

ACCESSING JUSTICE AND RECONCILIATION

“Journeying North: Reflections on Inuit Stories as Law”

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INTRODUCTION

In the summer of 2012, Val Napoleon and Hadley Friedland ran an intensive Indigenous Law Research Unit (ILRU) at the University of Victoria Faculty of Law. The ILRU was part of a special national collaborative research project, “Accessing Justice and Reconciliation”, involving the University of Victoria Faculty of Law, the Indigenous Bar Association and the Truth and Reconciliation Commission of Canada, and funded by the Ontario Law Foundation. Its mandate was to partner with communities in order to rigorously and critically investigate research questions pertaining to Indigenous legal orders.¹

As Brunee and Toope note, it is through ongoing engagement that law itself is constituted and maintained.² Canada has had a long history of failing to acknowledge let alone engage with Indigenous legal orders. Indeed, there is a long history of denying that Indigenous communities have legal orders, or arguing that those orders have been extinguished.³ The partnership was thus part of a larger project of decolonization, one that acknowledges the ways that Canada’s complicated history of colonialism has often rendered invisible Indigenous legal traditions. In its work, the ILRU has taken up the recommendations of the Royal Commission on Aboriginal Peoples that what is required is a renewal of the relationship between Indigenous and non-Indigenous peoples, one guided by the principles of recognition, respect, sharing and responsibility.⁴ Here, that goal is to put the Canadian legal system into a more sustained and productive engagement with a number of Indigenous legal orders.

The first goal has been to research and explore specific areas of law, legal processes and procedures, interpretive theories, legal pedagogies, legal reasoning and decision making within Indigenous communities. This research aims to support the creation of Indigenous law materials for communities, academic institutions, and practitioners. A second aim of the ILRU has been to support and develop substantive resources for the proposed Indigenous law degree program (joint JID/JD) at the University of Victoria Faculty of Law. The hope is that such a dual degree program will, in Napoleon’s words, “create the space necessary for living and breathing Indigenous legal orders in the academy both as sources of normative insight and inquiry, and as practical tools for governance and citizenry building.”⁵

The project understands Indigenous stories as one important source of law and precedent.⁶ Stories are one way of recording information in order to guide future thinking about legal

¹ A list of the Legal Traditions and Partnering Communities can be seen at <http://indigenoubar.ca/indigenoulaw/>

² *Ibid.* See also Jutta Brunnee & Stephen Toope, *Legitimacy and Legality in International Law: An Interactional Account* (Cambridge, UK: Cambridge University Press, 2011) at 355 for an account of how ongoing engagement with law is what constitutes and maintains it.

³ For an elaboration of these histories, see John Borrows, *Canada's Indigenous Constitution* (Toronto: University of Toronto Press, 2010).

⁴ Canada - Royal Commission on Aboriginal Peoples, Report of the Royal Commission on Aboriginal Peoples. 1996.

⁵ Inside cover of Val Napoleon, Jim Henshaw, Ken Steacy, Janine Johnston and Simon Roy, *Mikomosis and the Wetiko* (Victoria, BC: UVic Indigenous Law Research Unit 2013).

⁶ Val Napoleon & Hadley Friedland, “The Inside Story: Indigenous Legal Pedagogies” in Dale Turner (ed) Oxford Indigenous Governance Handbook (2014, forthcoming).

problems.⁷ Stories contain details regarding legal responses, principles, decision-making, procedures, obligations and rights.⁸ Of course, as Julie Cruikshank reminds us, Indigenous stories are not simply records of the past. They are social activities.⁹ In this sense, they provide the intellectual architecture for arguing, reasoning, and problem-solving, and this requires active engagement on the part of the listeners.¹⁰

Over the summer of 2012, the students gathered publically available stories from eight different Indigenous traditions: Coast Salish, Cree, Tsilhqot'in, Northern Secwepemc, Anishinabek, Mi'kmaq, Métis and Inuit. The focus of the research was intra and intergroup harms and the legal responses to such harms. Informed by this approach, students then worked on briefing each story, using a modified case briefing methodology developed by Napoleon and Friedland, one similar to that used for studying and articulating the Canadian common law. The case briefs were then used to develop a synthesis containing general statements of law concerning harm and responses to harm. The details of this methodology (both the case briefing and the synthesis) are described later in the paper. With many of the projects, once the briefs and synthesis had been produced, the students travelled to the communities, where the materials could be considered, revised, honed, and developed in conjunction with elders, leaders and the wider community. The purpose was to produce materials to be useful for the community, with the hope that some of the materials could also serve as the foundation for the curricula for the JID.

In this paper, the focus is Inuit law. We (the authors of this paper) are both of settler, non-Inuit heritage, and have training through Canadian law schools in the common law tradition. Before this project, neither of us had significant experience with Inuit stories or Inuit legal orders. Lori was a student in the ILRU summer program and had begun work briefing Inuit stories. Rebecca was thinking about the way her law and film course (which generally focused on “The Western”) might be re-theorized in order to fit within the new JID/JD curriculum. The two of us decided to work together as a way of learning with and from the Inuit stories. At the time we began working together, neither of us (both originally from Alberta) had travelled much further north than Fort McMurray. Thus, our knowledge of the Inuit peoples was, like most settlers, largely limited to what we had learned from films. In this project, most of what we've learned about the Inuit to date is from the Inuit stories and secondary sources both about and by the Inuit, and so we approach the writing of this paper conscious of our status as learners rather than experts, and as learners embedded in Canadian colonial histories which have occluded these knowledges. Against this background, we approach the material in the spirit of humility and openness, dialogue, and community building, hoping to add to the conversations.

The main work involved was the production of two documents: series of case briefs (one for each story consulted), and a legal synthesis. This paper is an introduction to those documents, an introduction that sketches out the processes we followed, the challenges along the way, and

⁷ *Ibid.*

⁸ Legal decision-making, procedural steps, legal responses, legal principles, obligations and rights are all aspects of the legal synthesis methodology developed by Val Napoleon and Hadley Friedland for an analysis of Indigenous stories regarding the question of how to respond to harm. We describe these aspects and the methodology in more detail later in the paper.

⁹ Julie Cruikshank, *The Social Life of Stories: Narrative and Knowledge in the Yukon Territory* (Vancouver: UBC Press, 1998) at 41. [Cruikshank]

¹⁰ Napoleon & Friedland, *supra* note 6 at 8.

lessons we have learned. In this discussion, we will use the stories as primary sources, referring to them by name (as one would with legal cases). Appendix I contains a listing of these stories, along with attribution to the storytellers, and the publications in which the stories we consulted can be founded.

In Part I, we provide some background to the Inuit project. In Part II, we move to a discussion of the ILRU oriented approach to law through stories, and outline why this work is important. In Part III, we share some observations about challenges encountered along the way, and the concerns and cautions that have been articulated about a common-law based approach to engaging with Inuit law. In Part IV we articulate the narrative assumptions and practices that have shaped our engagement with these Inuit stories. In Part V, we turn to the project itself. We first discuss the Inupiaq story *The Wife Killer* as a way of demonstrating the modified case-briefing approach we took. Then, again using *The Wife Killer*, we demonstrate the ways in which individual cases were used to develop a legal synthesis concerning Inuit legal responses to harm. Finally, we use the synthesis as way of engaging with contemporary questions about gendered violence.

PART I: BACKGROUND

One of the first questions we encountered in our work was, what does it mean to begin engaging with Inuit stories as law? Certainly, during our readings, we came across many references claiming the Inuit had little in the way of law before the arrival of white settlers.¹¹ This widespread assumption, usually stated as a fact, is the unjust outcome of colonialism which has marginalized and rendered invisible Inuit legal orders. As a result of colonialism, the legal traditions of the Inuit and other Indigenous peoples have been undermined, creating very real challenges.

While the popular assumption is that settlers brought law to the Inuit, the reality is that Inuit peoples had legal orders long before the arrival of settlers. As Mariano Aupilaarjuk states:

“We are told today that Inuit never had laws or *maligait*.¹² Why? They say because they are not written on paper. When I think of paper, I think you can tear it up, and the laws are gone. The laws of the Inuit are not on paper.”¹³

That the Inuit did not write down their laws on paper does not mean that such laws didn't exist. Rather, the Inuit recorded everything orally. These oral traditions were passed on from

¹¹ See for example: David Morrison & Georges-Herbert Germain, *Inuit: Glimpses of an Arctic Past* (Hull: Canadian Museum of Civilization, 1995) at 79: “.....with respect to violence, the Copper Inuit lived essentially without law, as we would understand the term now. There were acknowledged rules of behavior, but no way to enforce them beyond private vengeance and self-defence.” See also E. Adamson Hoebel, “The Eskimo: Rudimentary Law in a Primitive Anarchy” in *The Law of Primitive Man: A Study in Comparative Legal Dynamics* (New York: Atheneum, 1979) 67 at 68: “So simple is the social life of the Eskimo, and so rudimentary his legal institutions, that the basic premises of his culture translatable into jural postulates are few.”

¹² *Maligait* refers to “things that have to be followed”. See Mariano Aupilaarjuk *et al. Interviewing Elders*, vol. 2, *Perspectives on Traditional Law*, Jarich Oosten, Frederic Laugrand, & Wim Rasing eds. (Iqaluit: Nunavut Arctic College, 1999) 2. [*Interviewing Elders*]

¹³ *Ibid.* at 4.

generation to generation in the form of stories, songs, art, dances, performances, and practices. Inuit stories then provide one source of Inuit law and legal reasoning. One of the hopes of this project is to begin to counter colonialist legacies of denying and disrespecting Inuit law by learning how to both see and articulate law drawn from Inuit stories. This will make such law more intelligible and accessible for contemporary, on-the-ground legal reasoning and practice. We hope that it can also enable scholars from settler communities to shift the lens of analysis, in order to ask better questions about our own assumptions about law and legality, and move us in the direction of a more robust (and thoughtful) engagement with legal pluralism.

a) **Some things we have learned, so far, from the stories, about western Inuit life**

For thousands of years, the Inuit and their ancestors have inhabited the North of what are now known as Alaska and Canada, and the coastal areas of Greenland.¹⁴ Generally, there are eastern and western Inuit, and although there are similarities between the groups with respect to culture and language, there are distinctions with respect to many of their ways of Inuit life, as well as their stories.¹⁵

Many of these differences between the eastern and western Inuit are linked to differences in their geographical location.¹⁶ The eastern Inuit occupy the coastal areas of Kalaallit Nunaat (Greenland), Nunatsiavut (Northern Labrador), Nunavik (Northern Quebec) and Nunavut.¹⁷ These areas are arctic and subarctic. The western Inuit occupy the Mackenzie Delta region in the western Canadian arctic region, and north and northwest Alaska. This latter area was historically rich in resources compared to other areas of the arctic. There was vegetation, and the Inuit living there had access to drift wood and marine animals that were not available to Inuit groups in the east.¹⁸

Because the eastern and western Inuit identify as distinct peoples, we've considered the stories from each of these groups separately for the case-briefing approach and legal synthesis. Although some of the stories are shared across the east and west, most of the stories appear distinct to each region. For the purposes of this paper, our focus will be on the western Inuit stories and law.

¹⁴ Lawrence Kaplan explains that while the term "Eskimo" is often used to refer to all Indigenous peoples in the far north, it is considered derogatory by many because it was developed by non-Inuit outsiders and was believed to mean 'eater of raw meat' (though linguists now believe it stems from an Ojibwa term for netting snowshoes.). The Yupik in southwestern Alaska still consider themselves Eskimo, but those in Canada, Greenland, and the Inupiat of north and northwest Alaska prefer the term Inuit which means "people". See Lawrence Kaplan "Inuit or Eskimo: Which name to use?" *Alaska Native Language Centre, University of Alaska, Fairbanks* (1 July, 2011), online: <http://www.uaf.edu/anlc/resources/inuit-eskimo/>

¹⁵ Michael Robert Evans, *The Fast Runner: Filming the Legend of Atanarjuat* (Lincoln and London: University of Nebraska Press, 2010). In chapter 7, Evans discusses "Lifeways as Context", and uses the phrase on p. 107 "Inuit Life", which embeds ideas about how things are done, or Inuit life "as lived".

¹⁶ David Morrison, "Ingilraqpaaluk (A Very Long Time Ago)" in Ishmael Alunik, Eddie Dean Kolausok & David Morrison, *Across Time and Tundra: The Inuvialuit of the Western Arctic* (Vancouver: Raincoast Books, 2003) 1.

¹⁷ For maps of the north, see: <http://snowdog-northerninuit.webs.com/inuit%20map.jpg>; http://en.wikipedia.org/wiki/File:Inuit_conf_map.png

¹⁸ *Ibid.* at 1-9.

The western Inuit are comprised of the Inuvialuit in the Mackenzie Delta region of the Canadian western arctic, and the Inupiat of north and northwest Alaska. The Inuvialuit, which means “the real people”, were once known as the Chiglit or Siglit, and at a population of 2500, they comprised the largest Inuit group in the north.¹⁹ When white settlers came to the area for whaling, they brought disease that killed almost ninety percent of the Inuvialuit population.²⁰ In 1924, when Rasmussen undertook his expedition there, he reported a population of only 400 people, with over half of the people of Inupiat origin.²¹ Because there was a movement of Inupiat from Alaska to the Mackenzie Delta area, most Inuvialuit today have some Inupiat heritage.²² There was also some migration of the Copper Inuit from the East.²³

i. Collective life and relationships

The Inuvialuit share a social organization and many practices of living with the Inupiat of Alaska. Strong kinship ties are very significant and historically people lived in large extended family units.²⁴ Kinship and non-kinship bonds were also formed between neighbouring communities, allowing for trading, celebrating, and keeping the peace across communities.²⁵ (See *Paaluk and the Feast*, *Selawick and Buckland Wars*).

The Inupiat lived in communities and often gathered together in the *qargi*, which was an assembly or community house. In the Inupiat and Inuvialuit stories, the *qargi* was a place where the men would often meet to tell stories or to eat together (*Unipkaluktuaq: A Woman's Story Comes to Life*, *The Orphan with No Clothes*) but was also used widely by all community members for ceremonies (*Northern Lights People*), celebrations and storytelling (*Isiqiak*, *Paaluk and the Feast*), witnessing testimony and making collective decisions (*Tigguasina: A Boy Shaman and a Fraud*, *Utuagaaluk: A Murder Mystery*, *Ijaagiruk*).

