holding offenders accountable for their actions and engaging the community in a conflict resolution process” (p. xiii). To the Law Commission, the communal reparation principle focuses on restitution. However, the Cree dimension of justice is more holistic than the Commission, as the Cree word for describing the activity of restorative justice ‘*opintowin*’, refers to the people coming together in the justice process. The Commission on First Nations and Metis People (2004) observe that justice “involves the principles of repairing harm, healing, restoring relationships, accountability, community involvement and community ownership. It reflects *opintowin*, Cree for “lifting each other up” (vol 1, p 4-1). What this means, in other words, is that justice is not forced or inflicted by a state or other authority but is rather the result of a cooperative effort to restore harmony within the community. Like many other Indigenous people, the Cree peoples explored and practiced justice as a healing mechanism.

In the context of Aboriginal culture, McIvor (1996) notes that justice for Aboriginals, “begins by Aboriginal families and communities accepting responsibility for Aboriginal criminality” (p.10). McIvor (1996) maintains that Aboriginal justice provides a model where “families and communities can rely on their traditions, values, languages and ceremonies to heal themselves... successes of the Aboriginal sentencing initiatives promise benefits for the Aboriginal community and for Canadian society” (p. 20).

The *Aboriginal Justice Inquiry* (1999) observes the “purpose of a justice system in an Aboriginal society is to restore the peace and equilibrium within the community, and to reconcile the accused with his or her own conscience and with the individual or family who has been wronged” (p.22). Reconciliation is only possible if the wrongdoer is made aware of the harm her or his actions caused and is ready to take responsibility for them. The emphasis on repairing harm allowed Aboriginal people to focus on healing which contradicts the quest for justice in the Western world.

When explaining Cree restorative justice, it is also important to put the concept on a wider, Aboriginal basis. This has several reasons, one of them being that, although we, as Indigenous peoples, each have a distinct culture, we all share the common experience of having been impacted by colonialism; we have undergone the colonization of our languages, our culture, our spirituality and our justice systems. Such ways of being were systematically obstructed through colonialism and all colonized people share that experience. The colonized are usually also educated in a way that makes them deny their own cultural heritage because it is deemed more *primitive* as that of the colonizer. As Adams (2000) observes “In Canada, schooling is Eurocentric from primary grades to university and there is little opportunity for counter-cultural thought or non-Eurocentric training in most curricula (p.43). Adams maintains that, “Many Natives are intellectual captives and have become collaborators with the oppressor, and some Native academics write Indian and Metis history with a strictly Eurocentric interpretation” (2000, p. 51).

However, like many other Indigenous cultures, Cree people have the memory and the responsibility to re-establish and restore a justice approach congruent with their own worldview and with healing. The pathway to this declaration is through the old people. Mainstream justice practitioners who seek accountability on the retributive level determine their justice through punishing the wrongdoer, solely on the state level. Those who seek to understand the true nature of the crime and to heal from the wrongdoing by focusing on restoration have a different, communal justice approach that is known as restorative justice. As this kind of making justice would not be compatible with the system of the colonizers, it seems logical to reeducate the colonized into accepting the new order, and this reeducation would target the children before they get too much anchored in their own culture. It is important to understand that European colonizers have long suppressed Aboriginal culture.

The colonization of Aboriginal peoples

During the late nineteenth to the middle twentieth centuries, Aboriginal culture was changed forever; children were torn from their homes, separated from their roots and imprisoned in residential schools where they were taught Western values, language and culture, as well as the notions of superiority or dominance, which not only meant superiority of the colonizers over the colonized but also superiority and dominance of men over women.

The residential schools also served to transmit the expansionism of patriarchy throughout the Aboriginal world. In other words, the schools were instrumental in shaping male dominance that led to a cycle of oppression and violence that remains to the present day. Yazzie (2000) a prominent Navajo judge notes that “in the usual domestic violence situation, a man thinks he has the right to control a woman, including the privilege to use physical violence for control... the non-Indigenous culture taught us that men are ‘superior’ to women”. (p. 43). Thus, the residential schools resulted in the overthrow of women’s power and produced social inequality, and male dominated politics arose in the Aboriginal nations to emulate the structure of the colonizers rule.

