CHAPTER 2

GITXSAN LEGAL PERSONHOOD: GENDERED

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ABSTRACT

In this chapter, the author explores the conditions of sexualised, gendered violence against Indigenous women and girls. The author asks how various responses to this violence have shaped the present-day legal personhood of Indigenous women and girls from two perspectives: an Indigenous legal perspective and a Canadian legal perspective. To avoid the troublesome pan-Indigenous generalisations of legal personhood, the author focusses on one Indigenous society, the Gitxsan people from northwest British Columbia and their legal order and laws.[2] The author examines several specific questions about how the Gitxsan legal tradition historically defined the legal personhood of Gitxsan women and girls, and how this has changed with colonisation. The author takes up specific aspects of the operation and structure of Gitxsan law and legal institutions and analyse the ways that they are gendered.

Keywords: Indigenous legal methodologies; Indigenous feminism; Indigenous personhood; Indigenous law and legal theories; Indigenous narratives/oral histories; law and gender

CONTEXT

Her name was Cindy Gladue, 'not "native woman"', and the Supreme Court of Canada says that in future, trial judges 'would be well advised to provide an express instruction (for

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> juries) aimed at countering prejudice against Indigenous women and girls' like her. (Christie Blatchford, May 24, 2019, *National Post*)

> Is there justice for Indigenous women who have been sexually assaulted in Canada? … The case is about Cindy Gladue, a victim of sexual violence who bled to death in a hotel bathtub. In its decision, the court found that Bradley Barton, the accused, had lied, destroyed evidence and admitted that he caused Ms Gladue's death. He was acquitted at trial. The Alberta Court of Appeal overturned the acquittal and ordered a new trial for murder and manslaughter. The SCC also ordered a new trial, but only for manslaughter.

> Ms Gladue was an Indigenous woman and a sex worker. She paid for both of these facts with her privacy, her dignity and her life. The case is known by her name, as if she was the one on trial. And naming is important. It reveals how we understand what we are viewing. In this case, the naming is, sadly, accurate. It was Ms Gladue's life and body that were on trial.

> Ms. Gladue paid another new and shocking price in this trial: The Crown brought part of her preserved pelvic [vaginal] tissue into the courtroom, as evidence of the wound she suffered. She was literally made an object, called a specimen and tissue. Further, there were more than 50 references to her in the trial as 'native' and 'prostitute.' She was robbed of her humanity. (Jean Teillet, May 27, 2019, *Globe and Mail*)

INTRODUCTION

In Canada and elsewhere in the world, there is a societal scale failure to ascribe political and legal meaning to the decisions and actions of Indigenous women and girls. This is the case both before and after their deaths. Against this distressing but real backdrop, what does agency mean for Indigenous women and girls? How and why does their agency matter? I am using the term 'agency' to mean the capacity of Indigenous women and girls to act – capacity of will, mind, spirit, and humanity. This is personhood in its fullest possible conception. We have a failure to recognise the agency of Indigenous women and girls. And we have denial. It is the very denial of Indigenous women and girls' agency that fosters and enables the relentless sexist dehumanisation and ultimately, dangerous disposability of Indigenous women and girls.[3]

What is our perspective of the over 4,000 missing and murdered Indigenous women and girls when we do not take their agency and political circumstances into account? What kind of understanding do we have of the violence against Indigenous women and girls when we do not factor in the combined political, social, and economic conditions that generate the racialised and sexualised violence against them? Extensively documented by the Canadian state and others, many Indigenous communities in both rural and urban settings, face debilitating conditions of violence such as poverty, political and economic marginalisation, racialisation, lack of education and employment, poor or limited housing, poor health, lack of safe drinking water, and high incarceration levels. My starting place is that the missing and murdered Indigenous women and girls in Canada (and elsewhere in the world) are legal agents, persons, and citizens who made the best decisions they could within and against the constraints of the power relations that they are a part of and which surrounded them.

