

**Kwakwaka'wakw Laws and Perspective
Regarding "Property"**

by

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B.A., University of Victoria, 2001**

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Requirements for the Degree of**

MASTER OF ARTS

**In Indigenous Governance
In the Faculty of Human and Social Development**

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Co-Supervisors: Dr. Leslie Brown and Dr. John Borrows

ABSTRACT

The Kwakwaka'wakw people, like all Indigenous peoples in Canada, have been dispossessed of their lands. Now, Indigenous knowledge and other property are being commodified and expropriated. In response to this problem I describe customs from Kwakwaka'wakw *p'asa* (potlatch) that can be used to protect Kwakwaka'wakw "property." These customs were followed in my research and writing, which included a metaphor of Chilkat weaving as my methodology. I share with my readers, knowledge and a Kwa'kwala lesson shared with me in interviews I conducted. Based on these interviews I suggest some principles from *p'asa* to be considered in making proposals for contemporary laws for the protection of Kwakwaka'wakw "property."

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TABLE OF CONTENTS

ABSTRACT.....	ii
TABLE OF CONTENTS.....	iii
FIGURES.....	v
ACKNOWLEDGEMENTS.....	vi
GLOSSARY OF KWA'KWALA WORDS	viii
RELATIONSHIP DIAGRAMS	xiv
Guide to Ancestors of Author.....	xiv
Participants: Harry Bell, Lily Bell, Patricia Dawson-Hunt, Richard Dawson, Edith George, Richard George	xv
Participants: Corrine Hunt, Peter Knox, Mabel Knox, Dorothy Wasden.....	xvii
Participants: Patricia Dawson-Hunt.....	xviii
Participants: Ann Brotchie, Lucy Smith, Colleen Hemphill.....	xix
CHAPTER ONE – RESEARCH INTRODUCED.....	1
Research design	5
Preliminary Literature Review.....	15
<i>P'asa of Kwakwaka 'wakw peoples</i>	18
Layout of remaining chapters	23
CHAPTER TWO - METHODOLOGY.....	25
Interviewees Introduced.....	31
Language/Terminology	38
CHAPTER THREE – FRAMEWORK	51
Personal Narratives.....	51
Relationships.....	58
Concentric Rings of Responsibility	60
<i>Individual</i>	61
<i>Family</i>	64
<i>Nation</i>	67

<i>Inter-Kwakwaka'wakw</i>	68
Kwakwaka'wakw: Matrilineal or patrilineal?	69
CHAPTER FOUR – KWAKWAKA'WAKW GIGITSU	74
Kwakwaka'wakw Property and Ownership Explained	74
Types of Property	75
Floodgates opened and cannot be closed	86
<i>Corrine Hunt – an Artist's Experience</i>	89
CHAPTER FIVE - SUGGESTIONS AND CONCLUSIONS	94
How could our traditional laws apply today?	95
Principles from p'əsa	96
1. <i>Who can perform a dance?</i>	97
2. <i>Customs around using songs</i>	98
3. <i>Proper place and time to share songs and dances</i>	101
4. <i>Who can learn, teach and sell Kwakwaka'wakw artwork?</i>	101
5. <i>Who can own Kwakwaka'wakw artwork?</i>	102
6. <i>Forum for Disputes</i>	102
7. <i>Who has capacity to resolve disputes?</i>	104
8. <i>Role of Education</i>	105
Conclusion	107
BIBLIOGRAPHY	109
Interviews.....	109
Articles, Books.....	109
Videos	112
Statutes and Cases.....	113
Web-sites.....	113
Other	114

FIGURES

<u>Table/Illustration/Figure</u>	<u>Page</u>
Table 1.1: Kwakwaka'wakw Nation Names, Places and Family Affiliations.....	7
Ill. 2.1 Rachel's project in progress, day 9 [Photo, Lucy Bell].....	28
Ill. 2.2 Back view of Rachel's project, day 12 [Photo, Lucy Bell].....	28
Ill. 2.3 Rachel's weaving is finished still on the loom [Photo, Lucy Bell].....	28
Illustration 3.1 Lucy at Rediscovery Camp 24-hour solo site	55
Figure 3.1 Concentric Rings of Responsibility	61

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GLOSSARY OF KWA'KWALA WORDS¹

Word/Phrase	Approximate English translation
<i>?a?adol</i>	[Samantha Bell's name from Dora Speck]
<i>anis</i>	Aunt
<i>A'wa'etlala</i>	People from <i>Dzawadi</i> (Knight Inlet)
<i>Awinak'ola</i>	The land, the sea, the island and the resources of each
<i>Ba'as</i>	Blunden Harbour
<i>Da'naxda'xw</i>	People from <i>Tsadzis'nuk'wame'</i> (New Vancouver)
<i>Dentalayu</i>	Name of a copper mentioned in <i>Smoke From Their Fires</i> meaning "people are quarrelling about this copper"
<i>Digita</i>	Feast to wipe away shame caused or inflicted on chief or member of a chief's family
<i>Dildala</i>	[name of Eliza Walas; author's great-grandmother]
<i>Dzawada'emux</i>	People from <i>Gwa'yi</i> (Kingcome Inlet)
<i>Dzawadi</i>	Knight Inlet
<i>Dzunuq'wa</i>	Wildwoman dance
<i>Ga?axstalas</i>	[Diane Hunt's name from Bell family]
<i>Gayutlan lax ...</i>	I am from ...
<i>Gəla</i>	Bear dance performed by Melvin Bell and Brian Walkus

¹ The spellings that I use for Kwa'kwala words are in some cases a Kwa'kwala alphabet as used by the U'Mista Cultural Centre, the International Phonetic Alphabet as used by Martine J. Reid and Daisy Sewid-Smith in *Paddling To Where I Stand*, and an informal spelling such as "Kwenkwalaogwa," which are my own renderings for words that I have learned. I have no linguistic background and have written the words/phrases as I hear them. My spelling is, however, influenced by the U'Mista spelling because this is what I learned in Elementary School.

As an example of the different spellings for Kwa'kwala consider the word I use for potlatch: "pasa'p" is the U'Mista spelling; "p'əsa" is the International Phonetic Alphabet used by Daisy; and I have used "ba'sap" in earlier work. Herein I have decided to use the IPA spelling because it is the closest rendering to what I hear when my elders say the word, the "p" at the end of the other is silent or a subtle meeting of the lips and not an actual "p."

Word/Phrase	Approximate English translation
<i>Gəlalatid</i>	Tseka dance performed by Maggie Bell
<i>gigəxlēy</i>	A p'əsa name/nobility name of a chief
<i>Gilakas'la</i>	Greetings
<i>Gitsu / gightsu</i>	Treasure / treasures; song(s)
<i>Gogwana</i>	Paying back amounts owed to a chief
<i>Gukdzi</i>	Big house
<i>Gumgumdum</i>	Songs
<i>Gusgimukw</i>	People from <i>Xwatis</i> (Quatsino)
<i>Gwa'Sala</i>	People from <i>Takus</i> (Smith Inlet)
<i>Gwa'Sala- 'Nakwaxda'xw</i>	Two nations that were relocated and amalgamated in the 1960's: those from <i>Takus</i> (Smith Inlet) and those from <i>Ba'as</i> (Blunden Harbour)
<i>Gwa'yasdams</i>	Gilford Island
<i>Gwa'yi</i>	Kingcome Inlet
<i>Gwatsinux</i>	People from <i>Oyagamlā</i> (Winter Harbour)
<i>Gwawa'enux</i>	People from <i>Hegam's</i> (Hopetown)
<i>Gwawina</i>	Raven dance performed by Richard George
<i>Gwitella (Kwixamut)</i>	One of four tribes that amalgamated to become the Kwakiutl Nation
<i>Ha'se</i>	Breath; breath of life from generations before you
<i>Ha'xwamis (Ah'Kwaw'Mish)</i>	People from Wakeman Sound
<i>Hamaća (hamatsa)</i>	Wildman of the woods
<i>Hegam's</i>	Hopetown
<i>Həmsatusalagəlis</i>	[Johnson R. Bell's hamatsa name]
<i>Həmhəmsdzas</i>	[<i>Tseka</i> dance performed by Edith George]
<i>Həwinəlat</i>	[<i>Tseka</i> dance performed by John Powell]
<i>hiligəxste</i>	Woman who tames hamatsa

Word/Phrase	Approximate English translation
<i>Hitlog^wila</i>	Baby is out of danger at 10 months old and is understood to be gift to parents
<i>Hiwitlatl</i>	Baby's first hair cut ceremony at 10 months
<i>Holikəlat</i>	Head dancer in the tlasala, Harold Powell
<i>I'tsikan</i>	Estekin
<i>Kalugwis</i>	Turnour Island
<i>K'esugwilakw</i>	[Name of Dora Speck]
<i>Kle kl le tla</i>	[Lucy's name from ?]
<i>Kwakiutl</i>	People from Fort Rupert
<i>Kwakwaka'wakw</i>	Kwa'kwala speaking people
<i>Kwenkwalaogwa</i>	Thunderbird lady
<i>Lalulalat</i>	Dance performed by Eliza Speck
<i>Lawitsis</i>	People from <i>Kalugwis</i> (Turnour Island)
<i>Litlitl</i>	Name of Udzistales' (Henry Bell's) house in Village Island, meaning wide
<i>Lubitila</i>	Name of Udzistales and Tom Dawson's copper, meaning "emptying your house when you have a <i>p'asa</i> "
<i>M'am'aq'a</i>	Dance "person who causes or heals death" performed by Julia Smith
<i>Ma'amtagila</i>	People from E <i>'tsikan</i> (Estekin)
<i>Madəm</i>	Dance performed by Diane and Lucy Bell
<i>Mamalilikulla</i>	People from Village Island
<i>Mamatlas</i>	White people
<i>Mayaxa</i>	Precious property that demands respect; hold it dear and precious
<i>Məlidi</i>	[Name of Margaret Bell Charlie from her grandparents Mumuta and Dildala]
<i>menğa</i>	War canoe
<i>Mimkwamalis</i>	Village Island

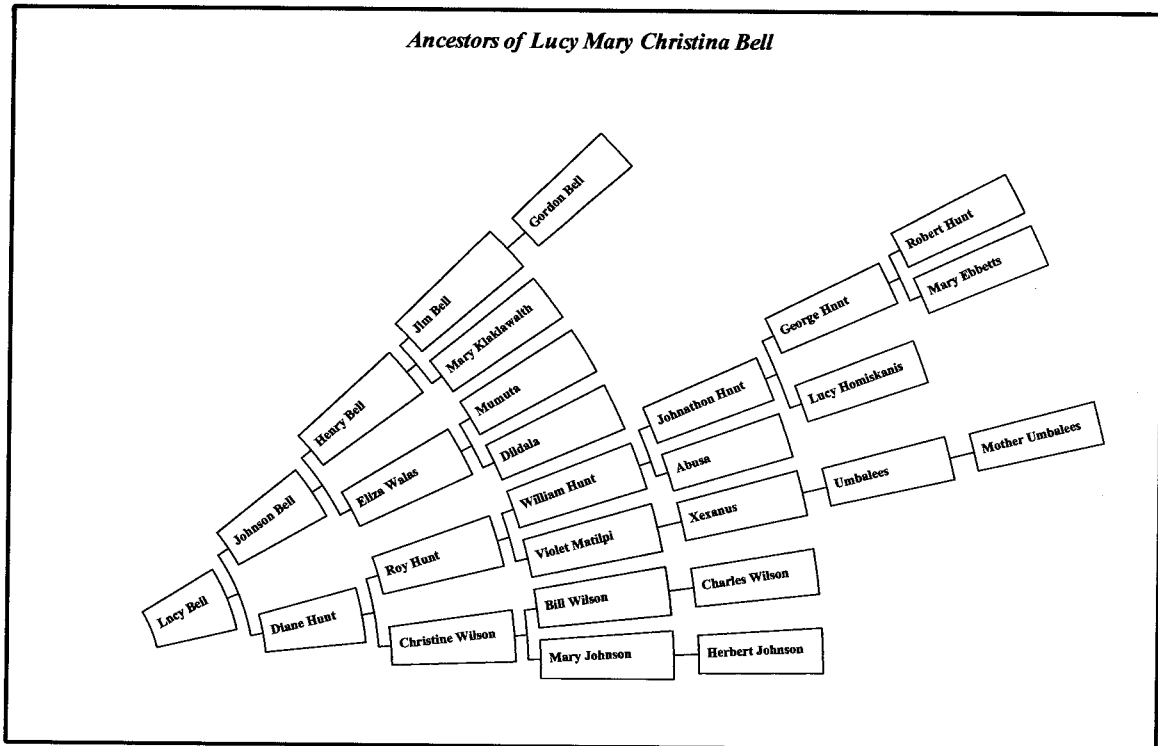
Word/Phrase	Approximate English translation
<i>Mumuta</i>	[name of Joseph Walas; author's great-grandfather]
<i>Mukstoy</i>	Fill in for family member unable to perform his/her dance
<i>Musgamagw</i>	
<i>Nakwaxda 'xw</i>	People from <i>Ba'as</i> (Blunden Harbour)
<i>'Namgis</i>	Alert Bay
<i>Namukw</i>	Friend
<i>Nanokwala</i>	Meeting of knowledgeable people
<i>Nawalogwatse</i>	Treasure – land, songs, dances, names, coppers
<i>N'ala</i>	Swan dance performed by Samantha Bell
<i>Nixilagailaxw</i>	[Name of Norman Bell]
<i>Nogad / ninogad</i>	Knowledgeable person / people
<i>Noxsola / ninoxsola</i>	Person of high rank / people of high rank (presumed to hold knowledge)
<i>Nugwa'am ...</i>	My name is ... (formal)
<i>Nulcistalał</i>	Firedance or man who is always trying to touch the fire
<i>Nunamgola</i>	To come together to be one
<i>Nuyem / ninuyem</i>	Story/stories with at least one moral
<i>Oyagamla</i>	Winter Harbour
<i>P'asa</i>	Potlatch (used generally)
<i>Pulas</i>	[Diane Hunt's name]
<i>Q'uminəwağas</i>	[<i>Tseka</i> dance performed by Verdeen Bell]
<i>Qumoyoiy (Kwixa)</i>	One of four tribes that amalgamated to become the Kwakiutl Nation; one of two signatory nation's to Douglas Treaty
<i>Qosalal</i>	[Dance performed by Lloyd Walkus]
<i>Qwemkutes</i>	One of four tribes that amalgamated to become the Kwakiutl Nation

Word/Phrase	Approximate English translation
<i>Qwe'Qwa'Sot'Em</i>	People from <i>Gwa'yasdams</i> (Gildford Island) who live with the Mamalilikulla
<i>Qwe'Qwa'Sot'Enox</i> (<i>Kwikwasut'imux; Kwiksutaimuk</i>)	People from <i>Gwa'yasdams</i> (Gildford Island)
<i>Sisiutl</i>	Double-headed sea serpent
<i>Six'walas</i>	[Johnson E Bell's chieftainship from Johnson R. Bell from Johnson Charlie] Meaning "Traveling to places"
<i>T'ət'isnəqwala</i>	[Johnson E. Bell's name]
<i>Takus</i>	Smith Inlet
<i>Tlakwa</i>	Copper
<i>Tla'mataxw</i>	Campbell River
<i>Tlatlagwol</i>	[Name of Janet Powell]
<i>Tlatlasikwala</i>	People from <i>Xwamdasbe</i> (Hope Island)
<i>tlasala</i>	Peace dance
<i>Tlawigi</i>	[Name of Dora Speck]
<i>Tl'axtləlidzemğa</i>	[Name of Doreen Walkus]
<i>Tlikilala</i>	Remembering to carry oneself with care in everything that you do
<i>Tlowitsis</i>	People from <i>Kalugwis</i> (Turnour Island)
<i>Tlugway</i>	Supernatural gift; house, songs, crests, dances and paraphernalia
<i>Tsadzis'muk'wame'</i>	New Vancouver
<i>Tsakawa'lutan</i>	Cape Mudge
<i>Tsaxis</i>	Fort Rupert
<i>tseqa</i>	Cedar bark ceremony
<i>tsimasaxyu</i>	Crest at top of Uncle Dick's talking stick
<i>Udzistales</i>	[Henry Walkus' name from grandfather Henry Bell]
<i>U'man al umptu</i>	My father is
<i>Wadzadiliga</i>	[Doreen Walkus' name from Eliza Walas]

Word/Phrase	Approximate English translation
<i>Walas Gayuklas</i>	Chieftainship held by Harry Bell from Mumuta (Joseph Walas)
<i>Walas Kwakiutl</i>	The real Kwakiutl; one of four tribes that amalgamated to become the Kwakiutl Nation
<i>Weka'yi / WeiWaiKai</i>	People from <i>Tsakawa'lutan</i> (Cape Mudge)
<i>Wewekam / WeiWaiKum</i>	People from <i>Tla'mataxw</i> (Campbell River)
<i>Wi'oma</i>	Women of nobility (high rank)
<i>Witsatla</i>	Cannot reach into box of treasures because you are not directly connected to it
<i>Wodzas</i>	[Edith George's name from her grandmother]
<i>X^wak^wən'a</i>	Regular canoe
<i>Xwalkw</i>	Nimpkish
<i>Xwamdasbe</i>	Hope Island
<i>Xwatis</i>	Quatsino
<i>Xwatum</i>	Dance screen
<i>xwixwi</i>	Dance performed by John Henry George and Kerry Batsoulas
<i>Yo'am tlekum sano abumpe ...</i>	My mother is ...

