

# Reflections on Decolonization and XaaydaGa Tll Yahda TllGuhlGa<sup>1</sup>: A Haida Justice System

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## **Abstract**

In this article, I present an overview of findings from research into the formation of a self-determined Haida Tll yahda justice system. I briefly examine the imposition of colonial governance, justice, and ways of being on suppressing Haida ways of life. Through a series of semi-structured interviews, I addressed the following research questions: What does justice mean to the Haida? How could Haida conceptions of justice be implemented in the modern day? In this paper, I focus on two themes; namely, building capacity for Tll yahda and establishing Tll yahda. The results of this research illuminate the importance of continued decolonization. Reinstating self-determined justice through a Haida Tll yahda system is possible, while also offering important considerations for decolonization and ensuring Canada is held accountable.

**Keywords:** Decolonization, Haida justice, Indigenous justice, self-determination

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## **Introduction**

Indigenous Nations in what is now called Canada are continually working on revitalization, decolonization, and resurgence of knowledge systems, values, language, and cultural protocols. Simpson (2008a) argues that the “recovery and promotion of Indigenous Knowledge Systems” (p. 15) (IKSs) is an integral component to the decolonization process and IKSs may be applied to multiple aspects of Indigenous life today including governance, law, and justice. Indigenous Nations may work towards “recovering and maintaining Indigenous worldviews and applying those teachings in a contemporary context” and as such “disentangle themselves from the oppressive control of occupying state governments” (Simpson, 2008a, p. 15). This decolonization process necessitates Nation-specific systems including our own “ways of doing justice” (Victor, 2007). In this article, I consider critiques of the imposition of Western systems and the necessity of moving beyond the colonial stronghold to examine a Haida Nation-based conceptualization of justice.

The present research considered possibilities for the reformation of a Haida Tll yahda *making things right* – justice – system. As such, I begin with a literature review that sets the stage for the current project through an analysis of colonial imposition and then I situate the present project within the context of Haida Gwaii and the Haida Nation. This is followed by a methods section in which I discuss the importance of community grounded research and outline the Haida specific methodology included in the project from which this article arises. Then, I discuss two of the main themes that emerged from the larger research project. Next, I consider the importance of integrating decolonization, resurgence, and grounded normativity in future projects. I conclude by addressing some of the challenges that exist regarding the full realization of Haida Tll yahda. Haida Tll yahda *making things right* is an integral component of the Haida Nation’s self-determination.

## **Literature Review**

Indigenous Nations have complex systems of values, law, governance, justice, and ways of life that predate the existence of the colonial state (Simpson, 2008a). These systems still exist but may need to be repaired, reconsidered, and reimagined, to be reimplemented today. Colonialism, genocide, and structural racism have resulted in the imposition and



sustenance of settler-colonial systems of governance – including justice – that reinforce inequality and sustain the myth of colonial jurisdiction. The following definition of decolonization was utilized to guide this research: *k'aa.ngasgiidaay han hll guudang Gas ga<sup>i</sup>*, which translates in English to *I will never again feel that I am less than*. To set the context for the examination of Haida Tll yahda, I examine the literature on the right to self-determination, Nation-based justice approaches, decolonization, and the Haida context.

### **Colonial Imposition**

Canada's outright denial of its role in the genocide of Indigenous peoples (Starblanket, 2018) masks the pervasiveness of ongoing harm and maintains settler and state complicity. The pervasiveness of colonial harm includes but is not limited to the various iterations of the paternalistic *Indian Act*, identity provisions, early policing, the imposition of the reserve and pass systems, residential and day schools, the 60s scoop, and the “genocidal carcerality” (see: Woolford & Gaceck, 2016) within the foster care system, residential, and day schools, and the Canadian Criminal Justice System (Truth and Reconciliation Commission [TRC], 2015). The historicization of harm serves the settler state as it deflects attention from present-day impacts.

Manuel (2017) defines colonialism as including the interconnected processes of displacement or dispossession, dependency, and oppression. This definition elucidates the pervasiveness and complexity of the settler-colonial project in Canada. Indigenous peoples were displaced from their land base (Manuel, 2017) and moved onto tiny parcels of land called reserves. Reserves are crown land “reserved for Indians” with ownership and jurisdiction resting with the Crown. Without access to traditional hunting, fishing, gathering, and ceremonial grounds or, to traditional economic trade Indigenous people became dependent on the state for sustenance. As Manuel (2017) notes, Indigenous peoples in what is now known as Canada went “from enjoying 100% of the landmass, were reduced by the settlers to a tiny patchwork of reserves that consisted of only 0.2% of the landmass of Canada [...] with the settlers claiming 99.8% for themselves” (p. 20). Removal from the land and waters of our territories has vast cultural, ceremonial and health impacts. This dependency is “at the heart of the colonial system” (Manuel, 2017, p. 21), and thus, must be maintained to uphold White supremacy. Turning to the state – and state law, policy, and governance – will only reinforce and entrench colonialism (Monture-Angus, 1999).