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When we take up the perspectives of Indigenous women and girls, we are according them the ability to reason, to assess, and to make decisions within their own lives. What quickly becomes obvious, given the conditions, is that there are no margins for error or crisis (e.g., the kids need new shoes or school supplies), and that one has less power in relation to landlords, government social workers, police, and others. Life decisions then are made when there is little money and often fear and addictions. Where we are located in the surrounding relations of power is determinative of the reach of our decisions (i.e., what we can realistically change) and of the logic of those decisions (i.e., putting our own safety at risk). Failure to see the agency of women and girls, or the societally caused conditions of violence, makes it possible to only see them as victims or even, as deserving of their fates.

Over the years, I have asked students and various audiences to imagine the missing and murdered Indigenous women and girls as legal agents, persons, and citizens operating within and through their surrounding power relations. I would then ask whether and how this additional lens influenced or changed their understanding of the missing and murdered women and girls. Sometimes my question made no difference as the assumptions about Indigenous women and girls were just too deeply entrenched and were therefore unquestionable. For example, about 15 years ago, in response to my question, I was told by a young non-Indigenous woman from a feminist law students group, that the missing and murdered Indigenous women and girls were sex trade workers – full stop – and therefore were no concern of theirs. According to these very privileged students, there was no 'issue' of missing and murdered women, not one that mattered to their version of feminism anyway.[4] Others, however, admitted that my question created a kind of uncomfortable cognitive dissonance for them because their brains had difficulty holding the two contradictory ideas of 'victim' versus 'agent' at once, and this caused each to keep cancelling the each other out. Mine was an intentional disruption of the public imagination which too often pathologises Indigenous women and girls into one-dimensional victims that made poor individual lifestyle choices and whose communities are inherently violent.

In this chapter, I want to explore how the combined conditions of violence as well as the various responses to this sexualised, gendered violence, have shaped the present day legal personhood of Indigenous women and girls from an Indigenous legal perspective and from a Canadian legal perspective. To avoid pan-Indigenous generalisations of legal personhood, I will focus on the Gitxsan legal order and laws. I will explore how law operates through Gitxsan institutional forms, and I will apply a gendered analysis. With this aim, I will examine several specific questions about how the Gitxsan legal tradition historically defined the legal personhood of Gitxsan women and girls, and whether and how this has changed with colonisation. To do this, I will take up specific aspects of the operation and structure of Gitxsan law and legal institutions to explore the ways that they are gendered in practice. This small exploration will include rights and rights bearers, individual and collective culpability and liability, marriage and divorce, and leadership considerations.

For this chapter, my approach to Gitxsan law is informed by legal scholar, Kristen Rundle, and her rich interpretation and development of Lon Fuller's legal

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theory (Rundle, 2012). According to Rundle (2019, p. 19), 'analysis, procedures, and institutional forms … are vehicles for the carriage of governing relationships [because] they carry the responsibilities and opportunities of the authority of law itself'. Rundle helpfully argues that these relational demands are constitutive of Fuller's legalities, and further that they apply beyond state law's legislative mode of governance to all governing relationships framed by law and this would include non-state Gitxsan law.

GITXSAN LEGAL PERSONHOOD

Located in northwest British Columbia, the Gitxsan were one of the plaintiff groups in the seminal Aboriginal title action at the Supreme Court of Canada action, *Delgamuukw*.[5] Gitxsan society is non-state with horizontal, decentralised structuring of its economic, political, social, and legal institutions. In other words, there were no separate centralised or hierarchical bureaucracies delegated with the responsibility for governance and law. So, in Gitxsan society, what is the Gitxsan legal imaginary of personhood? According to Gitxsan law (historic and present), only a Gitxsan person or legal personality has rights, protections, privileges, responsibilities, and legal liability.[6]

So historically, how might women and girls have understood themselves as legal persons in Gitxsan society in accordance with Gitxsan law? And today, how might women and girls understand themselves in accordance with Gitxsan law? Obviously as with every other society, Gitxsan women and girls would have understood, and do understand themselves in relation to how Gitxsan society was organised and how that normative order actually operated in and through their lives (Napoleon, 2009; Overstall, 2005).