Sharing was and is a significant principle informing western Inuit life. One author writing about Inupiat woman discusses how the women identify as a “sharing people”.²⁶ The women talk about the importance of sharing, mutual aid and reciprocity among the Inupiat. The western Inuit stories make visible the significance given to generosity, as well as to assisting those in need and reciprocity (there are many such stories, but see for example *Sky People*, *The Man Who Was*

¹⁹ Knud J. Rasmussen & Hother Ostermann, in Hother Ostermann, ed., *The Mackenzie Eskimos: After Knud Rasmussen's Posthumous Notes*, (Reprint of the 1942 ed. published by Gyldendal, Copenhagen which was issued as v. 10. no. 2 of Report of the fifth Thule Expedition 1921-24.) (New York: AMS Press Inc., 1976) 49. [*Mackenzie Eskimos*]

²⁰ *Ibid.*

²¹ *Ibid.*

²² David Morrison, “The Inuvialuit of the Western Arctic: From Ancient Times to 1902” *Canadian Museum of Civilization* (6 March, 1997), online: <http://www.civilization.ca/cmcc/exhibitions/aborig/inuvial/survivee.shtml>

²³ Robin Gedalof McGrath, “Forward” in Agnes Nanogak, *More Tales from the Igloo* (Edmonton: Hurtig Publishers Ltd., 1986) v. [Nanogak]

²⁴ Tom Lowenstein, *The Things That Were Said of Them: Shaman Stories and Oral Histories of the Tikigaq People* (Berkeley: University of California Press, 1992) xxxii. [Things that Were Said]. Also, Wannu Anderson, *The Dall Sheep Dinner Guest: Inupiat Narratives of Northwest Alaska* (Fairbanks: University of Alaska Press, 2005) at 39. [Dall Sheep]

²⁵ Dall Sheep, *supra* note 24 at 41-42.

²⁶ Nancy Fogel-Chance “Inupiat Women and Urban Life”, adapted from (December 1994) 47 *Arctic* 4, online: Arctic Circle <http://arcticcircle.uconn.edu/HistoryCulture/Inupiat/nfc1.html>

Saved by a Salmon Fin, The Widow and the Stingy Sister-in-Law, Fast Runner). Other important principles that appeared in the western Inuit stories include freedom, honesty, equality, non-violence, safety, collective responsibility and good will. Care and protection of children was also very significant to the western Inuit. These principles are drawn from the stories and discussed herein.

With regard to harm that affected an individual or family, people had the support and assistance of the community when it was needed to respond to the harm. The extent of community involvement in decision-making seems closely linked, in the stories, to principles of need. For example, one might compare the stories of *Aagruukaaluk* and *Fast Runner*. In the first of these, *Aagruukaaluk* lost his entire family when they were killed by raiders. The raiders were particularly cruel to *Aagruukaaluk*'s son, whom they maimed and left blind to die alone outside of the camp. In this story, it seems the community had an obligation to assist *Aagruukaaluk* in addressing the harm, because of *Aagruukaaluk*'s need: alone, he would be no match for a group of raiders. As a result, friends accompanied *Aagruukaaluk* and assisted him in finding and killing the raiders. And because *Aagruukaaluk* was distraught about his the harm done to his son, the community members were obligated to stop him from making a risky decision to attack the raiders too soon. In contrast, in *Fast Runner*, when a young man's sister was murdered, he went off on his own to find his sister's killers. This was likely because the young man had exceptional physical abilities with respect to strength, running speed and endurance, allowing him to defend himself on his own against any attack by the perpetrators.

ii. Gender Relations

Historically, men and women (generally) each had responsibilities in particular spheres of daily life.²⁷ Men were mainly responsible for hunting. The male head of the family was known as *umialik* (which translates to 'rich man') or *ataniq* (boss or leader). Richness for the *umialik* was the result of his hunting skills and leadership so that people would respect and support him.²⁸ To be considered a leader by the people, an *umialik* had to share his wealth and demonstrate generosity to those in need (see the story *Atangnak* and *Orphan Who Married an Umialik's Daughter*).

Historically, women were responsible for hunting small game, taking care of the preparation, storing and cooking of the meat brought home by the men from hunting, sewing clothing, child-rearing, and other work related to the home.²⁹ And although men may have had 'authority' in

²⁷ Kaj Birkett-Smith, in his discussion of the Eastern Inuit, refers to the more egalitarian structure of society, and provides a list of different roles and tasks carried by the men and the women. See Kaj Birket-Smith, *The Caribou Eskimos: Material and Social Life and Their Cultural Position*, vol. Volume V (Copenhagen: Glydendalske Boghandel Nordisk Forlag, 1929), p. 257-258.

²⁸ Many of the Inupiaq stories made reference to people who were rich, although it doesn't seem that wealth was a focal point of people's lives. We did not read stories about people striving for wealth, or people coveting the wealth of others. (also noted by Edwin Hall in *The Eskimo Storyteller: Folktales from Noatak, Alaska* (Knoxville: The University of Tennessee Press, 1975) at 425.). [*Noatak*] In comparison, the issue of wealth seems mostly absent from the eastern stories (although there is mention of the poor and orphans, and there is an eastern story from Nunavik (*Alikammiq and his Wife Steal a Seal*) where a well to do couple did not take care of their poor and hungry guests). See Taivitaluk Alaasuaq, "Alikammiq and His Wife Steal a Seal", in Zebedee Nungak & Eugene Arima eds., *Inuit Stories from Povungnituk, Quebec* (Ottawa: National Museums of Canada 1988) 97.

²⁹ See Tom Lowenstein, *Things That Were Said*, *supra* note 24 at xxxii. ; Also see Wann Anderson, *Dall Sheep*,

relation to hunting, in other areas of life, women were largely social equals to the men, and were authoritative in their own spheres of work.³⁰ This is not to say that the lived experience of the women was always one of equality. The stories tell of the inequality and gendered violence that western Inuit women faced. (For some examples see: *Wife Killer*, *Lake of Worms*, *Kopilgok (Worms)*, *The Wife with a Jealous Husband*, *Sigvana and the Old Shaman*, *Pinaqtuq*, *Who Had No Wish to Marry*). These stories also feature significant acts of dissent by the women to the harms to which they were subjected; the stories thus suggest that the women should have been treated in equality-constituting ways.

iii. Decentralized political and legal orders

Western Inuit political and legal orders were decentralized. While the male head of a family, or *umialik*, had authority in relation to hunting and his whaling crew, his authority did not extend to community matters generally.³¹ In the Inuit stories, leaders or *umialik* did not appear to have any greater authority or role compared to non-leaders when it came to decisions regarding responses to harm.³² With regard to responding to harm, the stories indicate that decision making for a situation involving the community was usually collaborative, with all community members participating. For example, in *The Raid and the Kobuk River Grandmother [Kobuk River Grandmother]*, a crying baby put a community at risk of being found by raiders. In an example of collaborative community decision that went to the well-being of the entire community, the group gathered and discussed the situation, and came to a consensus to leave the baby behind.³³

The stories suggest that decision making power was shared, and that too much power in the hands of one person could lead to abuse and tyranny. For example, in *One Who Walked Against the Wind*, a tyrant ruled over a community and told everyone what to do, punishing or killing those who disobeyed his orders. The One Who Walked killed the tyrant, allowing the people to "freely live [their] own lives". (See also *The Lost Little Brother*).

Shamans, who could be men or women, had special skills and knowledges and were obligated to use these skills to assist people in the community. (*Tigguasina: A Boy Shaman and a Fraud*, *The Northern Lights People*, *Akaluk and the Stolen Soul of Ugpik*, *The Man with a Scourge of Bearded Seal Skin*, *Ijaagiruk*). The stories warned against shamans abusing this power over others (*Ijaagiruk*, *Unipkaluktuaq: A Woman's Story Comes to Life*, *The Duel Between the Point Hope Shaman and the Barrow Shaman*, *Sigvana and the Old Shaman*). In *Ijaagiruk*, for example, a man who was jealous of the relationship between his wife and a hunter asked a shaman to help him kill the hunter. The shaman agreed to help, and created a fog so that the hunter would get lost while kayaking. The hunter, however, was saved by another shaman. This

supra note 25 at 37.

³⁰ Tom Lowenstein, *ibid.* See also Janet Mancini Billson & Kyra Mancini, "Traditional Power: A Delicate Balance" (Chapter 3) in *Inuit Women: Their Powerful Spirit in a Century of Change* (Lanham: Rowman & Littlefield Publishers, Inc., 2007) 51. [*Inuit Women*]

³¹ Tom Lowenstein, *Things That Were Said*, *supra* note 24 at xxxii.

³² The story of *Ijaagiruk*, discussed ahead, was one of the only stories we read where an *umialik* played any special role in a community response to harm. Also see *Niglaaqtuugmiut and Kuukpigmiut*, where a shaman took harsh action to end a conflict between two communities over a fishing site.

³³ The grandmother also stayed behind with the baby. Both grandmother and baby survived the raid and later rejoined the community.

other shaman was a grandmother; she told the hunter about the conspiracy against him and how to address it. Her instructions were for the hunter to tell the *umialik* in the village to gather all the people in the *karigi*, so that the hunter could tell the people about the fog, and about the two men that conspired to kill him. The hunter did this, and when the villagers discovered what the shaman had done, the *ajatquq*, who was “no good”, was thrown from the *karigi*.³⁴ These stories demonstrate that shamans and others with special skills and knowledge, or in positions of power, have a responsibility to assist people in the community, and not to abuse their power.

iv. Cosmology

The Inuit understood that everything had a spirit. Such spirits, or *inuas*, could be found in land, rocks, water, the sea, homes, hills, rivers.³⁵ Both animals and humans were believed to reincarnate. Taboos were followed with respect to killing animals so that the spirits of the animals could be released and return to their animal families. This respect shown to animals ensured that there would always be animals available to harvest (*The Dead Seal*). In terms of the human soul or spirit, the personal belongings of the person would be buried with them for the spirit of the person to use until they were born again into their next life.³⁶ Since a person’s name was understood as part of her or his soul, the names of the deceased were often given to newborns.³⁷

The Inuit understood that the spirits would cause hardship if they were not shown respect (*The Man who Broke the Polar Bear’s Law, Akaluk (Stolen Soul)*). This hardship would often extend beyond the person who perpetrated the harm or refused to follow the norm.³⁸ For example, when Ugpik broke a taboo displeasing Nulijajuk in *Akaluk (Stolen Soul)*,³⁹ Nulijajuk stole Ugpik’s soul. The whole community suffered from this because Ugpik was a good hunter who provided for the community; without his soul, he could not hunt. Similarly, in *Smoking Mountain at Horton River*, the Ijerqan, who were invisible people, lived in close proximity to the humans and had a partnership with them, often trading goods with them. However, when a human man disrespected and physically harmed the Ijerqan people, the Ijerqan community decided to abandon all the humans. These are just two examples of such collective liability for individual action.

³⁴ Note that, in this story, a second man participating in the conspiracy was lost at sea in the fog while kayaking, a fog presumably created by the grandmother shaman as a legal response to the harms the man had sought to bring against the hunter.

³⁵ Lowenstein, *supra* note 24 at xxxiii. See also Mackenzie Eskimos, *supra* note 19 at 56 regarding *Nulijajuk* (mistress of all game on land and sea), *Narssuk* (ruler of air) and *Tatqeq* (the moon). See Knud Rasmussen, *Intellectual Culture of the Iglulik Eskimos* (Reprint of the 1st pt of the 3 v. work *Intellectual Culture of the Hudson Bay Eskimos*, 1929 ed. published by Gyldendal, Copenhagen which was issued as v. 7. no. 1 of Report of the fifth Thule Expedition 1921-24 (New York: AMS Press Inc., 1976) for eastern Inuit stories regarding the spirits in water (*Takanaluk arnaluk*, at 63), sky (*Sila*, at 71), storm (*Nartsuk*, at 71), wind (at 72), moon (at 77) snowdrifts (at 73) houses (at 255) land (at 181) and mountains (at 204).

³⁶ Alice French, *My Name is Masak* (Winnipeg: Peguis Publishers Limited, 1977) 16-17.

³⁷ *Ibid.* See also Antonia Mills & Richard Slobodin, eds., *Amerindian Rebirth: Reincarnation Belief among North American Indians and Inuit* (Toronto: University of Toronto Press, 1994). See also Christopher G. Trott, "Ilagiit and Tuq[]uraqtuq Inuit understandings of kinship and social relatedness" (2005).

³⁸ *Interviewing Elders, supra* note 12 at 1. *Maligait, piqujail* and *tirigusuusit* “refer to what had to be followed, done or not done in Inuit culture.” These may sometimes be referred to as laws, or taboos, or obligations, or norms.

³⁹ *Nulijajuk* is the mistress of all game on land and in the sea. See Mackenzie Eskimos, *supra* note 19 at 56.

b) Colonialism: past and present

The effect of colonialism on the western Inuit's traditional ways of life was devastating, and its impacts are still felt today. While a full account is beyond the scope of this paper, some central moments are worth drawing into focus. Settler whalers decimated the Inuvialuit way of life by killing off most of the whales. They also brought disease that killed up to ninety percent of the Inuvialuit population. Later, the government removed children from their Inuit families and sent them to residential schools. The government also stole land from the Inuit, denying the existence of inherent Inuit self-government, and asserting that at best, the Inuit held title to only a small portion of their traditional lands.⁴⁰ Colonialism rendered invisible many of the western Inuit ways of living and their legal orders.

In 1984, Inuvialuit signed a land claims agreement that acknowledged Inuvialuit title to a portion of the land, along with some surface and subsurface rights. The *Inuvialuit Final Agreement*,⁴¹ *IFA*, also protected some Inuvialuit hunting rights. Although it affirms the desire “to preserve Inuvialuit culture identity and values,” and “to enable Inuvialuit to be equal and meaningful participants in the northern and national economy and society”,⁴² the *IFA* does not acknowledge an Inuvialuit inherent right to self-government.

The Inuvialuit have been working towards a Self-Government Final Agreement with the Canadian federal and territorial governments for many years. Currently there is an agreement-in-principle. The Self-Government Final Agreement would recognize the right of the Inuvialuit to make laws in relation to certain areas, and in the event of a conflict between Inuvialuit law and federal or territorial law, Inuvialuit law would prevail (except in certain instances⁴³). Some of

⁴⁰ For information regarding colonialism and its effects on the western Inuit, see: David Morrison, “The Winds of Change Blow Hard: The Whaling Era, 1890-1910” in *Across Time and Tundra*, *supra* note 9 at 79-110 (regarding whaling, disease, and missionaries); Eddie D. Kolausok, “The Survival of a Culture” in *Across Time and Tundra*, *supra* note 9 at 193-208 (for a discussion of residential schools); See also Thomas R. Berger, “Preface to the New Edition” in *Village Journey: The Report of the Alaska Native Review Commission* (Hill & Wang Pub, 1985) at xi-xvi, online: HARC Library Bibliography [Berger T. R., 1995. Preface to the New Edition. In Village Journey: The Report of the Alaska Native Review Commission, pp. xi-xvi.](#) [Berger] (regarding the effects of the Alaska Native Claims Settlement Act on the Indigenous peoples of Alaska, including the Inupiat).