However, the results of oppression, racism and internalized racism or colonialism often manifest in believing that we are inferior. As Monture-Angus (1999) notes, to challenge feelings of illegitimacy we need to remain conscious, aware, and mindful of our inherent worth.

The denial of Indigenous peoples right to self-determination is often propagated on the myth of First Nations governance by *Indian Act* band councils. Monchalin (2016) argues that involvement with the band council system is representative of Indigenous persons being co-opted into “complying with a foreign European-style governance structure,” with elected (instead of hereditary) chief and council positions (p. 45). Borrows (2017) argues that the formation of band council governance was an “assimilative measure” put in place to “dismantle traditional [governance] structures” (p. 121). Band councils have limited power – akin to a municipal government – and thus, although there may be a place for them within modern governance arrangements, they are not arbiters of justice nor are they representative of self-governance as defined by individual Nations. Band council decisions that flow through colonial decision-making regimes perpetuate colonial paternalism.

Within the Canadian context, the criminal justice system has falsely assumed jurisdiction over Indigenous Nations whose existence predates this country. The colonial criminal justice system perpetuates White supremacy and its embeddedness within societal institutions (see Diangelo, 2018), ultimately, reinscribing the status quo and maintaining inequality (Monchalin, 2016). The assumption that Canadian law, governance, and justice are applicable to First Peoples is a colonial myth – and this assumption upholds colonization.

The imposition of colonial governance, including criminal justice systems, has had devastating impacts in Canada. As a result of these impacts and the self-determination movement, there has been an increase in Indigenous-led justice initiatives. Of note, these initiatives are not akin to restorative justice (RJ) which often co-opt various pan-indigenized aspects of indigeneity (see: Friedland, 2014; McGuire & Palys, 2020; Tauri, 2016). A variety of Nation-based justice programmes are being reimagined and revitalized and these programmes differ considerably just as Indigenous Nations do (Monture-Okanee, 1994; Nielsen & Brown, 2012). The present paper focuses on *Til yahda* (making things right) – justice, within a Haida context.



### ***Haida Gwaii: the place, the people, and governance considerations***

Haida Gwaii is an archipelago located in Northern British Columbia between Prince Rupert and Alaska. Haida territory crosses imposed borders and includes parts of south-east Alaska, home to the Kaigani Haida. The imposition of genocide and intentional infliction of disease devastated the Haida population, which is estimated to have been upwards of 30,000 pre-contact and fell to about 600 people (Collison, 2018; Council of the Haida Nation, 2019a). Haida Gwaii is Haida territory, and the lack of shared territorial borders with other Nations coupled with the island's isolation has led to a strong sense of Nationalism. The Haida people were not immune to the impacts of colonialism, racism, trauma, etc. However, despite these intergenerational impacts, the Haida have demonstrated strength in mounting resistance against colonial imposition. The Haida Nation formed its National government – the Council of the Haida Nation (CHN) – to address its title to Haida Gwaii along with resources and rights (Council of the Haida Nation, 2019b). The Haida Nation's mandate includes striving for “the full independence, sovereignty, and self-sufficiency of the Haida Nation,” through international agreements, protocols, etc. (Haida Nation, 2018, p. 4).

The Haida are a self-determining people who have never ceded their title or rights. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) recognizes and affirms Indigenous nationhood and the right to self-determination, self-governance, and justice. Currently, the Haida Nation is navigating imposed court and legal systems – through multiple court cases including an ongoing title case – while working to sustain language, culture, and ways of life. Indigenous ways of doing justice and responding to wrongdoing exist regardless of their recognition by the state (Napoleon as cited in Yoon-Maxwell, 2019). Indigenous legal scholars Val Napoleon and John Borrows call into question the state's assumed superiority (see Borrows, 1999, 2016; Yoon-Maxwell, 2019). Further, recognition of multiple legal systems exists within Canada, as Quebec operates under its own Civil Code (Monture-Angus, 1995). Any self-determining people require the ability to settle disputes and do so in a culturally specific manner. These systems can and should exist outside of the state system – as the state system is not representative of Haida values, worldviews, or protocol.

The Haida are intricately interconnected with the land and waters. The CHN's governance includes a legislative body (the house of assembly [HOA]), in which Haida citizens in a direct democracy write and pass

resolutions that through open vote become the Nation's policy direction (Council of the Haida Nation, 2019c). There is no Tll yahda (making things right) – *justice* branch of the Nation. Article 15 of the Haida constitution refers to a “judicial tribunal” process meant for dispute resolution. However, the nature of those disputes is not defined, nor is the process, and Article 15 has not been articulated (Haida Nation, 2018). The Haida Constitution is a living document, subject to change, and the placeholder of Article 15 – could be replaced by a Haida system instead of the Western approach outlined therein. Moving beyond colonial control involves deconstructing the assumed supremacy of the state, educating ourselves, and each other, and working to reconstruct our own systems to achieve the goal of Indigenous justice – “the achievement of respectful coexistence” premised on responsibility, balance, and respect (Alfred, 2009a, p. 66). Decolonization requires an understanding of the pervasiveness of colonialism – including, the limits we place on ourselves.