Around Gitxsan women and girls, there is a complex network of kinship relationships each formed by and containing legal, economic, and political obligations that comprise Gitxsan governance. Within this relational complex, Gitxsan women and girls have defined obligations to others, and, in turn, there are similar obligations that those others hold to them. Political and legal authorities operated and still operate through matrilineal kinship units that share a common ancestry called the House in English.[7] It is the House that is the land and fishing site owning entity, and there is no higher political or legal authority than the House in Gitxsan society. In turn, all the Houses are divided into four clans which operate as alliances for broader economic, political, and legal purposes.

Since Gitxsan society is matrilineal and every person (male, female, or other) is born into their mother's House, women and girls would know that their own children's House membership also derives through them. In other words, their children and their sisters' children, and the children of other female House members would form and be responsible to the same kinship unit and its governance, be part of the collective ownership of the same territories, be legally and politically defined by the same oral histories,[8] be entitled to the same privileges and prerogatives, and be subject to their House obligations and liabilities. In contrast,

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men and boys would know that they belong to their mother's House, and their own children will belong to their own mother's House.

Houses that did not have enough women and girls would shrink in size meaning that the unit would have great difficulty upholding its legal, political, and economic obligations to the land, the House, and to other Houses. The options would be to adopt women and girls from other Houses or combine with another House for as along as their numbers were low. Gitxsan legal personhood for women and girls begins with these embodied constructs which are central to the continuation of the identity, strength, and health of Gitxsan governance, legal order, and economy. However, if one's mother was not Gitxsan but one's father was, one would have to be adopted in according to Gitxsan citizenship law, usually by his or her spouse's father's House. This adoption would enable one to be a member of a House with the ability to operate fully within Gitxsan society. Without this membership, one would not be considered Gitxsan.[9]

Within the House, through their respective female lineages, women and girls comprise the House entity itself, along with their brothers and male relatives. House members are individual legal agents within their House. However, beyond the House, it is the House entity that is the collective legal agent in the overall system, so it is the House that relates to other Houses for all collective House business. Gitxsan legal personhood means that women and girls would understand themselves both as individual legal agents within their House and as part of an active legal collective beyond their House.

The next level of citizenship forming the legal personhood of Gitxsan women and girls is at the clan level as each House in turn forms one of the four clans, a larger political collective. Women and girls would understand themselves in this larger clan framework and it is the clan which forms the basis for and primary connection to neighouring peoples such as the Haida, Haisla, Nisga'a, Wet'suwet'en, or Tsimshian, for instance.[10] Here, women would understand their relationships to contain both obligations and rights through their Houses and clans to equivalent lineages from neighbouring peoples, the Nisga'a and Gitxsan, and others.

Gitxsan society is exogamous requiring marriage outside one's clan, and historically, marriages (i.e., heterosexual) were arranged (Napoleon, 2002). While still being concerned with the economic well-being of their husbands' Houses, women would have maintained separate economic lives because their husbands belonged to a House from a different clan with its own territories. For women, their participation in the arranged marriages was necessary to the political and economic health of their House for a host of reasons including territory location and adjacency, political alliances, trade relations, or conflict management (Napoleon, 2009). However, despite the importance of their marriages, women (and men) were also entitled to no fault divorce, and each woman could publicly initiate and complete her divorce proceedings with the support of her House.[11] Gitxsan women had a right to a residence either in their mother's village or by arrangement, in their husband's village.

Today, while marriages are no longer arranged, one is heavily discouraged from marrying within one's clan. Though not about bloodlines, marriages within the same clan was sometimes described in English as incestuous, and such

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problematic and shameful marriages would have to be rectified through adoption[12] of either the husband or wife into a House from another clan, usually to one of their paternal Houses. The concerns here are economic as well as political because the mother's lineage and the father's lineage have different legal duties to each House member, and they take up different economic roles and responsibilities in the Feast hall. In some situations, despite corrective adoptions, there are ongoing tensions and disapproval that continue to play out between Houses and between members today as in the past.

Gitxsan women and girls have access to various House territories. First through their mother's lineage, they have access to their own House territories. Second, through specific and bounded agreements, women and girls have access to their father's House territories, and it is also possible to arrange access to their spouse's territory. The House territories are held in trust by the House chiefs, in the name of the House chief (I will expand on this a little further below).

