

Whu’Neeh’Nee (Guiders of Our People): Strengthening Carrier First Nations Law Through Research and Training

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Carrier and Sekani Society and Philosophy

The traditional territory of the Carrier nation is a vast area spanning nearly from the Rocky Mountains to the Pacific Ocean in North Central British Columbia Canada. Today there are approximately 22 Indian Bands or First Nations, as recognized by the Department of Indian Affairs that identify as being Carrier or Sekani societies. For the purposes of this discussion what follows is a description of the social and legal order in Carrier society, and in particular 11 member nations associated with Carrier Sekani Family Services. While Sekani societies are closely linked with Carrier societies, their legal and social orders are not necessarily the same as their close relatives the Carrier people¹.

The Carrier People are part of the Athapaskan language family and are divided into a number of language dialects. Carrier society is matrilineal, although men and women share important roles in the community. For example, both men and women inherit and are groomed to be healers as well as hereditary leaders.

Carrier people maintain a governance system commonly referred to as the *bah'lats* or potlatch. Four primary clans make up Carrier society (Bear, Caribou, Frog, and Beaver), each with several sub-clans. In the Bear or *Likh ji bu* clan there are five sub-clans including the Black, Grizzly, Fox, Crow and Timberwolf clans. In the Caribou or *Gilhanten* clan there are four sub-clans including the Mountain, Geese, Mask and Flag clans. In the Frog or *Jihl tse yu* clan there are four sub-clans including the Marten, Thunderbird, Beads, and Ribbon clans. In the Beaver or *Likh sta Mis yu* clan there are four sub-clans including the Grouse, Owl, Moose and Sun clans.

Generally, there is one head clansman for each primary clan. A hereditary chief who holds rank in the *bah'lats* as a wing chief represents each sub-clan. These positions are passed down through family or clan lineages as well as the result of selections guided by clan Elders. The role of the head clansmen is varied and includes being main spokesperson for the clan they represent, looking after people's welfare, and providing direction to clan members.

The *bah'lats* organized around the clan system, is the core economic, political, social, legal and spiritual institution of the Carrier peoples. While protocol is flexible and adaptive to the differing systems of each community, the guiding principles of the *bah'lats* system are shared among the communities. The *bah'lats* is inclusive of all members of the nation.

All formal business in the *bah'lats* is conducted in an open and transparent environment where clan members (whether hereditary chiefs or not) are witnesses to

¹ Carrier Sekani Family Services (named as such to reflect its affiliation with Carrier Sekani Tribal Council) currently provides health, social and legal services to 11 Carrier First Nations Communities.

transactions that may occur. As witnesses individuals are expected to commit to memory the details of transactions, and in the case of hereditary chiefs to recount in oral histories the transactions at future feasts when those transactions are relevant.

There are several protocols in Carrier society that are expected to be followed when specific formal business is being conducted in the feast hall. The most commonly known protocols include when hereditary chief's names are being assigned, the solidifying of law, shaming, and the announcement of births, marriage or adoption. An integral component of law making authority in Carrier law is the sanctioning of actions, business plans, and transactions. This is called *Chus*, the law of the eagle down. This law is expressed in a ceremony that opens and closes all law making business in Carrier society, and in particular the feast hall.

While the exercise of law making authority is one activity, there are several principles that flow from accepted Carrier laws that are intended to govern the conduct of individuals. The primary principles that are intended to govern the conduct of individuals include: respect, responsibility, obligation, compassion, balance, wisdom, caring, and sharing. Each of these principles is expected to be followed concurrently and with equal weight. No one principle is understood to have greater significance than any other principle. Carrier behaviour is conducted in relation to spiritual energy. The Carrier believe that whatever energy is expressed, good or bad, will be visited on the individual in the future. This belief guides the respect demonstrated towards all other beings

The *bah'lats* continues to thrive in contemporary times and is responding to the ever changing relationship between Aboriginal and non-Aboriginal societies. One of the biggest challenges facing the *bah'lats* is the ability to coordinate its law making powers and the principles that flow from that power with the law making powers as it is understood in western based systems.