Revitalization of a Haida Tll yahda system is an integral component to moving our nationhood out from under the dead weight of colonial oppression. Haida values and ways of being are integral to providing the strength to resist colonial powers. Yahguudang (respect) is an integral Haida xaaynang.nga kuuyada<sup>ii</sup> (life value) from which all other Haida Kil yahdas<sup>iii</sup> (laws) flow. The Haida also have an integral belief in balance and interconnectedness. Our responsibility as Haida people goes beyond the individual and includes our families, clans, community, and Haida Gwaii's lands and waters. Haida oral histories demonstrate Haida Kil yahdas and xaaynang.nga kuuyada. The Haida – through various agreements, legal cases, and political stands have continually demonstrated commitment to upholding Haida law and values while sustaining cultural protocols.

Haida culture, Haida Kil yahdas, and xaaynang.nga kuuyada are also interconnected with 'WaahlGahl (potlatch) (SHIP, 2016, p. 362) which was and is integral to Haida life. 'WaahlGahl, kihl yahda Gan id tl'aa ijii (the potlatch is our legal system) (SHIP, 2016, p. 632). Thus, 'WaahlGahl, Haida culture, Haida Kil yahdas, and xaaynang.nga kuuyada will likely be integral to the formation of a Haida Tll yahda system. However, implementing Haida Tll yahda and the Haida conceptions of justice it represents requires a deeper understanding of its foundational principles than has been possible thus far. Accordingly, the current project sought to extend and fill the gaps identified in McGuire (2019) in which I examined Haida people's visions of a Tll yahda system. Namely, to examine recorded oral histories, to “consult with key



stakeholders and knowledge holders” (McGuire, 2019, p. 13), and to examine what Haida Tll yahda could look like in more detail. The research questions for the larger project were: What does justice mean to the Haida? How could Haida conceptions of justice be implemented in the modern day? McGuire (2019) outlined some of the foundational principles that need to be integrated into a Haida Tll yahda system, while the current article focuses on identifying the structures that are necessitated to implement those principles.

## **Methods**

Positionality within nation-based research is important, as being upfront about our intentions and motives in conducting research helps establish trustworthiness. Kovach (2009) explains that Indigenous research does not privilege objectivity but instead, values lived experience and subjective knowledge. Simpson (2017) further discusses the importance of self in research when she notes “my body and my life are a part of my research, and I use this knowledge to critique and analyze” (p. 31). My positionality as a community member and a researcher involved a considerable amount of responsibility and accountability to the Haida Nation – my community – and the institutional and academic obligations I had as a student-researcher. This dual accountability means that I worked and continue to work collaboratively with CHN to disseminate the results and to discuss the next steps. It also meant that I had to grapple with these dualities of conducting research within my home community. The establishment and maintenance of trust necessitate that we do our best to consider and honour our responsibility to our participants. When we slip up – we must make things right and try to find balance between these dual responsibilities.

The research process was emotionally and intellectually challenging – and throughout the project, I opted to utilize reflexive practices in a Haida way that felt right to me. The nature of research in the realm of justice and injustice is that the subject matter can be personal and emotional. The trust participants demonstrated was not something that I took lightly. Thus, when I became overwhelmed, I sought ways to process my emotions in a manner that did not impact the overall quality of the research. As a result, I spent more time on the lands and waters of Haida Gwaii, participating in ceremony and cultural practice that felt right to me. Haida Gwaii itself provided me with the strength and the determination to continue this work.

To ensure that this research upheld yahguugang (respect), I sought to embed reflexivity, time spent on the land and waters, and ensured that I sought wise counsel. Decolonizing research involves integrating and centring the voices of Indigenous peoples along with Indigenous epistemologies and knowledge while being critical of the underlying assumptions that often privilege Western scientific knowledge (Held, 2019; Simonds & Christopher, 2013). In the context of my research, this process involved critical introspection and reclaiming my space as a Haida citizen. Smith (2012) emphasizes the importance of insider researchers forming support systems – I was fortunate to have community and cultural mentors to support me through this process.

### ***Methodological and Ethical Principles***

I examined multiple Indigenous and grounded methodologies – ultimately, opting for a Haida-specific set of principles. Here I present a brief definition of what those values were and how they were implemented.<sup>iv</sup> First, I focused on centring community knowledge and involving women at all stages. Being on Haida Gwaii while I did this research was the most important ethical and methodological decision that I made as being on my home territory influenced my thinking, reflection, and guided my research (see Kovach, 2009). Ad kyanang kunGasda (to ask permission first) – I utilized the support of my mentors and the CHN to ensure I was abiding by protocol at all stages of the research. I was guided by Tll yahda (make it right) and this allowed me the opportunity to make things right when I mis-stepped in terms of protocol. I did my best to be guided by yahguudang (respect) in my decisions and discussions. Tllga k'aaysguuxan sGaw gang k'iiga (the world is as sharp as the edge of a knife) – Bell (2016) discusses this proverb as offering support for the reinterpretation of knowledge to foster understanding of the Haida way of life, and that as Haida researchers we are “walking on an edge of a knife and that [our] thoughts and words need to be good” (p. 18). In the context of this project, Gina 'waadluxan gud ad kwaagiida (everything depends on everything) – involved patience and the need to reflect and process through spending time on the lands and waters of Haida Gwaii. 'Laa guu ga kanhllns (responsibility) – I have a deep responsibility to my family, clan, community, and Nation and this was and is not something that I take lightly. As mentioned earlier, I opted to utilize the beaches and forests of Haida Gwaii to process information shared. While I was living on Haida Gwaii I witnessed all that life on Haida Gwaii has to offer the ups and downs, loss,