The vicious cycle established by the residential schools may only be broken when we restore the cultural values and the customary honor that women held in our traditional societies. The old ones say that the women are the strength of Aboriginal nations, not the men. In the culture of old, the women were valued highly and they held political power and influence. We need to remember that it was the women who ensured the survival of Aboriginal societies when the men seemed to have given up. For example, Hollow Water, an Ojibwa community about a hundred kilometers northeast of Winnipeg had been pervaded with alcoholism and violence. It was the women who began the healing process, and established a successful restorative justice process or program (Ross, 1996). According to Cuthand (2005) the Lakota holy man and elder Black Elk also recognized this power when he stated: “when the women are defeated then we as a nation are truly defeated” (p. 172). Turpel (1991) concurs that Art Solomon, an Ojibwa elder said that women are “the heart of the nation and keepers of the culture” (p.175).

While poverty, patriarchy, and residential schools help us to explain the violence which is now prevalent in our own communities, we as Aboriginal people, ultimately have to take responsibility for our situation. Today, many Aboriginal men are increasingly recognizing their own responsibility in abusive situations, but they need help. We have our traditional healing circles and sweat lodges assisting the healing process. This is not to say, as healing in justice is sometimes critiqued, that all wrongdoing will be forgiven in a sweat lodge. There is still a whole process to be followed, but restorative justice means justice as healing, and that includes breaking the cycle of violence. Otherwise justice is meaningless.

Healing from colonialism does not occur spontaneously. Instead, colonialism is perpetuated through the racial stereotypes of Aboriginal people such as the drunken Indian, or even worse the squaw. In some cases, these racial stereotypes lead to violence against Aboriginal women. The Royal Commission on Aboriginal Peoples (1996) notes that “The squaw is the female counterpart to the Indian male savage and, as such, she has no human face. She is lustful, immoral, unfeeling and dirty...there is a direct relationship between these horrible racist, sexist stereotypes and violence against Native women and girls (Cited in Comack 2012, p.84). Sexist and racist stereotypes create a false consciousness among the population. It is, in other words, an interpretation of Aboriginal women designed to entrench their oppression. It denies them their humanity and respect in a Westernized society.

Unfortunately, there are some Aboriginal justice initiatives that have failed at addressing the violence against women. For example, Coker (1999) examined Navajo Peacemaking models that address domestic violence and compared this to the mainstream justice system. Coker (1999) claims that her

study “is the first attempt to gather empirical data regarding the use of Peacemaking in domestic violence cases” (p.4). She gathered data on peacemaking records in Arizona, and New Mexico; she also observed a Navajo Peacemaking session as well as conducted interviews with Navajo Peacemakers, anti-violence workers and conventional justice system staff. What she found was that Navajo Peacemaking models that address domestic violence do have the potential to help abused women.

Peacemaking may benefit some battered women through the use of traditional Navajo Stories...stories with gender anti-subordination themes may change the way in which the batterer and his family understand battering, and thus have the potential to restructure familial relations that support battering(Coker 199, p.13).

However, Coker (199, p. 82) also observed that some abused women (victims) have been physically assaulted after participating in Peacemaking sessions they were coerced into attending. Coker (1999, p. 111) concludes that:

There is a danger that readers will fasten on these potentials and support Peacemaking in domestic violence cases without regard to the cautionary warnings of battered women’s advocates or without regard to whether the practices would further women’s autonomy in a particular setting.

This passage is clear indication that there is much work to be done in the Navajo peacemaking context. Coker is not alone here, there is an array of similar studies conducted on Aboriginal justice initiatives in Canada that have the same basic findings in which enduring power imbalances between victims and offenders are a concern with the use of Aboriginal sentencing circles (Laprairie, 1998; Green, 1998). It has been expressed that survivors of domestic violence in Aboriginal communities may be coerced into participating in sentencing circles because of perceived benefits sought after by Aboriginal organizations (Laprairie, 1998; Goel, 2000). Furthermore, victims of domestic violence take the risk of being despised and abused even further in communities where domestic violence has become normal (Goel, 2000; Laprairie, 1998). These kinds of brutalities demonstrate that there are major concerns that make Aboriginal restorative justice a complex and controversial topic.