Self Determining Nations

Carrier and Sekani people maintain that they have an inherent Aboriginal right to be self determining which includes the ability to use Carrier and Sekani institutions in maintaining social order in their communities, and that this right is now protected under Section 35 of the *Constitution Act, 1982*. Assuming responsibility for the care and protection of children, as well as the maintenance of family structures is one expression of self determination. Premised on this rationale, Carrier Sekani Family Services (CSFS) has worked hard to reassert control in areas that have been sources of attack on community values and teachings such as the cultural relevance of classroom materials (curriculum development and administration included) as well as direct attacks on the family through the removal of children.

CSFS continues to work toward obtaining delegated authority from the Province of British Columbia² to protect Aboriginal children residing in their territory. Communities engaged in the delegation of provincial responsibility for the delivery of child and family services understand this to be an interim measure, and that with the signing of treaties they will secure the right to provide these services with adequate resources committed from government. If treaties are not a reality then there is still the opportunity to pursue the responsibility for social order as an assertion of self determination.

In the interim CSFS continues to be innovative in its approaches to asserting control including devising strategies for protecting and communicating Carrier knowledge through programs such as the Family Dispute Resolution training and Health Sciences program that are examples of community driven teaching and learning.

Implicit in the discussion around the right to be self determining is that the society asserting the right has well established internal legal systems that preserve the integrity of family and community structures. Like all societies these systems and structures preserve the well being of the society by determining membership, how business is conducted, knowledge is transferred and conflict resolved in that society. Carrier and Sekani societies are no different than other societies in this regard, maintaining distinct social and legal structures despite colonization and attempts to assimilate Carrier and Sekani people.

It is timely for government to recognize Carrier and Sekani law making authority in their territory including the right to determining membership, as well as how and who cares for children. For too long state authorities have assumed responsibility to determine how children will be cared for and in turn impacting negatively on traditional family structures in Carrier and Sekani societies. In the early to mid twentieth century this responsibility was assumed by various church run, state sponsored residential schools. In the 1960's provincial child protection authorities assumed responsibility for those children considered to be "at risk". In each case Carrier and Sekani social and legal structures and systems of knowledge sharing were substituted for western "civilized" systems which carried with them Eurocentric values that dismissed and undermined the social and legal order in Carrier and Sekani societies.

As Carrier and Sekani people move toward reassuming legal responsibility for social order in their communities they also seek to reinstate the legitimacy of their legal systems and in particular processes directed to resolving disputes. This paper will describe the recent history of these movements, strategies for combating damage done

² The legal regime to protect children and ensure their safety and wellbeing in Canada is vested in the Provincial government's law making authority under section 92 (13) of the *Constitution Act, 1867*. Pursuant to this authority the Province of British Columbia has passed the *Child, Family and Community Services Act, 1996* which permits the Director of Children and Families to delegate their responsibilities to individuals and community agencies. In effect delegated individuals or community agencies are acting on behalf of the Province of British Columbia when they purport to exercise the responsibility delegated to them.

through the attempted destruction of Carrier institutions and potential future directions toward achieving the objectives of social justice movements.

Impacts of Colonization

Recognition of Carrier lawmaking authority and knowledge cannot be understood without an overview of the negative impacts of colonization on the lives of First Nations people in Canada, to which the Carrier Nations represented in this paper are not exempt. The Carrier and Sekani people's right to self-determination has been eroded in part by provisions of the *Indian Act* and related policies that attempted to govern the lives of indigenous peoples in Canada.

The consolidated *Indian Act*, first enacted in 1876, is a comprehensive piece of legislation providing legislated direction toward almost all activities and aspects of First Nation communities. Under the *Act* most vestiges of powers reside with the Minister of Indian Affairs and Indian Agents. The underlying intent of this legislation was the elimination of Indigenous world views and any jurisdiction over their territories³ (Joseph 1991:67). In 1876 all laws affecting Indian people were combined under one piece of legislation known as the *Indian Act* which stated as its mandate the protection, civilization and assimilation of Indians. The three areas in particular that were addressed under the Act included band membership, local government construction and land ownership⁴ (Moore 1978:51). The government, aided by the church enhanced its programs of political and cultural destruction by attacking the family structure, which is the mechanism for the transmission of traditional knowledge. This was largely completed through the removal of children from their homes, and placing them in residential schools in order to prevent them from practicing their culture or passing on knowledge through separation from parents and other teachers (Holyk 2002:66).