tragedy, joy, and community. The process of doing this research was personal, challenging, and is ongoing.

### ***Ethics***

I received ethics approval through the CHN and a University research ethics board. Purposive sampling was utilized as it ensured alignment between the research questions and goals (Palys, 2008). Semi-structured interviews took place between 2018 and 2020 and lasted between one and two hours each. The participants were a diverse group of 30 Haida people (17 self-identified as men and 13 self-identified as women) who ranged in age, life experience, and cultural and community knowledge. In the results reported below, I present two out of six themes from an unpublished Master's study. This study served as the foundation for my current PhD research into the relationship between Haida Tll yahda and belonging. Participants were given the option of utilizing their English or Haida Name or some combination of both or, of utilizing a Haida pseudonym. This diverse sample offered considerable insight into Haida Tll yahda.

### **Results and Discussion**

In this article, I focus on the respondents' reflections on how to go about building capacity for Tll yahda: "100% sovereign is the dream... how will that look in reality?" (Gwaliga Hart); and the personal and institutional infrastructure needed to realize Tll yahda: "It is a huge piece of work" (Michael Nicoll Yahgulanaas).

#### ***Building capacity for Tll yahda: 100% sovereign is the dream... how will that look in reality?***

This theme included considerations and recommendations for the formalization of a Haida Tll yahda system. Participants emphasized Tll yahda (making things right), the importance of community, and true resolution of conflict. As Jaskwaan explains

*the Haida conceptualization of Tll yahda making things right is that justice is something bigger...a part of a bigger web... The Western system is black and white and a Haida justice system is more holistic.*

Many participants denounced the purported ability of the Western criminal justice system to adequately respond to our respective justice needs. Further, reflecting on Haida Tll yahda SGaana Gaahlandaay Alix Goetzinger noted that

*since the beginning of our existence, we've had entire ceremonies dedicated to saving face when something has been done wrong. We have that responsibility to make something right and correct it... [W]e all have that responsibility to act and to live in yahguudang, in respect.*

Guulas suggested that

*making things right involves working on navigating conflicts instead of ignoring them. [I]t could be a lot more effective at moving things forward.*

When things are made right there is a finality and resolution that may not be ascertained through the Western criminal justice system. Reintegrating 'WaahlGahl *potlatch* into our governance systems was emphasized. Collison (2014) explains that

*In Haida society, business is conducted in public, through the 'WaahlGahl, which is our legal system and an essential part of [our] social, economic, and political system [...]. Designed to keep the affairs of one's clan and our greater Nation in order, the potlatch is where all important matters are carried out, such as inaugurating a chief, raising a pole, reaffirming clan histories, taking a new crest, conducting conflict resolution and so on. (p. 1)*

GaaysiiGas suggested that our current system through the CHN will eventually be phased out as we build capacity to return to our ways of doing things – essentially, “bringing things back”. This process of resurgence and revitalization involves and is interconnected with processes of “language revitalization, personal healing, and empowerment”. Gwaliga Hart further emphasized the importance of “doing business out in front of everybody [as]...there is full transparency”. Holding people accountable in a Haida way could have a ripple effect – “as people are held accountable, it starts to get



talked about, as things are done to correct it then maybe people start to think about their actions and their behaviours” (Gidin Jaad).

Participants noted that we can build upon our existing strengths and develop our capacity to take on the formation of a Haida Tll yahda system. Gwaliga Hart noted that this process has already begun: “there are so many things we do that are already our system [...]. The work always has to start somewhere and it’s already rolling.” Victor (2007) suggests that regardless of their recognition principles of self-determined Indigenous justice systems are already happening in most communities; however, they may have been “put to the side, overshadowed, and marginalized by colonial forms of justice” (p. 13). GaaysiiGas recalled when considering the possibilities for a Haida Tll yahda system: “establishing a [...] system like this, all the healing that we have to do, it’s a lot of work. But the thing is we have time. We have the rest of eternity to do this work.” Participants further emphasized the importance and interconnection between Haida Tll yahda and healing.

The interconnectedness of mental health, addiction, and wrongdoing and the importance of moving beyond surface level “band aid” (Jisgang) solutions were further emphasized. Tahayghen recalled that “the only way we can heal is if we start dealing with the abuses that have been going on for so long”. K’iinuuwaas discussed the importance of spending “time lifting people up and making good decisions while also revitalizing our relationship with the land”. This relationship to the land has undergone colonial fracturing through a series of colonial racist myths, displacement, forceful occupation, and land seizure (Manuel & Posluns, 1974).