We can sum up the counterproductive Aboriginal restorative justice instances with an image that will clarify the idea of this article. This is the idea that Aboriginal social structures and restorative justice systems have been suppressed and distorted through colonization. Counterproductive Aboriginal restorative justice situations thus have been, basically, the way people have misinterpreted and misrepresented the original justice systems. The arguments against Aboriginal restorative justice are premised on how our original justice systems do not work. Indeed, it is true that there are arrays of examples that show how Aboriginal justice fails, but that is beside the point of this article, which is to show how Omushkegowuk justice works

Like many cultures of other Indigenous human beings, Cree people have the recollection and the accountability to re-establish and restore a customary justice approach congruent with healing. In order to do this one must examine the wisdom contained in the stories of the old people, and, in order to avoid misunderstandings, the wisdom in the stories has to be understood from within the culture it

originated from. That means that healing has to be understood as promoting the justice process rather than being suspiciously looked at as preventing justice because the wrongdoer is healed rather than punished. It is important to note that healing can only take place when the wrongdoer takes full responsibility for her or his actions and understands the consequences of these actions. Rather than *getting away*, the wrongdoer is exposed to the public and has to respond to both community and the victims, which is ultimately harder than just facing a judge, with a lawyer dealing with explaining one's actions.

What does Accountability look like in the Justice Approach of the Swampy Cree?

When the Elders were asked, 'What were the responsibilities of wrongdoers in terms of searching for justice?' Stella stated that:

They had to seek their own solution, they had to find out what to do about what they had done and it was about righting wrong. If it was a theft, how to (pause) what's the word I guess give back what they had taken and they had to go seek out the council. Counseling it wasn't forced on them they had to go seek out the council of the elders -- Stella.

Stella conveys that an offender is accountable to their community in relation to oneself. Wrongdoers sought the counsel of elders who in turn guided the justice direction. According to Stella, the offender took the initiative in the justice process and the elders did not force an offender to take responsibility. Ultimately the healing and justice process had to emerge from the wrongdoer; no one could force someone to heal. Thus, the elders did not dictate the justice process and offenders understood that they had a responsibility to make reparations. This response is also a clear indication that a sweat lodge alone would not 'fix the problem' and healing will only be offered if the offender takes responsibility. After all, healing is to be interpreted on the communal level, which includes both the offender and the victim. Similarly, in his response to this question John states that:

A lot of people will blame other people and that's not my way, they will blame the police they will blame the judge, they will blame the community. But when you want to help yourself you have to sit down and take that responsibility on yourself -- John.

This quote is another indication of the need for offenders to take responsibility for their actions. Consistent with John and Stella, William responded to the same question by stating that:

They were sent to the people who they harmed to find out how those people felt. Well today people have these sharing circles, and when people hear how they felt they didn't feel right when something was done to them by an individual, that individual hears that and then that individual knows that they harmed that person. But if they didn't tell that person then they wouldn't know. So like I say if you throw a person in jail, it doesn't make any sense, to me. It's better to find out from the

individual that was hurt and the pain it caused. To let that individual know that this is the pain it caused by whatever act that individual did. So that way the person that did the harm knew if it was done to them that it would be dealt with in the same way. So it made more sense. To me it's a ceremony. A ceremony is instilled or built in us that tell us these are things that we have to remember rather than just writing it down. The justice system seems to just write everything down. In our way it's a ceremony. The ceremony tells us this is the way it is and you remember that. It's a way of remembering -- William.

Besides confirming the importance of taking responsibility, the elder brings in another dimension of the justice process. For William traditional Omushkegowuk justice is a ceremony that is rooted in the ideology of restoration and healing. He expresses the notion that teaching the offender the impact of their behavior is crucial to the healing process of everybody. However, it is interesting to note that William also mentions that:

...if you were endangering the lives of the community and family they sort of disowned you. You were no longer to be around them, you would have nothing to do with the community. And if they saw you they would shoot you. That's how bad it was. I've seen some people kicked out of the community as a child because there was a whole bunch of people against that individual. They were told to get out of the community and not to come back. That happened in my lifetime -- William.