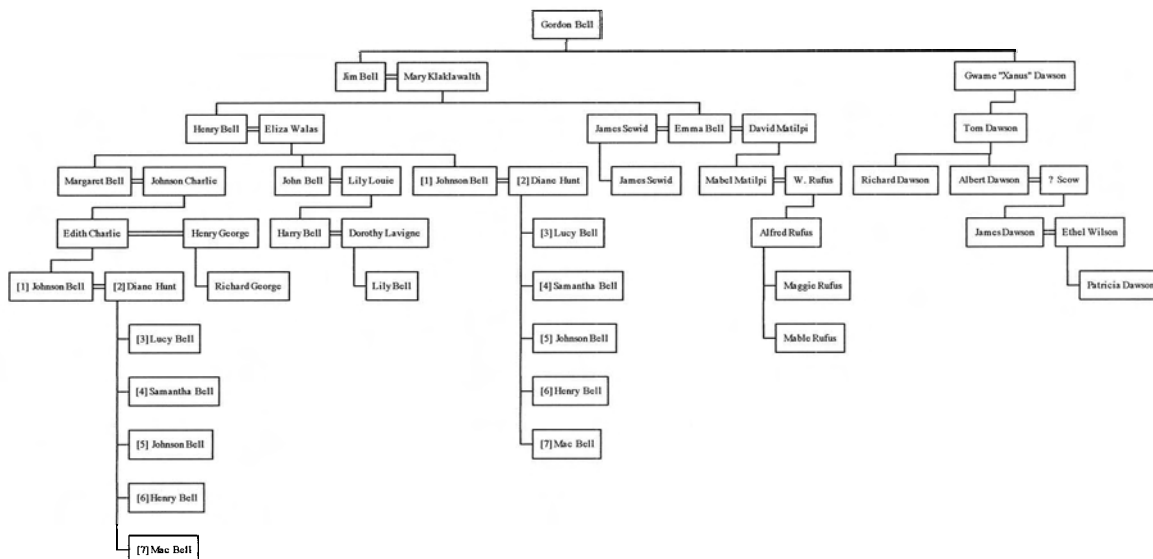
RELATIONSHIP DIAGRAMS

Guide to Ancestors of Author



Participants: Harry Bell, Lily Bell, Patricia Dawson-Hunt, Richard Dawson, Edith George, Richard George

Descendants of Gordon Bell



Interview Participants:

Harry Bell / Uncle Harry = First cousin (adopted); First cousin twice removed (biological);

Lily Bell = First cousin once removed (adopted); Second cousin once removed (biological);

Patricia Dawson-Hunt / Auntie Pat = Third cousin (adopted); Third cousin twice removed (biological)



Richard Dawson / Uncle Dick =

Second cousin once removed (adopted); Second cousin three times removed (biological);



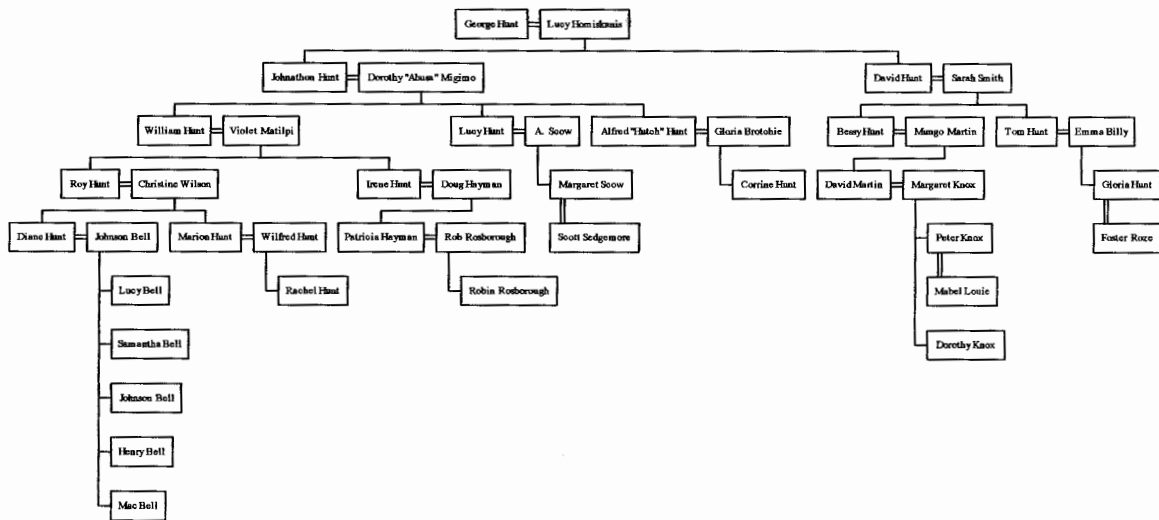
Edith George / Grandma =

First cousin (adopted); Grandmother (biological)

Richard George / Uncle Rick = First cousin once removed (adopted); Uncle (biological);

Participants: Corrine Hunt, Peter Knox, Mabel Knox, Dorothy Wasden

Descendants of George Hunt



Interview Participants:

Corrine Hunt = First cousin twice removed

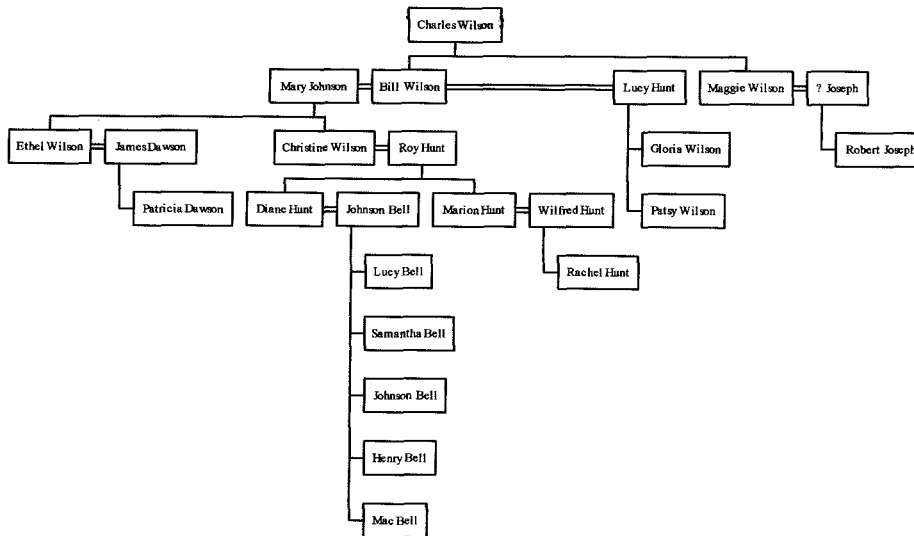
Peter Knox / Uncle Pete = Third cousin once removed

Mabel Knox / Auntie Mabel = Wife of third cousin once removed

Dorothy Wasden / Dot = Third cousin once removed

Participants: Patricia Dawson-Hunt

Descendants of Charles Wilson

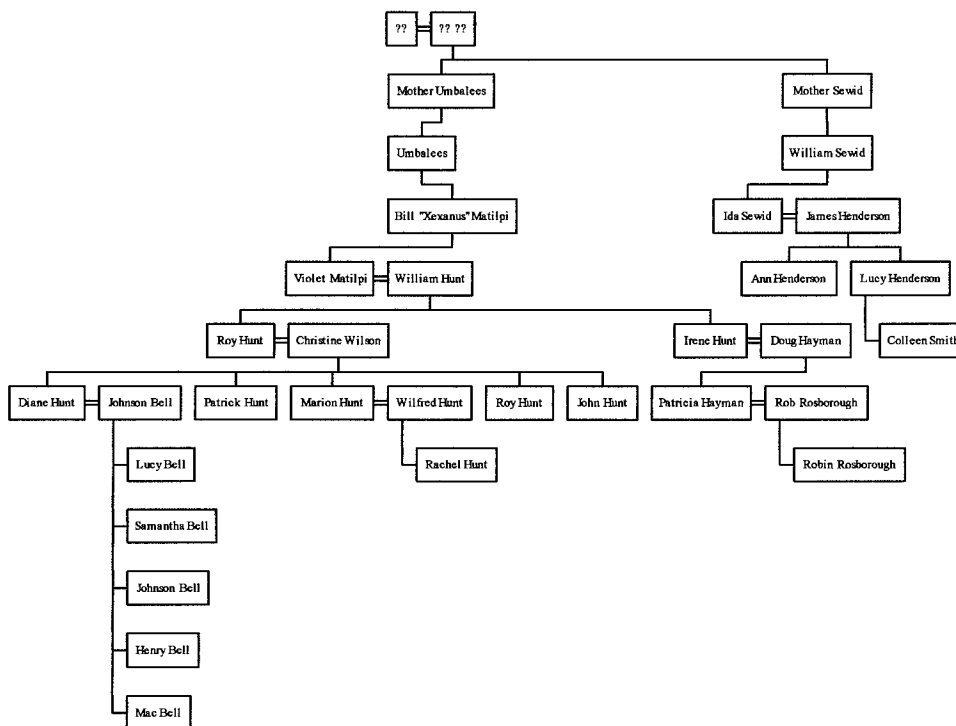


Interview Participants:

Patricia Dawson Hunt = First cousin once removed

Participants: Ann Brotchie, Lucy Smith, Colleen Hemphill

Descendants of ??



Interview Participants:

Ann Brotchie = Third cousin three times removed

Colleen Hemphill = Fourth cousin twice removed

Lucy Smith = Third cousin three times removed

CHAPTER ONE – RESEARCH INTRODUCED

Gilakas'la, nugwa'am Kwenkwalaogwa; gayutłan lax Mimkwamlis (Mamalilikulla), gayutłan lax Tsaxis (Kwakiutl), gayutłan lax Wakeman Sound (Ha'xwamis), and I grew up on the Tsulquate Reserve amongst the Nakwaxda'xw and the Gwa'Sala at Tsulquate Indian Reserve.² U'man al umptu Six'walas; yo'am tlekum sano abumpe Pułas [Greetings, my name is Kwenkwalaogwa; I am from Village Island / Mamalilikulla, I am from Fort Rupert / Kwakiutl, I am from Wakeman Sound / Ha'xwamis. Six'walas (Johnson R. Bell) was my father, Pułas (Diane Hunt) is my mother].³

One afternoon before my “Art and Cultural Property” lecture, in the summer semester 2004, I was walking through UVic's centre, near the library. It was a beautiful clear afternoon and 29 Indigenous high school students from around Vancouver Island were at UVic to attend a mini-University camp.⁴ The purpose of the camp was to introduce high school students to the University and its various programs. I was rushing

² Note: The spellings that I use for Kwa'kwala words are in some cases a Kwa'kwala alphabet as used by the U'Mista Cultural Centre, the International Phonetic Alphabet as used by Martine J. Reid and Daisy Sewid-Smith in *Paddling To Where I Stand*, and my own renderings such as “Kwenkwalaogwa,” which are my own renderings for words that I have learned. I have no linguistic background and have written the words/phrases as I hear them. My spelling is, however, influenced by the U'Mista spelling because this is what I learned in Elementary School.

As an example of the different spellings for Kwa'kwala consider the word I use for potlatch: “pasa'p” is the U'Mista spelling; “p'əsa” is the International Phonetic Alphabet used by Daisy; and I have used “ba'sap” in earlier work. Herein I have decided to use the IPA spelling because it is the closest rendering to what I hear when my elders say the word, the “p” at the end of the other is silent or a subtle meeting of the lips and not an actual “p.”

³ See glossary of Kwa'kwala words and phrases at page viii; and see Relationship Diagrams at page xiv.

⁴ Maria Lironi, “Aboriginal Teens Live and Learn at UVIC” online: <<http://communications.uvic.ca/releases/release.php?display=release&id=583>>, *University of Victoria Media Release* (accessed: 17 April 2005).

to meet the students at the Computer Science department to return a bag that had been left in the law building earlier that day. But I noticed that under a totem pole stood a group of people getting a lesson on local Indigenous culture.

I observed furiously from a distance. First, the person who was the focus of the group was not from any of the local communities. Second, the culture that he was referring to, was not local, it was actually from the north end of Vancouver Island where I come from. Third and fourth, the dance and song that he was describing and subsequently performed were being shown out of context and by somebody not authorized to do so. I admit I didn't approach and ask who allowed this man to "teach" tourists about our people or the dance he was sharing, or which local people he sought permission from to do so on their traditional territory; but considering the number of relationships needed for that permission to actually have been given I doubt that it was sought or that these people understand or appreciate the customs that they were violating.

After witnessing this from a distance I went to class to hear the final elements of Professor Howell's thoughts on the protection of Indigenous Traditional Knowledge. The heart of Professor Howell's lectures and his thesis was that to best protect Indigenous Traditional Knowledge we must first look at Canadian and International Law. *Sui generis* law based on those laws could be crafted. These *sui generis* laws have a basis for wider recognition and therefore would offer the best protection for "traditional knowledge."⁵ On the last day of that week we were to craft our own *sui generis* law; the group I presented with invited me to present for our group. I told the story of the events

⁵ Robert G. Howell, "The Interconnection of Intellectual Property and Cultural Property ("Traditional Knowledge")" (Continuing Legal Education Symposia, International Intellectual Property Law Program, Faculty of Law University of Victoria, at Morris J. Wosk Centre for Dialogue, Vancouver B.C., 16-17 July 2004) [unpublished; forthcoming as a part of Professor Catherine Bell's project, *First Nation Cultural Heritage in Canada*, online: <http://www.law.ualberta.ca/research/aboriginalculturalheritage/index.htm>].

I'd witnessed earlier in the week, how I felt that our laws were best suited to address such infringement, and how I thought our laws would deal with such a situation.

The purpose of this study is to propose a theoretical yet functional contemporary governance system, based on Kwakwaka'wakw laws, for the protection of the Kwakwaka'wakw peoples' property. It is theoretical in the sense that I am not putting it forward to be "the" solution to any problems and because I don't have any direct knowledge or experience with these problems as they occur at home on the ground. Yet at the same time I think that my suggestions are functional because they rely on principles and elements that have worked for our people. I will focus my inquiry for such a contemporary governance system on Kwakwaka'wakw customs as seen in *p'asa* (potlatch) both in my grandparents' time and in our day. I have looked at laws of descent of property followed in Kwakwaka'wakw society as guides to formulate principles.

There are some Kwakwaka'wakw who believe that contact and colonialism have changed our practices and ceremonies to such an extent that they have made personal decisions not to potlatch any more. These changes are especially evident to me in the loss of humility and increasing greed that has come to be shown in *p'asa*. Admittedly this isn't so in all cases but it is occurring. Therefore, I have set forth the values that I see in our customs, such as *p'asa*, that we should hold on to rather than allow colonial powers to destroy Indigenous laws as they sought to do directly in my grandfathers' time. By focussing on *p'asa*, this research will demonstrate that the government has not completely destroyed our ways insofar as my grandfathers' generation succeeded in passing down knowledge about our customs.

My motivation for undertaking this research is to demonstrate how knowledge has successfully been passed down using our family ways. I see value in hanging on to those customs, in spite of and because of how much they have changed, rather than allowing *p'asa* to fall out of practice completely. I also wanted to have something that explicitly states what those customs are and how they have been applied.

In attempting to formulate such a system based on tradition it is necessary to define what I mean by “governance”, “property,” “culture,” “cultural property” (CP), “tradition,” “traditional knowledge” (TK) and “knowledge.” Throughout my project I refer to each of these as concepts that are constantly changing, as concepts that are not static or frozen in time. However, I chose not to give mainstream legal definitions for terms until I had conducted interviews with my family members and had a chance to ask for Kwa'kwala words that are more appropriate for my purposes. These definitions/words appear from a Kwakwaka'wakw perspective in chapter two.

The “property” on which I focus is our *nawalogwatse/gigitsu* (treasures). This includes: songs, dances, coppers, box of treasures, regalia, names, crests, knowledge, stories and other types of “property” that are related to these.⁶ Other types of property that I am not referring to throughout are our big house, village sites, and canoes. These are all detailed in chapter four but the first list of “property” are the types that I set out to discuss. The second list refers to types that I didn't have in mind but that my family referred to as I conducted my interviews. This is the case because I sought to discuss

⁶ *Infra.* 74-86 for a description of these types of property and examples of their ownership.

only “intangible property”⁷ or “personal property”⁸ but was quickly reminded of the interconnectedness of all “property” within our culture.

Research design

In *p’asa*, through rank, dances performed, songs shared, speeches made, food consumed, and the gifts that are distributed it is evident that we have reciprocal relationships of respect and responsibility to ourselves, to our family, to our nation, and to all Kwakwaka’wakw peoples. Each of these relationships includes interconnectedness to all beings and nature. Therefore, it is necessary to know, as a starting point, who you are and where you come from.

The Kwakwaka’wakw includes at least thirteen individual communities; each of these communities has its own traditional territories.⁹ It is these communities that determine how Kwakwaka’wakw property is to be treated; whether it ought to be protected, whether it ought to be preserved/conserved, whether access should be limited or prohibited, and how to go about implementing such goals. Each community has its own creation story, its own truth. Each story and each truth is representative of the relationships and interconnectedness of the peoples, the territory, and nature. Extracting the relevant relationships from these stories is helpful in thinking about our relationships today and how they have evolved or changed over time but also how they still have some relevance in these stories.

⁷ Meaning ‘property that lacks a physical existence.’ *Black’s Law Dictionary*, 7th ed., s.v. “property, intangible property.”

⁸ Meaning ‘any movable or intangible thing that is subject to ownership and not classified as real property.’ *Black’s Law Dictionary*, 7th ed., s.v. “property, personal property.”

⁹ See U’Mista Cultural Society, online: U’Mista Cultural Society Website, *Kwakwaka’wakw Place Names* <<http://www.island.net/~umista/>> (date accessed: 17 June 2004).

The following is a table that illustrates who the current Kwakwaka'wakw families are, what nations they are from, and what nations each family originates from, which in few cases is the nation which they are currently registered with under the *Indian Act*.

Nation & Place name (ranking order)	Current affiliation	Families (alphabetical order)
Walas Kwakiutl Tsaxis (Fort Rupert)	Kwakiutl	Knox
Qumoyoiy [Kwixa]		Hunt, Walas, Wilson, Whannock
Qwemkutes		
Gwitella [Kwixamut]		
Mamalikala' Mimkwamalis (Village Island)	Mamalilikulla- Qwe'Qwa'Sot'Em	Beans, Bell, Charlie, Dawson, Mountain, Puglas
Qwe'Qwa'Sot'Enox		Sewid
Namgis Xwalkw (Nimpkish)	Namgis	Alfred, Cook, Cranmer, Dick, Knox, Rufus, Wadhams
Lawitsis Kalugwis (Turnour Island)	Tlowitsis Tribe	Smith, Speck, Matilpi
A'wa'etlala Dzawadi (Knights Inlet)	Da'naxda'xw / Awaetlala	Duncan, Glendale, Harris, Louie, Moon, Peters
Da'naxada'xw Tsadzis'nuk'wame' (New Vancouver)		
Ma'amtagila I'tsikan (Estekin)	Tsawataineuk	Matilpi, Wadhams
Musgamagw		
Dzawada'enux Gwa'yi (Kingcome Inlet)		Dawson, Dick, Joseph, Lagis, Nelson, Wamiss, Willie
Ah'Kwaw'Mish (Wakeman Sound)		Wilson
Kwikwasut'inux Gwa'yasdams (Gilford Island)	Kwicksutaineuk/ Ah'Kwaw'Mish	Martin, Scow
Gwawa'enux Hegam's (Hopetown)	Gwawaenuk	Joseph, Williams

Nation & Place name (ranking order)	Current affiliation	Families (alphabetical order)
'Nakwaxda'xw Ba'as (Blunden Harbour)	Gwa'Sala-'Nakwaxda'xw	Charlie, George, Henderson, Jacobson, Paul, Seaweed
Gwa'sala Takus (Smith Inlet)		Johnny, Walkus
Gusgimukw Xwatis (Quatsino)	Quatsino	Johnny, Nelson Wallace
Gwatsinux Oyagamla (Winter Harbour)		
Tlatlasikwala Xwamdasbe (Hope Island)	Tlatlasikwala	Humchitt, Ohmid, Wallace
Weka'yi Tsakawa'lutan (Cape Mudge)	WeiWaiKai	Assu, Billie, Dick, Everson, Price
Wiwekam Tla'mataxw (Campbell River)	WeiWaiKum	Henderson, Quocksister, Roberts

Table 1.1: Kwakwaka'wakw Nation Names, Places and Family Affiliations.¹⁰

The bolded family names are the families from which I descend.