A huge component of healing is understanding that it is not solely our responsibility to heal – but that of our colonizers whose claims of reconciliation often fall short of meaningful reparation for harm done. As GaaysiiGas notes:

*Canada must make payment for what has happened here on Haida Gwaii...They say we want to reconcile what we should say is if you want to reconcile – all of this stuff is broken because of you. That starts with healing, counselling, better education, trips out on the land... It means that you get to pay for a healing centre here on Haida Gwaii...There is no struggle. There is no we don’t know where the next cheque is coming from. It is like no - Canada signed a reconciliation agreement and this is all paid for. That is what it looks like...That is why*

*payment is at the centre of redemption in Haida law. **In potlatch...Canada would need to pay** [Emphasis added].*

Monchalin (2016) echoes this sentiment, noting that “crime affecting Indigenous peoples is not a “problem” with Indigenous peoples but rather a colonial problem” (p. 145). State accountability is further referenced by Alfred (2015) who suggests that small reparation payments are far less meaningful than Canada saying

*‘we’re going to give your land back too,’ or less radically, to say ‘we’re going to fund a whole set of programs in Canada to help restore Indigenous languages, to address multigenerational trauma, to begin the healing that needs to take place (p. 8).*

Participants emphasized the importance of turning to old stories “going through the bits and pieces of what kind of lessons they hold that we can gain value from for our future systems” (Gwaliga Hart). This process involves adapting, relearning, and reimagining our old ways to make sense in today’s context (Monture-Angus, 1995; Simpson, 2008a). Collison (2014) explains that the “Haida Nation is made up of two moieties, Raven and Eagle, from which numerous lineages stem. Being a matrilineal society, clan affiliation, rank and property are inherited through female lines” (p. 1). GwaaGanad recalled that through strengthening the clan system “we will be ready to bring out our form of justice” she noted that this could mean “[sifting] through those [stories]” to determine what could be applicable today.

Strengthening the clan system could serve as an important first step towards a Haida Tll yahda system. Guulas notes that

*violations of Haida law have a ripple effect. They don’t only impact the individual, but their family, community and the Nation...There’s a potential for clans to rebuild or to take on a bigger role than they are in order to deal with these violations.*

A Haida Tll yahda system needs to be rooted within the community. With protection in place to ensure accountability- as Daamxaangang emphasized “there can’t be [a] grey area in terms of who gets held accountable”. Sandlane Gid suggests that this system would need to make sense in today’s context, “we are forging new paths because there are all these issues



in our communities that we did not have to deal with before. So, we have different solutions.”

There was a further recognition that relying on Western systems of justice has only engrained colonialism further. For instance, Tahayghen noted that

*CHN is going to have to [...] step up and say [...] enough is enough – if you guys won’t do anything about it we are going to have our own system of justice and start dealing with these guys that are selling drugs or abusing or stealing.*

Building capacity necessitates an understanding of the pervasiveness and nature of the crime or wrongdoing that is ongoing on Haida Gwaii. In terms of wrongdoing, participants mentioned abuse, addiction, overfishing and overharvesting, and theft. Often these issues were entwined with mental health issues, intergenerational trauma, and cultural disconnection – more representative of social problems than criminal problems. As Jisgang emphasized “we all have to live together, we have to live with each other. We are all in this together, no matter what.” The interconnectedness of the Haida community is an important consideration in the limitations of the individualized Western criminal justice system to effectively provide Tll yahda or make things right for Haida peoples.

A key violation discussed that could be addressed under Tll yahda was abuse. Abuse is multifaceted, often intergenerational, and shame and guilt sometimes result in a lack of resolution for all involved. These cycles of abuse are rooted within and perpetuated by colonialism, genocide, and racism and when we take a step back, we can see the historic and continued ramifications of abuse and the resultant impacts on addiction, mental health, and abuse – vicious cycles can only be stopped once we as a people agree to address them. Participants had many different ideas to more effectively respond to sexual, physical, and/or emotional abuse. 7idansuu suggested that “a group of women, old women maybe...get them to come in there to talk and get questioned, and [come to] understand that...what they’re doing is wrong and then face the consequences”. The nature of dealing with issues of abuse is complicated by our shared traumas and interconnections – but it is also necessary. Laanas highlighted the importance of survivors sharing their experiences and “how it affect[s] them in their [daily] lives”, demonstrating the impact that behaviour had on the survivor. SGaana Gaahlandaay, Alix Goetzinger suggested that abusers

could be humbled “in a traditional way where they sort of have to build themselves back up and right their wrongs through ceremony and following Haida law”.