⁴¹ Eddie D. Kolausok, “Boom, Bust and Balance: Life Since 1950” in Ishmael Alunik, Eddie Dean Kolausok & David Morrison, *Across Time and Tundra: The Inuvialuit of the Western Arctic* (Vancouver: Raincoast Books, 2003) 161 at 181-183.

⁴² Inuvialuit Final Agreement s.1(1)(a)-(c). Online: Inuvialuit Regional Corporation http://www.inuvialuitland.com/resources/Inuvialuit_Final_Agreement.pdf

⁴³ Gwich'in and Inuvialuit Self-Government Agreement-in-Principle for The Beaufort-Delta Region, (April 2003) online: Aboriginal Affairs and Northern Development Canada <<http://www.aadnc-aandc.gc.ca/eng/1100100032131/1100100032133> > Section 2.13.1. of the Agreement-in-Principle outlines the areas which Inuvialuit law may not be made in relation to (banking, broadcasting, criminal law, divorce, establishment of a court, incorporation, intellectual property, navigation and shipping to name a few). 2.14.1 of the Agreement in Principle states that in the event of conflict between an Inuvialuit law and a territorial or federal law, the Inuvialuit law prevails. Section 2.14.2. goes on to say that notwithstanding any other provision in the Agreement, federal law will prevail in the event of a conflict with Inuvialuit law in relation to areas such as endangered species, fish and fish habitat, human rights for all Canadians, peace order and good government, public order or safety, and public health. Section 2.14.3 similarly states that territorial law will prevail in the event of a conflict with Inuvialuit law in relation to public health or safety, consumer protection, and certifying or licensing or regulating trades and profession.

the law making areas that would be recognized under the Final Agreement would be child and family services, income assistance, education, policing, health, economics, Inuvialuit culture and a Charter.

In Alaska, the Inupiat and other Indigenous groups signed a lands claims agreement in 1971: The Alaska Native Claims Settlement Act (ANCSA).⁴⁴ This Act purports to extinguish Inupiat title to most of their lands. The land that was left, plus some money, was divided up among regional and village state-chartered for-profit corporations established under the Act. The Inupiat and other Indigenous peoples in Alaska then became shareholders in the corporations. One perspective is that the ANCSA attempted to completely disconnect the Indigenous Peoples in Alaska from their lands.⁴⁵ Of course, colonialist acts of disenfranchisement have not stopped Indigenous peoples in Alaska from pursuing self-determination and self-government. Arguably though, this makes it more difficult. How does one practice self-government as a people when a for-profit corporation owns the land in fee simple, and the people are shareholders to the corporation?⁴⁶

Part II: WHY IS THIS WORK IMPORTANT?

Inuit stories provide one important source of Inuit law. The Inuit, like other Indigenous peoples, have passed on their knowledges and histories through oral traditions for thousands of years. Since historically, information was not written down by the Inuit, all information was recorded in stories and passed on orally and in other non-text ways. This means that stories are a rich source of Inuit peoples' principles, leadership and governance practices, knowledges about making a living, and their legal orders.

However, Inuit stories are not simply *sources* of law. They are also *intellectual resources* for reasoning, foundations for living, and alternative knowledges that make possible freedom and a resistance to dominant colonialist and other oppressive practices.

a) Stories as tools for thinking

Indigenous stories are tools for thinking.⁴⁷ Louis Bird, a Cree Elder, explains how Indigenous stories are a method of teaching as they require active engagement on the part of the listener.⁴⁸ Similarly, Napoleon and Friedland assert that stories describe principles and practices of living and therefore are ways of teaching morality and ethics.⁴⁹ They invite the listener to consider the

⁴⁴ Act of Dec. 18, 1971, Pub. L. No. 92-203, 85 Stat. 688, as amended, 43 U.S.C. §§ 1601-1629

⁴⁵ For example, the land held in fee simple by the for-profit corporations was not acknowledged as "Indian country" by the U.S. Supreme Court and so was held as not subject to tribal jurisdiction. *Alaska v. Native Village of Venetie Tribal Government*, 522 U.S. 520 (1998). See Joseph G. Nelson. The Realities of a Tribal to Federal Relationship in Models of Sovereignty and Survival in Alaska Cultural Survival Quarterly 27.3 Fall 2003. online: Cultural Survival <http://www.culturalsurvival.org/publications/cultural-survival-quarterly/united-states/realities-tribal-federal-relationship>

⁴⁶ See Berger, *supra* note 40, for an account of the assimilative intentions and unjust effects of this "settlement" for the Inupiat and other Indigenous peoples of Alaska.

⁴⁷ Napoleon & Friedland, *supra* note 6 at 3.

⁴⁸ Louis Bird, *Telling Our Stories: Omushkego Legends & Histories from Hudson Bay* (Toronto: University of Toronto Press, 2005) 34-6.

⁴⁹ Napoleon & Friedland, *supra* note 6 at 5.

problems presented in the stories, and the responses to these problems. The stories often contain contradictions that invite the listener to try to make sense of them. Listeners can consider whether or not they agree with the actions taken by the characters in the story, and they can take a stance with respect to the characters actions and the outcome. The indeterminacy of Inuit stories also makes possible debate, discussion, argument, critique, application and reasoning regarding the legal principles and practices derived from them. Inuit stories are intellectual resources⁵⁰ that make Inuit law accessible ‘on-the-ground.’

It is certainly the case that stories may contain seemingly strange happenings, especially to those who are non-Inuit, or to those new to the Inuit stories. An outsider might find these happenings shocking or unexpected. But, when the starting assumption is that Indigenous peoples are reasonable and reasoning people,⁵¹ and that stories are ways of recording information and tools for thinking, then the seemingly strange aspects must somehow make sense; the listener is forced to consider how this might be so.

For example, in *The Northern Lights People*, a shaman used an axe during a ceremony to try to determine who was stealing food from the villagers’ caches. At the beginning of this project, we had difficulty making sense of the use of an axe in response to someone stealing food, especially when the reasons and persons responsible for the stealing were unknown. The appearance of an axe in this context seemed excessive, and it did not fit easily with what we thought we were reading in other Inuit stories, which suggested non-violence except when necessary. Gordon Christie suggested that we were perhaps making too much of the axe, understanding its function primarily through a Western lens. He suggested that perhaps the axe was simply being used as a magical object, enabling the shaman to gather information, maybe by pointing to or landing beside the person(s) stealing. We believe this interpretation is probably right and helps this aspect of the story to make sense, especially in the context of the other Inuit stories. Since then, we’ve learned from other sources about the Inuit understandings that all things have spirits, and that even inanimate objects can be used as helping spirits to offer information when shamans perform their work.⁵² Thus, we began to see that an axe could be functioning as part of an investigative step in the *Northern Lights* story, and was not necessarily intended to be used to punish the persons who stole.⁵³ This is one example of an unexpected (to us) aspect of the story,

⁵⁰ Val Napoleon, “Thinking about Indigenous Legal Orders” in *Dialogues on Human Rights and Legal Pluralism*, Rene Provost & Colleen Sheppard, eds. (Dordrecht Heidelberg New York London: Springer, 2013) 229-245. [Napoleon, Indigenous Legal Orders]

⁵¹ See Hadley Friedland, *The Wetiko (Windigo) Legal Principles: Responding to Harmful People in Cree, Anishinabek and Sauteaux Societies—Past, Present and Future uses, with a Focus on Contemporary Violence and Child Victimization Concerns* (LLM thesis, University of Alberta, 2009, [unpublished] 44-6 discussing John Borrow’s approach to Indigenous law.)

⁵² See Mariano Aupilaarijuk *et al. Interviewing Elders*, vol.4, *Cosmology and Shamanism*, Bernard Saladin D’Anglure ed. (Iqaluit: Nunavut Arctic College, 2001) at 73-7.

⁵³ Indeed, the discussion with Gordon helped us to see that we may indeed have been misapprehending the harm: initially saw the community as the victim and the harm as the theft of food. Later we came to see that the community itself could be understood as having done the harm through their failure to have actively left food for the northern lights people, in which case, the ‘theft’ could be understood as ‘deserved’ or as an occasion for them to be reminded of the obligations they had violated. We have come to see that there are similar questions that can be raised around Atanarjuat, which Westerns have tended to see as a romantic story, neglecting to see that it also incorporates inuit understandings of the ways in which Atanarjuat and Atuat participated in a violation of rules around an arranged marriage.

and how our questions about that aspect created for us a space to ask different questions about theft, responsibility, principles and obligations like sharing and non-violence, and procedural steps like investigation, punishment and so on.

Many of the stories contain “stories within stories”.⁵⁴ For example, there may be action taken in the stories, and then expressions of dissent to such actions. These dissents may be only thinly described in the story, requiring further ‘unpacking’ by the listener. Developing some of these “subordinate stories”⁵⁵ within the stories can contribute to the rich description of Inuit legal principles, and we think this fits with the positioning of the listener to actively and responsibly engage with the stories.⁵⁶ We take this up again later in the paper.

The stories also always contain gaps, and so the listener is faced with trying to fill in those gaps. Being settlers, we cannot fill in the gaps in the Inuit stories in any kind of authoritative way, as that can only be done in collaboration with Inuit communities. But we can ask questions and try to imagine what knowledge might be needed to fill in the gaps based on what we have read so far about what is significant to the Inuit in other stories, and based on what we have learned about the principles that guide their legal responses.

b) Stories as foundations for living

Stories are not only tools for thinking, but also foundations for living. According to the narrative perspective, stories constitute our lives.⁵⁷ We organize and give meaning to our experiences through stories. And the meanings we make and stories we tell about ourselves determine what it makes sense to do. Stories therefore constitute our lives and are intimately linked with and constitutive of our experiences. Thus, Inuit stories, and the stories about those stories can provide a foundation from which Inuit peoples can live their lives and practice their legal traditions. We will return to this again later.

Colonialist practices have unjustly deprived Inuit peoples of such a foundation by undermining Inuit stories, and marginalizing or rendering invisible their legal traditions.⁵⁸ If stories are constitutive and provide tools for thinking and foundations for living, then the result of this colonialist displacement has been to leave many Inuit peoples with thin understandings of and connections to their own legal traditions, depriving them of the freedom to live in ways that they prefer and in accordance with their own principles and laws. One of the hopes with this project is to richly describe Inuit legal traditions in order to provide foundations for legal practice so that

⁵⁴ Barbara Myerhoff, *Stories as Equipment for Living: Last Talks and Tales of Barbara Myerhoff*, Marc Kaminsky, Mark Weiss & Deena Metzger, eds. (University of Michigan Press, 2007) at 17. [Myerhoff, *Equipment*]

⁵⁵ Subordinate story development is a narrative approach described by Michael White. The term “subordinate” is not to imply such stories are secondary or less important than the dominant story, rather it is to point out how such stories are papered over or rendered invisible by tellings of the dominant story or dominant descriptions of the story. See Michael White, “Children, trauma and subordinate storyline development” (2005) Nos.3&4 *The International Journal of Narrative Therapy and Community Work* 10. [White, Subordinate Storyline]

⁵⁶ Napoleon & Friedland, *supra* note 6 at 6.

⁵⁷ For an introduction to the narrative approach and to the perspective that stories are constitutive of life, see Michael White & David Epston, *Narrative Means to Therapeutic Ends* (New York: Norton & Company, 1990). [White & Epston]

⁵⁸ Napoleon & Friedland, *supra* note 6.

Inuit peoples can use Inuit law to address the problems faced by their communities.⁵⁹ For example, Johnny Mack talks about how strengthening the relationship between Nuu-chah-nulth people and their stories would assist them in treaty negotiations with the Province of BC, giving them a foundation for acting that is not determined by imperialist discourse, and might also guide the Nuu-chah-nulth in their relationship with the newcomers.⁶⁰

c) Stories making possible practices of freedom and resistance

This leads to another reason why the thick or rich description of Inuit stories and laws is vital. Since stories provide foundations for living and determine what it is possible to do and to imagine, the invisibilization, inaccessibility, and thin description of Inuit stories and legal concepts by colonialism can result in an impoverished foundation for living, trapping Inuit people in lives that are prescribed and constrained by dominant colonialist stories and meanings. According to Johnny Mack, the possibilities for self-determination offered through imperialist discourses only further subjugate Indigenous peoples.⁶¹

Since colonial narratives and narratives in dominant western culture have marginalized or invisibilized Inuit legal traditions and Inuit stories, Inuit knowledges can be thought of as subjugated knowledges.⁶² This subjugation is an act of power, and is active and ongoing in Canadian society. Therefore engaging with Inuit stories and revitalizing Inuit law is a counter-practice to this subjugation.

Resistance to imperialism requires the rich description of these alternative knowledges and practices that are found in Inuit stories. Michael White notes the link between resistance to the dominant culture and the articulation of alternative stories:

"There is an intimate connection between the possibility of resistance and the generation and/ or resurrection of alternative ways of thinking and being. It is through the articulation of preferred knowledges and practices.... that resistance to the dominant ways....can be determined, honoured, and further articulated.....And it is through a commitment to perform these alternative knowledges and practices that the dominant....culture of the present day will be dismantled".⁶³

Although Michael was talking about dismantling the dominant men's culture, his statement applies to challenging and dismantling colonialist culture as well. Engaging with the stories and richly describing the legal concepts within Indigenous stories will provide a foundation for action that is outside the field of possibility as dictated by the dominant/colonialist culture. This will allow spaces for resisting and challenging colonialist practices and legacies, and for a self-determination that is realized.

⁵⁹ Napoleon & Friedland, *supra* note 6 at 1; Napoleon, Indigenous Legal Orders, *supra* note 50 at 15.

⁶⁰ Johnny Mack, "Hoquotist: Reorienting through Storied Practice" in Hester Lessard, Rebecca Johnson & Jeremy Webber, eds. *Storied Communities: Narratives of Contact and Arrival in Constituting Political Community* (Vancouver: UBC Press, 2010) 287.

⁶¹ *Ibid.* at 300.