My father's parents were Udzistales of the Mamalilikulla (Henry Bell) and Wadzidalaga of the Qomoyoiy (Eliza Lucy Walas); my mother's parents were Roy Hunt of the Qomoyoiy and Christine Wilson of the Ha'xwamis (née Wilson). My father was adopted by his great grandparents; his adoption was legal under both our *p'asa* customs and British Columbia law and because of this official adoption I know my great-great grandparents as my grandparents. My father's biological mother is Wodzas of the Mamalilikulla (Edith George, née Charlie). Due to relocation and amalgamation of many of our nations, my grandparents (Henry and Eliza), my parents, my siblings and I are all registered under the *Indian Act* with the Gwa'Sala-'Nakwaxda'xw Nation.

My project is about who I am and where I come from in that I will be sharing our Indigenous laws through our *p'asa* from my families' perspectives. I have shared

¹⁰ U'Mista Cultural Society, *supra* note 9 at "Kwakwaka'wakw Place Names;" Robert Galois, *Kwakwaka'wakw Settlements, 1775-1920 A Geographical Analysis and Gazetteer* (Vancouver British Columbia: UBC Press, 1994).

illustrations from my community where possible to explain concepts. I have looked to my family for assistance and advice. I will share names and stories from my own experiences that illustrate the importance of my peoples' relationship to the land, the animals, and to nature.

In sharing her thoughts on non-Indigenous researchers who research Indigenous peoples, Linda Tuhiwai Smith said:

A continuing legacy of what has come to be taken for granted as a natural link between the term 'Indigenous' (or its substitutes) and 'problem' is that many researchers, even those with the best of intentions, frame their research in ways that assume that the locus of a particular research problem lies with the Indigenous individual or community rather than with other social or structural issues. ... For Indigenous communities the issue is not just that they are blamed for their own failures but that it is also communicated to them, explicitly or implicitly, that they themselves have no solutions to their own problems.¹¹

My research does not make this connection between 'Indigenous' and 'problem'. It focuses instead on our community as not being the source of the problems and as having the answers that will best address the problems.

Sitting on my couch, my research environment, reading that passage made me think about researchers as outsiders versus researchers as insiders. It occurs to me that there is a grey area in which I find myself, much as Tuhiwai Smith did as she did her research, as an insider as a family and community member but also as an outsider as a University student conducting research.¹² I am from Kwakwaka'wakw territory and grew up in Kwakwaka'wakw territory but have been away at school for so long now that there are many people who do not know me. And even those who did know me before I left

¹¹ Linda Tuhiwai Smith, *Decolonizing Methodologies* (New York: Zed Books, 1999) at 92.

¹² *Ibid.* at 137-140 and 196-199.

might not recognise the me that returns home every so often for a community function, a funeral or simply to visit.

Other thoughts start rushing to me. Assuming that I am an insider, which has the better vantage point from which to research --- the insider or the outsider? An outsider brings objectivity, so academia would have us believe. That objectivity comes with a history, with boundaries, and with prejudices. The history, boundaries, and prejudices create and phrases the research questions and methodology. To me this is dangerous. It leaves the heart of the Kwakwaka'wakw at the outer shell and does not let it in unless the researcher becomes so inclined. Yet even then a prejudiced view may be clung to, in the name of holding on to objectivity.¹³

With these two thoughts I was led to consider George Hunt's work for Franz Boas because it is another type of insider-outsider situation. George was born of a Tlingit mother and an English father but grew up in Kwakiutl territory. His second wife was Kwakiutl and was the source of much of his information. He did his research for Boas with an Indigenous perspective, a Tlingit perspective. Tlingit is different than Kwakwaka'wakw culture; one such difference is evident in the sense that rank and status are more clearly matrilineal in Tlingit culture. He had the benefit of having married into the Kwakiutl people at Tsaxis and his perspective was influenced by that fact. Therefore, George Hunt while an outsider had the benefit of insider connections. His wife's status had required him to learn and to practice Kwakwaka'wakw customs.¹⁴

¹³ For example, see Ronald P. Rohner and Evelyn C. Rohner, *The Kwakiutl Indians of British Columbia* (New York: Holt, Rinehart and Winston, 1970).

¹⁴ For an overview of George Hunt and his work for Boas see Judith Berman, "The Culture as it Appears to the Indian Himself: Boas, George Hunt, and the Methods of Ethnography" in George W. Stocking Jr., ed., *Volksgeist as Method and Ethic: Essays on Boasian Ethnography and the German Anthropological Tradition* (Madison, Wisc., 1996); Charles Biggs and Richard Bauman, "The Foundation of All Future

My research started with the assumption that the bulk of the problems arise because of outsiders and that the solutions to these property and knowledge concerns are to be found in Kwakwaka'wakw customs. To convey this as best I could I sought the help of some of my community members – my family. While I think that the answers lie within our community I also know that the views from family to family vary and therefore the perspective I share comes from my family that I have had the most contact with thus far: Bell, Hunt, and Wilson. I only hope that my suggestions can be the basis for wider discussion, both within and outside of my communities.

I have become comfortable with placing myself on the inside. I am a part of the community; I am a part of the families, whose views and knowledge are shared, and I am the weaver in the metaphor of Chilkat weaving that I use as my research and writing methodology. The strands that I work with are closely connected to me. I am allowed to work with those strands as the result of being the descendant of Mary Ebbets (Anisлага). I have not arbitrarily or artificially tried to separate myself from any of the elements of my research or writing. Therefore, I am inside of it as much as it is inside of me.

In striving to remain honest and respectful I am led to ask myself whether outsiders have answers as well, and if they do why I am not recognising them. Again this requires looking at the work of Franz Boas and George Hunt. I am taking the view that their work was outsider work. My experience and having read some of this work has made me question Boas' objectives and methodology. He is said to have set out to record a culture un-influenced by the coloniser and ended up in Kwakwaka'wakw territory because they were far enough from centres like Vancouver and Victoria to still have

Researches': Franz Boas, George Hunt, Native American Texts, and the Construction of Modernity" (1999) 51:3 *American Quarterly* 479; Jeanne Cannizzo, "George Hunt and the invention of Kwakiutl culture" (1983) 20:1 *The Canadian Review of Sociology and Anthropology* 44-58.

some purity.¹⁵ The questions that he posed for George Hunt to research and collect items for centred not on collecting knowledge and customs as they were then practiced, but on finding a past where such knowledge and customs were still “purer” and even less influenced by the outside.¹⁶ When I read some of their work I sat on my couch cringing and wondering what my great-great-great-grandfather was thinking and why he would see things in that way. How could he betray the voice and views of the people he was presenting to Boas? Or was it Boas’ editing that made it so?

I was dissatisfied with what I read and as a result decided that I would look for guiding principles in Kwakwaka’wakw customs, especially *p’asa* and our secret societies. In doing so, I have attempted to expand on what our community member meant when he told Franz Boas: “It is a strict law that bids us dance. It is a strict law that bids us distribute our property among our friends and neighbours. It is a good law.”¹⁷ There are families, including people in my families, within Kwakwaka’wakw territory that do rely heavily on what Boas and Hunt wrote, and even on the later works that rely on Boas. I think that these families’ practices are overly influenced by such writings. I believe that this is because the writings are widely available but more so because when our people go to court, the courts put emphasis on such literature over traditional oral histories.

The documented history I would feel comfortable relying on are the recent written records kept by chiefs or any audio recordings of *p’asa* they had hosted; my family suggested such recordings because Anthropologist Peter MacNair had undertaken the

¹⁵ Judith Berman, *supra* note 14; Charles Biggs and Richard Bauman, *supra* note 14; Jeanne Cannizzo, *supra* note 14.

¹⁶ Judith Berman, *ibid.*; Charles Biggs and Richard Bauman, *ibid.*; Jeanne Cannizzo, *ibid.*.

¹⁷ For fuller text of this translated speech see Franz Boas, “The Indians of British Columbia,” 28 *Journal of the American Geographical Society of New York* at 232.

task of making audio recordings in my grandfather Henry Bell's time. My trust in these sources comes from the fact that they are true recordings of what the people, like my grandfather, did then, and it's in their own words. By listening to, or watching these, a researcher has vast amounts of knowledge to work with. These recordings would give insight to the number of *p'asa* hosted by a chief, the reason each was hosted, the property he'd distributed during those *p'asa*, the names/songs/dances he'd passed down through inheritance or through dowries. This type of information, aided by biographies, would help to determine how *p'asa* and rank worked. In my opinion this would work best with as broad an overlook as possible at all Kwakwaka'wakw communities.

As I searched through literature a book was suggested to me and as I read it I was intrigued by its content. The book was *Hunters and Bureaucrats* by Paul Nadasdy. Nadasdy addresses the power of words, word choice, and the power imbalance between Indigenous peoples and state bureaucracy in treaty negotiations. Chapter two is an illustration of how mainstream academics and bureaucrats filter out Indigenous narratives. Nadasdy gives examples of how bureaucrats ignore their Indigenous subjects when they start to talk about animals as sentient beings; he then illustrates how this affects the overall discourse between the Kluane First Nation and the government bureaucrats with whom they are speaking.¹⁸ He does not say how to rectify this situation or how to be more inclusive of Indigenous language and laws. This left me wanting not only to pay attention to such narratives from my *ninogad* (knowledgeable people) but also to ask for the appropriate Kwa'kwala terms for my topic of research.

¹⁸ Paul Nadasdy, *Hunters and Bureaucrats: Power, Knowledge, and Aboriginal-State Relations in the Southwest Yukon* (Vancouver: UBC Press, 2003) at 60 to 113.

It is this exercise of filtering out important information that led me to the decision not to use anthropological sources that are not accepted by Kwakwaka'wakw peoples. Much like differing perspectives of time due to lifestyle,¹⁹ we each have differing views of what is important. Many academics and bureaucrats seem to allow their thoughts to wander as an elder shares what they deem important and relevant rather than attempt to see a bigger picture.²⁰ Therefore, I did not stop my interviews or redirect interviewees when they may have seemed "to be going off topic" but instead listened and tried to see what they were making an effort to teach me.

I have focused on Kwakwaka'wakw perspectives; through mainly relying on what I have learned from my family. I have also used biographies of Kwakwaka'wakw peoples (Agnes Alfred, James Sewid, Harry Assu, and Charles Nowell) and I have conducted my own interviews. I have used anthropological and other such sources where the biographies rely on such literature and also to explicitly show that what I have learned contradicts, or does not contradict, how anthropologists have written about Kwakwaka'wakw peoples. My focus is on the Kwakwaka'wakw, specifically through my families' points of view, and our notions of property; and should not be taken as a generalization for all Indigenous communities.

My end product will not ignore what mainstream academics might consider unnecessary information but instead I will share as best I can the narrative that arises between me and my "subjects" with respect to key concepts in my research. My narratives will vary from sharing my own experiences to sharing the thoughts arising out of interviews, and to sharing information from the biographies that I have chosen to

¹⁹ *Infra.* at 33.

²⁰ See e.g. Paul Nadasdy, *supra* note 18 at chapter 2; Jeanne Cannizzo, *supra* note 14.

consult. This will be influenced, of course, by my own life experience and limited knowledge. My methodology, which is a metaphor of Chilkat weaving in which I am the weaver, will be explained in chapter two but for now I would like to explain that I envision each type of narrative as representing a colour of yarn. Each colour of yarn consists also of many strands with which I will work. When I share narratives from my interviews I intend to include exactly what my interviewee said. While I will share my understanding of it I hope that by sharing an interview participant's thoughts verbatim my readers will bring their own experiences into that conversation.

I have spoken with members of my family who carry knowledge related to *p'asa* and our 'ways of being and knowing.' My interviewees come from a variety of backgrounds and are regarded by my family and/or fellow community members as traditional knowledge holders; they are my *ninogad*. I had hoped to do all of my interviews as one-on-one conversations; half of them were done as such while the other half were done in groups of two or three. Each person that I spoke to has immense knowledge of *p'asa* and Kwakwaka'wakw customs generally. They have been involved in repatriating artifacts taken during the potlatch ban, others are artists, some are familiar with traditional medicine and healing, and others are often consulted by community members because their family is well respected.

I received each interview as a lesson in Kwakwaka'wakw culture and tradition with some focus on Kwa'kwala. I sought to learn more about Kwakwaka'wakw ways of looking at and relating to *nawalogwatse/gigitsu*.²¹ I sometimes started with questions about *gigitsu* directly and at other times started with the translation and interpretation

²¹ I have used *nawalogwatse* and *gigitsu* interchangeably to mean treasures or property such as land, names, songs, dances, crests, coppers, etc.

questions. We also discussed what problems arise with respect to Kwakwaka'wakw *nawalogwatse* and *p'asa*. I asked various interviewees questions concerning songs, dances, Kwa'kwala, crests and rank to clarify and correct my knowledge of *p'asa*. Finally, I asked each interviewee to discuss how we might deal with disputes about descent or use of *nawalogwatse/gigitsu* as Kwakwaka'wakw peoples.

I have been consistently told that in our learning process you must always remember who you are and where you come from. Therefore, I remained cognizant of my interest, through my ancestry and as a Gwa'Sala-'Nakwaxda'xw band member, in this research. The "Protocols & Principles For Conducting Research in an Indigenous Context" of the Faculty of Human and Social Development at the University of Victoria were also applicable to my research and have been reviewed for my project. I have given a limited perspective based on what I have learned from my Indigenous community – my family. My research and writing has followed customs that my family has taught me and that arise as a part of my methodology. This means that only those who wished to share their thoughts were consulted and had the choice of whether and when to have their name and the information that they shared made public. The research results will be shared with, and approved by my interview participants, and will also be made available for use by the Gwa'Sala-'Nakwaxda'xw.

Preliminary Literature Review

As stated above, my research has two focal points: (1) to demonstrate to my grandfather Udzistales, and like-minded people, that our family has succeeded in teaching Kwakwaka'wakw customs to my generation; and (2) demonstrate how those customs work with respect to property ownership and descent. My perusal of secondary sources, books, articles and case law started with a broad search of literature written from

an Indigenous perspective about Indigenous laws regarding cultural property and traditional knowledge.²² There was no explicit articulation of an Indigenous people's law regarding property. Second, I looked for sources on the Kwakwaka'wakw peoples with a quest to find something that referred explicitly to our laws regarding property. I was unsuccessful.²³ Third, I looked for sources that spoke about *p'asa* as a governance structure. There was no such articulation.²⁴ I will elaborate where this perusal through written sources has influenced my subsequent research and writing.

As I sat and read Chaudhuri and Chaudhuri, and Battiste and Henderson I was led again to think about "cultural boundaries" and any person's capacity to write about an Indigenous people. There are times when our elders and knowledgeable people are expected to remain silent; to speak would be to cross a cultural boundary. Our people are given information on a need to know basis. I know of one instance where this boundary has been crossed by one of our knowledgeable community members; my grandfather's

²² See e.g. Marie Battiste and James Youngblood Henderson, *Protecting Indigenous Knowledge and Heritage* (Saskatoon, Saskatchewan: Purich Publishing Ltd., 2000); Gregory Cajete, *Look to the Mountain* (North Carolina: Kivaki Press, 1994); Jean Chaudhuri and Joyotpual Chaudhuri, *A Sacred Path: The Way of the Muscogee Creeks* (California: Duane Champagne, 2001); Vine Deloria and Daniel Wildcat, *Power and Place: Indian Education in America* (Golden, Colorado: Fulcrum Resources, 2001); Linda Tuhiwai Smith, *supra* note 11.

²³ See e.g. Franz Boas, *The Social Organization and Secret Societies of the Kwakiutl* (New York: Johnson Reprint Corporation, 1970); Franz Boas, *Ethnology of the Kwakiutl, Bureau of American Ethnology, Thirty-Fifth Annual Report, Parts 1 and 2* (Washington D.C.: Washington Government Printing Office, 1921); Franz Boas, *Kwakiutl Culture as Reflected in Mythology* (New York: G.E. Stechert, 1935); Helen Codere, *Fighting With Property: A Study of Kwakiutl Potlatching and Warfare 1792-1930* (Seattle, Washington: University of Washington Press, 1972); Ronald P. Rohner and Evelyn C. Rohner, *supra* note 13.

²⁴ See e.g. Helen Codere, *supra* note 23; Franz Boas 1970, *supra* note 23; Franz Boas 1921, *supra* note 23; Franz Boas 1935, *supra* note 23; Philip Drucker and Robert F. Heizer, *To Make My Name Good* (Los Angeles: University of California Press, 1967); Gail Ringel, "The Kwakiutl potlatch: history, economics, and symbols" (1979) 26.4 *Ethnohistory* 347-362; Abraham Rosman and Paula G. Rubel, *Feasting With Mine Enemy: Rank and Exchange Among Northwest Coast Societies* (New York: Columbia University Press, 1971).

grandniece crossed this particular boundary to respond to how an academic chose to write about our people.²⁵

I relied on this requirement of silence in approaching my *ninogad* for interviews. When I submitted my University of Victoria Ethics Application for approval to conduct my interviews, approval was withheld until I addressed three concerns of the Ethics Board. One of those concerns revolved around the potential for coercion of participants. The Board was concerned that because I was interviewing family, that potential participants would feel bound to agree to an interview because I am related to them. My supervisor Leslie Brown and I discussed the best approach to respond to this valid concern. I informed the Board that I was relying on my relationship to potential interviewees to gain access to participants but that in no way would I coerce them. I added that even if people agreed to be interviewed that that did not mean that they would tell me everything I wanted to know. Our elders tell you only what you are ready to know and what you have a right to know; nothing more. This was definitely the case with my interview participants.

In addition to not pushing interviewees to share more than they were willing to share I had copies of the fifth draft of my thesis delivered to them for their review. I asked them to correct anything that I may have used wrongly or inappropriately. My grandma and Uncle Rick delivered the copies on my behalf. By having family members deliver the copies I was ensuring a personal rather than formal delivery of the draft. Each draft contained a personalized letter indicating which pages each person should pay attention to if they did not have the time to look through the entire 127 page document.

²⁵ Daisy Sewid-Smith, "The Continuing Reshaping of Our Ritual World by Academic Adjuncts" (1997) 28.4 *Anthropology and Education Quarterly* 593-605.

This process was difficult for me because I was not personally delivering copies to my participants. My Auntie Ann was the first person to call me with her comments. One of those was that she appreciated that it was my grandma who showed up on her doorstep to deliver my thesis. Auntie Ann and Auntie Lucy each corrected my usage of a word that I had encountered in *Paddling to Where I Stand*. They explained to me that it refers to an actual nation and that our people wrongly use it in a derogatory fashion. I have since deleted the word from my glossary and from use within the body of my thesis.

The analysis provided in Battiste and Henderson and the stories shared and analysed in Chaudhuri and Chaudhuri also indicated to me that there is a lack of written articulation as to what Indigenous laws exist with respect to property and knowledge. They also provide a method of articulating those laws. The method of filling that space is simply, yet not so simply, to share, within cultural boundaries, how ceremonies and stories reflect those laws. Therefore, I was next led to research through the ample available written sources on Kwakwaka'wakw peoples for an articulation of our laws.