An interconnected justice issue is addiction and drug dealing which often result from mental health issues, trauma, and abuse. Ultimately, addiction is a health issue and should be treated as such. K’iinuuwaas recalls “if we had access to fancy doctors and prescription medicines we would be in treatment for this colonial trauma that has been impacting us and we would be medicated through the system”. Whereas issues like theft – as Kihlguulans notes, are a “symptom of other things, a symptom of poverty, of mental illness, or addiction...it’s a social problem really”. The importance of facing our collective grief, trauma, and abuse was emphasized – ignoring these issues places limitations on the Nation’s capacity to revitalize a Haida Tll yahda system. Our own systems may be operationalized in the process of grappling with trauma and oppression. However, there needs to be a collective decision to face truths that have been ignored over generations. Thus, there was a recognition that these social problems stemming from colonization may require remedy through a more holistic approach.

### **Establishing Tll yahda: It is a huge piece of work**

This theme encompassed potential first steps to take towards the formalization of a Haida Tll yahda system – including Haida-ized approaches, banishment or isolation, strength-based solutions, and programming. Ultimately, there needs to be flexibility in terms of the issues that a Haida Tll yahda system could respond to and what that response looks like.

In considering old ways of being and responding to wrongdoing some participants offered potential ideas for adapting them for the present day. For instance, Gadgaas Erika Stocker noted that

*maybe we could make it a new thing – that we have a ceremony that marks the death of a person that part of you can never exist again... an identity death... maybe the death of their trauma or whatever is it that caused them to behave in that way.*



Further, Nang Jingwas emphasized the importance of not only looking at the individual, but also “the family, the community- in terms of what the impacts are of both the action but also, how you address that harm”.

Some participants discussed the potential to “*Haida-ize*” (Jisgang) Western systems and ways of doing things. For instance, Captain Gold suggested that having a jury to deliberate and make decisions, could be a good place to start. Others discussed restorative justice – either adapting it to fit our ways, or, embracing it more fully. For instance, iihl ka jaad k’inas noted that “*our healing has to come from within and from our own*”, and referenced her experience with a restorative justice programme. However, we must be careful in adopting any Western principles of justice beyond the short-term as they may overshadow and supersede our ways of responding to wrongdoing and maintain colonial control (Monchalin, 2016; Monture-Angus, 1995). There was at times, a conflation of a self-determined Haida Tll yahda system and Western restorative justice which was not surprising given the existence of restorative justice programmes on Haida Gwaii along with the lesser knowledge about Nation based systems (see: McGuire & Palys, 2020).

The use of banishment or isolation was also discussed. Modern-day banishment is often not effective because it does not involve accountability and people are quick to return to their “old ways” (Kihlguulaans). Instead of simply removing the “problem individual” they need to be held accountable in a manner that also supports them in understanding the impacts of their behaviour. Kiidlajuwee recalled that in order for a period of isolation to work properly it would need to be a “community thing”, instead of simply moving the “problem to another town”. There was a consensus that isolation or banishment should not be the full solution but instead could be coupled with reparation or accountability. Jisgang suggested that an individual could be properly equipped to “go out into the woods” in order to reflect upon their actions until they are ready to “acknowledge and admit what they did [...] sometimes [that acknowledgement occurs] in front of a lot of people, sometimes it’s in front of a few”. Other participants noted that building skills and training could be coupled with a period of isolation.

The importance of the land and waters of Haida Gwaii along with Haida culture and language was further emphasized as they are necessary elements to a Haida Tll yahda system. Guujaaw suggested that spending time on the land

*cleanses [...] [you] [...] just going for a walk on the beach. That is the most healing kind of thing. Taking a walk and experiencing it all.*

While, 7idansuu adds that *Bringing forward a mentorship or a cultural aspect [...] [that could] [...] help change the trajectory of someone[’s] [...] life.*

A key component of the strength-based approach emphasized was the continued development of ‘WaahlGahl. GaaysiiGas explained that ‘WaahlGahl

*is the most efficient, elegant and beautiful way of administering justice. And it is meaningful on a heart level to people. You’re healing people, you’re healing society, you are establishing a mode of behaviour that is honourable [...] that to me is a more efficient justice system. Everybody is learning, everybody is in it, everybody is making law together. Without witnesses, there is no law. And so, when you go into a potlatch every person there is a lawmaker. We are all doing it together.*

The strengthening of clan systems is intertwined with ‘WaahlGahl. Gidin Jaad notes that

*the stronger our potlatches and feasts are, the more involved our witnesses and neighbouring clans are the more inspired and involved people are going to be.*

Jaalen Edenshaw noted that

*‘WaahlGahl could be utilized where the entire clan takes responsibility for the actions of someone within their clan and then that person is [held] responsible, uncles and aunties, watching over them... Those are examples that could potentially be drawn from for a modern system.*

In discussing the importance of ‘WaahlGahl, participants considered elements that could be adapted and integrated into a Haida Tll yahda system. Gidin Jaad reflecting on the importance of strengthening the potlatch system as follows:



*When things are not done right, it is the collective responsibility of everybody to make it right and in making those mistakes and publicly acknowledging them – [...] it shows courage and a better way of learning and modelling for our people. The hidden shame, guilt, and punishment within these colonial ways is not our way. And these institutions have just sabotaged so many areas of our ways that it is just – I feel like when we start just dealing with things head-on – being the change and being the models – it is going to start shifting individuals, families, and clans. The rest of the Nation will start giving ourselves permission to do it like we did. Having the courage and just doing it. Holding ourselves accountable, teaching our children to be better, and to expect better.*

While SGaana Gaaahlandaay Alix Goetzinger noted that “culture is the very thing that is keeping us from collapsing under the oppressive system [...]. It is keeping our very existence alive”.