⁶² Michel Foucault, *Power/knowledge: Selected interviews and other writings* (New York: Pantheon Books, 1980).

⁶³ Michael White, "Men's Culture, the Men's Movement, & the Constitution of Men's Lives" (1992) Nos.3&4 Dulwich Centre Newsletter 33. [White, Men's Culture]

PART III: LIMITATIONS/CHALLENGES AND CONCERNS

a) What are some of the limitations/challenges we've come up against with respect to our engagement with this work?

One significant limitation with respect to the work we share in this paper is that none of it so far has been the outcome of collaboration with Inuit communities (although this is a goal for the Indigenous Law Research Unit). At this stage, the work done has served primarily to assist us (and people from other non-Inuit communities) as we prepare to have conversations about the stories with those communities.

At the forefront of our mind has been our consciousness that we are of non-Inuit, settler heritage. We are qallunaat--outsiders in terms of Inuit traditions and the meanings that are significant to the Inuit people. We do not and cannot claim to be authorities on the meaning of any of these stories, as the experts on the stories will undoubtedly be people from within the Inuit communities. Indeed, as we are of settler heritage, and have been surrounded by dominant western cultural ways of thinking for most of our lives, we have worried along the way about generating descriptions that are unintentionally marginalizing of the Inuit or of what is important to them, or inadvertently imposing colonial interpretations on the stories as opposed to privileging the meanings that might be preferred by the Inuit.

Certainly, we are open to the critique that we have inadequately (or sometimes even wrongly) described aspects of the legal obligations, rights, principles and procedures within the stories. This challenge is amplified by our lack of basic fluency in Inuktitut. Though the stories we discuss were available in the English language, we were conscious that the English words we would be using for legal concepts might be quite imperfect markers for the Inuit legal concepts at play. For example, in volume 2 of *Interviewing Inuit Elders*, there is a discussion of three different words that eastern Inuit use in requests to describe their laws: *maligait*, (what is to be followed), *piqujait* (what is to be done), and *tirigusuusiit* (that which is not to be done).⁶⁴ These terms are commonly translated as 'canadian law', 'customary law', and 'taboo'. While the dominant translations of these words provide a bridge between language communities, it seems clear enough that the English renderings of these concepts are not adequate to the task of describing or understanding Inuit concepts from the other side of the bridge. Our readings of the stories have helped us appreciate, for example, the ways that the Inuktitut concepts are inflected with a quite different emphasis on 'relationship' than is the case with the English concepts. At this point in the work, we have continued to rely primarily on English rather than Inuktitut concepts, in part because we don't yet fully understand the Inuktitut concepts and did not want to mis-describe, mis-use, or flatten them out. Conscious thus of the limits of using the English terms, we have tried to do so based on what we understood from the Inuit stories, in the hope that the legal principles, procedures, rights and obligations we've outlined correlate somewhat with what is encompassed by *malilgait*, *piqujait* and *tirigusuusiit*. It seems to us that this is the best approach given our presumption that this work is only a first step in the direction of developing better capacities to understand or work with Inuit law.

⁶⁴ See footnote 12, above. These terms were from the Interviewing Elders series on Traditional Law which was based in Nunavut. We are not sure the extent to which these words are shared amongst western and eastern Inuit.

Recognizing that the Inuit people are themselves experts on the meanings of the stories is not to suggest that the questions we raise about the stories are not useful. Also, because power operates through meaning making, it is important to acknowledge the ways we may be participating in the meaning-making process. We want to take a decentred and non-expert stance, but be mindful of the ways we are or may be participating or collaborating in the scaffolding of the conversations around these stories. And so, in our readings of the stories, one can ask questions like: Whose voice are we privileging? Whose voice might be marginalized in our description of the story? Is our description rendering invisible certain responses, actions, principles or experiences that are part of the story? If so, what might be the effects of this? The narrative approach, described later, helps us to address some of these concerns.

b) What are some of the concerns others have raised?

There are other concerns one might raise about this work. One criticism, for example, is that this approach constitutes an imposition of Canadian understandings of law onto Inuit law. This is because the approach we are using to articulate the Indigenous law from the stories is adapted from the approach for studying common law in Canadian law schools. Some people believe that Inuit and other Indigenous law should be separate from any colonial or settler approaches to law, and that a colonial approach may inadvertently distort what might have been the Indigenous meanings of the stories. Maintaining a separate Indigenous sphere for working with and articulating Indigenous legal traditions is important and is one way of engaging with them. The approach of this project is focused on respectful, ethical engagement between the common-law and Indigenous legal traditions.

Another concern relates to the problems with multiple interpretations of the stories. Some people may believe that there is only one ‘true’ interpretation of a story, and that other possible interpretations are false, or that they might somehow diminish the intended meaning. Others see the stories as sacred and thus to subject them to such interpretation and examination as we are doing in this project is somehow dishonouring of the stories, and misrepresenting of them. Our approach is that we need respectful debate among Inuit and other Indigenous peoples about Indigenous law, and that Indigenous legal traditions must be robust enough to do the work of law today, and they must engage with other legal traditions.⁶⁵

Some people have voiced concerns that not all of the stories represent or record law. Rather, some of them might just be describing social norms but do not constitute law. We have not assumed this distinction in our work with the stories and did not notice any indication of such a distinction within the stories themselves. Instead we assumed the principles that inform peoples’ practices of self and relationship in their daily lives also inform the law.

Mathew Fletcher raises concerns about the problem of “indeterminacy” when understanding a story in terms of its legal principles and practices.⁶⁶ His concern is that in reading an Indigenous

⁶⁵ Val Napoleon, personal communication.

⁶⁶ Mathew Fletcher, “Rethinking Customary Law in Tribal Court Jurisprudence”, (2006) Michigan State University College of Law, Indigenous Law and Policy Centre Occasional Paper Series, at 41-3. [Fletcher]

story as law, the meanings that could be given the story are potentially “boundless”⁶⁷ and that without “some limitation” on the meaning, there will be “no meaning at all”.⁶⁸

But the indeterminacy of meaning does not mean that “anything goes” in terms of interpreting stories. The laws from the stories will be applied to the contexts of peoples’ lives. To be relevant to their lives, the meanings given to the stories must make sense within the context; they must resonate with the experiences and histories of people in the communities. The legal principles and practices from any one particular story will be linked with those from other stories. Each story contributes to scaffolding that is used for understanding other stories.⁶⁹ This scaffolding provides a ‘framework of intelligibility’ for making sense of the stories and of the legal problems and responses.⁷⁰ Also, in order to be meaningful to the community, the laws from the stories must be based on the preferred meanings of that community. Finally, the meanings given to the stories and thus the law will have real effects on people’s lives. These effects will be discernible and if they do not fit with the principles that are important to the community, or with people’s other rights and obligations, they can be challenged and other meanings articulated.

All of these things make it seem very unlikely in practice that the meanings given to a story could potentially be boundless. As with Canadian legal storytelling, precedent and well-established legal principles guide how law’s narratives are interpreted, allowing for a range of meanings.

Rather than being cause for despair, the indeterminacy of stories is reason for hope and excitement because it means that people have agency with respect to the interpretations. Stories always have gaps, ambiguities and inconsistencies. And so, we do not just passively reproduce cultural stories. Each telling is an interpretive act. This puts us in a position of agency with respect to problematic interpretations, allowing us to consider power and ethics, and to engage imagination.⁷¹

The indeterminacy of stories also means that Inuit stories as law need not result in a “one size fits all’ answer to every legal issue that is encountered by an Inuit community. Nor must they result

⁶⁷ Hadley Friedland, (2012). "Reflective Frameworks: Methods for Accessing, Understanding and Applying Indigenous Laws." *Indigenous Law Journal* 11(1): 1-40, at 26, discussing Fletcher’s critique of the case law methodology in the context of Indigenous law.

⁶⁸ Fletcher, *supra* note 66.

⁶⁹ Val Napoleon, *Ayook: Gitksan Legal Order, Law and Legal Theory* (University of Victoria, Faculty of Law, PhD dissertation, 2009) (demonstrating a multi-case analysis and legal theory method in the context of Gitksan legal traditions). See also Cruikshank, *supra* note 9 at 27-8 regarding how Indigenous (Tagish/Tlingit) stories provide scaffolding for understanding other stories, act as points of reference and interpretive aids, and act to bring together seemingly unrelated events.

⁷⁰ Michael White, “Folk Psychology: History and Culture (Part 3)” (2001) 26 *Dulwich Centre Journal* 26 at 29. (regarding narrative structures providing people with the frameworks that make it possible for people to give meaning to their experiences, and how narrative structures result in an “indeterminacy within determinacy” where people do not passively reproduce cultural knowledges and practices, but rather actively engage with them, filling in the gaps, resolving the inconsistencies and contradictions. [White, History and Culture])

⁷¹ For an exploration of the power of the legal imagination within the settler tradition, James Boyd White, *The Legal Imagination* (Chicago: University of Chicago Press, 1986), or Anthony G. Amsterdam & Jerome Bruner, *Minding the Law: How Courts Rely on Storytelling, and How Their Stories Change the Ways We Understand the Law -- and Ourselves* (Cambridge: Harvard University Press, 2000).

in law that is frozen in time (as aboriginal rights have all too frequently been interpreted in Canadian law⁷²). Rather, the indeterminacy of the stories can allow for reasoning, debate, dissent, evaluation of the effects of the law and revision of it, and thinking through and addressing the multiple, complicated issues of peoples' lives.⁷³

PART IV: ENGAGEMENT WITH NARRATIVE ASSUMPTIONS AND PRACTICES

a) Narrative assumptions informing our engagement with the stories

Our engagement with Inuit stories and legal traditions is informed by the narrative approach. Narrative practice was developed by David Epston and Michael White and is grounded in the poststructuralist tradition of thought.⁷⁴ The narrative metaphor stands in stark contrast to the taken for granted ways of thinking in contemporary western society, including the dominant ways of thinking in Canadian law. The narrative metaphor assumes:

-The stories we tell about our lives are constitutive.⁷⁵ The narrative metaphor assumes the stories we tell about life constitute life. In order to make sense out of our experiences, we draw on the meaning-making frameworks that are available to us. These meaning-making frameworks are socially derived and are specific to particular cultures at particular times in history. In another society, or at other historical times, the meaning making frameworks available to people to make sense of their lives would be different.

The meaning-making frameworks people have available to them shape how people understand their experiences, and thus are in part constitutive of these experiences. The way that people make sense out of their experiences shapes what it makes sense for people to do. In this way, the stories we tell about our lives have real effects. They are shaping of our lives.

-Expressions are articulations of experience and meaning: Since what people say and do is constituted through narrative, we can understand people's expressions (what people say and do) as articulations of meaning.⁷⁶ Such a view stands in contrast to taken-for-granted ways of understanding life in contemporary western culture, where peoples' expressions are understood

⁷² The difficulties with a failure to appreciate the indeterminacy in storytelling produced the rigid understanding of law visible in *R. v. Van der Peet*, [1996] 2 S.C.R. 507, where the court set out a much criticized test for proving "aboriginal rights" in Canadian law under s.35 Constitution Act 1982. Section 35 CA recognizes and affirms existing aboriginal and treaty rights. The test to meet for those claiming an aboriginal right under this section was articulated in *Van der Peet* as follows: the activity the claimant seeks to assert as an aboriginal right must be an element of a practice, custom or tradition integral to the distinctive culture of the aboriginal group claiming the right. In *R. v. Marshall; R. v. Bernard* [2005] SCC 43, the court clarified and narrowed this test by stating that while practices claimed as rights under the test may be expressed in a modern form, they must be a "logical evolution" of integral practices that existed pre-contact.

⁷³ Napoleon, Indigenous Legal Orders, *supra* note 50.

⁷⁴ White & Epston, *supra* note 57.

⁷⁵ *Ibid*

⁷⁶ Michael White, "Narrative Practice and Community Assignments" (2003) No.2 The International Journal of Narrative Therapy and Community Work 17 at 30. [White, Community Assignments]. See also Edward M. Bruner, "Experience and its Expressions" in Victor W. Turner & Edward M. Bruner, eds., *The Anthropology of Experience* (University of Illinois Press, 1986) 3 at 7. [Bruner, Experience].

as the outcome of an ‘internal self’, or ‘human nature’; or as being merely a “reflection” of an objectively discernible world that is “out there”.

If peoples’ actions are expressions of meaning, and meaning is an outcome of social collaboration, this has tremendous implications for understanding agency and power, and for where we locate problems. In other words, agency is no longer ‘natural’, nor the outcome of something ‘within’ the individual; rather it is the outcome of meaning and social collaboration.⁷⁷ Also, the cause of problematic ways of being does not reside in the individual, it resides in collaborative meaning-making.⁷⁸

-Power operates through meaning-making and through the telling of stories. Since stories are constitutive of our lives, power operates through stories. This is a power that Foucault referred to in his work. He talked about what gets called “positive power”, not meaning that this power was good in its effects, but rather that this power was positive because it produced peoples’ ways of being in the world.⁷⁹ This power shapes the field of possibility in terms of what people can think and thus do.

-The stories we tell are an outcome of social collaboration.⁸⁰ The stories we have about our lives are shared with others. Also, a person cannot make a claim or tell a story about their identity and or their lives without an audience to witness the claim. As Edward Bruner says, it is not enough to tell a story, the story must be enacted before others.⁸¹ And Barbara Myerhoff tells us how a person’s sense of existence in the world is linked with having a listener to hear one’s stories, and seeing that one’s stories are not only heard, but that they influence others’ lives as well.⁸²

-Stories require our active engagement. Since we cannot step outside of the frameworks we have available to us in order to gain some ‘objective’ knowledge of the world, this means that all acts of knowing are acts of interpretation. However, in interpreting the world, Michael White stresses that that people are not just passively reproducing cultural stories. Rather, people’s engagement with these stories is an active process that requires discernment of meaning.⁸³ Below we will talk more about how these acts of interpretation are achieved. But for now, the point is that meaning-making is not a passive activity, it requires peoples’ active engagement. Therefore, agency is central to narrative practice.⁸⁴

-Our lives are multistoried. The narrative approach also recognizes that our lives are multistoried. People have many different stories about their lives. There will also be aspects of a

⁷⁷ White & Epston, *supra* note 57.

⁷⁸ See *Ibid.* for locating problems in discourse and practice as opposed to locating problems within people.

⁷⁹ Michel Foucault, *The History of Sexuality: Volume 1, An Introduction* (New York: Vintage Books, 1980) at 93.

⁸⁰ White & Epston, *supra* note 57.