Each House owns and has authority and responsibility for a number of chiefly names – a head chief name and wing chiefs' names, and each name indicates the status of those members in the House.[13] While the names form part of the intellectual property of each House, more importantly, they comprise and form the decentralised Gitxsan governance structure.[14] Some women are able increase their status and authority through obtaining chief names, no easy undertaking and a serious accomplishment. Women also advocate on many levels to secure recognition for their children in the Gitxsan political structure because obtaining political recognition and names is a highly competitive process.

Each House also has independent *nax nox,* spiritual relations that are not connected with territory and crests. The chiefs bring these spiritual relations to life by their nax nox performances at the Feasts. The nax nox performances are considered property of the House (Overstall, 2005, p. 29) and the chiefly names are infused with specific nax nox powers that become part of the chiefs who hold them. According to anthropologist Susan Marsden (2008):

> The chief, in controlling one of these forces, takes on its name as one of his own. If the person taking a *naxnox* name is not sufficiently strong, the spirit force in the name controls him [or her] and he himself [she herself] becomes restless, thoughtless, or stupid.[15]

In other words, a legal person who is also a chief, must maintain their authority by publicly withstanding and overcoming weaknesses that are personified in the nax nox. Several of the newer nax nox include cigarette smoking and drinking alcohol while other older nax nox include natural phenomenon (e.g., whirlwinds), laziness, sleepiness, and so on.

Historically, Gitxsan women and girls could have been victims of violence, including sexual violence, from surrounding peoples (Cove & MacDonald, 1987a, 1987b).[16] If they were kidnapped, they had a right to be redeemed by the Gitxsan unless they chose not to be.[17] In the event of kidnapping it would have been possible for women and girls to maintain their rank in that other society.

However, if women were seriously harmed, including by another Gitxsan citizen, they had a right to legal action and compensation which would have been acted on by their mother's House with support by their father's side. Historically,

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women, as with others who are injured or wronged, had a right to equal negotiation with the offender, they were not sidelined as victims in this process. What is critical here is that since there are no legal professionals or centralised bureaucracy of law, women are, to varying degrees, responsible for knowing and maintaining the Gitxsan legal order.

In short, women were and are part of number of legal Gitxsan collectivities in which they had responsibilities and legal obligations, and they had similar responsibilities and legal obligations owing to them. Historically and to varying degrees today, women would have had recourse to Gitxsan law in the event of conflicts or injury, and they have a right to participating directly in negotiating their compensation. While it is true that women's status within Gitxsan society could vary depending on a number of factors, it is also true that they had fairly high level of mobility, authority, and autonomy within their society.

SOME OF THE COLONIAL EROSION

Gitxsan women and girls have experienced the establishment of small reserves and the prohibition of political activities through the imposition of the federal *Indian Act* (R.S.C. 1985, c. 1-5). These reserves are a tiny fragment of the Gitxsan historic territories and they served to fracture the larger legal order, economy, and governing system. Despite Canadian prohibitions, Gitxsan people continued to secretly act on their land ownership obligations through the Feast system, but their ability to generate wealth to maintain their economy was almost destroyed. Nonetheless, when the Canadian law prohibiting potlatches was lifted, there was some disconnection between Gitxsan people's continued public fulfilment of legal obligations required by Gitxsan land and governance laws through the institution of the Feast, and their actual ability to protect their collectively owned lands, to enforce laws, and to manage and harvest their resources. There are many reasons for this continued disabling of Gitxsan law including third party settler lands, imposition of federal and provincial jurisdictions, and industrial resource extraction activities.

Women's political consciousness would have been reoriented inward to within reserve boundaries, and away from a political consciousness that would have included territories and other Indigenous peoples that they are connected to. Those that are accountable to women under Gitxsan law and those that they are accountable to could very likely belong to a different band and residing on a separate reserve, and consequently their ability to act fully as legal agents in Gitxsan law has been undermined.