This colonial mind set is further reflected by government policy that tried to abolish aboriginal rights and nationhood (White Paper policy P.E. Trudeau). In 1969 the Liberal government in power introduced a policy to abolish aboriginal rights, so that Indians have no rights except for the rights afforded to the average Canadian. While this policy was dropped due to First Nation backlash, its intent and foresight is being infused into current policy directives that dictate service delivery without regard to the spirit of the First Peoples of this country.

These clashes of cultures have resulted in many atrocities committed against the indigenaity of the First Peoples of Canada. This can be traced back for several generations. The treatment of First Nations people to this day is riddled with racism, historical injustices, discrimination and commoditization supported by the government agenda to fix "The Indian Problem".

³ The legislation also solidified the lack of recognition, present from the arrival of Europeans, of the matrilineal organization of Carrier communities and the organization of family and property.

⁴ Land ownership included placing Indians on reserves to make way for further European settlement.

Despite many studies that point to the poor health status of First Nations people, government continues to shape and control the lives of First Nations. The strategies developed by the bureaucratic system are not working. This is evident by the fact the First Nations people are overly represented in penal institutions and youth detention homes. Emma LaRocque states "...aboriginal peoples have been despicably treated by the Canadian criminal justice system (and society) and a paradigm shift or structural revolution is required to address the complex systemic problems involved"(1997:95).

Reflecting the damage caused by Canadian government intervention and attempted control over all aspects of the lives of indigenous peoples, a community research project conducted by CSFS funded by the Law Foundation of BC provides insight into the magnitude of this issue. 85% of people surveyed in seven communities serviced by CSFS indicated that they or someone close to them had been involved in a family dispute. 74% of those who indicated that they or someone close to them had been involved in a family dispute stated that the dispute ended up in court (CSFS 2001). Almost half of the people whose case went to court believed that their concerns were not addressed. Community members returning from the court process embittered is a significant problem because issues not properly resolve lead to lateral violence within the community and in particular the family.

The most pressing issue identified is child apprehension due to the physical, emotional, spiritual and mental destruction it continues to cause. As of April 2003, there were 891 Aboriginal children in care in the northern British Columbia region (MCFD 2003). That number represents 74% of the total children in care for the region while Aboriginal people only represent 13% of the population in the north (Northern Health Authority 2003: Electronic Document). Within the geographical area serviced by CSFS the number remains largely unchanged with 72% of children in care being Aboriginal. Child apprehension often leads to the following social problems within the community:

- Suicide
- Increase risk of criminal behaviour
- Increased alcohol/substance abuse
- Increased physical violence
- Silence when abuse occurs

The formal court process often times has not resolved family disputes, nor has it been responsive to the issues of rebuilding Aboriginal families and communities. The adversarial model used in the Canadian court system does not defuse conflict or present an opportunity for cooperation in order to resolve disputes in a culturally appropriate manner that will have lasting impact on the family unit.

Non indigenous systems fail to understand the essence of the First Nations institutions, therefore any attempts to remedy that situation, when intermixed with European values have not produced results that demonstrate good health, good healing and a square deal for people involved in the resolution of conflict. Dale Turner states "history has shown us that Aboriginal People have had little say in determining the

perspective from which their rights and sovereignty are understood and recognized” (Turner 2004:58).

For more than four decades Aboriginal leaders, front line workers, and academics highlighted the need to develop programs that would be responsive to the needs of the community. This cannot be done without ensuring the essence of First Nations culture, values and philosophy are intricately intertwined in the development of programs.

Systems established by those not directly involved in the community to help people in need have not worked for First Nations people. Carrier Sekani Family Services is committed to the development of services that are culturally sensitive, community driven and self-governed. Toward this end we continue to examine and reinforce appropriate structures that will enable our communities to resolve disputes in a manner that is respectful of its own institutions and innate to Carrier values.

It is therefore very important that First Nations communities start reviving their own systems that are respectful of humanity to begin addressing the negative social factors of violence and poverty that run rampant in First Nations communities. We can no longer wait for non indigenous systems to fix the problems that have been painted by the efforts of colonization - the time is now to de-mask colonization.