⁸¹ Bruner, Experience, *supra* note 116 at 25. Bruner states: “It is not enough to assert claims [i.e. stories]. They have to be enacted. Stories become transformative only in their performance.”

⁸² Barbara Myerhoff, “Life History among the Elderly: Performance, Visibility, and Re-membering” in Jay Ruby, ed. *A Crack in the Mirror: Reflexive Perspectives in Anthropology* (Philadelphia: University of Pennsylvania Press, 1982) 231 at 233.

⁸³ Michael White, History and Culture, *supra* note 70 at 29.

⁸⁴ Michael White, Men’s Culture, *supra* note 63 at 41.

person's experience that do not fit into an available story, or that contradict the dominant story. There are "stories inside stories" and "stories between stories".⁸⁵

b) Some narrative practices: reflexivity and considerations of power, thick/rich descriptions and doubly listening

The above assumptions inform our engagement with Inuit stories as law. While narrative shapes our readings and descriptions of the stories, none of our descriptions are meant to be authoritative. The experts on the meanings of the stories will be the Inuit people collectively. However, our readings and descriptions are preparations for conversations with Inuit communities about the stories. The questions we ask may open space for the articulation or elaboration of certain legal principles and practices. So, how might narrative assumptions assist us to engage with the stories and prepare for conversations with communities? Below, we describe three narrative practices that assist us with this work: reflexivity and considerations of power, thickly or richly describing Inuit stories and law, and doubly listening.

Reflexivity and Power—The narrative metaphor makes possible the consideration of power and a consideration of the real effects of a particular interpretation. This allows for transparency and agency with respect to the interpretation and the real effects. What is happening in the world is no longer an outcome of 'human nature', but rather is linked with our interpretations of life. This makes agency a central consideration in narrative understandings. It also means that meaning-making carries with it a special responsibility since stories are constitutive, and power operates through the stories.

Knowing this, we must consider whether our descriptions are marginalizing of someone in the story, or whether they render invisible someone's actions or responses to harm. We are faced with, what story are we telling? What are the real effects of this story? If the effects of this story are limiting or oppressive or problematic, then we are participating in the oppression or problem. So, we then have to consider, what other story can be told?

Since the frameworks that shape our own thinking and actions are products of culture and history, this means taking a critical and reflexive stance with respect to these frameworks. It also makes it easier to separate from problematic understandings because we do not know these understandings as an extension (or expression) of an internal self, but rather as something we are positioned in relation to. This allows for agency as it becomes easier to disengage or change our relationship with understandings that are problematic or oppressive.⁸⁶ It also allows us freedom to conduct ourselves in ways that are not prescribed by mainstream western culture, since we no longer hold such ways of being as natural and true.⁸⁷

⁸⁵ Myerhoff, *Equipment*, *supra* note 54.

⁸⁶ See Foucault's writings on the constitution of self as moral agent: Michel Foucault, "On the Genealogy of Ethics: An Overview of Work in Progress" in Paul Rabinow, ed., *The Foucault Reader* (New York: Pantheon Books, 1984) 340 at 352.

⁸⁷ The narrative metaphor allows us to refuse to be a vehicle for "modern power". Foucault talks about how modern power is the dominant system of social control in contemporary times in western societies. Modern power depends on people making meaning with certain western cultural frameworks—it depends on belief in 'human nature' and on very individualizing ways of thinking. The outcome of these ways of thinking are thin, impoverished descriptions of

Thick versus thin descriptions:⁸⁸ The narrative approach assumes that for the Inuit as for settlers, the stories told, and the stories told about those stories, are constitutive of people's lives.⁸⁹ Of course, not all stories operate in the same way, but some stories -- particularly when socially shared and politically enacted -- operate to enable agency and possibility. They can equally operate to trap communities in lives that are limiting, and deprive people of the agency and freedom to proceed in life in ways that they prefer.⁹⁰ This can happen in ways that obscure the operation of power.

Thicker or richer descriptions of our stories can provide a more significant foundation for action and for re-storying. In thick/rich descriptions, one needs to be attentive to the distinction between internal and "intentional-state" understandings of people's actions.⁹¹ Internal state understandings are common in settler society and Canadian law because of some taken-for-granted, individualistic, naturalistic ways of thinking. According to this perspective, an individual's actions are understood as an expression of something 'within' them (for example, an expression of the 'self', or of 'human nature').⁹²

In contrast, intentional state understandings lead to understanding people's actions as founded on interconnection and communally shared principles or commitments.⁹³ So, with respect to the stories, we might ask what intentional states, i.e. principles or commitments, inform peoples' actions? This actually fits with the way the synthesis framework is structured, since it involves linking principles with legal procedures, obligations, rights and decision-making. The history of these intentional states can then be traced throughout other stories, and the actions that are linked with these intentional states can be richly described.

Doubly listening⁹⁴ - That meaning-making is an outcome of social collaboration reminds us of the importance of listening with respect to the stories. We have to listen for the complexities of peoples' experiences and lives in the stories, and listen for the "stories within the stories".⁹⁵

A very important listening skill from narrative practice is that of 'doubly listening'.⁹⁶ Doubly listening is based on the principle that "all ... descriptions of life are relational".⁹⁷ To understand

people's actions, descriptions that deprive people of a sense of agency, descriptions that are isolating of people, and descriptions that obscure the social and material conditions that shape people's lives. (Michael White, "Re-Authoring Conversations" in *Maps of Narrative Practice* (New York: W.W. Norton & Company, 2007) 61 at 104-5. [White, Re-Authoring Conversations]. Because the narrative metaphor recognizes the ways that meaning-making shapes what people do, it challenges modern-power and thus many problematic taken-for-granted ideas and practices in mainstream contemporary Western culture.

⁸⁸ Clifford Geertz, "Thick Description: Toward an Interpretive Theory of Culture" in *The Interpretation of Cultures: Selected Essays* (New York: Basic Books, 1973) 3.

⁸⁹ Hester Lessard, Rebecca Johnson & Jeremy Webber, eds. *Storied Communities: Narratives of Contact and Arrival in Constituting Political Community* (Vancouver: UBC Press, 2010).

⁹⁰ White, Re-Authoring Conversations, *supra* note 87 at 104-5.

⁹¹ White, Re-Authoring Conversations, *supra* note 87 at 103.

⁹² *Ibid.*

⁹³ *Ibid.*

⁹⁴ White, Community Assignments, *supra* note 76.

⁹⁵ Myerhoff, Equipment, *supra* note 54.

doubly listening, we can ask the question, what makes it possible for people to understand and give meaning to their experiences?

From a narrative perspective, people can only make sense out of their experiences through narrative. How does a person accomplish this? To imbue an experience with significance, a person must contrast that experience against a background of other experiences they've had. Thus it is in the contrasting of experiences through description that meaning-making is possible.⁹⁸ This means that every description of life is a 'double description'.⁹⁹ On the other side of every description of life is whatever that experience is being distinguished from. This is the absent but implicit and we can listen for it in the stories.¹⁰⁰ One way to think of this is that a person cannot understand "hopelessness", unless they've known the experience of 'hope'. A person cannot know 'joy' without knowing the experience of 'sorrow'.

Doubly listening is particularly important if one takes seriously Val Napoleon's injunction about the importance of including women's voices and experiences within Indigenous law.¹⁰¹ In contrast, women have been almost completely erased from Canadian aboriginal rights jurisprudence, as the concept of aboriginal rights in Canadian law centres on practices that were historically undertaken by men (such as hunting and fishing). Doubly listening in the context of Inuit stories is one way to guard against such an erasure of women in Inuit law. There are things that could be asked to Inuit communities and in particular, Inuit women, in order to understand the experience of women in the stories, and the legal principles, obligations and rights that may shape women's actions.

PART V: INUIT STORIES AS LAW

To understand Inuit stories as law, we use a modified case briefing approach followed by legal synthesis. The first part of the analysis, briefing the story, follows an approach similar to that used for studying and articulating the Canadian common law.¹⁰² The case method, popularized by Langdell in the 1800s, involves identifying the legal issue or human problem being dealt with in the story; identifying the relevant facts; articulating the decision or the response to the problem; describing the reasons for the response, both said and unsaid. Finally, it involves 'bracketing' things that need further discussion, or that are not understood.

While the common law approach was developed using stories told in courtrooms, the case briefing method has been used with other forms of storytelling.¹⁰³ In the preparatory phase of

⁹⁶ White, Community Assignments, *supra* note 76.

⁹⁷ *Ibid.* at 30.

⁹⁸ *Ibid.*

⁹⁹ *Ibid.* See also the work of Jacques Derrida and Gregory Bateson for similar conclusions.

¹⁰⁰ *Ibid.* at 30-31.

¹⁰¹ Napoleon, Val, "Aboriginal Discourse: Gender, Identity and Community" in Benjamin J. Richardson, Sin Imai & Kent McNeil eds., *Indigenous Peoples and the Law: Comparative and Critical Perspectives* (Oxford and Portland, Oregon: Hart Publishing, 2009) 233; Snyder, Emily, Val Napoleon & John Borrows, "Gender and Violence: Drawing on Indigenous Legal Resources" (draft, forthcoming 2014); Napoleon, Indigenous Legal Orders, *supra* note 50.

¹⁰² For a classic articulation of the process, see Stephen M. Waddams, *Introduction to the Study of Law*, 7th ed. (Scarborough, ON: Carswell, 2010).

¹⁰³ Val Napoleon, *Ayook: Gitksan Legal Order, Law, and Legal Theory*, University of Victoria, 2009 [unpublished].

the summer program, the students worked with Val Napoleon's exploration of the case method in the context of the Gitksan legal order; collectively briefing Gitksan stories as a way of re-exploring the methodology they had learned in the conventional law school classroom against the stories of another legal tradition.

It bears repeating that, whether applied to court room or Indigenous stories, the case method cannot fix meaning, since it requires acts of interpretation, but it does provide a framework which enables a more transparent form of legal/political discourse. An advantage of the case method is that it provides scaffolding for active engagement with law.¹⁰⁴ As ever, in the process of using this method, there is always a link between the rules a case is said to contain, and the purposes for which one reads it: the ways one approaches the stories is linked to the questions that are being asked.¹⁰⁵

In this context, the questions were linked to harm. To demonstrate the modified case briefing approach with Indigenous stories, we'll show how it shaped our reading of the western Inuit story *The Wife Killer*. This project has so far centred on the question of how to respond to harm, so the questions that make up the brief were formulated by Val Napoleon and Hadley Friedland to address this specific legal issue. For addressing other legal issues, the questions that shape the briefing may be different.

a) Modified case-brief approach: *The Wife Killer*

The Wife Killer is a western Inuit story told by Inupiaq elder Nora Panikaaluk Norton. This story is a version of a very popular but devastating story about a man who was a serial killer of women in the community. (See also *Lake of Worms*, *The Man Who Threw His Wives into Worm Lake*, *The Man Who Lost His Wives* and *Kopilgok (Worms)*).

The man took a woman as his wife, then took her away from the community on a hunting trip, where he killed her. He returned to the community saying that his wife had died due to illness. The man pretended to grieve, while his in-laws comforted him. Soon, the man took another wife, and perpetuated the same acts of violence on her. Then he did it again.

The man's acts of violence only ended when the spirit of his last victim returned to her family and gave testimony about how her husband had killed her. She stated that she came back to tell her family this only because "she wanted to give them the facts" regarding what her husband had done to her. The woman's husband denied her account of how he had killed her. However, the brothers of the dead woman believed their sister's testimony, and killed their brother-in-law immediately. The story tells us though that afterwards, the brothers felt bad about killing their brother-in-law because "murder was what that man did to their sister."

So, how to understand this story as law using the modified case briefing approach? The questions explored in the case-brief are: 1. What is the main human problem the story focuses on? 2. What facts matter? 3. What is decided or how is the issue resolved? 4. What is the reason behind the

¹⁰⁴ Joan C. Williams, "Critical Legal Studies: The Death of Transcendence and the Rise of the New Langdells" (1987) 62 *New York University Law Review* 429.

¹⁰⁵ Alan C. Hutchinson, *The Law School Book: Succeeding at Law School* (Toronto: Irwin Law, 2000).

decision or resolution? Is there an explanation in the story? Said? Unsaid? 5. Other Questions? What did you need to bracket?

Below are some possible answers to these questions as they relate to *The Wife Killer*.

b) Briefing the story

1. What is the main human problem the story focuses on?

While some stories may only address one problem, others are more complex and address several legal issues. One option when there are multiple legal issues addressed by a single story is to do up separate case briefs for each of the legal issues. We have done this with other stories that are complicated and lengthy. However for *The Wife Killer*, we explored the issues related to harm in a single brief.

For this particular brief, we identified three problems the story touched on that relate to harm. The questions centre on i) the response of the woman to harm directed at her ii) the response of the woman's family to the harm she endured and iii) the response of the community to the harm done to the women who were killed, and to women who were at risk of violence from the man when he was at large in the community.

Articulating the problems addressed by the story in this way is not to say that the problems could not be formulated differently, or that other problems related to harm could not be identified and explored based on this story. The analysis below is just one example of how to explore the issue of legal responses to harm.

The problems we used to structure the brief were as follows:

- i) How should a woman respond when someone is trying to kill/harm her?
- ii) How should family members respond towards a man (person?) who murdered a (female) relative?
- iii) How should a community respond when women from the community are going missing or are being murdered? (or are dying suspicious deaths?)

As an aside, these are not the only questions one could take to the stories, nor are they necessarily 'the best' ones, but they provided a starting point for engaging, and indeed for formulating additional questions as the project continued.