Women and girls were not and are not active legal agents in the Canadian laws that shaped their lives or experiences such as the *Indian Act*. Under Canadian law, they were not able to decide where they could live, obtain a divorce as easily as in the past, or choose who to affiliate with. Women had virtually no protection from Canadian law in the event of harm or injury from anyone. They would not have the economic security afforded to them through the kinship system and collective land ownership. For much of this early time with the *Indian Act*, women

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were not able to run for the newly imposed and established political structures like the band council. Only 'Indian' men could vote in Indian band business or elections, and only males could hold office on reserve under the *Indian Act* (1876, s. 61), a regime that lasted until 1951. Outside the reserve, neither Indigenous men or women were able to vote provincially or federally until 1951 (Napoleon, 2001).[18]

However, despite early colonial history, today Gitxsan women and girls still understand themselves as part of a lineage that has historic connections to certain lands, they continue to participate in feasts and other legal events, they continue to have their children follow their lineage, and they still advocate for the recognition of their children in the Gitxsan system. We can see that their experiences would depend on where they live – whether in Gitxsan territory or elsewhere in the world, whether on-reserve or off-reserve, and in which Gitxsan community. Each situation creates different issues and potentially different experiences. Today, Gitxsan women are still navigating an enormously complex lawscape of competing legal orders, and they are managing themselves within both Gitxsan law and Canadian law – with all the attendant tensions and conflicts. The operation and imposition of patriarchal settler law not only undermined Gitxsan women and girls in their lives, it also disrupted the lawful gender roles and relations and in doing so destabilised the function and practice of Gitxsan law at every level – personal, family, extended family, and beyond.

MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS

There is no room for idealisation or romanticism when it comes to violence against Indigenous women and girls, and historically, Gitxsan people were no more violent or sexist than any other society (Snyder, Napoleon, & Borrows, 2015). However, as with other Indigenous women and girls in Canada and elsewhere, Gitxsan women and girls experienced gendered and sexual violence in the past as many of the oral histories attest to. Today, there is shameless, normalised sexism in Gitxsan and in other Indigenous communities, and the violence against Gitxsan women and girls is at the same appalling high rate as elsewhere.

What is important is to understand here is that violence happens in spaces of 'lawlessness'. While violence obviously also happens in spaces of lawfulness, for my purposes here, Indigenous lawlessness is created in two ways: (i) the undermining of Indigenous law and the creation of gaps and distortions in Indigenous lawfulness, and (ii) the failure of Canadian law to protect Indigenous women and girls. One example is that the over 40 Indigenous women and girls who disappeared or were murdered on the northern 'Highway of Tears' which crosses Gitxsan territories, included Gitxsan women and girls. According to a Human Rights Watch (2013) report:

> The province of British Columbia has been particularly badly affected by violence against indigenous women and girls and by the failure of Canadian law enforcement authorities to deal with the phenomenon. Cutting through the small communities policed by the Royal Canadian Mounted Police (RCMP) in northern BC is the Highway of Tears, a 724-kilometer stretch of road which has become infamous for the dozens of women and girls who have gone missing or been murdered in its vicinity.

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The failure of law enforcement authorities to deal effectively with the problem of missing and murdered indigenous women and girls in Canada is just one element of the dysfunctional relationship between the Canadian police and indigenous communities. This report addresses the relationship between the RCMP and indigenous women and girls in northern BC and documents not only how indigenous women and girls are under-protected by the police but also how some have been the objects of outright police abuse.

There have been numerous inquiries into the violence against Indigenous women leading one group to call their report, *Researched to Death: B.C. Aboriginal Women and Violence* (Ending Violence Association BC, 2005). The most recent national inquiry report, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019b), is the largest undertaking comprising three years of hearings with testimony from 2,380 family members and experts, and 231 calls to justice aimed at governments, institutions, social service providers, industries, and all Canadians.

It is no surprise that Indigenous women and girls are subjects of numerous studies. *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019b) is well over 1,200 pages in length and has already generated much controversy over its use of the term genocide to frame the gendered violence it documents. The report will provide a useful resource for years to come as have previous volumes published by the large national commissions, the Canadian Truth and Reconciliation Commission and the Royal Commission of Canada. While the *National Inquiry into Missing and Murdered Indigenous Women and Girls* final report (2019a) does provide a discussion of Indigenous law and gender, its main focus is on describing the continued experience of colonialism, the failure of the Canadian legal system including law enforcement, and rights to culture, health, security, and justice. This is not surprising given its mandate to report on the systemic causes of all forms of violence, and institutional policies and practices in response to violence experienced by Indigenous (First Nations, Métis, and Inuit) women and girls[19] in Canada.