P'asa of Kwakwaka'wakw peoples

Here I was looking for sources that would help me to understand *p'asa*, that would add to my own experiences and understanding of it. As a child I attended *p'asa* with my grandfather Henry Bell, my grandmother Edith George, and other family members. I can remember when I was eleven and our family hosted a memorial *p'asa* with our Sewid family relatives. We prepared months in advance by driving three hours from Port Hardy to Campbell River, on numerous occasions, to practice dances that my siblings and I were given the right to perform. An aunt and an uncle who were aging chose to pass their dances on to my sister and one of my brothers rather than have the rights to performance disputed after they had passed away. Much like my grandmother

had done in her young days we attended our lessons and did not question why or how things came to be that way; that's just how it was done.²⁶

There are two articles that I have found especially useful; they were written about the *p'asa* I just mentioned in the previous paragraph. It was in June of 1987 when the Sewid family, with my family (because we are related), hosted a *p'asa*. It was a memorial for numerous family members who had passed away, including my Grandfather Henry Bell. However, the portion emphasized today from that *p'asa* is a peace treaty that was signed between our Kwakwaka'wakw communities and the Bella Coola to end an historical rivalry. Professor Harry Walcott, as a friend of my grandfather, was invited to and attended the *p'asa*. Harry wrote an article about his perspective at the *p'asa* as an academic on the periphery.²⁷ Daisy Sewid-Smith, my grandfather's grandniece, an insider expert on Kwakwaka'wakw peoples who is often consulted, was infuriated by Harry's writing and felt compelled to cross the boundary from traditionally mandated silence to give an accurate account, from her perspective, of what took place. This dialogue has inspired me to try to uncover and discover the validity of each account. My thesis research has served as a starting point to achieving a better understanding of these events.

In reading Daisy's response I was reminded of my grandfather's words to Daisy's father Jimmy Sewid when Harry's previous work about Village Island was published. My feelings were quite similar to what Harry relays of my grandfather's words to Daisy's father years ago:

²⁶ Interview with Edith George and Richard George by Lucy Bell (Port Hardy, 31 January 2005).

²⁷ Harry F. Walcott, "Peripheral participation and the Kwakiutl potlatch," (1996) 27.4 *Anthropology and education quarterly* 467-492.

Discussing the book shortly after its publication, another prominent elder expressed dismay to Reggie's grandfather [fictitious name to protect my cousin's identity] at the "poor image" created of Kwakiutl people, noting particular concern for the drunken comportment and "bad language" I had so meticulously chronicled. "But Jimmy' I said to him" the Old Man [my grandfather Henry Bell] related when next we met, "you know that Harry's book tells about the village just the way it is."²⁸

Other than work done by Daisy Sewid-Smith and Gloria Cranmer-Webster,²⁹ sources that exist in relation to *p'asa* are for the most part anthropological, ethnographic in nature and I have decided to rely on them as little as possible. My goal is to share our laws as they exist today and relying on anthropological texts would go against that desire. For example, Franz Boas had a historical focus and chose not to rely on traditions as they were practiced when he was in contact with our people.³⁰

In my view this is dangerous and results in a very different perspective because the information is then removed from the author several times. First, the person sharing knowledge is being asked for old information. Second, the person listening filters through that information with his/her own knowledge and experiences. Third, in the case of Boas and Hunt, that information is further diluted by the writer's perspective and choices with respect to wording, what to share, when to share it, where to share and in

²⁸ Harry F. Wolcott, *A Kwakiutl Village and School*, updated edition (Walnut Creek, CA: Altamira Press, 2003) at 138; when I read through Harry's book I didn't feel he was portraying such traits in a derogatory way whereas other such works do just that in the language that they use.

²⁹ See e.g. Daisy Sewid-Smith, *Prosecution or Persecution* (British Columbia: Nu-Yum-Balees Society, 1979); Daisy Sewid-Smith (translator), *Paddling to Where I Stand: Agnes Alfred, A Qwiqwasutinuxw Noblewoman* (Vancouver, British Columbia: UBC Press, 2004); U'Mista Cultural Society (Executive Producer), *Potlatch: a strict law forbids us dance* (Vancouver: Canadian Filmmakers Distribution West, 1975); U'Mista Cultural Society (Executive Producer), *Box of Treasures* (Vancouver: Canadian Filmmakers Distribution West, 1983); Gloria Cranmer-Webster, "The "R" Word" (1988) 6:3 *Muse* 43; Gloria Cranmer-Webster, "The Potlatch Collection Repatriation" (1995) *U.B.C. Law Review (Special Issue)* 137.

³⁰ See e.g. Charles Briggs and Richard Bauman, *supra* note 14 at 487, 489; Judith Berman, *supra* note 14.

what context all of this is done.³¹ Most sources following Boas' time rely on Boas' work and therefore are even further removed from Kwakwaka'wakw perspectives.

Those sources can be further categorized as a general overview of history,³² a general discussion of the effects of the potlatch ban on Kwakwaka'wakw peoples,³³ the perspective of it as a social and/or economic system,³⁴ or in other more specific ways a critique of how Kwakwaka'wakw peoples frame the political and legal struggle for self-determination,³⁵ as an analysis of the more specific changes to the procedure, such as types of or number of dances performed in a potlatch, followed in *p'əsa*,³⁶ or as an analysis of religion in these changes.³⁷ However, contrary to how these sources treat our culture, our laws and ways are not frozen in time. Colonial powers have changed our ways of living and under that our laws have also changed. This change does not make them any less Kwakwaka'wakw. We still live, our laws still live.

My concerns with cultural boundaries, voice and capacity have led me instead to focus my use of literary sources on biographical works of Kwakwaka'wakw peoples.

³¹ See e.g. Judith Berman, *ibid.*

³² See MacNair in Bruce R. Morrison & C. Roderick Wilson, eds., *Native Peoples: The Canadian Experience* (Toronto: McClelland and Stewart, 1986).

³³ See Daisy Sewid-Smith, *supra* note 29; U'Mista Cultural Society 1975, *supra* note 29; U'Mista Cultural 1983, *supra* note 29.

³⁴ See Helen Codere, *supra* note 23; Douglas Cole & Ira Chaikin, *An Iron Hand Upon The People: The Law Against the Potlatch on the Northwest Coast* (Vancouver: Douglas & McIntyre, 1990); Philip Drucker & Robert F. Heizer, *supra* note 24; Joseph Masco, "'It Is a Strict Law That Bids Us Dance': Cosmologies, Colonialism, Death, and Ritual Authority in the Kwakwaka'wakw Potlatch" (1995) 37.1 *Comparative Studies in Society and History* 41-75; Gail Ringel, *supra* note 24.

³⁵ See Barbara Saunders, "From a colonized consciousness to autonomous identity: shifting relations between Kwakwaka'wakw and Canadian Nations" (1997) 22.2 *Dialogical anthropology* 137-158.

³⁶ See Bill Holm, "Traditional and Contemporary Kwakiutl Winter Dance" (1977) 14.1 *Arctic Anthropology* 5-24.

³⁷ See Forrest LaViolette, *The Struggle of Survival: Indian Cultures and the Protestant Ethic in British Columbia* (Toronto: University of Toronto Press, 1961).

These people include: Charles Nowell, Agnes Alfred, Harry Assu, and James Sewid.³⁸ Each of these biographies offers insight into *p'asa* and the laws of *p'asa* through the personal experiences of these individuals and their families. At the same time some of these accounts conflict with my families' histories. This backdrop allows me to explain what property has come under multiple claims of ownership. And then I can explain from my understanding, and with my interview participants teachings, how the question of ownership would be resolved. And finally, I can pull principles, from my understanding, which help to resolve disputes about property, not only within our own Kwakwaka'wakw communities but also as against the outside world.

In conducting my interviews I asked my interviewees about their view of the potential for State law to offer any sort of aid in protecting Kwakwaka'wakw property. I did not receive one affirmative response. One of my interviewees is an artist and has experienced problems with non-Kwakwaka'wakw believing that after they saw her designs and worked with her that they could freely continue to do so. Contract law and intellectual property laws were of no help to her; I will share her story in more detail later.³⁹ Another interviewee, an aunt of Anthony Dawson, a Kwakwaka'wakw artist who died in police custody, related how Anthony's parents are seeking answers in regard to his death in the Canadian system and have not had any satisfactory results. These are just two examples of how the Canadian political and legal systems have let our people down

³⁸ See Clellan S. Ford, *Smoke From Their Fires: The Life of a Kwakiutl Chief* (USA: Yale University Press, 1941); Martine Reid, ed., Daisy Sewid-Smith, translator, *Paddling to Where I Stand: Agnes Alfred, QwiQwaSutinuxw Noblewoman* (Vancouver: UBC Press, 2004); Harry Assu with Joy Inglis, *Assu of Cape Mudge: Recollections of a Coastal Indian Chief* (Vancouver: UBC Press, 1989); James Spradley, *Guests Never Leave Hungry: The Autobiography of James Sewid, a Kwakiutl Indian* (New Haven and London: Yale University Press, 1969).

³⁹ *Infra* 89-92.

and confirms for me the decision not to explicitly address how these Canadian systems may or may not help in formulating laws for the protection of Kwakwaka'wakw property.

Layout of remaining chapters

In chapter two I will explain how my research was done and how I approached it. This includes explaining Chilkat weaving and sharing some Kwakwaka'wakw principles that were important for me to remember as I conducted my research. These principles are reflected also in how I chose and approached potential interviewees. I will briefly share how that process went and describe how I know and how I am related to each interviewee. Chapter two will also give other Kwa'kwala terminology that relate to property and ownership that you, as my readers, should be familiar with.

In chapter three I will lay out what I believe to be some fundamental elements of our laws of descent. This includes sharing some narratives that will be tied into how and what I understand our relationships to one another to be and what responsibilities these relationships foster and entail. After discussing relationships and responsibilities I will share some answers to the question of whether we are patrilineal or matrilineal society and why the answers are not straight forward.

Throughout my thesis I will share the views and teachings I heard from my interviewees but chapter four will be dedicated to illustrating what I learned through my interviews. What are the problems we face today with respect to descent of names, songs, dances, crests, coppers, and other such types of property? As a starting point I will share the picture of descent and importance of ownership amongst our people that were articulated to me through the interviews. This is illustrated through the sharing of a story of a Kwakwaka'wakw artist's experience and concerns.

In chapter five I will identify issues that arise in the scene I came across on the University of Victoria campus and in Corrine's story. I will then venture some conclusions as to principles that would help in addressing those issues. These conclusions are offered as a starting point for discussions regarding the formulation of laws for the protection of Kwakwaka'wakw property.

CHAPTER TWO - METHODOLOGY

My sister (cousin) Rachel Hunt is the inspiration for my methodology. I have asked for and received her permission to share a recent learning experience of hers. Rachel learned how to Chilkat weave under the instruction of Willie White. Rachel has also read draft five of my thesis and has given her comments. I observed her learning how to Chilkat weave.

Willie agreed to only teach those who have the right to wear and to weave Chilkat weaving. Rachel and her colleagues are all descendants of Anislaga (Mary Ebbets) who was a Tlingit woman. I am also one such descendant and was allowed to watch as the ladies learned the art of Chilkat weaving. Willie, Rachel, and the other students all endured numerous questions from me. One evening Willie pulled me aside and asked whether I had the right to wear Chilkat blankets. I explained multiple ways in which I've gained that right. Willie then offered to allow me to enrol in his next class to take place in September 2005.

Rachel's finished product was a small bag; the design that formed the outside front of her bag is a spiritual Chilkat rendering of a human profile (see illustrations 2.1, 2.2, 2.3). Rachel worked on a loom to which a leather strand was attached; from that leather strand hung twenty-eight natural colour strands of yarn, in seven groups of four. It was between and through these strands that she wove.

First, she meticulously wove many lines of black that formed a frame with a thinner white and then another thin black inside that multi-layered frame. This frames the human facial profile filling the allotted space in thirds. The top third has a white background with a prominent well-defined black eyebrow. The middle third has a yellow

background framing the eye at the left side; the eye has a distinct thin black line shaping the outer eye with a circular black pupil. The right hand side of the middle third is filled with a black nose with a large white nostril. The bottom third is filled with a white background and two-thirds of that is filled with the profile of an open mouth with teeth, which look like animal teeth as they alternate between black and white with a thin white line separating the top and bottom teeth.

I envision my thesis methodology to be much like Chilkat weaving; in this metaphorical use of Chilkat weaving I am the weaver. I have done my best to follow the process and rules that Rachel and her fellow students were taught. I watched Rachel weave lines, having to remember how many strands of thread to warp,⁴⁰ when to switch braids, when to interlock, whether to weave over or under. I learned that weavers, and other Indigenous artists I'm sure, have to remember to keep good energy and thoughts, to keep the bad outside of their weaving environment.

This is why the weavers had our grandmother Anislaga (my great-great-great grandmother Mary Ebbets of Tlingit ancestry) in the room with them by having a picture of her hanging on the wall peering over their shoulders. In this way Anislaga reminded them of the significance of what they were learning. At the end of each day they had to cover their work so that it wouldn't be exposed to anything during the weaver's absence. If you speak ill of your art it will react in kind; for example if you are in a bad mood and not focussing it may become impossible for you to get past a certain point in your weaving. If you are too tense as you work it will show in your piece, but if you remember to maintain good energy that energy will be evident in your product. I held an

⁴⁰ This is a weaving term, meaning: "the threads stretched lengthwise in a loom to be crossed by the weft" found in *The Concise Oxford Dictionary*, 9th ed., s.v. "warp".

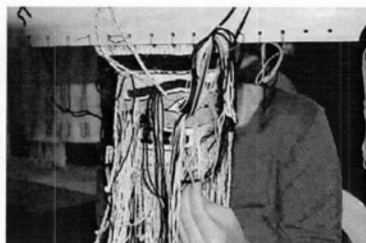
aunt's piece after its completion and the warmth and loving energy she put into it could be felt in the weaving.

In my weaving project I am considering the different types of narratives used for my thesis to represent the different colours in my weaving. These narratives are those found in my interviews, in biographies and other written sources used, and in my own life experiences. My loom, leather strand and twenty-eight strands through which I have woven are my research questions that I set out to answer. While I have worked with three types of narratives, each type is complex and required the use of many strands of that colour. I too have had to remember when to bring strands in, how many to work with at a time, and to allow my work to speak to me and help me to complete it.

There are some Kwakwaka'wakw concepts that I have come to learn through asking for the interpretation and the translation of English words. These Kwa'kwala words and concepts have guided how I can ensure that healthy energy is at the heart of my thesis just as my sister Rachel had to do as she wove. The major overlying guide that I have used is called *ha'se*, breath. My uncle Richard George explained to me some time ago that *ha'se* is the breath of life that we receive from our ancestors; in Rachel's learning experience the focus was on our great-great-great grandmother Anislaga (Mary Ebbets). This breath of life reaches up through the generations but for my focus I have tried to look at the families of my grandparents as a starting point; it will become evident that a close focus such as this is not possible because references to my grandparents inevitably reach farther back through the generations. I used *ha'se* to guide me to potential interviewees and then asked those people for their suggestions as to who I might consult in addition to them.



Ill. 2.1 Rachel's project in progress, day 9 [Photo, Lucy Bell]



Ill. 2.2 Back view of Rachel's project, day 12 [Photo, Lucy Bell]



Ill. 2.3 Rachel's weaving is finished still on the loom [Photo, Lucy Bell]

Keeping in mind my ancestors and future generations it is also important to remember to carry yourself with care in everything that you do. This is *tlikilala*; I believe it is emphasized in families of high rank and especially of the eldest children in those families.⁴¹ You have to remember to *tlikilala* in order that the head of your family will not have to host a *digita* to wipe away any shame caused by somebody to you or that you inflict.⁴² Jimmy Sewid and Axuw (Agnes Alfred) refer to this in their biographies, this need to be careful or else you'll be in trouble because your dad will have to *digita* for you.⁴³

As I sat and thought about the concepts that would guide my methodology, which are found in Chilkat weaving, *ha'se*, and *tlikilala*, I couldn't help but think about reading cases such as *Delgamuukw*, that rely upon the telling of sacred traditions to an ungrateful audience that didn't appreciate its depth and importance. I think about how Justice McEachern was told sacred stories about the Wetsuwit'en and the Gitksan; these stories were shared by important and knowledgeable people from among the Wetsuwit'en and the Gitksan. The judge was carried through the ages and told of how the land and the

⁴¹ Interview with Edith George and Richard George by Lucy Bell (Port Hardy, 31 January 2005).

⁴² *Digita* is later described below at 43.

⁴³ James P. Spradley, *supra* note 38 at 23, 48, 65; Martine J. Reid and Daisy Sewid-Smith, *supra* note 38 at 93-96.

people were important to one another. Then I think about how with the symbolic stroke of a pen he dismissed the importance of those stories.⁴⁴

This line of thought led me to ask myself whether it was appropriate to write my thesis and centre it on my family's traditions. The concepts, rules, protocols, laws and what they protect are sacred and the people who hold that knowledge know it for a reason and carry it with care. I've also had to work through my place in that larger picture. Was I, even as a Kwakwaka'wakw woman, just another outsider looking for knowledge that I was one not entitled to know and second, assuming I could come to know it, was I entitled to share it? Here I will explain how these issues were resolved for me, especially since the very topic I was researching had to do with protecting Kwakwaka'wakw *gigitsu* (treasured property)⁴⁵ from outside encroachment.

Through my informal interviews with people in my home communities I came to learn words such as *noxsola* and *ninogad*.⁴⁶ *Noxsola* refers to a person of high rank and who because of that rank holds knowledge. *Ninogad* are people who hold sacred knowledge and who have a leadership role to play in our communities because they have acquired so much knowledge that they are considered to be wise. The fact that my *ninogad* were willing to talk with me assured me that I am not doing wrong. They were not only willing interviewees but were excited about the work that I am undertaking in this thesis and adamant about its importance for our people, our families.

⁴⁴ See McEachern C.J., *Delgamuukw v. B.C.*, [1991] 3 W.W.R. 97; see also Antonia Mills, *Eagle Down Is Our Law: Witsuwit'en Law, Feasts, and Land Claims* (Vancouver, British Columbia: UBC Press, 1997).

⁴⁵ Interview with Paddy Walkus by Lucy Bell (Gwa'Sala-'Nakwaxda'xw Band Office, 26 January 2005); Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

⁴⁶ Interview with Peter Knox, Mabel Knox, and Dorothy Wasden by Lucy Bell (Fort Rupert, 20 January 2005); Interview with Harry Bell and Lily Bell by Lucy Bell (Port Hardy, 22 January 2005); Interview with Ann Brotchie, Lucy Smith and Colleen Hemphill by Lucy Bell (25 January 2005); Interview with Paddy Walkus by Lucy Bell (Gwa'Sala-'Nakwaxda'xw Band Office, 26 January 2005); Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

I've also kept in mind that my audience will consist of not only my thesis supervisory committee and those who choose to attend my thesis defense but more importantly include my family and community members. Therefore I assume that my audience is likely to consist of people who will be respectful of its content. The story that I want to share is one that allows me to learn from my *ninogad* while undertaking a thesis to complete a graduate degree. In itself my research taught me the proper ways to go about learning the concepts, laws, protocols that I was searching for. I followed these as best I could as I researched and wrote my thesis.