2. What facts matter?

Determining which facts matter in terms of the harm and the legal response to the harm can be difficult. Because we are non-Inuit, we worry about omitting facts that are relevant because we do not understand them. Also, we find that leaving out details sometimes flattens or simplifies the story in ways that take away from its meaning (or at least that is what we fear). For these

reasons, we lean towards including facts rather than omitting them, especially if we are unsure about their meaning. Here are the relevant facts for the legal problems posed above under question 1:

- During summer, a man took his wife caribou hunting. He returned to the community in the fall without his wife, grieving, saying that she had died. His in-laws consoled him.
- The man quickly remarried. When caribou season came, he took off again with his new wife; he returned home again in the fall, grieving, saying his wife had died.
- He married again. His new wife had two brothers. The man took his wife hunting for caribou. On the morning the couple was to return back to the community, the husband invited his wife to walk up a hill with him, promising they would leave for home right after. The woman hesitated as she did not understand why her husband wanted her to go up the hill, but her husband insisted and so she went with him.
- At the top of the hill was a huge pit of maggots. The husband had put meat in the pit through the whole summer, and the rotten meat had attracted maggots. The husband had been using the pit of maggots to kill his wives. He had done this year after year, but the Point Hope people had not known that this was what he was doing.
- The husband told his wife this was her ‘place’. The wife refused and fiercely resisted being thrown into the pit. She did not want to die, she wanted to go home. The wife tried to run away. When her husband grabbed her, she fought long and hard to resist being thrown into the pit. She confronted him, asking if this was how he had killed his other wives. She told him she never would have accompanied him up the hill had she known what he was going to do to her. She told him she wanted to go home. She tried to hang on to him as he attempted to push her into the pit. Eventually, she was too weak to hang on any longer, and her husband succeeded in throwing her into the pit.
- The husband returned home grieving. He told everyone his wife had died, and the villagers believed him, having no idea what he had just done. His in-laws took him into their home. His mother-in-law made new clothing for him.
- One night the recently murdered woman came back and told her family the story of what happened, how her husband had killed her in a pit of maggots, and how he had killed his previous wives in the same way. She said she only came back because she wanted her family to know the facts about what her husband had done to her.
- The husband continued to lie and insist he could never think of doing what she said. He kept claiming that she really did die from illness.
- But the family believed the words of the dead woman. The two brothers of the dead woman killed their brother-in-law. Afterwards, they felt bad because “murder was

what that man did to their sister.”

3. What is decided or how is the issue resolved?

This third aspect of the brief requires a description of how the story answered the questions posed above in the problem section. The problems related to the responses to the harm done to the woman by i) the woman ii) her family, and iii) the community.

i) The woman’s response: The woman struggled against the man to fight for her life. After her death, she came back and told her family about what her husband had done to her.

ii) The response of the dead woman’s family: The family of the woman witnessed the dead woman’s testimony about what her husband did to her. In response to their sister’s testimony, the brothers killed the husband.

iii) The response of the community: The story does not discuss any response by the community to the harm done to the women.

4. What is the reason behind the decision or resolution? Is there an explanation in the story? Said? Unsaid?

For this section of the brief, we looked at both the reasons for the decisions to the problems presented in the story, and also the unsaid reasons that may have informed peoples’ responses to the harm.

a. Said Reasons:

i) Woman’s reasons: For *The Wife Killer*, what did the story itself say about the reasons for the woman’s response? It tells us the woman struggled against the man for her life because she didn’t want to die. Then, after she was killed, she came back to her family in order to tell them the facts of what her husband had done to her.

ii) Family members’ reasons: The story tells us her brothers killed her husband because “they had heard the words of his victim”. However they felt bad about this killing because “murder was what that man did to their sister”.

iii) Community members’ reasons: In terms of the community, the story tells us that the villagers did not know what the man had done to the woman, perhaps explaining the community’s lack of response to the murders.

b. Unsaid Reasons:

Sometimes a particular Inuit story will explicitly describe some of the reasons for a given legal response to harm. But many times, the reasons for a legal response will be unstated in the story.

This may be because the storyteller assumes that listeners already know the reasons and don't need to be told. Perhaps reasons are also unstated at times to engage the listener, and to encourage thinking about why a particular action was taken. In any case, the unsaid reasons of supporting a legal response must be considered for the legal synthesis. As qallunaat, and outsiders, it will be especially important for us to consult with Inuit communities about the possible unsaid reasons within a story, as some of what goes unstated, because it's assumed knowledge on the part of the listener, might be beyond our own frame of reference.

i) Woman's unsaid reasons: What might be the unsaid reasons for the woman's response to the harm? Her first response in the story involved trying to flee from her husband when he attacked her. When he caught her, she fought against him to keep from being thrown in the pit, until she was too weak to hang on anymore. After death, she went back to her family to give testimony regarding what she had suffered through at the hands of her husband.

An internal state understanding of her response to her husband's attack at the edge of the maggot pit risks a thin description where her actions are understood as merely a 'natural' outcome of such an attack. (For example that it is "human nature" for someone, in such a situation, to fight for their lives). Papering over women's responses to violence in this way, constructing them as merely expressions of 'human nature, is a political act. It has real effects on peoples' lives. It results in thin descriptions of women's responses, and results in constructions of woman as passive and helpless in the face of violence. It also means that women's responses to violence, and the foundations of these responses, will not be included as part of Inuit law.

Listening is a political activity, and so there is a responsibility to practice doubly listening in order to consider the foundations of the woman's response. What principles (intentional states) was the woman's response to her husband founded on? What made her resistances to him possible? What informed her refusal of what he had in store for her? And, what informed her later actions of returning to her family to give testimony about the attack?

Doubly listening for the absent but implicit in the woman's expressions suggests that the woman must have had other experiences and knowledges about life that stood in contrast to what her husband was doing to her. For example, perhaps she had other relationships where she experienced respect, dignity, freedom, and equality. She might have a sense of justice or fairness that was deeply violated by her husband's actions. That she was so distressed could be understood as a testament to the significance of whatever she gave value to in life that was violated by her husband's abuse.¹⁰⁶

We can question how she would have learned about those principles, how she experienced them in her life, and who she shared these principles with. We can consider how her husband's treatment of her significantly deviated from these known narratives of her life. This might allow for developing the subordinate story line of agency for this woman in this story, and for rich descriptions of this woman's actions, and the principles, rights and legal obligations that inform them. It would ensure the woman's responses and their foundations were acknowledged as part of Inuit law.

¹⁰⁶ For examples of other such interpretations of peoples responses to abuse and trauma, see White, Community Assignments, *supra* note 76.

As for her actions of informing her family after her death, there might be an obligation on her to tell her family what happened, especially given that her husband would likely kill again. Perhaps also, she was acting on her sense of justice and fairness in going to her family and ensuring they had the facts. Her actions could also be understood as her reclaiming her right to freedom which her husband denied her in the last moments of her life.

ii) Family members' unsaid reasons: What might be the unsaid reasons for the actions of the dead woman's family? What informed their decision to witness their sister's testimony, and then to kill their brother in law? We imagined that the brothers perhaps had an obligation and right to respond to the harm that was done to their sister. Given that the woman's husband had murdered their sister and other women, he was a threat to the community women. Perhaps they killed him for safety reasons. They also may have killed him for reasons of retribution, although the story says that the brothers felt bad about killing of the man, because murder is what the man did to their sister, suggesting that killing goes against how they would usually conduct themselves, but that this situation required them to do it regardless. Proportionality may have also informed the response, since the man killed women, a proportional legal response might be his own death.

The fact that the woman came back after her death to tell the family could mean that the family needed to have proof of what happened to her in order to respond to the husband by killing him.

iii) Community members' unsaid reasons: What may be the unsaid reasons behind the community's lack of response? The story tells us that the villagers didn't know that the man had killed his wives, so it seems lack of knowledge was a reason. But, did the community have an obligation to be aware that the women were dying suspicious deaths, and to investigate their deaths? This is a question we will explore more in the synthesis section below.

5. Other Questions? What did you need to bracket?

The bracketed aspects of the stories are those things that the reader/listener does not understand, perhaps because they are outside the reader's/listener's cultural frame of reference; or those aspects of the story that perhaps need further conversation or discussion because you are unsure how to address them in the brief or synthesis.

In our own work with these stories, we have noted the ways in which things can move in and out of the brackets based increasing familiarity with a range of stories and sources. For example, at the beginning, we were uncertain how to grapple with the woman's return from death to tell her family about what had happened? Was this linked to a rule suggesting one needed proof of a murder before acting against the murderer? Was it linked to her obligation to share important information with others, and particularly in order to stop violence against other women in the community? Was this linked to the family's right to be informed about her death? Coming from a Western point of view, it was also tricky to figure out how to understand her return. Was this a mystical or magical event of some sort? A haunting? An unusual event, or one that was, on the contrary, within the realm of the expected or normal? We began to lean more in this latter direction as we encountered more stories in which cosmological cycling (the return of spirits or

souls into new bodies and forms).¹⁰⁷ As we moved in this direction, it seemed that the return of the woman could also be linked to principles of deterrence, marking out a principle that wrongdoing will be exposed, or will return to the community in some form. Further, the more we looked at the story, the more we found ourselves asking not simply, ‘how should the community respond to the deaths of the women’, but also, ‘in what way might the community have contributed to creating the very conditions in which women would become vulnerable to exactly this kind of gendered violence?’ We found that the process of bracketing allow space for an ongoing engagement with the story, and with elements of the story that remained difficult to incorporate or to fully make sense of. That is, bracketing opens a space for allowing the story to continue to do its work with the interpreter.

c) Legal synthesis

Let us turn then to the legal synthesis. The legal synthesis was created by examining fifty to sixty western Inuit stories related to harm, and from them, abstracting principles and general statements that were then taken to represent the ‘legal rules’ informing the responses to harm in the stories.¹⁰⁸

To guide the creation of a synthesis on harm, Val Napoleon and Hadley Friedland formulated six questions: 1. Who made the decisions regarding responding to harm? 2. What were the procedural steps taken to determine the response to the harm? 3. What were the legal responses to harm? 4. What were the principles informing people’s responses to harm? 5. What were peoples’ legal obligations relating to harm? 6. What were peoples’ legal rights relating to harm?

As an aside, the first three of these questions pushed us in the direction of fairly descriptive moments in the stories. That is, we were looking at elements in the stories that could largely be described from the perspective of someone not yet deeply familiar with Western Inuit stories or culture: who made decisions, what steps they took, what actions followed. The second three questions (what principles informed the decision, what rights and obligations were involved) were more difficult, as they required some abstracting towards larger principles, values, obligations and rights. As we will note below, the process of identifying the general principles which guide responses to harm requires familiarity with a broad range of stories, and also requires a community of discussion. We remain conscious of both what we are learning in the process, and of the ways that efforts to identify legal principles, rights and obligations push us towards re-engagements with the stories, and sustained dialogue with others about possible ways to understand how the principles both emerge from the stories, and also inform the ways the stories are understood.

¹⁰⁷ See the discussion of cosmology, above. See also Edith Turner, "Behind Inupiaq Reincarnation: Cosmological Cycling" in *Amerindian Rebirth: Reincarnation Belief among North American Indians and Inuit* ed. Antonia Mills & Richard Slobodin (Toronto: University of Toronto Press, 1994) 67-81.

¹⁰⁸ See Paul Figley, "Teaching Rule Synthesis with Real Cases" (2011) 61 *J Legal Educ* 254; Karen Morris and Bradley Carroll, *Law Made Fun through Harry Potter’s Adventures: 99 Lessons from the Wizarding World for Fans of All Ages* (NY: CreateSpace, 2011) at 29-30 (Corporal Punishment) and 44-46 (Due Process); Hadley Friedland, "Reflective Frameworks: Methods for Accessing, Understanding and Applying Indigenous Laws" at 34-51. Hadley Friedland, "Reflective Frameworks: Methods for Accessing, Understanding and Applying Indigenous Laws" (2012) 11:1 *Indigenous Law Journal* 1

That being said, the six questions are the backbone for the synthesis, which is organized as an elaboration of the principles that emerge from a sustained exploration of each question. Here, we will briefly illustrate the ways the story of *The Wife Killer* contributed to the production of the synthesis, and show some of the general principles that were developed as the story was read in conjunction with others.

1. Decision-Making

The first question was “who made decision responding to the harm?” A preliminary reading of *The Wife Killer* suggests that the primary actors were the woman herself and her family. After reading many cases, groups of responders become visible. The categories that emerge are: 1. The person harmed, 2. The person doing harm, 3. The family (of both the person harmed and of the person doing harm) 4. People with special knowledge (elders, shamans, leaders, grandmothers, people with special skills) 5. The Community or Group.¹⁰⁹

The process of synthesizing does not stop at the level of general categories of decision-makers however. One must articulate a general statement of law or ‘rule’ regarding decision-making by each of the identified groups.

Against the background of the 50 stories, it becomes visible that the person harmed is almost always involved in the decision-making regarding responses to the harm. Sometimes those harmed acted on their own, while other times they were assisted by others. There were some occasions persons harmed were not involved in the decision-making. Usually in these stories, it was because the person was unable to respond (perhaps they were dead, injured or incapacitated, too young, etc.), or else the response was enacted immediately by someone else out of necessity. In the draft synthesis, two general statements of law are thus articulated¹¹⁰:

1.1.1.1 Generally, persons harmed have a right and responsibility to respond to the harm, with or without the assistance of others. (*Malicious Youth, Three Brothers, The Wife Killer, Sigvana and the Old Shaman, Fast Runner, Najuko, Northern Lights People, One Who Walked, Pinaqtuq, Smoking Mountains, Sky People, Tuakikipakaktuk, Utuagaaluk, Magic Bear, Atangana 3, Worm Lake, Kopilgok, Atangnak, Good Ears, Duel Between Shamans, Beluga Hunting Fails, Akaluk (Stolen Soul)*)

1.1.1.2 Decisions regarding the response to a harm may be made without the person harmed if that person is unable to respond or the response needs to be immediate and there is no time to involve the person. (*Ululina, Raid and the Kobuk River Grandmother, Aagruukaaluk, The Man Who Caused Blizzards with an Axe*)

¹⁰⁹ As a side note, one challenge was deciding who constituted the group or ‘community’ in the stories, since a village could be one house, many houses, or just a group of people together. Indeed, sometimes the group could be animals and people. Our focus was on identifying simply groups rather than individual decision making. . This is one place where there is a need for input from Inuit communities, and for certain reflexivity in thinking about group obligations and responsibilities.

¹¹⁰ Here, we are drawing excerpts from the original synthesis, using the numbering system we made use of in organizing the principles.

These principles were visible in the *Wife Killer*. The woman responded to the harm through her active fighting against her husband, and in her decision to return after death to her family to give testimony about what had happened to her. Her brothers then decided to kill the husband when they found out from their sister the facts of what the husband had done to her. Note though that while the brothers made a decision to kill the husband, they did it based on the testimony of their sister. In this way, the sister still contributed to the decision-making by the brothers.

2. Procedural Steps

The second set of questions concerned procedural steps taken to determine the response to harm. What, in the stories, could be seen as elements of procedure? This has required some ongoing thought, as we attempted to put our western understandings of procedure into respectful engagement with this body of stories. In each story, we asked how the harm became visible to others, about the people that were or were not consulted, about practices of information gathering, about considerations of context by decision-makers, about the deliberative processes that were undertaken.