What can we learn from this report about how the legal personhood of Indigenous women and girls is defined? The report basically locates Indigenous women and girls within the Canadian legal, economic, and political systems – and for the most part, the calls to justice are addressed to institutions outside of Indigenous societies and communities. It is difficult to say what Indigenous women and girls' legal personhood is at this point, as what will be telling and definitive is whether the report's calls to justice are acted on or enforced.

According to this report, the rights that Indigenous women and girls have, including human rights and self-determination rights, are located outside Indigenous law and do not derive from within Indigenous legal traditions. While the report speaks to the importance of relationships, the recommendations do not address Indigenous communities or an Indigenous legal response (National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019a, pp. 10–12).

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The work of Indigenous scholars Heidi Kiiwetinepinesiik Stark and Gina Starblanket (2018) is important to consider here in order to get at the complexity of acting on relationality and its requirements for healthy relationships (p. 121):

> The idea here is that the reconnection of people with one another, and of individuals and the land isn't necessarily transformative in and of itself, but that it is the proliferation of relationships of care and nurturance, in which we see ourselves having concrete roles and responsibilities that have the greatest promise.
>
> Imagine the transformations that could occur when humans begin to realize that we are not neutral in the face of crises that surround us, but instead recognize that through our choices we have the potential to actively change the world we inhabit.

Kiiwetinepinesiik Stark and Starblanket carefully locate the responsibility and potential for responding to crisis through our relationships, and in doing so, they are suggesting that Indigenous peoples have the agency to determine what kind of response to make. In the work that I am currently engaged in with the Indigenous Law Research Unit located at the University of Victoria, we are researching and restating human rights from an internal Indigenous legal perspective, that is, from within Indigenous legal traditions.[20] For example, how does Gitxsan law construct dignity, agency, and safety for Gitxsan women? It is my position that this direction into the work of Indigenous law is essential if any real change is to be wrought for and with Indigenous women.

All law, including Gitxsan law, are constituting of and constituted by surrounding power dynamics. Sexism and gendered violence have always been legal issues for Gitxsan law, and this reality is affirmed by the oral histories. Given this, some of the Gitxsan human rights research questions are: (i) How do gendered power dynamics shape Gitxsan legal interpretations today? (ii) What are the Gitxsan legal principles concerning gender? (iii) What assumptions are being made about the ways that gendered subjects engage with Gitxsan law, and why? (iv) How are governance and property laws gendered?

CONCLUSION

Every legal tradition holds both its promise and its potential of failure, and Gitxsan law is no exception. One can see from the very short description of Gitxsan legal institutions that Gitxsan society has the clear potential to be non-sexist as it is matrilineal, and the complex of governing relations enable individual and collective inclusion, accountability, and responsibilities. Arguably, the same can be said about the potential of Canadian law, or even about democracy itself. However, we also know that both Canadian law and democracy are fraught with racism and sexism, and there are ongoing struggles and oppressions. As with other societies, Gitxsan oral histories illustrate that gendered and sexual violence have always been a struggle, and Gitxsan people have always had to have law to deal with it. Today is no different.

To return to Cindy Gladue, she was a legal agent and a legal person according to Cree and Métis law. She made the best decisions she could within the constraints of the power relations she was both within and a part of. What would

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have happened if there had been recognition for Cindy as a legal agent, legal person, and citizen? And what would have happened if her agency, citizenry, and legal personhood had really shaped and informed the world and relations around her? For Indigenous women and girls, and everyone else, being recognised as legal agents deserving of dignity and safety is essential to rebuilding Indigenous law and Indigenous lawfulness. Legal agency is essential to legal personhood and to law, and vice versa.

I have argued that sexualised and racialised violence against Indigenous women and girls occurs in spaces of lawlessness which is created by undermining Indigenous law resulting in gaps and distortions of Indigenous lawfulness. In light of this, what might the future hold for Indigenous law? In 2018, the University of Victoria launched the first in the world Indigenous law degree programme where after four years, students can obtain a Canadian law degree and an Indigenous law degree (JD/JID). This professional degree programme, along with the UVIC Indigenous Law Research Unit, and the many, many other Indigenous law initiatives across Canada and around the globe, mean that Indigenous law is robustly and critically being rebuilt – substantive law, legal institutions, and processes – and all of this is fundamentally changing the lawscape.