I visited the appropriate people to learn what knowledge they could share with me but it was still reinforced to me that there was a more appropriate way to go about learning the information I sought. That is not to say that I approached the wrong people or that I did so in an unacceptable way. What my family reminded me was that in order to get a look at the bigger picture that I sought, I needed to gather our family members together in one place at the same time to obtain the whole picture. I was reminded that they were each given only fragments of my grandfather's knowledge, that they each only knew a portion of what I sought and that in other regards it would have been easier for them to answer some questions if they could bounce their thoughts and recollections off of one another.

In addition, given the time frame within which I sought to complete my interviews I chose to interview those who were available at the time. I asked my pool of interviewees to suggest people who they themselves would go to in order to seek answers to their own questions. It would have been impossible and unthinkable to be home, with these interviews to do, without receiving advice from any family or friends with whom I

stayed or visited. Those suggestions were also welcomed and followed as much as they could be. I will take some time therefore to introduce how I selected interviewees and who they are to me.

Interviewees Introduced

When I started my thesis I had a narrowed vision of my family in mind and had planned on focussing on my Bell family line. As I prepared to go home and before I started my interviews I realized that I needed to be more inclusive of other lines of my family. I think that what ultimately took place more accurately reflects the concepts I have shared. My *ha'se* comes from more than just my immediate family; people's lives are influenced by more people than those who gave them life. It is by paying attention to your surroundings that you *tlikilala*; only by giving credence to others do you actually *tlikilala*. This expanded vision allowed me to interview people who were available in the short time I was home and who were interested in and willing to help me with my research.

I did set out with the hope of doing just that but found that even though I had given myself two weeks in which to be at home to do my interviews, unexpected events tended to happen. I had a core group of people that I wanted to talk to while I was home and I was grateful for the chance to speak with any people over and above that. As it turned out I stayed home for three weeks waiting in turn for each of my core group; one was away from home repairing his spring dwelling for oolichan grease making and not contactable by telephone, another ended up sick, and our communities were suffering a lot of losses that took people away from home.

Because of these unexpected events I had to extend my stay and recruit other interviewees. If I was not constrained by my own thesis timetable and by the limited

space a thesis allows for my thoughts, I would have stayed at home and done a lot more interviews. I think most of our people would agree that speaking with our elders about descent of our *gigitsu* is critical. If I had had the time to approach them and build or rebuild a relationship I could have interviewed people with other backgrounds, and gained the advantage of many more perspectives. Although within even three weeks I was able to gather some variety and differing views on the topic of proper use of and descent of “property.”

I drove to each interview equipped with my ethics forms, questions, paper, pen and digital recorder. I was for the most part in my school frame of mind and was punctual; especially for those people I had not had contact with for years. I was running late to pick up my Cousin Lily so that she and I could meet her dad; she sat at home thinking “Oh that smart Loots [my nickname for some of my family]; she runs on Indian time.” In this instance this was acceptable because we are not only closely related but my Uncle Harry, Cousin Lily, and my siblings and I all share a close connection. In addition, we still needed to spend some time together before the interview and that was likely going to be done over lunch since my uncle had been visiting his partner in the hospital that morning.

This relaxed state was not the case when I went to meet another interviewee; I visited with my grandmother during the morning before a 1pm interview and at ten minutes to one announced that I was leaving. My grandmother asked for a ride into town to do some errands and forgetting that this likely meant I would have to accompany her to each location and guided really only by the fact that you don't deny your grandmother a request, I agreed. The errands would take me all over the small town of Port Hardy so I

decided to tell my grandmother that I had to be at the Band Office on our reserve; she was pleased because she had business to do there as well, so we had to go back to her home to pick up her paperwork. I sat there in the driver's seat telling myself to be patient as I panicked that I was late for an interview. Of course when we arrived at the Band Office my interviewee happened to be one who does quite often run on "Indian time" and he wasn't there waiting for me.

The time frame I had given myself to be home was to allow some time to approach each potential interviewee and to visit with her/him before requesting an interview. During my initial visit we were able to chat a little, to catch up, and I was able to share what I am doing at University. At the end of each visit I left with an appointment to go back and conduct an interview. I conducted four as group interviews and another four as individual interviews.

Before I introduce my interviewees I would like to briefly address the question of time and its value to me and each interviewee. It reminds me of Axuw's story as told in *Paddling to Where I Stand* by Ms. Reid and Daisy Sewid-Smith; they preface Axuw's stories with a discussion of time. In that case it's about how for Axuw "not too long ago" could be decades ago and "a long time ago" referred to mythical time.⁴⁷ I would contrast this with my own lifespan; Axuw lived quite a long and healthy life while I am somewhat young and do not yet see decades as a short time span. But at the same time in my home environment I do take a more relaxed view of time than I do when I am in my school environment.

⁴⁷ Martine J. Reid and Daisy Sewid-Smith (translator), *supra* note 38 at xix, xxviii.

I allowed myself into the home of Pete and Mabel behind my uncle Scottie Sedgemore. Mabel introduced Scottie and I as Pete finished up his work in the yard. These are the first people I interviewed: Peter Knox, Pete's wife Mabel Knox and Pete's sister Dorothy Wasden.⁴⁸ Their home is a little different from what I remember as a young child but offered the comfort I've become familiar with in so many other family homes; a good setting as I settle down to conduct my first interview. Pete and Dorothy are related to me through the Hunt line of my family; George Hunt is Pete's great-great grandfather and my great-great-great grandfather, Pete's great-grandfather David Hunt (George's first son) and my great-great grandfather Jonathon Hunt (George's third son) were brothers. Mabel and my Uncle Harry (who I describe next) are first cousins, Mabel's father and Harry's mother were siblings, and Mabel was one of my babysitters as a child. Pete is the grandson of Mungo Martin, renowned artist and is the current guardian of the Mungo Martin House in Thunderbird Park at the Royal British Columbia Museum.

My second interview was with my cousin Harry Bell and his daughter Lily Bell; I actually call Harry "Uncle Harry" as do most of our cousins because he is a respected member of our family. Harry is my grandfather's eldest grandson and around the same age as my grandfather's youngest daughter Doreen Walkus. He is the only living son of our grandfather's eldest son, John Bell. Every visit home I receive stores of fish from him to take back to school with me. He looks out for all of his family in this way because this is what he learned from our grandparents and our great-grandparents, Mumuta (Joseph Walas) and Dildala (Mary Walas), who raised him. He is not only respected in

⁴⁸ See Relationship Diagrams at page xiv.

our family but in our communities as well. My uncle sees interviews as rigid and formal and told other family that I was going to make him talk into a recorder. To help to make it less so I asked my Cousin Lily to join us.

My third interview was with Ann Brotchie, her younger sister Lucy Smith, and Lucy's daughter Colleen Hemphill. I've called Ann "Auntie Ann" for I can't recall how long and she's always been a vocal member of our communities, somebody who other elders talk to when they need to jog their memory on any given topic. Her younger sister Lucy has taught Kwa'kwala to children and is also often consulted especially for language references. Colleen is the Gwa'Sala-'Nakwaxda'xw Nation's Treaty Negotiator and I asked her to attend this interview to bridge a gap that I wrongly perceived to exist because I'd never actually been introduced to her mother.

Paddy Walkus was my fourth interview and first individual participant. He has served numerous terms as the elected Chief Councilor of the Gwa'Sala-'Nakwaxda'xw Nation. I can remember as a teenager his encouraging words and pride in the students of our Nation. He is very forthcoming with his views on the shortcomings of the system within which he has to work and humble about what he's come to learn over the years from his elders. His lessons came to him not only from his family but from elders in his youth who wished to share their knowledge with him. Those elders included my grandfather Henry Bell, which is one of the many reasons he agreed without question to do an interview.⁴⁹

My second individual interviewee, and fifth interview, was my Aunt Patricia Dawson-Hunt. Her mother (Ethel Dawson, née Wilson) and my grandmother (Christine

⁴⁹ Interview with Paddy Walkus by Lucy Bell (Gwa'Sala-'Nakwaxda'xw Band Office, 26 January 2005).

Hunt, née Wilson) were sisters; her father's (James Dawson) grandfather (Tom Dawson) and my grandfather (Henry Bell) were first cousins who referred to each other as brothers. Auntie Pat is one of our family members who I have asked questions of in the past and who my mother also turns to at times. She has not only an undergraduate degree in Social Work but has also received knowledge of our ways through her father, James Dawson, who hosted a potlatch which is often held up as having been done the "proper" way. He has since then passed away, but because I know he had shared his knowledge with my aunt, I asked her to participate in my interviews.

My visit home meant that I was able to visit with my family, whom I rarely get to see while I am at the University of Victoria. I sat with them, chatted with and was fed by them. Over the first days of my visit I spent a lot of time with my grandmother who was eager to help me find potential interviewees and direct me in other ways. Of course during those times she also shared her thoughts and knowledge with me. I didn't sit with her formally until my stay home for that visit was coming to its end. My grandmother, Edith George, and Uncle Richard George (Uncle Rick) were my sixth interview and final group interview.

What I intended to be my final interview in Port Hardy came the next day when my Uncle Richard Dawson (Uncle Dick) had some free time. I'd visited with him by then on a few occasions and had some informal discussions about what it was I was doing. He echoed the advice of my Uncle Harry, which was the need to actually sit with our family collectively to gather our family knowledge. Richard was adopted by his grandfather Tom Dawson and raised by Chief Adam Dick. My grandfather Henry Bell also wanted to adopt Richard but in the end agreed with Tom's adoption of him. As a

result of his grandfathers' (Tom and Henry) love for him, and of being raised by Adam, my Uncle Dick holds immense knowledge of the ways of our people and a strong opinion of what we've come to be and what we should strive to do for our future generations. I was not therefore going to leave Port Hardy without having formally interviewed him.

I would like to share more about Rachel's weaving course before I go on to introduce my final interviewee. My visit home, as I stated at the beginning of this chapter, coincided with a two week weaving course in which seven of my Hunt family members participated. My aunts and cousins were bringing home Chilkat weaving, brought to us by our Grandmother Anislaga (Mary Ebbets) who was Tlingit and moved down to Kwakiutl territory after her marriage to Robert Hunt (English). Chilkat weaving hadn't been done on our home soil for at least 80 years.⁵⁰ The ladies sat in my cousin's basement every day over a span of twelve days for at least six hours a day learning the extremely difficult weaving technique while our grandmother watched over their shoulders.

It was during one of these evenings that I met my Cousin Corrine Hunt and over the remaining days we forged a bond. Corrine's father Alfred Hunt is a younger brother of my great-grandfather William Hunt. Having completed the interviews I'd gone to Port Hardy to do I stopped by to say "goodbye" and "good luck" to my family weavers and was surprised and pleased by multiple exclamations of "What? You're not staying for our unveiling or for our feast?" Corrine asked what my thesis was about, so I explained. She could hardly contain her excitement and, as an artist, had much to say on the topic. I invited her to be one of my interviewees, to which she enthusiastically agreed. So I

⁵⁰ See M. Allen, "Lost weaving technique returns to North Island" *The North Island Gazette* (09 February 2005) online: North Island Gazette <<http://www.northislandgazette.com/>> (accessed: 10 February 2005 and 17 February 2005).

stayed for an extra few days as they completed their Chilkat bags, prepared for their feast, attended their feast and on their last morning together I conducted my final individual interview, and final interview in Port Hardy, with Corrine before she went to her class to receive her seven month homework assignment.

With my research and writing methodology explained, and my interviewees introduced, I think that it is also important to know some of the words that these people shared with me during my interviews. I have already done so to some extent but there are still more Kwa'kwala words that my readers should know before I go on to share more about our people and our ways. Knowing the words and understanding some of a deeper meaning rather than just a translation is a crucial step to understanding what I am trying to convey.

Language/Terminology

Language is an essential part of who we are as Kwakwaka'wakw peoples, of our identity, of our culture and of our traditions. Kwakwaka'wakw after all refers to Kwa'kwala speaking people. My Uncle Robert Joseph's (Uncle Bobby Jo) thoughts on the topic were shared at a language conference hosted by the First Peoples Cultural Foundation in 1996. His words were later shared in a story in the *Awa'k'wis*, a local Indigenous-run paper of the Kwakwaka'wakw, which has ceased publication, and his words speak to the importance of our language and our laws:

Our languages are our source of power. Only our language can tell our history in a proper way, only language can tell of your destiny. [...]

Through language we learn our histories, the important original creation stories when the creator marked our territories and gave us a language unlike any language in the world! Who had the right to take our language away? No one! [...]

Our language described the Creator, kinship, territories, our indigenous law and everything in a way that has no comparison. [...]

White man has a different world view, a different god, a different language, a different law and different values. First they took your god away, second, your land, third your children, fourth your language and fifth, they took your laws away. When you have no god you have no spirit, when you have no land you have no culture, when you have no children you have no purpose, when you have no language you have no soul and when you have no law you are beaten down.

So you see language is not a stand alone function, it is a force that binds us. The Creator gave us a language for our own. Language equals power and power equals strength. If you can't speak your language you can't practice culture. If you don't have a language you are not a people. All power and authority flows from our language. We must learn our language if we want to heal as a people. Language is our salvation.⁵¹

I searched for more appropriate ways to describe what it is I am referring to because I didn't think that the term "intellectual property" was as inclusive as such concepts should be. And how could it be? Kwa'kwala is the language of our people and far better equipped to convey the importance of the descent of our "property" than English. The English language has its limitations and the term "intellectual property" refers to items like books, music, plays, movies and not ideas or concepts at the heart of the things that are owned by our people such as the crests, songs, dances and the relationship that each has with a story.⁵² Rather than listing the English words that I sought a translation/interpretation for I will share the words that I learned and the meanings that I was given for each and then for those English words that there aren't

⁵¹ Colleen Hemphill, "Language Crucial for Survival of First Nations" *Awa'k'wis "A Place to Sit and Talk."* (October 15-November 15, 1996) 7.

⁵² See generally Marie Battiste and James Youngblood Henderson, *supra* note 22); Robert G. Howell, *supra* note 5; Martine J. Reid and Daisy Sewid-Smith (translator), *supra* note 38 especially at chapters 2 and 6.

really translations for I will share what those English words mean to some of my interview participants.⁵³

I have shared my first words above but would like to expand: *noxsola* (*ninoxsola*) and *nogad* (*ninogad*). *Noxsola* is a person of high ranking who holds knowledge. *Ninoxsola* is the plural of *noxsola*, thus referring to people of knowledge. *Nogad* is similar to *noxsola* but refers to the person chosen to be the head of a tribe and when *ninogad* of several tribes meet that is called *nanokwala* or a meeting of knowledgeable people.

Wi'oma is women that have high rank in their tribe, women of nobility.⁵⁴ These are the women to whom I have turned in conducting interviews, the women of high rank from my families. For me however I have not turned only to the eldest daughter of eldest daughters as determining rank of a woman, who are more clearly recognised as *wi'oma* in our community. A woman whose life, knowledge and approach to those around her embody “nobility” I have come to see as *wi'oma* in my life. Nobility is a term that has been too easily grasped as translation for high rank and in this sense I understand nobility to refer to kindness, respect rather than a social class.

Nunamgola is a term used to refer to tribes or nations coming together to be one.⁵⁵ This term is heard in a greeting that chiefs make when our people have come together to witness a *p'asa*. Differences are put aside to come together. My Uncle Pete shared that he has his speaker ask people to leave if they bear any hostility toward him at

⁵³ See Glossary at page viii.

⁵⁴ Interview with Edith George and Richard George by the author (Port Hardy, 31 January 2005).

⁵⁵ Interview with Peter Knox, Mabel Knox and Dorothy Wasden by the author (Fort Rupert, 20 January 2005).

that particular time. He said this is done to keep feelings properly respectful of the spiritual space of the *gukdzi*.⁵⁶

Namukw is a term that my dad used when he was talking to his closest friends. I therefore understand it to be a term of endearment, meaning friend but with more of a brotherly feeling.

Nawalogwatse is a term commonly used to refer to all of a person's "property," the land, the songs, dances, names, coppers, etc.⁵⁷ *Awinak'ola* is another word connoting property and refers to the land, the sea, the islands and the resources of each of those.⁵⁸ *Gigitsu* is another term meaning treasures but which my uncle Richard Dawson told me refers specifically to the songs that one owns.⁵⁹ *Tlugway* refers to a supernatural gift or treasure including special abilities/powers, a house, songs, crests, dances and the paraphernalia that corresponds to that gift (dance).⁶⁰ *Mayaxa* is another term that denotes the value of something, in this case however it means precious and that the thing in question demands respect.⁶¹ This diversity in words connoting property should make two things evident. First, property covers a wide range of things, both tangible and intangible. Second, not only is it diverse but the various types of property are

⁵⁶ Interview with Peter Knox, Mabel Knox and Dorothy Wasden by the author (Fort Rupert, 20 January 2005).

⁵⁷ Interview with Richard Dawson by the author (Port Hardy, 01 February 2005).

⁵⁸ Interview with Peter Knox, Mabel Knox and Dorothy Wasden by the author (Fort Rupert, 20 January 2005).

⁵⁹ Interview with Paddy Walkus by the author (Gwa'Sala-'Nakwaxda'xw Band Office, 26 January 2005); Interview with Richard Dawson by the author (Port Hardy, 01 February 2005).

⁶⁰ See Martine J. Reid and Daisy Sewid-Smith (Translator), *supra* note 38 at 7.

⁶¹ Interview with Paddy Walkus by the author (Gwa'Sala-'Nakwaxda'xw Band Office, 26 January 2005); Interview with Edith George and Richard George by the author (Port Hardy, 31 January 2005); Interview with Richard Dawson by the author (Port Hardy, 01 February 2005).

inseparable; you cannot arbitrarily separate the land from its resources or from the stories or songs and corresponding dances that arise from the land or its resources.

Witsatla means that you cannot reach into that box of treasures. A box of treasures contains the *nawalogwatse*, *gigitsu*, *tlugway* owned by the chief who owns that box of treasures. Each box has its own name. A person who has married into a family has a new right to that family's box and unless otherwise indicated by the head of her family no longer has the right to reach into her former box.⁶² This obviously is referring to women and what they give up upon marriage. My understanding is that a woman can bring over the rights to use different *nawalogwatse*, *gigitsu*, *tlugway* with her in a marriage dowry. Her husband, herself and her children have the right to use those things passed along in a dowry and no longer share the collective right to her father's box.

Gukdzi is our "big house;" they were used as dwellings and for ceremonies.⁶³ They are large buildings made of cedar; with four posts that are now decorated with family crests in the form of totem poles and these support four beams. Today there are few that are actually used as a family dwelling place. At my home on the north end of Vancouver Island there are two *gukdzi*, one in Fort Rupert and one in Alert Bay that are used for ceremonial purposes, and one on my home reserve that is used as a dwelling place. As a place for ceremony it is a place where "ownership" of "property" is demonstrated.

P'asa is what our people did to celebrate different stages of life. They are more commonly known as "potlatches", which in Chinook Jargon of the west coast means "to give away." This ceremony was used to celebrate birth, coming of age, marriage, to

⁶² Interview with Richard Dawson by the author (Port Hardy, 01 February 2005).