The point is that if one were endangering the community one had to be banished. It should be noted that banishment was sometimes necessary to promote safety in the community and that it is also a method for teaching appropriate behavior.

Building upon this last question, I asked, 'Is material compensation important to the traditional Swampy Cree justice? Please explain?' Sylvia responded to the question by stating:

No, they never did that but whoever did something, or a kid broke something, they would get a strap from their father.

This response by Sylvia would suggest that corporeal discipline was being utilized in Opaskwayak. It is arguable; however, that such corporeal punishment and the belief of such punishment being necessary could very likely be an effect of the Indian residential or day schools in which Omushkegowuk children were routinely physically punished. Sylvia did go through such education herself. We will have to analyze this response together with the above responses and the following where responsibility is again put into the foreground. Thus, in his response to the same question John states:

No, not really, it's not the main thing, it is rather that we like to see this person change and get help. Help in a way that ...pause... this young person needs help to understand who they are, and that's the way we see it. Because they have to take that responsibility and they have to start from there. We can help them, we can send them to treatment

centers, but if they don't take that responsibility it's not going to change a thing. So that person really needs to take responsibility, for a person to change, but you have to take that responsibility first. Look at the people that are in jail, after they come out they do the same thing over -
- John

This statement by John demonstrates that there is a need for offenders to take responsibility for their actions in order for healing to happen. Much like John, William responds to the same question:

Not necessarily because people were helped in a way, even today people were helped with medicine, and you really didn't ask for anything from that. If you're willing to give me something then it's up to you but I can't really ask for anything. Because it's not me it's the creator that's going to heal you. But, I know about this medicine and what is going to do but if you believe that then you're going to get well, but if you don't well it's up to you. They have to believe.

This passage by William is another indication that material compensation is not central to an Omushkegowuk justice process. It also reveals that spirituality is a pathway to healing. However, in order to restore harmony, material compensation could be necessary, particularly when it represents the value of whatever had been destroyed or even stolen. In her response to this question Stella therefore states that:

I guess it depends if they had taken away something like material things. That case that would be done and the elders would say Poonā 'yétum if that's the word for forgiveness.

John Hansen: How about if someone harmed someone in a different way, did material compensation happen in that way too?

Stella: I think so, a long time ago somebody took a gun and he got a boat back instead, but it was a theft and then it was considered that the damage has been repaired because he got the boat back and the boat is worth more than a gun. And I guess that represents something lost and something repaired, like the damage has been repaired. I guess that's what it is when it's material compensation (pause) it is a form of repairing it is a form of justice you repair something is how you repair the damage it is how you address something that has been wrong. And it was for other reasons then to penalize because that's what justice seems to be to penalize from the outside but we would involve people. And that represents the restoration that's what it represents – Stella

This is an indication that Omushkegowuk justice involves repairing harm and compensating the victim and compensation is perceived as important to that process. We have to note though that this

compensation has to be ‘paid’ to the victim and not to authorities within the justice system. That is what William was referring to.

In response to the question, ‘Can you tell me of a time when you experienced or witnessed material compensation as a form of Cree justice? What does the material compensation represent?’ Stella stated:

I guess that’s what it is when it’s material compensation pause; it is a form of repairing something, how you repair the damage. It is how you address something that has been wrong. And it was for other reasons then to penalize because that’s what justice seems to be to penalize from the outside but we would involve people. And that represents the restoration that’s what it represents.

For Stella, material compensation is a way of repairing the harm that has been done. The material compensation is, in other words, the representation of restoration. It is important to note that her reference to penalizing clearly refers to justice system as it is now practiced by the state, justice that is imposed from outside the community, and that Cree justice would “involve people” which means the community as a whole. In his response to the same question William recalled that:

Well some of them gave; they gave lots if they were in such a state that they really wanted to get well. They would give lots of material stuff to the medicine man to make them well. If they believed that they were going to get well they got well. If they didn’t they didn’t get well. And that’s where these things came from about the medicine men that they were wealthy and materialistic. But it was up to the individuals to give to them. Whatever they felt, whatever benefits they think they got then if they had something they valued and they give that away, well for them that was the ultimate thing. They knew just by doing that they were going to get well because they believed. Traditionally we lived in a way that the ones who wanted something material they’ll ask for it. But the ones who are really in it for whatever they say they are will say that I’m just here to help and I will give what the creator has given me to share, and then you know that those people are honest. And then there are those people will ask you for money and those people are just there for money -- William.