In order for this new lawscape, this explicit multijuridical Canada, to stop the violence against Indigenous women and girls, requires that the enabling sexism and deadly conditions of violence must be recognised up as a serious priority by Indigenous peoples and communities (and obviously, many do), and beyond. The how of this will be worked out over time, and Indigenous lawfulness and safety will be built on the foundation of the JD/JID, and all the other work to restore Indigenous law (Friedland & Napoleon, 2015, 2016; Napoleon & Friedland, 2014).

NOTES

1. Acting Dean and Law Foundation Chair of Indigenous Justice and Governance, Faculty of Law, University of Victoria. I am Cree and a member of the Saulteau First Nation from northeast British Columbia. I am also an adopted member of the House of Luuxhon, Frog Clan, Gitanyow (northern Gitxsan).
2. I lived in Gitxsan territories for several decades and worked in multiple capacities with Gitxsan people in fields of education, justice, economic development, etc.
3. I have expanded on this issue in another paper. See Napoleon (forthcoming).
4. This occurred when I was teaching at the University of Alberta.
5. *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010. The second plaintiff group in *Delgamuukw* was the Wet'suwet'en people.
6. There are a range of legal mechanisms for extending such recognition to non-Gitxsan peoples for political and economic purposes as well as practical arrangements (e.g., marriage to non-Gitxsan).
7. The term 'House' originally derived from the historic Gitxsan longhouses. A longhouse contained extended family lineages and necessarily included people from other kinship groups (Houses) that were married in. In other words, a longhouse population was never the same as a lineage group's membership, that is, House membership.
8. The adaawk is a collective oral history. It is a formal and primary Gitxsan intellectual institution owned by each matrilineal kinship group, the House. It is the adaawk that links each House to its territories and establishes ownership of the land and resources. The

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adaawk tell of the origins and migrations of the groups to their current territories, their explorations, the covenants established with the land, and the songs, crests, and names that result from the spiritual connection between people and their land. The adaawk include an architecture, interpretive processes, require public recounting and witnessing, and form an integral part of the structure and operation of Gitxsan governance and law.

9. For different reasons, the Gitxsan also adopt non-Gitxsan, such as the author, into the House system.

10. These societies are diverse belonging to different linguistic groups. The Gitxsan, Tsimshian, and Nisga'a are part of the Tsimshian linguistic group, and some of the Houses share a common early history which is recorded in their respective oral histories. The Wet'suwet'en are part of the Athapaskan linguistic group, the Haisla are part of the Wakashan linguistic group, and the Haida belong to the Haida linguistic group.

11. The last divorce Feast was held during the 1940s. Today, Gitxsan couples use state law for marriage and divorce.

12. Such an adoption requires a formal Feast, a costly undertaking for the host House. Even after such adoptions, there is an ongoing loss of prestige for the couple and sometimes continued public disapproval.

13. Each House has an inventory of names that it owns and that are assigned to its members. When an individual dies, his or her name returns to the House and the House may assign it to another House member. An individual may pass through a number of names before attaining a higher ranking name. When a chief dies, the name is usually immediately passed on to the person in line for the name.

14. There is usually an ongoing internal competition for the chiefs' names in the Houses by the mothers who want to secure the names for their children. Succession of the head chief name can be contested.

15. Susan Marsden was an expert witness on oral histories on behalf of the Gitxsan in the *Delgamuukw* trial.

16. There are examples of gendered and sexual violence in some of the oral histories. See, for example, Cove and MacDonald (1987a, 1987b).

17. This was not an uncommon practice as recounted in some of the oral histories.

18. Indigenous people classified as Indians and registered as status were not allowed to vote in Canadian elections.

19. The report included violence against and experiences of 2SLGBTQQIA or two-spirit, lesbian, gay, bisexual, transgender, queer, questioning, intersex, and asexual.

20. I draw on the work of De Sousa Santos (2013) to approach the problematic nature and issues of human rights in the contested discourse.

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