Witnesses and payment were specifically emphasized as important potlatch laws with applicability to a Haida Tll yahda system. Kihlguulaans notes that the role of witnesses to a potlatch is to “make sure things are done properly, respectfully”. GwaaGanad suggested the importance of paying witnesses by stating that, “if I pay you good, you’re going to say good things”. K’yalts’ii notes that “under Haida law, witnessing and payment are integral to making it right”. According to Hilang Jaad Xylaa it

*is the gift-giving part of [potlatch] that allows for real accountability, taking it a bit further [...] to say I am accountable and thank you for being here to witness my declaration.*

Participants mentioned multiple potlatches that were utilized to make things right – including, Kiidlajuwee’s potlatch. His daughter, Hilang Jaad Xylaa reflected on how that experience helped her father and noted that it could be utilized at multiple scales even at “a family dinner [...] making it right could be as small as that”. Kiidlajuwee reflected on the preparations that were involved to ensure that it was done right. K’yalts’ii suggested that Kiidlajuwee’s “potlatch allowed for a true resolution of conflict in a way that I don’t think would have happened otherwise”. Two different potlatches that were centred around meaningfully dealing with hereditary leadership whose

decisions to support fossil fuel developments against their clan's wishes were also discussed.

Hilang Jaad Xylaa suggests that

*going back to the root of what causes them to make that type of decision. If we create a strong enough system we are able to address everything... [as long as we] get to the root [of the problem].*

Thus, ensuring flexibility and adaptability to meet different needs would be important. iihl ka jaad k'iinas suggested that a Haida Tll yahda system should be positively oriented, focused on building on "peoples' strengths".

Many participants emphasized the importance of honouring the role of women in Haida society. Both Gwaliga and Jaskwaan suggested involving the Nonni's (grandmothers) in decision-making processes. K'iinuwaas emphasized women supporting other women and that in "this community it does feel like the women are our real movers and shakers and doers". K'yalts'ii suggested that

*having a group of women held in high esteem involved in forming a Haida justice system could be a good step forward. Women have had the most harm done to them in our communities and they should have a say in defining Haida law and justice.*

Others spoke about the value of formal or informal mentorship. For instance, Kihlguulaans reflected on the importance of taking on a mentorship role "I gave them some tools [...] the tools weren't just physical tools, but tools of knowledge". The strength-based approach emphasized was grounded in the realization of the need to heal and tell the truth.

Forming a Haida Tll yahda system grounded in 'WaahlGahl principles would bring things full circle given the Canadian state's role in banning the potlatch, silencing ceremonies, language, and cultures. Collison (2014) notes despite the potlatch ban and other colonially imposed laws and restrictions that

*acting as conduits between past, present, and future, our ancestors continued to practice their culture in secret [...]. Through these acts, our ancestors ensured a door was left open for their children, an opportunity to strengthen our Haida*



*way of life while at the same time succeeding in the contemporary world. (p. 93)*

Haida people have the power to learn, unlearn, and challenge ourselves and each other to move beyond the confines of colonial restraints.

### **Conclusion and Looking to the future: Grounded Normativity, Decolonization, and Resurgence**

In this article, I considered the formation of a Haida Tll yahda system – focussing on building capacity for Haida Tll yahda and the structures that need to be strengthened or put into place to revitalize and reimagine Haida Tll yahda within today's context. The results of this project demonstrate that the formalization of a Haida Tll yahda system is possible – and that it will necessitate innovative and critical approaches and difficult conversations. The 'WaahlGahl system is continually being strengthened and is central to the revitalization of self-determined Haida governance and justice. Although these two themes are a small portion of a larger project, they effectively address two standalone research questions: What does justice mean to the Haida? And how could Haida conceptions of justice be implemented in the modern day? Answers to these questions provide insight into the potential revitalization of a Haida Tll yahda system. This project is ongoing, as the findings contained herein are elaborated on through continued research into the importance of belonging for Haida Tll yahda.

Moving our nationhood forward will not be without its challenges – namely, the limitations placed upon us that we have internalized including the myth of colonial supremacy. Decolonization requires a thorough understanding of the pervasiveness of colonialism, racism, and oppression while also ensuring a critical eye on colonial rhetoric and politics. Colonial forces maintain the status quo, the oppression of Indigenous nationhood, and self-determined systems (Alfred, 2009a). Moving out from under the weight of colonial oppression necessitates a “restructuring of the fundamental relationship between Indigenous nations and Canada” (Coulthard, 2014, p. 168). Manuel and Derrickson (2015) posit that to ensure the protection and maintenance of our nations “we need to stand up and fight colonialism in all of its manifestations” (p. 226). This involves processes that offer true and meaningful reparation – including the return of land, monies, and acceded jurisdiction. This also necessitates the

revitalization of our self-determined nation-based governance and justice systems according to our distinct laws, values, and cultural protocols.