For William, it is explicitly recognized that those people who share their knowledge, which means here those who were asked to speak justice, would help others without asking for material goods and they were highly regarded. John, however, did not observe material compensation in either his role as an elder or in working with Aboriginal adult and youth offenders. He states:

No, I never experienced material compensation and I have worked with a lot of people, a lot of youth. When they act out, they want attention, the same thing with the grown up men who are in jail, they want attention so they act out, and if the guards are grabbing them somebody is paying attention to them – John.

In a similar vein Sylvia responds:

No. Do you mean if they had the Cree core in an Indian way? I don't think they have those kinds of things in The Pas.

John Hansen: Well I was just wondering if there was any sort of material compensation that someone might give like a moose hide or something.

Sylvia: I don't know. But one time there was this old man that was my mother's uncle he came from Cumberland house on a boat. In a canoe, he came to see granny and he lived there. And then another man asked him to go and pick up Seneca root and I think this was at Clearwater Lake. And they went there and they got that Seneca root but I think that the other man who took the whole thing off and he also took the boat and sold it and therefore he was left with nothing. But he didn't say anything about it.

John Hansen: Do you mean that guy took everything and he sold his boat, and he didn't complain about it?

Sylvia: Yeah. He didn't say.

John: That's strange.

Sylvia: Yes that's strange. And that other man was an old man. He wasn't physically strong or anything like that. You know that the same old man who took the boat that went trapping for muskrat in the spring time. And I guess he drank up all of his.. pause... they were given money for trapping for any groceries or tent if they need it. And I guess he drank whole thing up. And then he set out and he only had traps, bannock and tea, and he went out there trapping. But there was another man, and he was a white man and he was a taxi driver. The white man was living in a little cottage, a little shack. And he wouldn't let him in use the there and that man who drank up all this stuff he would make a fire or shed or something to sleep on. And then he went out early in the morning before daylight even to set those traps. And it only took him three weeks to kill 400 muskrats and that's how much you are supposed kill that that time and to take the fur off all muskrats.

This passage is an indication of the respect that the Omushkegowuk have for the old people. However, in this case, the old man seems to be exploiting that respect as he takes everything from the young man who accepts this without complaint. It is both interesting and unsurprising that the old man does have

extensive knowledge of the natural world as he easily fills the quota for muskrats. Nevertheless, he did not ask for material compensation. The young man gave it to him.

In conceptualizing the notion of accountability the elders expressed a justice system that focuses on healing, and while there are always exceptions to the rule, material compensation was expressed as a mere way of restoring balance, not as payment for justice. Therefore, John expressed that the material was not the major issue. What is expressed to be important however is the focus on healing, which the elders described in accordance with a belief in restorative justice.

Understanding a Swampy Cree Justice Approach

The responses by the elders describe a peacemaking system that is designed to ensure the continuation of life in the community. The elders suggest that traditional education developed appreciation for the land and that stories were used to teach appropriate behavior. Generally, the participants in the study describe traditional pedagogy as comprising non-punitive teaching and that justice was achieved without the use of punishment. Traditional education thus can be considered a process that is designed to ensure the continuation of life in the community. The elders expressed that education was grounded in stories and lessons that promoted appreciation for the land that also extended into the development of appropriate behavior. The elders were instrumental to this pedagogy.

The conversations with the elders suggest that Omushkegowuk justice processes have many fine qualities; such as respect, open-mindedness, a non-judgmental component, community involvement, accountability, reparation, reconciliation, and restoration.

However, part of the process of colonization involved the subjugation and control of Indigenous people, which one can argue is represented in the disproportionate rates of Aboriginal imprisonment. We know that the recovery of traditional justice practices from a history of colonialism has benefited contemporary Indigenous communities (Green, 1998; Ross, 1996). The study shortly discussed in this article provides an example of a traditional model that could contribute to restructuring or decolonizing justice in Omushkegowuk communities.