After reading many more stories, the following categories for procedural steps were noted: Asking for help; Consultations (with those harmed; and with those who have special knowledge); Investigation or Inquiry; Considerations of Context; Waiting/Deliberation. In the context of the larger synthesis, one of the general statements of law concerning procedural steps related to Investigation or Inquiry has been articulated thus:

1.2.4.1 INVESTIGATION/INQUIRY In determining the proper response to harm, an investigation or inquiry into the harm should be conducted. (*Lake of Worms, Ululina, The Man with a Scourge of Bearded Sealskin, Kagsagssuk, Akaluk (Stolen Soul), Eagle-Man, Kopilgok (Worms), Wife Killer, The Lost Little Brother, Tigguasina: A Boy Shaman and a Fraud, Pinaqtuq Who Had No Wish to Marry, Utuagaaluk: Murder Mystery, Sky People, The Northern Lights People, Fast Runner, One Who Walked Against the Wind, The Young Man Who Married a Wife From Across the Sea, Injaagiruk, Tuakipakaktuk*)

In *The Wife Killer* story, one can see many procedural steps. The testimony of the wife can be understood both as commencing a process, and as part of the evidence in an investigation or inquiry (to provide proof as to what had been done). The story also shows that the investigative processes enabled the husband to respond to the allegations made against him.

3. Legal Responses

The third question was a consideration of the range of legal responses available to respond to harm. In the context of *The Wife Killer*, several responses are visible. The wife attempted to defend herself through talk, through physical resistance, through an attempt to flee. We also see her return after death to tell her mother and brothers what had been done. In terms of the family, we see the response of witnessing her testimony, confronting the killer, and the killing of the wife killer.

After consulting fifty –sixty other western Inuit stories, we found the range of responses to harm to be extensive, including such things as: public exposure, acts of good will, confronting those who harm, sharing, acknowledgement of harm; reparation/compensation; isolation/shunning/abandonment; fleeing; informing; retribution; self-defence; deception; disarmament; education.¹¹¹

2.5.1 ACKNOWLEDGEMENT OF HARM: There is a right to have harm acknowledged, and an obligation on the person who harmed to acknowledge the harm, whether the harm was accidental, negligent or intentional. Depending on the circumstances, this acknowledgement may be directed to the person harmed, their kin, or to the community. (*Pinaqtuq, Who Had No Wish to Marry, The Lake with No End, Utuagaaluk: Murder Mystery, The Duel Between the Point Hope Shaman and the Barrow Shaman, Akaluk (Stolen Soul), Orphan with No Clothes, The Wife Killer, The Brother with Good Ear, Kopilgok (Worms), The Young Man Who Married a Wife From Across the Sea, Raid and the Kobuk River Grandmother, Lost Little Brother, One Who Walked Against the Wind, Northern Lights People, Sky People ?, Malicious Youth, Boy Shaman, Utuagaaluk: Murder Mystery, Three Brothers, (?)Raven and the Whale??*)

2.9.1 PUNISHMENT/REVENGE/EQUALIZATION OF HARMS A response to harm may include equalization of harms or punishment, in order to promote deterrence or retribution or rehabilitation. (*Akaluk (Stolen Soul), Aagruukaaluk, Kagsagssuk, Fast Runner, The Malicious Youth, Avaotok, Wife Killer*)

4. Legal Principles

In reading the stories, there are principles that seem to emerge time and time again. One can find a series of important legal principles articulated in different places, sometimes using the language of ‘values’ rather than principles. Commonly articulated values are:

- sharing/generosity (*Aatchuqtuutijiq Avatmun*¹¹² or *Sibñataiññiq*¹¹³)
- helping, caring for others; serving (*Avanmun Ikayuutiniq*,¹¹⁴ *Ippigusuttiarniq*,¹¹⁵ *Piliriqatigiingniq*¹¹⁶)
- respect for others, animals, land (*Kipakkutaiññiq*,¹¹⁷ *Avatimik Kamattiarniq*¹¹⁸)
- fair treatment (*Uppiriqattautiniq*)¹¹⁹
- honesty and information sharing (*Pitqiksigautaiññiq*¹²⁰ and *Qaujimautiltiarniq*¹²¹)

¹¹¹ Note here that there is some fluidity across categories. This story makes that visible. Telling what has happened is a procedural step, but it may also be a legal response. It may also be a substantive legal obligation. At this point, we see this fluidity of concepts and categories as a strength rather than a limit of the project, as it encourages attention to the ways in which procedures, obligations and response are interwoven.

¹¹² <http://www.ankn.uaf.edu/curriculum/Inupiaq/Ilitqusiak/Sharing.html>

¹¹³ <http://ankn.uaf.edu/ANCR/Values/Inupiaq.html> [Inupiaq values]

¹¹⁴ *Ibid.*

¹¹⁵ John Borrows, *Canada's Indigenous Constitution* (Toronto: University of Toronto Press, 2010) at 103.

¹¹⁶ inuitq.ca/learningresources/educatorsguide/Educators_Guide.htm [Educators]

¹¹⁷ Inupiaq values, *supra* note 112.

¹¹⁸ Educators, *supra* note 115.

¹¹⁹ http://publications.gc.ca/collections/collection_2008/lcc-cdc/JL2-66-2006E.pdf (at 86)

¹²⁰ Inupiaq values, *supra* note 112.

¹²¹ http://www.justice.gc.ca/eng/rp-pr/aj-ja/rr05_7/rr05_7.pdf at 62

- collaboration and cooperation (*Pilirriqatigiikniq*,¹²² *Savaqatigiyyujiq*¹²³ or *Paammaagigniq*¹²⁴)
- non-violence/conflict avoidance (*Paaqtakautainniq*)¹²⁵
- patience/flexibility/humility (*Qimmaksautaiñniq*¹²⁶ or *Qinuisaaniq*)¹²⁷
- resourcefulness and problem-solving (*Qanuqtuurungnarniq*)¹²⁸

We have confronted some particular challenges in setting on the right words to capture the principles that seem to be emerging in the stories. The challenges are of course amplified due to our lack fluency in Inuktitut. There are, however, a number of documents listing Inuit principles, and we have drawn on some of these above. This is one place in the synthesis that will benefit from the wisdom and fluency of Inuit communities. Nonetheless, one can see that many of the above principles are visible in some form in *The Wife Killer*, either through their performance, or through their violation. One of the particularly important principles in the story relates to the principles of honesty and trust in relationships. These principles play an important part in both identifying the magnitude of the harm, as well as in thinking about the ways in which the wife returned to speak of the harm, and the ways in which the family responded. It is also visible in the husband's ongoing deceit in acting the part of the grieving spouse, and in his refusal to acknowledge his actions.

Other principles informing responses to harm in this story were awareness, equality, freedom, fairness, and perhaps proportionality.

5. Legal Obligations

The last two questions concerned legal obligations and legal rights. It is of course possible to understand these two as the flip side of the other. We looked at both substantive and procedural obligations and rights. In *The Wife Killer*, we noted: telling what you know about the harm (the murdered woman told her family about how her husband had killed her); witnessing (the family witnessed the woman's testimony); respect and equality constituting practices (the family of the woman listened to her testimony and took seriously what she said by killing her husband in response); assisting family members in need (the brothers assisted their sister by listening to her testimony and then killing her husband).

And so, in the synthesis itself, under substantive legal obligations, we saw the emergence of concepts such as practicing awareness and acknowledgement toward others, practicing generosity, sharing, respect and hospitality; caring for others (includes assisting those who are in need, at risk of harm, or disadvantaged; caring for and protecting children), assisting and protecting family members; asking for help ; telling what you know and witnessing ; acknowledging harm, acknowledging those who assist you in times of need, compensating those

¹²² integritycom.nu.ca/sites/integritycom.nu.ca/files/int_act_con_rep.pdf (at 5)

¹²³ <http://www.ankn.uaf.edu/curriculum/Inupiaq/Ilitqusiati/Cooperation.html>

¹²⁴ <http://www.ridalaskaofchildabuse.org/NativeValues.html>

¹²⁵ *Ibid.*

¹²⁶ Inupiaq values, *supra* note 112.

¹²⁷ http://integritycom.nu.ca/sites/integritycom.nu.ca/files/int_act_con_rep.pdf (at 5)

¹²⁸ Educators, *supra* note 115.

harmed (in certain situations); responsible and non-abusive practices of power, protecting and maintaining trust in trust-based relationships, engaging with equality and freedom constituting practices, and avoiding/averting a feud or conflict.

First, we would also like to note there that based on the body of stories, there is an obligation to be aware of one's obligations, surroundings, and of others in the community or outsiders who may be a threat to safety or may be in need. The general statement of law may be articulated as:

4.1.1.1 PRACTICING ACKNOWLEDGEMENT/AWARENESS TOWARDS OTHERS **There is an obligation to acknowledge and practice awareness towards others in the community.** (*Northern Lights People, Raven and the Whale, Akaluk (Stolen Soul), Orphan with No Clothes, Raid and the Kobuk River Grandmother, Alaaqanaq, the Man with the Little Drum, Lake of Worms/ Worm Lake, Wife Killer, The Wife with a Jealous Husband. Fast Runner, Utuagaaluk: Murder Mystery*)

The Wife Killer story made mention of awareness when it stated that the villagers had no knowledge of what the wife killer had done, when he returned to the village grieving because of his lost wife. We will take up this issue of awareness later in the paper.

Another general statement of law from the synthesis focuses on the kin of those who harm. The general statement of law may be stated thus:

4.1.8.1.1. There is an obligation to prevent kin from harming others. (*Eagle-Man, Paniunayuk and Aqsaqauraq: A Feud Averted, Alaaqanaq, the Man with a Little Drum, Raid and the Kobuk River Grandmother, Akaluk (Stolen Soul), Atangana (Part 3)*)

In *The Wife Killer*, we see this principle expressed when the brothers killed their sister's husband. There were also procedural obligations demonstrated in *The Wife Killer*, such as ensuring those harmed have the opportunity to give testimony and participate in the response to harm (the woman harmed had an opportunity to testify to her family about what had happened) and consideration of contextual factors (the brothers may have considered the safety of other women and the wife killer's propensity for violence when they decided to kill him immediately). Procedural obligations found in other stories included: testifying/responding to harm (both the person harmed and the person doing the harm); conducting a fair investigation/inquiry; considering the contextual circumstances of the harm; ensuring meaningful participation in responses to harm.

6. Legal Rights

For our analysis, legal rights can be understood as the flip of legal obligations. In the stories as a whole, some of the rights seemed to attach to people who had been harmed, and some to people who were thought to have done harm. Again, with a Western lens, it was possible to understand some of these as 'substantive' rights, and others have having a procedural dimension. In the stories, some of the rights identified included: acknowledgement; to share in necessities of life, to hospitality and respectful treatment; to help when in need; to information; to compensation (in

certain situations); to equality; to freedom. One particularly interesting legal right relates to the ways in which harms are acknowledged, and can be articulated thus:

5.1.12 RIGHT TO ACKNOWLEDGEMENT OF HARM (see also 2.5.1. and 4.1.12).

There is a right to have harm acknowledged, whether the harm was accidental, negligent or intentional. *Pinaqtuq, Who Had No Wish to Marry, The Lake with No End, Utuagaaluk: Murder Mystery, The Duel Between the Point Hope Shaman and the Barrow Shaman, Akaluk (Stolen Soul), Orphan with No Clothes, The Wife Killer, The Brother with Good Ears, Kopilgok (Worms), The Young Man Who Married a Wife From Across the Sea, Raid and the Kobuk River Grandmother, Lost Little Brother, One Who Walked Against the Wind, Northern Lights People, Sky People ?, Malicious Youth, Boy Shaman, Utuagaaluk: Murder Mystery, Three Brothers, (?)Raven and the Whale??)*

In terms of the *The Wife Killer* story, the woman had suffered a great harm. One of the more obvious rights one might see is the right to have her killer brought to justice. But the above principle suggests additional ways of understanding rights. In her return to her family, one can see not just an assertion that a killer should be brought to justice (whatever that means), but also an articulation of her right to have the harm of her death correctly described. This could be understood also as part of the family's right to have that information (thus, one could think of this as being partly her obligation to give the facts to her family).

To conclude this discussion of the synthesis, it should be clear while it is the product of (seemingly objective) texts, the processes of interpretation are inevitably shaped by the socially constructed narratives and experiences accessible to the interpreter. Nonetheless, as the processes of building the synthesis are open and transparent, its conclusions are open for dialogue and debate. Just as clearly, any synthesis must be an ongoing project, open to modification as stories are added, and as different interpretations gain ascendancy.

This synthesis is a work-in-progress and we are still working with the stories to understand them in ways that respect their complexity and nuance. Conversations with western Inuit communities are needed to develop and revise the sections and clarify many of the questions we have posed. As the synthesis is put into engagement with the larger Inuit community, one can expect shifts and elaborations in its context.

d) Drawing Insight From the Synthesis

Finally, we want to turn briefly to another set of questions about the contemporary value of a project such as this. In particular, how might a synthesis of legal principles drawn from Inuit stories provide a set of resources to grapple with ongoing questions about harm and society? Here, we return to the story with which we began. We chose to focus on *The Wife Killer* in part because it raises questions about the fact of gendered violence in our own communities, here on the west coast of British Columbia. Here, we offer some preliminary reflections on how the process of working with this story has helped us ask additional questions about the resources the story offers.

Reading *The Wife Killer* story on its own, one might argue that it does not indicate that there was any obligation on the community at large: what was most visible was decision-making by the person harmed, and by her family. Having worked with the larger synthesis, and having read this story together with other stories, we suggest there are more generative approaches to take. Stories sometimes can teach us things through indirection as much as through what is made explicit. Absences and silences are important in the process of synthesizing, and allows one to ask more complicated questions. It is thus through the process of reading the stories together that one begins to get a better sense of stories that are pointing to failures as much as to successes. And so, we returned to the synthesis with our own questions, which was, how might communities respond to the kinds of harm that were present in *Wife Killer* story, harms that we continue to see in the communities around us. How might we think about the obligation of a community to protect and assist women at risk of harm in the community?