⁶³ Interview with Paddy Walkus by the author (Gwa'Sala-'Nakwaxda'xw Band Office, 26 January 2005).

initiate a person to one of the secret societies, and to mourn the death of an important person.⁶⁴ Each of these uses of *p'asa* has its own term in Kwa'kwala but for my purposes I will refer to all as *p'asa*.⁶⁵

Tlakwa is a copper and it symbolizes the wealth of its owner.⁶⁶ A copper bears a name and has a crest engraved in its face that relates to that name. At a *p'asa* the hosting chief will display the copper which he is using for that ceremony and the value of all gifts distributed and monies paid out at that *p'asa* are added to the value of the displayed *tlakwa*. Because they are a symbol of a chief's wealth they are powerful objects.⁶⁷ If a chief is upset with another chief or a member of another chief's family, one way of announcing the upset is for the chief to cut a piece of his *tlakwa* and present it to that chief, or destroy an entire *tlakwa* by throwing it into the sea. The problem that instigated the cutting or destruction is explained at the time this is done. The chief receiving the cut piece of *tlakwa* then has to reciprocate, by cutting or throwing away one of his own *tlakwa* of more value, or by hosting a *p'asa*; such retaliation continued until one party gave up and thereby restoring peace.⁶⁸

My Uncle Dick talked about disputes and mishaps and how coppers were used:

Well if the title was given to you, you don't see it too much today but there, when there was a mishap breaking of copper was traditional you know to right the wrong. It was something that was used.

⁶⁴ See Martine J. Reid and Daisy Sewid-Smith (translator), *supra* note 38 at 122-128.

⁶⁵ Interview with Ann Brotchie, Lucy Smith and Colleen Hemphill by the author (Gwa'Sala-Nakwaxda'xw Reserve, 25 January 2005).

⁶⁶ Interview with Harry Bell and Lily Bell by the author (Port Hardy, 22 January 2005).

⁶⁷ See Martine J. Reid and Daisy Sewid-Smith (translator), *supra* note 38 at 123-125.

⁶⁸ Interview with Ann Brotchie, Lucy Smith and Colleen Hemphill by the author (Gwa'Sala-Nakwaxda'xw Reserve, 25 January 2005); see also Martine J. Reid and Daisy Sewid-Smith (translator), *supra* note 38 at 123-125.

And if there was a dispute, cutting of a copper, then that chief would have to reciprocate you know, respond to the challenge of the chief who cut his copper. So there was a lot of different little things that got included in you know.

In *Smoke From Their Fires* Charley Nowell spoke of such a dispute amongst chiefs in Fort Rupert about positions within the tribe. Two coppers were thrown away and drowned by two people who disputed the desire of a man to change his position; this was a symbolic drowning of the man wanting to change his position. This other man then visited with another chief and bought a copper that this man had called *Dentalayu* (people are quarrelling about this copper) and called a meeting together and broke the top portion and a part of the bottom portion and thereby answered the throwing away of the two coppers of the other two chiefs. This was done correctly according to Nowell and the two men couldn't answer this and died from the worry of not being able to do so.⁶⁹ As I understand the passage, the deaths appear not to have been actual physical death but more of a spiritual death because these men were not able to reciprocate and became looked down upon by others as a result.

It is an expensive and an insurmountable task for one person to host a *p'asa* without the aid of his family. Therefore hosting chiefs needed the aid of their family to get ready for and to host a *p'asa*.⁷⁰ In addition to that aid, when a chief knew he would be hosting a *p'asa* in the future he would loan money and/or items of value to people and these people were expected to *gogwana* when the chief called upon them to do so; this

⁶⁹ Clellan S. Ford, *supra* note 38 at 180-182.

⁷⁰ Interview with Harry Bell and Lily Bell by the author (Port Hardy, 22 January 2005).

meant that they paid back what they'd previously borrowed.⁷¹ The pay back used to come with significant interest, which enabled the chief and his family to host their *p'asa*.

Digita is a ceremony used when a chief has need of wiping away some shame or embarrassment caused to or by himself or a member of his family. This is a ceremony whose content varies from one family to another, as does *p'asa* in terms of the dances shown. But a *digita* depending on the teachings of each family could either strictly be a feast (a meal), a feast with the sharing of a celebratory dance owned by the hosting chief, or a feast and multiple shared dances, or a ceremony is conducted within a *p'asa* after acquiring the host's permission. My family's practice itself has varied but the tendency is to stick to a feast without dances. Such a ceremony consists of naming the shame or embarrassment and talking it out via speeches by attendees, resolution is met and guests are given money in payment for their witnessing of the wiping away. Once the *digita* is done then the shame or embarrassment that was its cause is never talked about again because it has been wiped away and happy feelings are restored.⁷²

Tseka is the first part of a *p'asa*, as practiced today, and is recognizable by the fact that a woman enters centred within a large cedar bark ring held at four spots by chiefs. One of these chiefs cuts the cedar bark and it is distributed as head pieces to the guests.⁷³ To my understanding this is the portion of the *p'asa* where the host and his guests are in mourning and the cedar bark head-pieces that are made from the cut up

⁷¹ Interview with Richard Dawson by the author (Port Hardy, 01 February 2005).

⁷² Interview with Harry Bell and Lily Bell by the author (Port Hardy, 22 January 2005); Interview with Ann Brotchie, Lucy Smith and Colleen Hemphill by the author (Gwa'Sala-'Nakwaxda'xw Reserve, 25 January 2005); Interview with Richard Dawson by the author (Port Hardy, 01 February 2005); upon reading draft five of my thesis, my Uncle Rick clarified that the wiping away of shame was to restore happy feelings.

⁷³ Interview with Paddy Walkus by the author (Gwa'Sala-'Nakwaxda'xw Band Office, 26 January 2005); Interview with Patricia Dawson-Hunt by the author (Gwa'Sala-'Nakwaxda'xw Band Office, 27 January 2005).

cedar bark ring symbolize this. There is a serious feeling to the dances and masks shown during this portion of a *p'asa*.⁷⁴

There is a second portion to *p'asa* that is used today. This is known as *tlasala* or the peace dance, which in earlier times was never performed in the same part of the ceremony as the *tseka*.⁷⁵ Dancers file out and line up to dance in front of the singers; they are clothed in button or Chilkat weaved blankets, according to whether the family has the right to use the Chilkat blanket, with a headdress that has eagle down feathers on its top that will fall as the dancer moves. An attendant (person who accompanies dancers and helps those wearing heavy masks) mimics one of the dancers until that dancer leaves through the main entrance. This exiting dancer then “dies” and his spirit returns in the form of a dance. My understanding is that the eagle down that spreads through the *gukdzi* is symbolic of the peace the host and his guests have come to feel through the *tseka* ceremony either with the death they are mourning or the person that has been initiated into a society.

When a family member who holds the right to perform a certain dance is not able to attend, somebody is called to fill in for that person. That person is said to *mukstoy* (fill in) for the unavailable family member.⁷⁶ That person is called on because s/he is familiar with the dance and can adequately fill in for the person that is not available. My Uncle Rick is called on frequently to *mukstoy* because he is very familiar with many dances.

⁷⁴ Interview with Patricia Dawson-Hunt by the author (Gwa'Sala-'Nakwaxda'xw Band Office, 27 January 2005).

⁷⁵ Interview with Paddy Walkus by the author (Gwa'Sala-'Nakwaxda'xw Band Office, 26 January 2005); Interview with Patricia Dawson-Hunt by the author (Gwa'Sala-'Nakwaxda'xw Band Office, 27 January 2005); regarding it not being performed at same ceremony as the *tseka* see Martine J. Reid and Daisy Sewid-Smith (translator), *supra* note 38 at 132-135.

⁷⁶ Interview with Edith George and Richard George by the author (Port Hardy, 31 January 2005).

When a baby is born into our world it is understood to be a gift that can be taken away and is not really fully yours until it reaches ten months of age. When a baby has reached 10 months of age s/he is said to be *hitlog^wila* (out of danger)⁷⁷ and at that time the baby receives its first hair cut in celebration, this is called *hiwitlatl*.⁷⁸

There are also English words that I asked for a translation and interpretation of but which didn't have an equivalent in Kwa'kwala. This seems to be because they are words that don't need a translation *per se* because they are more of a way of life and way of being that our people followed without question rather than conjuring words and theories to describe them. Therefore, instead of giving translations or interpretations my interviewees shared their understanding of how those words apply to our people or how the sentiment is carried out by our people. These words were governance, culture and tradition.

When I think of the word governance with the bit of knowledge of my people that I have I immediately think of what it is not. It is not like Canadian governance in the sense that there are not separate bodies that are said to be equal, for legislative, executive and judicial action. It is not about leaders and subjects. Most Kwakwaka'wakw peoples would say that we do have a hierarchy, which is illustrated in the way that table 1.1 is constructed. However, this hierarchy, as I understand it, is not one of a separate body governing its subjects. The hierarchy our people know helps to determine the order in which business is taken care of at a *p'əsa*.⁷⁹

⁷⁷ Martine J. Reid and Daisy Sewid-Smith (translator), *supra* note 38 at 98.

⁷⁸ Interview with Ann Brotchie, Lucy Smith and Colleen Hemphill by the author (Gwa'Sala-Nakwaxda'xw Reserve, 25 January 2005).

⁷⁹ For an argument regarding Kwakwaka'wakw society hierarchy and rank see Helen Codere, "Kwakiutl Society: Rank Without Class," (1957) 59 *American Anthropologist* 473.

I think of governance as rules that tell us how we are to treat one another and everything around us, how our relationships work. Paddy shared what he thinks governance is: it's about remembering to honour and respect everything, the land, the ocean, the air, the people and all of nature.⁸⁰ My uncle Harry would add that it is following the protocols that tell us how to carry ourselves, such as *tlikilala*.⁸¹ This is when my uncle Richard Dawson shared the words *ninogad* and *nanokwala* with me. Each participant also had the word *mayaxa* come to mind, which refers to respecting everything; you hold everything dear and precious.

Paddy shared with me a lot of his experiences around culture and tradition. When it came to trying to translate “culture” to Kwa'kwala it was not possible; Paddy shared that he thinks culture is our identity. Culture and identity are who we are and where we come from. He emphasized that it's more than just songs and dances “like a lot of the *mamatlas* think it is”, it's the teachings of our elders, and it's sacred.⁸² My Uncle Richard George shared that he believes culture to be our everyday living, what our people engage in through each season, how they survive off the resources of the land and the sea.⁸³ This idea fits with my Uncle Bobby Jo's words as quoted above: “when you have no land you have no culture ... If you can't speak your language you can't practice culture.”⁸⁴ My uncle Pete would add that it's following protocol, it's something that you

⁸⁰ Interview with Paddy Walkus by the author (Gwa'Sala-'Nakwaxda'xw Band Office, 26 January 2005).

⁸¹ Interview with Harry Bell and Lily Bell by the author (Port Hardy, 22 January 2005).

⁸² Interview with Paddy Walkus by the author (Gwa'Sala-'Nakwaxda'xw Band Office, 26 January 2005).

⁸³ Interview with Edith George and Richard George by the author (Port Hardy, 31 January 2005).

⁸⁴ Colleen Hemphill, *supra* note 51.

just do because that's what your ancestors did; for example you're in the *gukdzi* for a happy occasion so you never go into the *gukdzi* for a ceremony bearing bad feelings.⁸⁵

Tradition was another tricky word to translate and my Uncle Pete said that is the same as culture (i.e. following protocol),⁸⁶ while my Uncle Richard George would add that it's what is handed down from generation to generation (it's the way of life and knowing).⁸⁷ Paddy had the following to add:

Tradition, I think the teachings of our people you know being able to pass on the holistic approach to life. It wasn't just like what today's world seems to be a dog eat dog world and chomp on anybody else who gets in your way kind of thing. Very unique way of teaching us how to survive and how to work together with other people. And not it be you know just all we can do is go for that mighty dollar.

Another concept that my readers should be familiar with is the importance of number four to our people. This has been explained as being so because: there are four seasons, there are four directions, and there are four cycles of life (birth, adolescence, adulthood, and elder).⁸⁸ This importance is also evident in our *gukdzi* with its four main posts and four beams. These words and concepts may not appear again but they are each important to know in order to understand how ownership of Kwakwaka'wakw property is determined and asserted.

As my reader you are now equipped with different colours and numerous strands of those colours to understand my weaving project. One of those colours represents the narratives shared with me by my interviewees and you have now been briefly introduced

⁸⁵ Interview with Peter Knox, Mabel Knox and Dorothy Wasden by the author (Fort Rupert, 20 January 2005).

⁸⁶ Interview with Peter Knox, Mabel Knox and Dorothy Wasden by the author (Fort Rupert, 20 January 2005).

⁸⁷ Interview with Paddy Walkus by the author (Gwa'Sala-'Nakwaxda'xw Band Office, 26 January 2005).

⁸⁸ Gloria Roze, *Kwakiutl Dancers: Our Culture, Our Pride, Our Children, Our Future Handbook* (Fort Rupert, British Columbia: Gloria Roze, 1991).

to each interviewee. The brief Kwa'kwala lesson you have received from those interviews represents some of the strands provided to me. I will next lay out how my life experiences, how other teachers, and how my literature review influenced my ideas and approach to my interview questions.

CHAPTER THREE – FRAMEWORK

In this chapter I will set out for you the theoretical framework that I have in mind. This has come to me through course work and through having done my preliminary literature review. My methodology tells me that I should share only that with which I am closely familiar. As such, rather than attempt to share *ninuyem* (sacred stories), I will share stories from my own life that are relevant to how I see the overall shape of our legal system. My own life experiences, stories and their affect on my perception form yet another colour to be weaved into my work. With these narratives and the theoretical framework shared I will then go into a discussion regarding whether Kwakwaka'wakw people are a patrilineal or a matrilineal society. Each of these elements will further add to the overall picture of descent of property amongst Kwakwaka'wakw peoples and will better enable my readers to understand and appreciate the perspectives shared by my interview participants.

Personal Narratives

I intended to share *ninuyem* of the people who have most influenced my life; I have mentioned them before as being the Kwakiutl (my mother's family; my paternal grandmother's family), the Mamalilikulla (my father's family), the Ha'xwamis (my maternal grandmother's family), the 'Nakwaxda'xw and the Gwa'Sala (the people amongst whom I grew up). However, I am extremely reluctant to share anything that I have not run by my family or at least my interviewees for accuracy.

I asked each interviewee whether they knew any *nuyem* of the people from whom they descend that they could share with me and therefore my audience. Only my Auntie Ann and Uncle Pete felt confident enough to share stories while others expressed reasons

for their discomfort. This discomfort was illustrative of my own discomfort with relying on available published literature. There is a certain pressure to tell the stories accurately because they each have at least one moral that the listener can carry away with her/himself. I was told that those already shared in literature are inaccurate without wider consultation or that the story shared might inadvertently result in the mingling together of multiple *ninuyem*. These concerns bring to the fore my reason for turning to my family. These concerns arise because we each know that each family has different understandings and there is reluctance to be a family that will be perceived to be putting its understanding forward as the truth.

With these concerns in mind I have decided to share experiences from my own life that I think could have drawn something from higher knowledge. These stories also serve to illustrate some of the underlying feeling that I believe our *ninuyem* speak to. They are also experiences that perhaps I will come to learn still more lessons from as I sit with my family and talk about our traditions and culture.

I would like to preface this with some background from my childhood. My parents each played their own unique roles in shaping what I have become and I would like to, in a short span, share some of their influences. My mother was a strong figure as the mom who chose to work to provide a home and feed her family while her husband chose to follow a path of alcohol and drug addiction during the first decade of my life (his first child). My mom demonstrated a good work ethic and drove home for me a need to only do the best that I was capable of. She emphasized this and repeatedly disagreed with being competitive with others, especially cousins and siblings.

After giving up alcohol and attempting to continue with fishing my father was steered toward counselling people addicted to the very things he'd been addicted to, alcohol and drugs. It was during the beginning of this career that my dad let me walk the reserve well after our curfew and see the hardships of our people; that night I saw a woman attempt suicide and she ultimately chose not to do so simply by being told of her value as a person. This is a lesson my dad wanted me to experience more closely because on previous occasions I had shunned inviting "dirty alcoholics" to our home for dinner and my dad questioned my refusal but did not tell me I was wrong to think those thoughts. The lesson I carry away from this experience is that we are each only human and face difficult choices; we cannot sit in judgment of others' decisions.

Years later I chose to participate in an international student exchange to Ecuador and to be better able to share my culture with any Ecuadorians that I would come to meet I participated in a Rediscovery Camp and later joined the Kwakiutl Dancers. Each of these choices taught me something invaluable and I am very thankful for each opportunity. I didn't take the time at that point in my life to reflect on the experiences, what each taught me and how I could expand on those teachings. However, the experiences instilled in me the importance of learning more about my own peoples and our language.

At the culmination of the Rediscovery Camp the teenage participants are invited to and encouraged to participate in a twenty-four hour solo. The previous two weeks were fraught with hurdles to my continuing participation; but the family atmosphere of our group helped me to persevere. Therefore by the time the end arrived I felt ready to confront an experience as frightening as spending a day alone in the wild. After all

young boys had to do that very thing for a much longer period to become initiated *hamatsa* dancers in our society. So armed with only matches I got into a canoe with two of my friends and my dad's *namukw*, Gilbert Walkus, who would drop us each off at a spot of our choice along Quatsino Sound.

I watched the shoreline for something that called to me and long before I felt something my two friends found their sites. Gilbert and I paddled through some pretty tough spots in the Sound before I finally saw a piece of shoreline I wanted to call my home for twenty-four hours (see illustration 3.1). The waters surrounding the shoreline were rough, the surrounding forest was dense and the nearest friend's campsite wasn't visible to me. There was a grassy site where I could sit just at the shore with the forest and berry bushes behind it. I was sure to have a private experience.

But because it was very private it was also secluded. I had no way to communicate to our home camp if I had any difficulty. I spent my afternoon staring at and talking to the water, to the trees, to the sky, and to two eagles that flew above my site for most of the day. Before the sun set I gathered ferns for a bed and some moss, twigs and wood for a fire and after completing these tasks I sat at the shoreline again before starting my fire. I set up my fire and sleeping spot under the shelter of the trees up from the bank where I sat during my afternoon.

Shortly after getting my fire going and setting down for the evening I heard an animal breathing behind me from within the forest. In a panic I stomped out my fire and ran to the grassy site at the shoreline. Sitting there staring again at my surroundings I regained some calm and came to think that perhaps stomping out my fire was not the best of decisions. Further deciding that it couldn't be my time yet, that I had something to

accomplish still, I went back to my fire and got it going again. And except for the cold night air I had an uninterrupted sleep.

I spent my morning gathering a gift of berries for my secret pal back at camp. Having chosen to also fast for the twenty-four hours I had a difficult time resisting eating some of the berries. With the distance my site was from our main camp site I think I was the last to return. I also learned later in recounting our stories to one another that I was the only one to spend the entire night without a human companion. Others had sites sufficiently close to one another to have ventured into one another's sites or have people venture into their sites for comfort, others frightened each other as they explored their surroundings only to bump into one another.