Research

Community driven research and training plays an important role in rebuilding Carrier and Sekani communities decimated by colonialism, governmental oppression, residential schools and institutional religion. The *Whu' Neeh Nee'* (Guiders of Our People) research project, designed to examine the manner disputes were resolved in the past and are currently being resolved at a community level⁵ in order to create a model for training and implementation, is an excellent example of the leading edge work being completed by CSFS.

The research project reaffirmed the fact that Carrier and Sekani society maintains a complex social and legal order where children are viewed as special gifts, and standards for their care and protection are well entrenched in governing systems that continue to be practiced to this day.

The CSFS family dispute resolution project researchers were very cognizant of the need to include community members in every step of the research process in order to allow them the level of self-determination needed for the project to be successful. All too often programming has been designed *for* First Nations People rather than *with* the community. As a result, CSFS empowered community members to maintain control of the process through various approaches.

⁵ A number of communities served by CSFS are actively involved in Child Protection matters through Community Based Teams, Child Welfare Committees and the Clan system.

In this project the research team used Participatory Action Research (PAR), a process in which all members of the team share in the decision-making and cooperate in order to ensure the project goals are completed (Ryan 1995:x). The community was represented by a Steering Committee, which was made up of representatives from each of the participating member bands as well as the general public who had expertise they could contribute to the project. The steering committee was responsible for informing people from member First Nations, government and courts of the project. They also provided advice on the appropriateness of the goals, methodology and application of the research to Carrier culture and reviewed the research report to ensure the accuracy of cultural values and information (such as the structure of the *bah'lats*) presented. The final report was additionally presented to the CSFS Board of directors, also made up of individuals from the member nations, in order for review and approval prior to its circulation.

A research coordinator and her assistant initiated the research through the distribution of a test questionnaire to focus groups from eight participating communities. The questionnaire was developed by the steering committee in order to gain baseline community opinion regarding the current justice system as well as their desire to utilize traditional methods for resolving disputes. The test questionnaire enabled the steering committee to identify limitations in the questionnaire and redraft questions in order to gain the rich descriptive cultural information that was determined to be necessary to develop an alternative model based on traditional values and customs⁶. The second phase of interviews, with the restructured questionnaire, included individual interviews as well as community meetings. The interviewer was permitted the freedom to ask supplementary questions in order to gain more complete answers when necessary. This allowed for the adjustment of questions in order to target areas according to each respondent's experience. All interviews were tape recorded and transcribed.

The transcripts were analysed and reduced into smaller categories and themes including accounts of traditional organisation of community leadership, the matrilineal clans and *bah'lats*, family and kinship, and past and current principles, structures, and processes of resolving family disputes. The interview material was complimented by a literature review of various sources written by Carrier people, missionaries and ethnographers. Finally, in order to provide improved insight into contemporary issues, an additional category was created addressing the various types of disputes participants had experienced and their opinion as to how dispute resolution could be improved to better serve their needs.

Based on the research completed, it was determined that a dispute resolution mechanism grounded in the traditions of the Carrier people that enables the community to have direct input and control of systems affecting their lives is critically needed. The words of four elders speak to the needs of the community:

We have to go back to the old ways. (Nadleh Whut'en Dec. 5, 2001)

⁶ Carrier legal systems are intricate and require additional research to determine responsibilities of clan members in specific child protection matters.

...we don't deal with it right at home instead of having somebody else deal with it for us...we have to start doing something for ourselves" (Nadleh Whut'en Dec. 5, 2001).

If you get your *bah' lats* system back you will be proud Indians. (Yekooche Nov. 15, 2001)

I've learned my way of life. I've learned how I'm going to take care of the land and how I'm going to take care of children. We don't want our kids to suffer. (Yekooche Nov. 15, 2001).

Community Based Family Dispute Resolution Training

Following the research, a model of Carrier dispute resolution and next steps were developed. The Family Dispute Program, which was at the core of research and training for this project, has the dual purpose of filling a need in the Carrier and Sekani communities for a culturally appropriate dispute resolution process while fostering a sense of collective responsibility for community social problems. As such, the family dispute resolution training developed by the community reflects the collective efforts ongoing in Carrier society.