A major limitation of the current study to be remedied in future research is the consideration of grounded normativity, decolonization, and resurgence from a methodological or theoretical standpoint. This demonstrates the emergence of critical and nation-specific theoretical insight that privileges Indigenous knowledge systems. Simpson (2008a) states that this “Indigenist theoretical framework,” privileges Indigenous knowledge, communities and nations while committing to “following our own [unique] intellectual traditions” (p. 16). This framework provides the bases from which to revitalize our nationhood and to resist colonial imposition. Looking back at this research, the applicability of Coulthard’s (2014) grounded normativity is clear. Coulthard (2014) defines grounded normativity as

*the modalities of Indigenous land-connected practices and longstanding experiential knowledge that inform and structure our ethical engagements with the world and our relationships with human and non-human others over time* (p. 13).

Simpson (2017) adds that

*grounded normativity isn’t a thing; it is generated structure born and maintained from deep engagement with Indigenous processes that are inherently physical, emotional, intellectual and spiritual* (p. 23).

The interconnection between the lands and waters of Haida Gwaii, and Haida knowledge were apparent throughout the research process. Had I begun this project with an ethical framework that included grounded normativity in a Haida context, I might have been better prepared to navigate the complexities of researching my own community.

Moreover, decolonization is a multi-level process – and thus, will require changes on the individual, organizational, and national levels. Alfred (2009) argues that a “true decolonization movement can emerge only when we shift our politics from articulating grievances to pursuing and organized and political battle for the cause of our freedom” (p. 22). Resurgence involves recentering and reinvigorating principles of Indigenous nationhood – including connection to land, language, culture, community and ways of life.



Elliott (2018) suggests that “decolonized futures will inevitably reflect ongoing practices of resurgence” (p. 69). The resurgence movement highlights the need to deconstruct and question existing colonial power structures while imagining self-determined nation-based systems. Corntassel (2012) argues that “Indigenous resurgence means having the courage and imagination to envision life beyond the state” (p. 89). Alfred and Corntassel (2005) outline five mantras of the resurgence movement which are as follows: “land is life”; “language is power”; “freedom is the other side of fear”; “decolonize your diet”; and “change happens one warrior at a time” (p. 613). Together, these mantras encompass the importance of the interconnection between land, water, language, culture, mentorship and cultural revitalization.

The roadblocks in front of us often entrench our feelings of inferiority culminating in a lack of action. Further, Simpson (2017) warns against turning to the state instead of our own systems, “we are the experts [...] we are self-determining” (p. 227). Moving beyond the limitations that we place upon ourselves involves a process of learning about the pervasiveness of colonialism and genocide; challenging our internalized colonialism or racism; having difficult conversations; and strengthening our systems. It may also involve coalition-building between Indigenous nations as we collectively battle the colonial state (Simpson, 2008b).

This research was and is driven by my desire to contribute to meaningful change for my nation and to move our governance forward towards the development of a self-determined Haida Tll yahda system. Moving beyond colonial genocidal shackles will not be without its’ challenges; however, the present study illustrated the strength and potential adaptability of ‘WaahGahl. Strengthening our governance system and moving towards XaaydaGa Tll yahda TllGuhlGa<sup>v</sup> (a Haida Justice System) necessitates that we confront our fears and move beyond colonial confines. Alfred and Corntassel (2005) suggest that:

*As Indigenous peoples, the way to recovering freedom and power and happiness is clear: it is time to transcend colonialism as people, and for us to work together as peoples to become forces of Indigenous truth against the lie of colonialism. We do not need to wait for the colonizer to provide us with the money or to validate our vision of a free future; we only need to start to use our Indigenous languages to frame*

*our thoughts, the ethical framework of our philosophies to make decisions and to use our laws and institutions to govern ourselves* (p. 614).

We have the power to resist, revitalize, and reimagine our place in the world as self-determined nations while simultaneously holding Canada to account for the harms that it continues to cause. Once we learn the truth, the depths of colonial genocidal racist harm, we have the armour necessary to combat our internalized hate – to educate each other and to move forward to freedom.

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<sup>i</sup> (Betty Richardson, as cited in SHIP, 2019).

<sup>ii</sup> (Betty Richardson, as cited in SHIP, 2016, p. 968)

<sup>iii</sup> (Golie Hans as cited in SHIP, 2016, p. 475).

<sup>iv</sup> These are complex values – interwoven into our daily lives, interconnected with the land and waters, represented in our art, oral histories, and cultures. I cannot adequately address the process of implementing this value in the space provided. I would like to thank Lucy Bell, Jisgang, and Jaskwaan for their work in Haida methodology and support in this process.

<sup>v</sup> Translation of Decolonization Justice: the formation of a Haida Justice System by the Skidegate Haida Immersion Program (S.H.I.P), personal communication, May 2020.