I learned about myself and how much my family means to me the summer of the Rediscovery Camp. Two of my three younger brothers were there with my dad when he joined us for part of the camp; one was four and the other thirteen. The four year old disappeared on us for part of the evening and I went into a panic while my fellow campers helped my dad and I search for him. As it turned out he was soundly asleep hidden in a sleeping bag.



Illustration 3.1 Lucy at Rediscovery Camp 24-hour solo site
Photo by Gilbert Walkus

During the school year after this experience I joined the Kwakiutl Dancers led by Gloria Roze. Gloria is Tom Hunt's daughter; Tom Hunt and my great-grandfather William Hunt were cousins. Gloria put this group together with goals to: reinforce cultural identity, to strengthen awareness of our unique and diverse culture, to instil pride and self-confidence, to teach responsibility and commitment, and to develop respect for the elders.⁸⁹ This experience did each of these for me as a young person benefiting from Gloria's knowledge. It is here that I began to become familiar with our dances and songs; what they meant and why they were performed. I'd always had a longing to be a part of the colourful pow-wow ceremonies of other Indigenous groups; but Gloria's efforts made me more aware of my own culture and its importance.

The summer after this and just before I departed for Quito, Ecuador my dad and I took a day trip back to the main site of the Rediscovery Camp at Winter Harbour to reminisce. During this visit a friend and I strolled near the creek where we swam the year before. I followed my own path away from the trodden path. I let out a scream in surprise as I saw a beautiful eagle feather in front of me standing up out of the ground. Having scared my friend and father they yelled for me to determine what was wrong. I still have this feather and take it with me when I need reminding of my own strength and past happy and successful experiences; it came with me to Ecuador.

The band with which I am registered hosts an annual dinner to celebrate its students' accomplishments throughout the year, including those who are graduating from secondary school. At the dinner of the year I graduated Maggie Rufus, a cousin, relayed a message to me for my upcoming student exchange to Belgium; having recently been

⁸⁹ Gloria Roze, *supra* note 88.

away herself she reminisced about the sense of comfort eagles helped her have while she was away. She told me to look to the sky at times of difficulty. After this dinner my dad, my cousin Mabel Rufus and I went for a drive; Mabel's and Maggie's paternal grandmother Glalee (Mabel Rufus, née Matilpi) is my grandfather Henry Bell's niece, half-sister to Jimmy Sewid. Once again I gave a scream of surprise that scared my dad. I was staring out my window at the sky above and saw something falling from the sky, thinking it was a part of a plane or something I was at first scared but also quickly saw and realized that there was an eagle flying overhead and that it was a feather. My dad, Mabel and I searched until Mabel found the feather; I carry this feather with the first when I feel I may need the reminder of my family's encouragement and pride.

Later that fall, with the Rediscovery Camp experience, the pleasure of having been a member of the Kwakiutl Dancers, and the encouraging words of my family and fellow band members I embarked on a second student exchange, this time to Belgium. At a welcoming celebration and in introducing ourselves to one another we were asked to share a bit of our country with other participants and their host families. The other Canadian participant and I spoke about our contribution extensively and I ultimately decided that I felt comfortable enough to share a fun dance that originates on the west coast of Vancouver Island. Having learned the importance of explaining the meaning of the song, its origin, and its ownership I shared these things with my fellow Canadian who was more comfortable with his French speaking abilities than I was with my own at that time. With my feathers arming me and no drum for accompaniment I listened as he conveyed my words for me (I was confident enough in my comprehension to correct him if necessary) and then began singing as he and I demonstrated the dance

and encouraged others to join us; the purpose of the song and dance after all is celebratory and is meant to be enjoyed by all people present. Having shown myself to be quiet and shy my deep singing voice surprised my host family, friends and even myself.

I've shared these stories because I believe that they speak to some of the purposes of *nimuyem*; one of those purposes being that they all have at least one moral and a second being that some explain ties or ownership of a person or family to property. I am certain that you can also recall such experiences in your life; experiences that gave you important lessons. I think of these experiences when I need to remember the strengths that my family has taught me, the strength of family ties and values. I associate the eagles that I see in difficult times with my grandparents who passed away when I was only a child and of course with my father who treasured them and was with me each time I came across a feather. In that same vein I also remember them when I feel those ties and values are being challenged by outsiders.

Relationships

Before I go on to describe an idea of concentric rings of responsibility I would like to address how relationships in Kwakwaka'wakw society work from my perspective. As I have made clear our understandings as Kwakwaka'wakw peoples is determined by our descent, which families we descend from or at least the branch of our family tree or branches to which we have the closest ties. Underneath this is how we address one another and how we are expected to treat one another. Relationships across families and tribes are important and their number and strength is determined by the values that individuals learn from their own family.

In three branches of my family, the Hunt, the Bell, and the Wilson, we were taught to call our parents' first cousins 'aunts' and 'uncles' and our grandparents' siblings

were our grandparents. My Grandmother Eliza Lucy's family is not one that I had the benefit of knowing; she'd passed away before I was born but she and my grandfather are responsible for that strong value in our Bell family line. In this way many people shared the responsibility of raising a child. We weren't so much taught this value by voice as it was demonstrated to us by our elder family members.

These values extend to lasting and strong friendships as well. As my relating of my experiences shows my dad had some very close friends that he always referred to as *namukw*. Some of those friends are known to my siblings and me as aunts or uncles. This practice extended to some of my friends through their family values as well and their children have heard me referred to as aunt even though they have not had contact with me since they were babies and I moved away for post secondary education. A person is valuable to more than their family and that value is given voice by what those friends and their children refer to them as.

These relationships are important to be aware of as I go on to describe rings of responsibility. This approach to relationships ensures that we always have family to turn to in times of need.⁹⁰ We are held to our responsibilities by more than our own self drive and the encouragement of our families. Without ties to other communities, either through our family tree or through friendship, it might be easy to forget the importance of fostering outside relationships. With such relationships and terms of endearment, making ties across family lines, tribes and beyond is made easier.

⁹⁰ This is an emphasis added by Uncle Richard George after reading draft five of my thesis.

Concentric Rings of Responsibility

Having completed some preliminary research through the available literature on the Kwakwaka'wakw *p'asa* and the biographies available I did embark on my interviews with a broad framework already in mind. It strikes me that despite having a ranking system that we don't live our lives in a hierarchical manner. As I have mentioned before our ranking system helps to determine who speaks first or who is served food first; it does not dictate a hierarchy of leaders and subjects. In addition, the importance of the number four to our people has had its influences on my frame of thinking.⁹¹ Therefore, an overall framework within which I see any sort of governing system taking place is led by four concentric rings that take into account the ranking of our peoples and the abilities and talents of each individual.

At the heart of Kwakwaka'wakw governance I see an underlying scheme of concentric rings of responsibility, and principles and elements of customs described herein (see figure 3.1). The rings that I am imagining are much like the rings of a tree as it ages or the ripples that spread after something has hit water. It reaches further out as it ages, its bark grows stronger, its roots dig deeper and reach out to the roots of its neighbouring trees. By ensuring an adequate amount of attention is shown at each concentric ring we can start to move in the direction of re-invigorating our people. Based on the diagram below I will now give an explanation of what I envision at each ring. My explanations will use the examples given above from our various communities and will include references where possible to concepts and ideas that arose in my interviews.

⁹¹ *Infra.* 49.

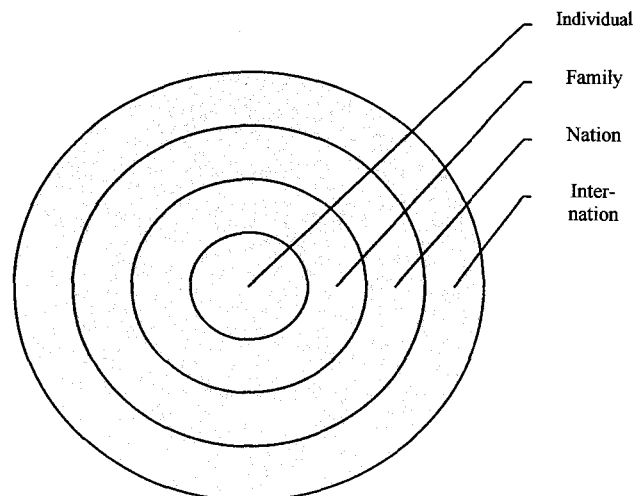


Figure 3.1 Concentric Rings of Responsibility

I don't see each ring described below as necessarily just one layer thick. The rings, as I see them, also go farther out to include other Indigenous peoples and non-Indigenous nations but for my purposes I focus here on four rings. Each person has his/her own set of concentric rings. Each person's journey fills those rings out more as s/he experiences life's lessons. As human beings we each have our weaknesses and our strengths. Here I will focus on the strengths that can be built upon to best put each person's talents to use in preserving who we are and where we come from as Kwakwaka'wakw people.

Individual

This is the most important ring because the others depend upon it. Each individual has his/her talents and abilities. His/her family, nation and other Kwakwaka'wakw nations ought to have expectations of him/her that arise because of these talents and abilities. Some people will be naturally good at fishing, hunting, trapping, gathering, and others at speaking, healing, listening. When Paddy Walkus and I

met, and I asked him about “knowledge”, he talked about this very concept and how our elders once drew upon the strengths of an individual and shared their knowledge to enhance that individual’s contribution to the community:

“Knowledge” to me is gathering of information put together and that evolves into wisdom. It’s something that could be complicated and complex but I think you know like say how our old people they could say, like say they see a gift in you and they would start to teach you knowledge of whatever that gift might be and you’d have aunties and maybe uncles and grannies or somebody coming to you and teaching you. You excel in this and they’re putting more knowledge into you to where it grows into wisdom. And you’ll be able to pass that on; you’re putting it together in your own system, in your own heart, your own brain to where it becomes wisdom and knowledge.

It’s something that to me is what our old people do. And was able to promote in our people. And it’s spread out to the whole community, it’s spread out to the families, it’s not just. I think that that’s one of the reasons they do this, they choose different people for different things and they give them that knowledge to give direction toward wisdom.

And I’ve seen this a lot of times practiced. And they just approach and say “what’s his gift, what’s her gift, what are they strong in, what can we promote?”

“*Noxsola*” is wisdom to me so that wouldn’t be applicable to knowledge. I wouldn’t say knowledge is lower than wisdom but it’s what flows toward wisdom. To me wisdom is what you pull together all the things you’ve learned, you pull all the people together and make them work for the benefit of all, for the future generations.

To me the people that has wisdom don’t just act on things for today, for themselves they have the vision to see “is this still going to be there for my future generations.” It’s not the almighty dollar for my people right now. It’s seeing, having that vision and what is it, what imparts, what implications is this going to have on these kids, is this resource still going to be there for them. They keep them in mind.⁹²

The individual’s talents and abilities will determine his/her role in the family, nation and ultimately between nations. Roles that each individual may potentially carry

⁹² Interview with Paddy Walkus by Lucy Bell (Gwa’Sala-’Nakwaxda’xw Band Office, 26 January 2005).

include healer, cultural advisor, sustenance provider, childcare/development, educator, and leader. The person's family and community ought to observe and allow each individual to come into his/her own being and ultimately help that person gather the knowledge that they need to hone their talent.

Historically the emphasis was on the inheritance of roles and responsibilities of the Kwakwaka'wakw peoples but as Paddy indicates there was also a reliance on our elders and their perceptions of a person's future role. I believe that today, roles and responsibilities ought to return to an emphasis on each individual's gift. For example, a person's ability to fish, hunt, trap, or gather in certain areas used to be determined by their gift but also by lineage because this determined where one was able to practice these skills. The head of a family, chief of a nation held rights and responsibilities, for his entire family or the entire community, to certain sites for such activities. Some say that only with the permission of that person, who speaks with the voice of the community, could you engage in any activity on that community's "territory." Today, this has come to be governed by provincial and federal laws.

Leadership responsibility should also shift away from emphasis on hierarchy and should be bestowed upon those who exemplify leadership qualities and who are recognised as having the ability to do so. I do not mean that a person with University training should be the community leader. Being trained in Kwakwaka'wakw tradition and custom ought to be an over-riding consideration when selecting leaders and people who speak on behalf of our communities. The most important determining factors of leadership include communication and ability to stimulate both within her/his nation and on the inter-Kwakwaka'wakw rings.

The importance of implementing anything at the individual ring is illustrated in the lack of recognition that representative democracy gives to individual constituents after an electoral process has selected its leaders. Individuals are either leaders or citizens in contemporary western governing systems. By electing individuals as leaders, it is presumed that individual voices, and therefore concerns, are heard and listened to. The quotation from Paddy's interview above shows this is what the English and then the Canadian government attempted to impose on our peoples.⁹³ The attention given to individuals is only in the sense of earning money, thus determining what is the best for an individual's pocketbook or a business, rather than how to best treat individuals and our environment to give future generations a good life too.

Family

This ring has responsibility first to ensure that membership is inclusive and not divisive. It must also ensure that each individual's talents and strengths are recognised and taken advantage of, thereby helping the individual meet her/his responsibilities and mixing these two rings of responsibility. This is necessary in order to ensure that Kwakwaka'wakw nations demonstrate strength and resilience in the face of challenge. This is also of great importance in the grand scheme of things because without the support and guidance of her/his family an individual could start to falter in carrying through her/his role in the community.

We must ensure that our family fishers, hunters, trappers, gatherers, and leaders have the support of other people from other families in those same roles. And vice versa, these people ensure that their family members have a means to survive. For example, I

⁹³ *Infra.* 62.

think that my Uncle Harry's ways demonstrate this very strongly; he looks out for and worries about all family members no matter how distantly they are related. I think he learned this from our grandfathers Henry Bell and Mumuta who taught this by example. More importantly we must envision how those relationships relate to our environment. By holding individual families to a certain level of responsibility, an example can be set for others to follow.

With contact families within each Kwakwaka'wakw nation have come to disagree more with one another, whether openly or not.⁹⁴ Our *p'asa* has become a tool for usurping power and claiming this, that and the other thing since material wealth has become a goal of individuals and families. However, I see *p'asa* as a system that ensures individual and therefore family and community survival and responsibility.⁹⁵ This should widely become its use once again rather than the individual or individual family's display of wealth that *p'asa* has become in many cases.

Ownership of names, dances, *tlakwa*, *gigitsu*, *gumgumdum* and symbols was once a right and a responsibility. If you owned a name which came with a fishing site you had the responsibility of ensuring that that site was taken care of and yielded fish each year for the sustenance of your family and others.⁹⁶ I think that where sites are concerned strict inheritance and maintaining rank should not be understood to equal sole proprietary

⁹⁴ See court cases that illustrate how these problems are seeping into band politics: *Chartrand v. Kwakiutl Band*, 2003 CarswellBC 2395 (B.C.S.C.) online: Westlaw ECarwell <www.westlawecarwell.com>, which is a case where because a newly elected Band Council questioned the hiring decision of the previously elected Council the new Council chose to fire Ms. Chartrand; *Kwakiutl Nation Band v. Anderson*, 2001 CarswellBC 1226 (F.C.T.D.) online: Westlaw ECarwell <www.westlawecarwell.com>, where a vote of non-confidence was made in the then current Chief and Council because of dissatisfaction with the leaders and their position on a certain aspect of band business.

⁹⁵ See e.g. Joseph Masco, *supra* note 34; Gail Ringel, *supra* note 24.

⁹⁶ Interview with Paddy Walkus by Lucy Bell (Gwa'Sala-'Nakwaxda'xw Band Office, 26 January 2005), Paddy shared similar thoughts about how he was told to only take so much from a given site in order to leave enough for others who will come and more importantly for future generations.

ownership. Sites should be the responsibility of and used by those with the capacity to use them and those willing to take care of them. This sharing has been the case according to my Uncle Harry who said that no permission was necessary to live off the land, that the only requirement was that you respect it and leave enough for others.⁹⁷

As with the individual, responsibility for our community governance in a western scheme ignores the family and therefore its value. This failure, by western governance, to take individuals into account limits the ability of government to care for the greater good of future generations. These limits are surpassed when you look at governance as a responsibility borne by individuals at the family ring. Each person holds the other to task in order to ensure survival of ourselves as peoples but also of our environment, by treating individuals with respect rather than as subjects. Before I go on to address the “nation” ring, I will leave you with Paddy’s words about the importance of an all encompassing respect:

I think that something that really needs to seriously be looked at and worked with is mutual respect you know both ways. If we can develop that and find a way to accommodate that and you know where a young person can have that respect of an elder but vice versa an elder the respect of the youth. I think that’s really important in order to go in a positive direction.

I think that the [Gwa’Sala-‘Nakwaxda’xw] school and what they promote is that kind of input and it can generate into something. I really feel that if we can reach the people and get them involved we’d get a lot more information coming in; we’d find a lot more participation. And unfortunately a lot of what happens today is the Department of Indian Affairs their policies kept changing and a “divide and conquer” type situation; that hurt us big time. If we can get back to a lot of what he practiced. I mean.

⁹⁷ Interview with Peter Knox, Mabel Knox and Dorothy Wasden by Lucy Bell (Fort Rupert, 20 January 2005); Interview with Harry Bell and Lily Bell by Lucy Bell (Port Hardy, 22 January 2005); Interview with Paddy Walkus by Lucy Bell (Gwa’Sala-‘Nakwaxda’xw Band Office, 26 January 2005) re: taking only what you need.

I'll just use my dad as an example. He always cherished and respected a child for what they were and what they can contribute. A lot of times what we frown on it and "you can't do this." And I remember my dad pulling thirty kids together and lifting a boat that had drifted I mean tipped a long way on the beach. And I remember thinking he pulled thirty of these kids together and lifted that boat and it would have taken maybe eight or ten adults to do the same thing but he believed in that.

So you know that was I know the teachings of our old people was having that kind of respect both ways and a better understanding both ways. You know when we talk about respect you know that needs to go all over the place, you know every which way it can.⁹⁸

Nation

At the ring of a nation the community's responsibility is to ensure that its strength in unity of both families and individuals shines through; thus merging the responsibilities of individuals and families. Each "Indian Band" of the Kwakwaka'wakw people, as identified under the *Indian Act* by the Department of Indian Affairs, consists of at least two major families who do not see eye to eye.⁹⁹ The membership requirements, electoral system and laying out of leadership powers in the *Indian Act* have not only exacerbated the family rivalries but have also created an environment foreign to Kwakwaka'wakw traditions. In order to reverse this conflict many things need to happen, including: ensuring inclusive membership, equal representation of that membership, either forgetting or forgiving past injustices, and accepting and working through disagreements. Inter-family or intra-nation disputes should be resolved within the family and/or nation, following mechanisms that respect Kwakwaka'wakw laws.

⁹⁸ Interview with Paddy Walkus by Lucy Bell (Gwa'Sala-'Nakwaxda'xw Band Office, 26 January 2005).

⁹⁹ See court cases that illustrate how these problems are seeping into band politics: *Chartrand v. Kwakiutl Band*, *supra* note 94; *Kwakiutl Nation Band v. Anderson*, *supra* note 94; *Roberts v. R.*, 1995 CarswellNat 1892 online: Westlaw ECarswell <www.westlawecarswell.com>.