It was decided by the dispute resolution steering committee that if our goal was to create a system of transformative justice based on Carrier practices the training provided for peacemaker/mediators must also be developed and implemented at a community level. Education provided compliments the Carrier movement towards empowerment of the nation and reflects the principle that Carrier peoples have institutions responsible for the care of children that should be the core of research and training. The curriculum builds on the research by articulating long established Carrier laws relevant to the care of children with the purpose of establishing a framework in which disputes regarding the care of children will be resolved using Carrier laws and values in a culturally appropriate manner.

In developing the curriculum Carrier Sekani Family Services worked with a number of individuals at the University of Northern BC including the Chair of First Nations Studies, the Dean of College of Arts, Social & Health Sciences and the Manager of Continuing Studies in order to ensure that classes met both the standards of the BC Mediator Roster Society and applicable standards for accreditation as university accredited courses. Carrier Sekani Family Services viewed the training as an excellent opportunity to provide First Nations students with skills that would assist them in any future endeavors they may pursue and as a result worked hard satisfy the credentials of the Carrier and Western based worlds that individuals would be applying the skills.

There are two major components to the training initiative which result in three university course credits as well as a final Family Mediation Certificate. The first component is 117 hours of issues based training focusing on topics developed to

specifically address family justice issues from a Carrier First Nations perspective such as Carrier culture, western and Carrier legal systems, dynamics of power, and family relations. 117 hours was used as the baseline in order to reflect three courses each comprising 39 hours typical of one university accredited course. The courses were designed and accredited under the banner of First Nations Studies at the University of Northern British Columbia

The second component was 80 hours of mediation skills training. This section of the training was based on the theory, concepts, skills and techniques needed to mediate disputes. Scenarios were developed to reflect community issues, with Carrier peoples as the coaches. Dispute resolution techniques and philosophy were supported by a Carrier dispute resolution model.

The courses were not available prior to CSFS discussions with UNBC it was a groundbreaking process to work within a university structure with community partners in a program that benefits the entire community. The training that CSFS developed is so innovative that it changed the way UNBC delivers courses and created partnerships within UNBC, between credit courses and continuing studies, that never existed. The university was open to the idea because it saw the training as an opportunity to open doors to students who potentially will move on to continue their studies and obtain degrees after being exposed to the university in a culturally respectful manner.

Post-secondary education participation rates amongst First People in Northern British Columbia have improved over the past decade but remain well below provincial and national averages. This is particularly true for Aboriginal learners in legal fields. This project was an excellent opportunity for Aboriginal learners in a relatively remote region to access training and achieve credentials that continue to lead to greater access to employment as mediators or future bachelor degrees.

Including CSFS staff and community members, the program received 26 applications for participation in the training⁷. The Steering Committee determined that 25 individuals were suitable candidates and letters were sent to each individual outlining the course and commitments. The time commitment was substantial with students attending classes one full week per month for seven months. Training costs were provided by CSFS through grants from the Law Foundation of BC and Victoria Foundation. In total 22 individuals accepted the offer to participate and took part in the opening week of training.

The goal of Carrier Sekani Family Services was to have at least four representatives from each region (based on dividing Carrier territory and the member First Nations residing in each area into north, south, east and west). We met this goal and had representation from twelve First Nations⁸.

⁷ Participant selection was made in three ways. Individual application reviewed by the steering committee for suitability based on Carrier guiding principles as well as the role, characteristics and respect a person has. Participants were also appointed by the community and by Departments within CSFS based on the same criteria.

⁸ Including representation from two nations outside of the CSFS umbrella.

The occupation and education levels of individuals participating in the program was very diverse from individuals who have Bachelors and Masters Degrees, individuals with a wide range of certificates and people with grade twelve. All participants are actively involved in the health of their community including professional roles such as Hereditary and Elected Chiefs, social services managers, Family Care workers, Community Health Reps, treaty coordinators, justice coordinators, lands management, alcohol and drug workers and other health fields.

The students who participated are knowledgeable of and committed to traditional Carrier Sekani family values and law. The individuals chosen have the ability, and support of the community, to lead an individual or family to a position to heal relationships, settle disputes, and make amends for any wrong doing. In most cases, the individuals have had the role of mediator in their community for a number of years and the training provided enhancement of these skills and a forum for recognition in Carrier and Western systems.