Significant Insights in Participants Responses

There are four observations on an Omushkegowuk justice model based on the knowledge the elders shared. An Omushkegowuk response to the modern criminal justice system should reflect on four central ideas. First, Omushkegowuk law privileged reparation over revenge. Reparation was a way of restoring balance. It also demonstrates accountability to the victim and the community. Incarceration does not offer reparation to the victim or the community. Secondly, Omushkegowuk societies had a strong sense of community, and peacemaking practices that might look like punishment, such as banishment, were meant to assist wrongdoers to find their spirit and heal. When someone did something wrong, the community came together to deal with the wrongdoer and the elders were instrumental in guiding the healing process. Therefore, community inclusion is significant. One way to include the community is through conducting healing circles. Third, the Omushkegowuk experience of colonization in Canada made an impact on Cree memory, and thus on our judicial practices. The Omushkegowuk world has not forgotten the trauma of the residential schools, but more importantly we have not forgotten our peacemaking ways. And finally, Omushkegowuk societies are different today.

Now in examining an Omushkegowuk perspective on justice, we must always keep in mind that justice served a different function in traditional times than it does in the present day. Traditional societies held stronger communal bonds and a different range of peacemaking options were available in those days. For example, nowadays if one is banished from the community s/he is not required to connect with nature, that is, the banished one is merely kicked out of the community and in many cases they simply go live in the town of The Pas, or they move to communities and cities further away. In other words, there is little if any teachings involved with banishment today. This is problematic because traditionally banishment was a healing/learning process in itself. It also shows that, as we expressed earlier, restorative justice has to be understood from within the culture it developed in, in this case, it is Omushkegowuk culture. And in the worldview of that culture, punishment is not part of any justice system. As mentioned above, banishment is only traditional when it involves the healing of the wrongdoer. Nowadays, friends and family of the banished individual have been known to harbor them, probably because banishment without the intention of healing is not accepted.

In traditional societies the stronger communal bonds ensured that someone who is banished would literally be required to leave the community. William spoke of how those who were banned (those who seriously hurt others) could and would be 'shot' if they remained in the community. William stated that he observed this happening in his own time. This statement has to be understood though to avoid the interpretation of banishment as form of punishment. Besides healing the wrongdoer, banishment was also used to protect the community from the wrongdoer until he or she is healed enough to take responsibility. It is therefore necessary to remove the individual from the community. However, the individual was taken care of and taught during the time of her or his banishment, and thus, banishment also marks the beginning of a healing journey. Green (1999) observes that:

Ojibwa and Cree decision making involved the participation and consent of the community at large. Behavior was regulated by ostracism, shame and compensation for the victim's loss, regular teaching of even if only symbolic compensation where possible. Elders undertook the regular teaching of community values and warned offenders on behalf of the community. They publicly banished individuals who persisted in disturbing the peace...In all instances the sanctions of tribal elders was necessary (pp.30-1).

The elders promoted the concept of banishment as a means to assist one to find their spirit and heal. In addition, banishment also served to protect the people thus ensuring the continuation of life in the community. There are some important lessons we can learn from the past pertinent to our current situation.

The current obstructions to Cree justice are the assumptions that determine the quest for justice in the Western justice system. One assumption is that justice can be achieved through retribution. The modern criminal justice system is grounded in the ideology of retribution and punishment of wrongdoers within a state sanctioned approach that seeks to administer justice punitively. When this rhetoric is applied to Aboriginals it creates immense problems.

Conclusions

A Cree response to crime is both a philosophy and a practice challenging State sanctioned retributive and punitive discourse. Intrinsic to re-establishing that justice system is a people's collective memory and sense of restorative justice including the conscious realization that we have suffered immensely under the colonizers rule. The force of justice for the Cree has been principally that of making reparations, healing and capacity for *Poonā 'yétum*, to forgive. However, the criminal justice system has long suppressed the reality of that approach. Indigenous justice systems have been dismissed or marginalized while our overrepresentation in the prisons increases. An Omushkegowuk response to wrongdoing encourages accountability, repairs harm, restores relationships, forgives wrongdoers and advocates peace. This is what our ancestors did, and this is what we should continue to do. The struggle for restoring justice and accountability should expand and develop in all policies concerning Indigenous justice.

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