To think about collective community responsibilities/obligations/rights, we went back through the synthesis, asking about contexts in which larger community responsibilities generally emerged. For certainly, there were a group of stories which made visible community involvement in addressing a harm that impacted the community as a whole. For example: villagers collectively asked shamans for help when a scourge-man killed all the children in a village. The villagers then all participated in a ceremony to stop the scourge-man. (*The Man with a Scourge of Bearded Sealskin*); a community, terrorized by a manslayer, asked the One Who Walked to kill the manslayer since the manslayer was a threat to everyone's safety. The villagers also gave testimony to the One Who Walked regarding the harms done by the manslayer. (*One Who Walked Against the Wind*); community members consulted with each other and decided to leave behind a baby, whose crying threatened the safety of the group by alerting raiders to their locations. (*Raid and the Kobuk River Grandmother*); a community decided to lie to another community member, Avaotok, so that he would die, because they were concerned that the feud between Avaotok and his cousin would threaten the safety of the entire group. (*Avaotok*); a community collectively defended themselves against raiders. (*Alaaqanaq, the Man with a Little Drum*). These principles, in the synthesis, were articulated thus:

1.1.5.1. Generally, community or group decisions must be made regarding responding to harm when the harm affects or involves the entire community (*Raid and the Kobuk River Grandmother, One Who Walked Against the Wind, The Man with a Scourge of Bearded Sealskin, Smoking Mountains at Horton River, Avaotok, Alaaqanaq, the Man with a Little Drum, Blizzard Man, Utuagaaluk: Murder Mystery, Injaagiruk, Niglaaqtuugmuit and Kuukpigmuit*)

Some of the stories had a focus on harm to the community, but there were other stories where the community acted collectively because of an obligation to care for someone or something. In this second context, the community is perhaps not directly affected by the harm, but nonetheless is involved in the response to a potential harm to another, even in contexts where that other is not necessarily a part of the group. This set of stories seems to foreground obligations of caring and sharing, rather than necessarily of 'rights'. For example: In *The Man Who Was Saved by a Salmon Fin*, a group decided to take in and share food with a man from outside their community as the man was alone, sick and weak. The people assisted the man even though he was from another community, because he was vulnerable and in need. In *Orphan with No Clothes*, a

community decided to organize a search party when the orphan with no clothes was missing from the qargi. The villagers knew the orphan had no clothes so they were very concerned that he would freeze to death. In *Sky People*, villagers witnessed testimony from the Sky People about their hardships, and on finding out the Sky People were in need of food, gave them as much food as they could carry. In *Aagruukaaluk*, Aagruukaaluk's friends decided to speak up when he wanted revenge immediately upon finding the raiders playing the blanket toss game (where they mocked his son with a song). This is because Aagruukaaluk's decision to act in that moment would have put him and them in danger. The friends had an obligation to reason with Aagruukaaluk and to prevent him from acting when he was not thinking clearly/reasonably. In the synthesis, this community obligation is articulated thus:

1.1.5.2. Community or group decisions are required when the community or group is needed to perform obligations such as caring for others and assisting and protecting those in need or at risk of harm. (*The Man Who Was Saved by a Salmon Fin, Atangnak, The Man with a Scourge of Bearded Sealskin, Orphan With No Clothes, Selawik and Buckland Wars, Utuagaaluk: Murder Mystery, Aagruukaaluk and Kippagiak, Aagruukaaluk, Sky People, Northern Lights People*)

Based on these stories, caring for, sharing with, assisting and protecting others are important western Inuit principles informing legal responses to harm. It seems that when someone is in need or at risk, and others are aware of this, there is an obligation to assist if there is an ability to help. All the above stories also make visible the importance of the principle of collaboration in the western Inuit stories.¹²⁹ Another central principle in the synthesis as a whole relates to the importance of paying attention and being aware. Practicing awareness of others, and of the surroundings, is centrally important in the stories in general. In the synthesis, it is articulated thus:

4.1.1.1 There is an obligation to acknowledge and practice awareness towards others. (*Northern Lights People, Raven and the Whale, Akaluk (Stolen Soul), The Brother with Good Ears; Orphan with No Clothes, Raid and the Kobuk River Grandmother, Alaaqanaq, the Man with the Little Drum, Lake of Worms/ Worm Lake, Wife-Killer, The Wife with a Jealous Husband. Fast Runner, Utuagaaluk: Murder Mystery, The Woman Who Killed Herself*)

This principle appears necessary to ensure people are acknowledged, treated with respect, and to ensure the safety of oneself and of others in the community, and the recognition of harm so that one can respond and uphold one's obligations to others. For example, in *Akaluk (Stolen Soul)*, it was a son's awareness of his father's unusual behavior that ensured the safety of his father and community. This obligation to be aware is also seen in stories which involve violence against women. Consider *The Lake of Worms*, which is another version of *Wife Killer*. In this story, the brothers of the husband's newest wife became suspicious. They wondered why it was that this man was always losing his wives on his hunting trips. Because of their awareness of the

¹²⁹ For more stories involving collaboration, see *Fast Runner, Kopilgok (Worms), Utuagaaluk: Murder Mystery, Scourge-man, Smoking Mountains at Horton River, Kagsagssuk, Akaluk (Stolen Soul), Tiggwasina: A Boy Shaman and a Fraud, A Jealous Husband, Orphan with No Clothes, Atangana (Part 3), The Legend of Najuko, and Ijaagiruk*).

suspiciousness of the deaths, the brothers were able to rescue their sister before she could be killed. In *The Woman Who Killed Herself*, on the other hand, a community's lack of awareness of a woman's distress (regarding the physical abuse inflicted on her and her baby by her husband) resulted in the death of the woman and child.

Let us then return to the question of the community's involvement in *The Wife Killer* story. It would seem that since women in the community were being targeted by the wife killer, the problem could be considered one that affected all the villagers and thus a collective response would be appropriate. This fits with principle 1.1.5.1. above. Also, since the women were in need of protection and assistance from the community, principle 1.1.5.2 also supports the value of a community response to the harm. When we return then to the question of violence against women, and do so while attentive to the importance of the values of awareness and collaboration, we can see that the stories provide us with an additional resource: they can help us identify situations of particular risk, and places where communities will confront particular challenges in responding to harm.

Consider different types of stories in which the harm seemed to exceed the community's ability to respond. a) Situation which involved shamans or tyrants which the community was unable to act against. (*One Who Walked*) b) situations of imminent danger, where someone had to act immediately without being able to consult the community (*Blizzards*) c) situations where the community didn't have the information needed to identify the harm or to be able to act. (*The Legend of Najuko*) d) the required response to the harm could be better addressed without community involvement (*Blizzards*).

One could think about *The Wife Killer* through this lens, and come to a number of conclusions. One might simply say, as the story does, that the villagers were not aware that the wife killer was killing his wives. This might then explain why the villagers did not respond to the harm. But one might then pose the question for the future: what ways of practicing awareness might have led the community to be able to identify the harm more quickly? With knowledge of the story, one might consider the ways people now can use the story to create conditions in which greater attention is paid to the contexts in which women confront particular threats. That is, one can look to the story not to judge the community of the past, but rather as a source of information about contexts in which one might anticipate the value of heightened awareness. This is just a reminder that the point of the synthesis is not simply an elaboration of rights and responsibilities, but a way of organizing the many insights a story has to offer, a ways of putting stories in conversation in order to better see the puzzles and patterns they make visible. This story remains as relevant on the west coast of British Columbia as it was when it was first told.

CONCLUSION

Our experience of working with the stories has been that they open more questions than they resolve. While we, as elaborated earlier, feared that this work would participate in the flattening of Inuit legal principles, our experience has rather been one of increased appreciation for the richness of the stories and principles that circulate through them. The experience of using this approach has left us seeing the generative capacity of both the stories and the project. The synthesis opens up space for asking questions about the application of these stories and

principles to the contemporary landscape. Far from providing simple answers, the stories provide rich context for asking pressing questions about how we structure a world to first avoid, and then respond to harm.

There are of course challenges that come with any project that seeks to build bridges across legal traditions, or indeed, languages. Certainly, there were many occasions where others gave us guidance, or helped us to see places where our own presumptions about the world were making it difficult for us to ‘see’ the possibilities in the stories. The challenge, as ever, lies in remaining open enough to see the new, and to be open the processes of learning. As Cruikshank pointed out, stories are social activities requiring engagement on the part of the listener.¹³⁰ We found time and time again that the stories generated more of interest each time we discussed them. We noticed great differences between our early attempts to brief and our latter attempts. It is less that we felt confident in asserting that we ‘got better’ (though hopefully we did!), than we were reminded that story-telling and listening is a social activity, and that stories link to other stories. For Inuit, like for us, stories are embedded in a rich social life. The more stories we encountered, the easier it was for us to see the richness that was there, and to have some sense of the ways the stories connect to other stories.

The adapted case briefing and legal synthesis methodology presented in this paper represents one approach to engaging with Inuit stories as law. We agree with Val Napoleon that there are many strategies and methods for renewing the relationship of Canadian and Indigenous legal orders. This is one set of tools, and the tools can be productively used to open richer conversations between and amongst communities. Of course, many more substantive treatments of Inuit law are needed. And just as surely, we are convinced that there are good reasons to be hopeful. What this project has helped us see is that there are pathways towards more collaborative engagement with Indigenous legal orders in Canada. While this requires a willingness to move beyond taken-for-granted assumptions about law, it also acknowledges that there are resources within common law legal traditions that can be mobilized to help us engage in this process.

¹³⁰ We took comfort from Julie Cruikshank’s article about the need to abandon the approach she was taking to the writing. That is, she would not be able to understand the stories Yukon women were telling her about their lives, without also understanding the rich world of stories in which those lives were embedded. See Cruikshank, J. (1998). The Social Life of Stories: Narrative and Knowledge in the Yukon Territory, University of Nebraska Press.

Appendix of Story Names

Stories referenced in this paper can be found in the following books:

Wanni Anderson, *The Dall Sheep Dinner Guest: Inupiaq Narratives of Northwest Alaska* (Fairbanks: University of Alaska Press, 2005). [Anderson]

Edwin Hall, *The Eskimo Storyteller: Folktales from Noatak, Alaska* (Knoxville: The University of Tennessee Press, 1975) [Hall]

Leoni Kappi, ed., *Inuit Legends* (Yellowknife: GNWT, Department of Education, 1977). [Kappi]
[Note: This was the only source where we could not be sure that the stories were told by western Inuit. We used only one story from this collection for the synthesis, *Eagle-man*. The stories from this source were collected by Maurice Metayer, who also collected stories from the Copper Inuit (published in Maurice Metayer, ed., *Tales from the Igloo* (Edmonton: Hurtig Publishers, of Canada 1972)).]

Tom Lowenstein, *The Things That Were Said of Them: Shaman Stories and Oral Histories of the Tikigaq People* (Berkeley: University of California Press, 1992) [Lowenstein]

Agnes Nanogak, *More Tales from the Igloo* (Edmonton: Hurtig Publishers Ltd., 1986) [Nanogak]

Hother Ostermann, ed., *The Mackenzie Eskimos: After Knud Rasmussen's Posthumous Notes*, (Reprint of the 1942 ed. published by Gyldendal, Copenhagen which was issued as v. 10. no. 2 of Report of the fifth Thule Expedition 192124.) (New York: AMS Press Inc., 1976) [Ostermann]

Herbert Schwarz, *Elik, and other stories of the MacKenzie Eskimos* (Toronto: McClelland and Stewart, 1970) [Schwarz]

Individual Story Citations:

Aagruukaaluk, Robert Nasruk Cleveland, in Anderson, 135. [Aagruukaaluk]

Aagruukaaluk and Kippagiak, Nora Panikaaluk Norton (as told by Riley Jim Sugunnuqu Wood), in Anderson, 137. [Aagruukaaluk and Kippagiak]

Across the Sea (See *The Young Man Who Married a Wife From Across the Sea*)

A Feud Averted (See *Paniunayuk and Aqsaqauraq: A Feud Averted*)

Akaluk and the Stolen Soul of Ugpik, in Schwarz, 30. [Akaluk (Stolen Soul)]

Alaaqanaq, the Man with the Little Drum, Nora Panikaaluk Norton, in Anderson, 94. [Alaaqanaq]

Atangana (Part 3), Agnes Nanogak, "Atangana and the Giants", in Nanogak, 20 at 24-26. [Atangana 3]

Atangnak, Agnes Nanogak, in Nanogak, 83. [Atangnak]

Avaotok, Agnes Nanogak (as told by Mamie Mamayook), in Nanogak, 48. [Avaotok]

Boy Shaman (See *Tigguasina: A Boy Shaman and a Fraud*)

Blizzards (See *The Man Who Caused Blizzards with an Axe*)

The Brother with Good Ears, Paul Monroe (as told by Carl Stalker), in Hall, 373. [Good Ears]

The Dead Seal, Edna Hunnicutt, in Hall, 80. [Dead Seal]

The Duel Between the Point Hope Shaman and the Barrow Shaman", Nora Panikaaluk Norton, in Anderson, 84. [Duel Between Shamans]

Eagle-Man, in Kappi, Inuit Legends, 90. [Eagle-Man]

Fast Runner, Leslie Tusragviuraq Burnett (as told by J. Wells), in Anderson, 96. [Fast Runner]

Good Ears (See *The Brother with Good Ears*)

Injaagiruk, Paul Monroe (as told by Charlie Goodwin's wife), in Hall, 114. [Injaagiruk]

Isiqiak, Robert Nasruk Cleveland, in Anderson, 121. [Isiqiak]

Jealous Husband (See *The Wife with a Jealous Husband*)

Kagsagssuk, Angusinaq, in Ostermann, 99. [Kagsagssuk]

Kobuk River Grandmother, [see *The Raid and the Kobuk River Grandmother*]

Kopilgok (Worms), Agnes Nanogak, in Nanogak, 53. [Kopilgok]

Lake of Worms, Edna Hunnicutt, in Hall, 90. [Lake of Worms]

The Lake with No End, Agnes Nanogak, in Nanogak, 105. [Lake with No End]

The Legend of Najuko, Angusinaq, in Ostermann, 75. [Najuko]

The Lost Little Brother, Nora Panikaaluk Norton, in Anderson, 179. [Lost Little Brother]

The Malicious Youth, Asatchaq, in Lowenstein, 130. [Malicious Youth]

The Man who Broke the Polar Bear's Law, Paul Monroe (as told by Ahsitjuk Kilyikvuk), in Hall, 195. [Polar Bear's Law]

The Man Who Caused Blizzards with an Axe, in Agnes Nanogak, "The Old Couple Who Caught a Baby", in Nanogak, 27 at 31. [Blizzards]

The Man Who Lost His Wives, Paul Monroe (as told by Makan), in Hall, 268. [The Man Who Lost His Wives]

The Man Who Threw His Wives into a Worm Lake, Angusinaq, in Ostermann, 69. [Worm Lake]

The Man Who Was Saved by a Salmon Fin, Paul Monroe (as told by Carl Stalker), in Hall, 358. [Salmon Fin]

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