Final Remarks

After years of research and planning, in February 2005 twenty-two students from Carrier Sekani Family Services and its member First Nations began taking classes in Family Transformative Justice at the University of Northern British Columbia. The commitment to reinforcing healthy families and communities based on the teachings of Elders and those knowledgeable in traditional Carrier society has played a significant role in ensuring training is translated into an ongoing dispute resolution program designed and delivered by the Carrier peoples who have worked tirelessly for the betterment of their communities. The commitment to persevere despite struggles incurred while designing and delivering original programming, as well as the loss of a guiding light in the process, is a testament to the strength of the people participating in the training as well as the ability of the Carrier people to endure as a people and nation.

Works Cited

Adshaw Management Service

1993 Lake Babine Nation Brighter Futures: An evaluation of mental social and health Service. Manuscript Lake Babine Nation office.

Awasis Agency of Northern Manitoba

1997 First Nations Family Justice = Mee-noo-stah-tan mi-ni-si-win. Thompson: Awasis Agency of Northern Manitoba.

Bell, Catherine

1996 Royal Commission on Aboriginal Peoples, Building the Cultural Divide: A Report on Aboriginal People in the Criminal Justice System (Ottawa: Ministry of Supply and Services)

Carrier Sekani Family Services

2001 *Whu' Neeh Nee'* (Guiders of Our People) Family Dispute Resolution Research Project. Unpublished internal research findings.

Fiske, Jo-Anne

2003 *Whu' Neeh Nee'* (Guiders of Our People). Family Dispute Resolution Project. Final Report. Carrier Sekani Family Services. Unpublished Internal Document

Fiske, Jo-Anne and Patrick, Betty

2000 *Cis Dideen Kat: When the Plumes Rise*. Vancouver: UBC Press. 122-145.

Joseph, Shirley

1991 Assimilation Tools: Then and Now. *BC Studies* (89):65-79.

Holyk, Travis

2002 From Colonization to Globalization: the Gitksan Nation's Struggle for Jurisdiction Within Their Traditional Territories. Prince George: University of Northern British Columbia. Unpublished MA Thesis.

LaRocque, Emma

1997 "Reexamining Culturally Appropriate Models in Criminal Justice Applications"
In Michael Asch (ed.). *Aboriginal and Treaty Rights in Canada: Essays on Law, Equity, and Respect for Difference*. Vancouver: UBC Press. Pp 75- 96

Ministry of Children and Family Development

2003 Aboriginal Children in Care. April. Unpublished Internal Document.

Moore, Robert

1978 *The Historical Development of the Indian Act*. Ottawa: Treaties and Historical Research Centre, P.R.E. Group, Indian and Northern Affairs.

Morice, Adrian

1978 *The History of the Northern Interior of British Columbia*. Smithers: New Edition.

Nadleh Whut'en

2001 Interviews: *Whu' Neeh Nee'* (Guiders of Our People) CSFS Alternative Dispute Resolution Research Project. December 5.

Northern Health Authority

2003 Electronic Document. About the NHA. www.northernhealth.ca/nha/about

Ryan, Joan

1995 *Doing Things the Right Way: Dene Traditional Justice in Lac La Matre, NWT*. Calgary: University of Calgary Press.

Shawana, Perry

2002 Carrier Sekani Family Services Health Transfer Program Evaluation. Carrier Sekani Family Services. Unpublished Internal Document.

2001 Carrier Sekani Family Services Child and Family Services Evaluation. Carrier Sekani Family Services. Unpublished Internal Document.

Tatlock, Jan

2002 CSFS Nursing Stats report. Unpublished Carrier Sekani Family Services Document.

Turner, Dale

2004 Perceiving the World Differently. In, *Intercultural Dispute Resolution in Aboriginal Contexts*. Bell, Catherine and Kahane, David Eds. Vancouver: UBC Press Pp 57-69.

Yekooche

2001 Interviews: *Whu' Neeh Nee'* (Guiders of Our People) CSFS Alternative Dispute Resolution Research Project. November 15