In diminishing the stereotypes brought on by the provisions of the *Indian Act* our adult and elderly population will be able to set good examples for our children. Through better educating our children in both our traditions and the Canadian system, with an emphasis on passing on traditional knowledge, we can ensure the survival of Kwakwaka'wakw peoples as a community. I believe that such a mixed learning process is needed because we ought to recognise and learn the richness and value of other cultures rather than treating others in the same manner that we've been treated.

Inter-Kwakwaka'wakw

The discussions of nation, family and individual are all applicable here also. Each nation will need the other Kwakwaka'wakw nations for support, especially when they find themselves in solitude. At this outer ring it is necessary to listen outside of your own nation to ensure its very survival. To this I would add that when we are on new and unfamiliar ground that we must not only look for guidance from the outside but that we must be willing to accept the guidance offered. I do not mean that all guidance should be accepted. When guidance is respectfully offered and reasonable it should be considered further with care and then a decision should be made as to whether to accept it, adapt it as necessary, adopt it, or reject it.

The *Indian Act* allots responsibility to individual recognised governing bodies, known as Bands or Nations, and ignores ties to other neighbouring nations. There are no provisions that ensure communication between nations whether in times of need for support or guidance for survival or just in general. This is one of the elements of our traditions that we must ensure survives. This may be possible by looking at the examples of one nation helping another in time of need before and after contact. My uncle Richard Dawson explains how our people would come together to work to solve problems:

I think that what our people consider as *ninogad* are the people that you went to see about governance. They were your *ninogads*, your people of knowledge that expressed the, through whomever came. They would gather the *ninogads* so that they would talk about different issues and when those things happened, the word that they used was *nanoakwala* which means basically “we gathered to basically brainstorm, to come to a decision you know or to decide what they were going to do.” So that was their way of governing there wasn’t a specific word used, there was a council of elders I guess you would call it; they would be gathered to come up with a solution.¹⁰⁰

This coming together of our nations is most evident today in attendance at *p’asa* and funerals. *P’asa* is still a ceremony that carries a good feeling with it. When I’ve been at *p’asa* I can remember the energetic feeling I’d get watching the dances being performed and hearing the songs being sung. On the other hand, our people also come together to help a family remember and grieve the loss of a family member. Individuals, families, and nations may not always be able to see eye to eye but they do come together for these two types of events.

At no time in these concentric rings of responsibility should one nation or individual hold, or be perceived to hold, all power and authority. The functioning at the inter-nation/inter-community rings should truly depend on the roles and responsibilities permeating from the center, the individual, the family and each individual Kwakwaka’wakw nation. Alongside or within these rings of responsibility lies the question of how your lineage works to determine your identity and whether the rights you inherit come from your mother or father or both.

Kwakwaka’wakw: Matrilineal or patrilineal?

When you think about how property in our society is handed down you might ask: is it a matrilineal or a patrilineal society? Is property handed down strictly through the

¹⁰⁰ Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

female or male line? In order to answer these questions it is necessary to understand the definitions of matrilineal and patrilineal and how each is different from a matriarch or patriarch, and matriarchy and patriarchy, which are often incorrectly used interchangeably:

Matrilineal: adj. of or based on kinship with the mother or the female line.¹⁰¹

Patrilineal: adj. of or relating to, or based on kinship with, the father or descent through the male line.¹⁰²

Matriarch: n. a woman who is the head of a family or tribe.¹⁰³

Patriarch: n. a man who is the head of a family or tribe.¹⁰⁴

Matriarchy: n. a system of society, government, etc. ruled by a woman or women and with descent through the female line.¹⁰⁵

Patriarchy: n. a form of social organization or government etc. in which a man or men rule and descent is reckoned through the male line.¹⁰⁶

Because these words are often used incorrectly, this question is answered simply yet with complexity for the Kwakwaka'wakw. It is a question whose answer will depend upon which family you ask and the situation of their ancestors. For example, a family that had no male through whom to pass on property may say that the answer is matrilineal. Whereas, a family that has always had a male member through whom to do so will say that the Kwakwaka'wakw are strictly patrilineal.

¹⁰¹ *The Concise Oxford Dictionary*, 9th ed., s.v. "matrilineal".

¹⁰² *Ibid.*, s.v. "patrilineal".

¹⁰³ *Ibid.*, s.v. "matriarch".

¹⁰⁴ *Ibid.*, s.v. "patriarch".

¹⁰⁵ *Ibid.*, s.v. "matriarchy".

¹⁰⁶ *Ibid.*, s.v. "patriarchy".

However, such an answer ignores other complexities of descent. We may appear to strictly follow a rule of primogeniture with males holding prominence. This is true, through my perspective, if we are talking strictly about descent of chiefly title and ownership of property that goes with that. However, this ignores the fact that a chief with strong family values will reserve some of his property for other sons and even for his daughters. Chiefs could hold multiple titles that they then gave to their sons or grandsons. Other types of property such as *tlakwa*, names, *gigitsu*, *gumgumdum*, dances, and regalia could be bought and sold amongst Kwakwaka'wakw peoples and could be given in dowries to a man marrying the chief's daughter.

Property handed down in this way ensures that all members of a family share a portion of a chief's wealth. In my grandfather Henry Bell's family for example, he and my grandmother gave names of standing to their sons and grandsons, to the Indigenous men who married their daughters, to the children of their daughters who married non-indigenous men, and thereby ensured that all members of their family had something. My uncle Harry Bell was raised by our great-grandparents, Mumuta and Dildala, the parents of Eliza Lucy Bell; he received at least one chiefly name from our grandfather Mumuta.

Grandparents often adopted their grandsons, whose parents were not married, because a male could not properly inherit or claim ownership of property unless he was a legitimate child or was legally adopted. This adoption had to be announced within the formal setting of a *p'asa* or a feast. This was the case for my father, Johnson Bell. He was given the English name Johnson that was his mother's father's name (Johnson Charlie) and was also bestowed the name Six'walas that was Johnson Charlie's chiefly

name. Without being adopted by his great-grandparents he could not have received the name Six'walas because his father was not married to his mother and the identity of his father was either not known or kept secret.

In other families there was not always a male to receive chieftainships. Chieftainships go to the first-born son and where there is not one then nephews or male grandchildren can receive them. In cases where there was no such male the family's rank and standing could be given to a female on an interim basis. She would then pass that on to any sons she had. This was mainly done only if there were no sons or even at least nephews to pass ownership along to. My great-great-grandmother Abusa is such an example; it is said in my Hunt family line that my great-grandfather received his standing from his mother Abusa who held multiple chieftainships and other property because she had no brothers (directly or as cousins). This is contested by some Kwakwaka'wakw and is being researched by my uncle Alfred Hunt to give some backing to our family claims.

There is yet another element that complicates my answer. This is what seems to me as a given fact and practice in many families. I have been consistently told that my grandfather, Henry Bell, said nothing without first being told what to say by my grandmother. This is even more evident in the families that chose to ensure survival of their rank by passing it down through females, for example my Auntie Ann holds a chiefly name and its requisite responsibilities.¹⁰⁷ In my opinion, a woman wouldn't be given that responsibility if women hadn't previously inherited such responsibility, exerted some general power and authority in our culture.

¹⁰⁷ Interview with Ann Brotchie, Lucy Smith and Colleen Hemphill by the author (Gwa'Sala-Nakwaxda'xw Reserve, 25 January 2005).

The reason such power and authority have an impact on determining whether property was matrilineal or patrilineal is that such a matriarch, and her lineage, often made the decisions as to how property would descend. For my family this is an important element of our traditions. Some of my cousins received names through our granny Eliza's family line and the decision to do that was because the names came with her in her dowry. Such standing complicates giving a simple answer as to how property descends. I understand *nawalogwatse* as descending through an individual's mother and father, therefore as being neither exclusively matrilineal nor exclusively patrilineal.

In this chapter you have seen more of the necessary strands from my own narrative and voice. I have shared with you more of my *ha'se* as I perceive it; as coming from not only my family but also as it is shaped by my experiences. These strands of my own colour and contribution to an end product provide further background that prepares me to give yet more of my interviewees' contribution to my research. In the next chapter I will share more of what I learned from my interviewees and their experiences with "outsiders" treatment of Kwakwaka'wakw *nawalogwatse*.

CHAPTER FOUR – KWAKWAKA’WAKW GIGITSU

Everything to this point has prepared me to share with you what my interviewees were willing and able to share with me. You know who they are, how they are known to me, why I asked them to be a part of my research, and some of the language that they use. The information I am able to share at the moment is valuable to my interviewees and to me. It may be lacking an individual family illustration of the laws in play but it still demonstrates and describes the importance of those laws to our people. I will share those laws by sharing and intertwining what my interviewees had to share with me.

I will continue by sharing a brief listing of and description of what sorts of property our people may come to own and how ownership is or may be acquired. I will give a brief discussion of how our art became regarded as art. With that laid down I will share my cousin Corrine’s experience with the art world and her thoughts. This will round out the chapter and prepare me to share how the information can inform a process for the protection and preservation of our property without relying on Canadian laws.

Kwakwaka’wakw Property and Ownership Explained

There are rules regarding *p’asa* that should be explained before I go into describing property. They address how a *p’asa* is brought together, what can happen at a *p’asa* and what functions can or cannot be done at the same time. For example, if you are mourning the loss of a family member and conducting a marriage they cannot be done on the same day during the same function because they are different types of celebration.¹⁰⁸ Only the chief can call the people together for a *p’asa* and in my grandfather’s time he

¹⁰⁸ Interview with Ann Brotchie, Lucy Smith and Colleen Hemphill by Lucy Bell (Gwa’Sala-‘Nakwaxda’xw Reserve, 25 January 2005).

did so by visiting the different villages to invite hereditary chiefs.¹⁰⁹ When he did this the chiefs at these villages would gather items together for the inviting chief to give away at his *p'asa*, thereby helping him in hosting such an important ceremony.¹¹⁰

A family who wants to host a *p'asa* approaches the head of their family to ask him to call everybody together and plan a *p'asa*; they cannot call the family together to host a *p'asa* without the head of their family.¹¹¹ Our family was told, by my grandfather Henry Bell, that whenever we had a *p'asa* that we had to include our entire family, including my grandfather's nieces and nephews and their families.¹¹² I understand this to mean that if you call together a *p'asa* without the head of your family, you are not properly respecting or honouring your ancestors, or thereby the laws regarding *p'asa*.

Types of Property

The different types of property that exist were succinctly told to me by Uncle Dick. It was in listening to him that I was reminded that we don't make a division as between real property and personal property, or tangible and intangible property.¹¹³ He first talked about property that comes with a chieftainship title, which includes *gukdzi* (houses) and village sites but also includes means for transportation, *tlakwa*, dance regalia, songs, stories, dances, talking stick; other things included are names, crests, "box of treasures", and the rights and histories intertwined with each of these different items.

¹⁰⁹ My Auntie Pat shared with me the fact that this is what her father did when he hosted his *p'asa*, Interview with Patricia Dawson-Hunt by Lucy Bell (Gwa'Sala-'Nakwaxda'xw Band Office, 27 January 2005).

¹¹⁰ Interview with Patricia Dawson-Hunt by Lucy Bell (Gwa'Sala-'Nakwaxda'xw Band Office, 27 January 2005).

¹¹¹ Interview with Patricia Dawson-Hunt by Lucy Bell (Gwa'Sala-'Nakwaxda'xw Band Office, 27 January 2005); Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

¹¹² Interview with Edith George and Richard George by Lucy Bell (Port Hardy, 31 January 2005).

¹¹³ Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

All of these types of property can be owned by a chief but they are not solely owned by the chief, the family owns these things together and the chief is responsible for them (the family and the property). It is the means by which each piece is acquired and who else may or may not own them that vary. It is the chief's discretion as to whether rights to use any of these items are to be passed along in a dowry or to his first-born son. Some of them may also be exchanged, gifted or sold to other chiefs.

Having listed some different items that come to be owned I will now move on to share how they come to be owned. To do this I will draw on what my interview participants were able to share with me about my grandfather Henry Bell. For some of these types of property I will share what my grandfather came to own, how he came to own them, and how he chose to transfer that ownership. Where I cannot draw directly from my grandfather's life I will give an example from elsewhere.

Gukdzi and talking sticks are owned by chiefs and they share them as they see fit; ownership of *gukdzi* is something that could not be bought and nor could you buy ownership of a talking stick because that is something that bears the crests of your family.¹¹⁴ My grandfather Henry Bell owned two *gukdzi* that he received when his father's chieftainship was passed on to him. One of those was called *Litlil*, and my family could not remember the name for the other house. *Litlil* means wide, denoting big space. It was in this house that Dan Cranmer hosted the Village Island *p'asa* of 1921; it was my grandfather's aunt who was first married to Dan Cranmer. My grandfather

¹¹⁴ Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

relays his recollections of this *p'asa* to Daisy Sewid-Smith, his grandniece, in an interview she conducted and shared in her book *Prosecution or Persecution*.¹¹⁵

A talking stick is particular to a chief and contains the crests of the lineage of his chieftainship, which in turn have the stories of how each crest came to be and how that particular chief came to possess it.¹¹⁶ Therefore, a talking stick is an item that can only belong to a chief; it cannot be bought by anybody, although the making of it may be commissioned. For example, my uncle Richard Dawson's talking stick contains *tsimasaxyu* at the top, second a wolf which is the crest of the Musgamukw people, the whale which is a crest that belongs to our family (Bell), and at the bottom the *sisiutl* which is another crest owned by our family but which is also a widely owned crest.¹¹⁷

My Uncle Jimmy Sewid (my grandfather's nephew) describes a talking stick gifted to him by our Uncle Tom Dawson (my grandfather's first-cousin), using our Uncle's words, in his autobiography:

This talking stick represents your crests on your mother's side and your father's side. I want you to take this talking stick and use it whenever you think you can.

The first crest at the bottom is Tsunuqua who was a giantess. This is the crest of the Temltemlels clan from your mother's side. Temltemlels was the first man of that clan and he had the supernatural power to turn into the Tsunuqua. The second crest is Tselkamai which means 'owner of the cedar bark dances.' He was also a great man with many supernatural powers. The next one is the double-headed serpent Sisiutl, and I have put it on this talking stick because it represents the strength of the Kwakiutl people. The next one is the Cedar Man. In the early days when the people heard the food was coming, he went inside of a big hollow cedar log and after the flood he came out. The next one is Yakatnalas which means 'The Whale' and comes to you from your father's side. The next

¹¹⁵ Sewid-Smith, *supra* note 29.

¹¹⁶ Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005); see Martine J. Reid and Daisy Sewid-Smith (translator), *supra* note 38 at 38, 42.

¹¹⁷ Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

one is Qolus and that is the same as Odzistales which means ‘he is so big that he can hardly move around.’ You have that name through your grandfather Aul Sewid.

[The author returns Jimmy to his own voice] ... I thank you from the bottom of my heart because this will give me more strength in what I am doing.¹¹⁸

This excerpt demonstrates how important a talking stick is to a chief and how he is supposed to use it. As any other paraphernalia of *p’asa*, a talking stick is something used in the *gukdzi* in conducting business and only a *p’asa* chief has that right, therefore only a *p’asa* chief has need of a talking stick. The excerpt also shows that other chiefs who see chiefly qualities in somebody who has the right but has not exercised that right can take it upon themselves to give the other a push and incentive to step up.

Village sites are owned by a chief and can be shared by him with whomever he sees fit, which is usually family.¹¹⁹ My Uncle Dick explained that each nation had rights to sites near or at the sites of other nations, which gave them access to resources not available at their main site(s).¹²⁰ My uncles (Harry Bell, Richard Dawson and Pete Knox) all said that these sites were actually quite openly shared; no permission was necessarily required before somebody could use it for its intended purpose(s). What was required was giving respect to the site and its resources, only use what was needed, and make sure to leave some for others that would come afterwards.¹²¹

¹¹⁸ James P. Spradley, *supra* note 38 at 215, see 214 to 218 for a full story of why he was given a talking stick and how he set out to use it shortly after having received it.

¹¹⁹ Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

¹²⁰ Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

¹²¹ Interview with Peter Knox, Mabel Knox and Dorothy Wasden by Lucy Bell (Fort Rupert, 20 January, 2005).

The Mamalilikulla people had such sites at Lizard Point on Malcolm Island and Lulu Island Pass on the north end of Hanson Island where they wintered. Lizard Point had much food resources to offer, including clam beds, halibut, and fruit trees with access to the sun to dry these foods. These sites bear marks that show that they have been inhabited by Indigenous peoples of the area, for example at Lizard Point there is a rock with a carving on it of perhaps a copper.¹²² Other sites that the Mamalilikulla people have claim to include sites at Gilford Island, Turnour Island, Beaver Harbour, Bond Sound, Knight Inlet, Cormorant Island, Harbledown Island, Thompson Sound, Crease Island, Swanson Island, Compton Island, Cracroft Island; details of the claims made and where to find further details can be found in Galois' *Kwakwaka'wakw Settlements*.¹²³

Tlakwa are also a piece of property that can only be owned by chiefs but they can be transferred in a dowry. They are an item that can be bought, as was demonstrated above in the example Charley Nowell shared about breaking of *tlakwa* in a dispute about an individual's right to change his status. However, as an item that can only be owned by chiefs, only a person of rank with a chieftainship title may purchase and own *tlakwa*.¹²⁴

My grandfather owned many *tlakwa* and without access to his journal that records this, my family could not remember the names of all of them. However, the most valuable is one that he owned with his brother (cousin) Tom Dawson, its name is *lubilila* (when you give a *p'asa* you give everything in your house/emptying your house).¹²⁵ *Lubilila* is referred to in Appendix D of *Paddling to Where I Stand* where it is recorded

¹²² Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

¹²³ See Robert Galois, *supra* note 10 at 154 to 168; see Gazetteer portion for reference to sites owned by other Kwakwaka'wakw Nations.

¹²⁴ Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

¹²⁵ Interview with Harry Bell and Lily Bell by Lucy Bell (Port Hardy, 22 January 2005).

that my grandfather chose to give *lubitila* in a dowry to Lorne Smith who married his grandniece Daisy Sewid-Smith.¹²⁶ The story of *lubitila* is difficult to pin down but I understand, as my grandfather is recorded as saying in Appendix D, that he owned it with his cousin Tom Dawson but that he never did give it away. Despite how the dowry transaction is recorded in *Paddling to Where I Stand*, I believe that because there was co-ownership of the *tlakwa*, that my grandfather could not, and therefore did not, outright give *lubitila* in the dowry to Lorne Smith. After my grandfather's death *lubitila* disappeared but made an appearance at somebody else's *p'asa* where the host family claimed it as their own. And unfortunately until my family hosts its own *p'asa* or records their understanding of the truth of *lubitila*, the other stories, recordings and claims made in *p'asa* will be the only truth known.

The reason for this reluctance may be a common understanding that our family was told by my grandfather that he had hosted enough *p'asa*, and therefore that our family did not need to host anymore. However, this contradicts his statement that if we do host a *p'asa* that we had to include our entire family. Another reason for this reluctance might be the costly nature of doing so. However, when you consider that the responsibility does not fall on the head of the family alone but on the entire family this concern should also be alleviated.

Canoes, as means of transportation, are items that can be owned by anybody. As such they can be bought and sold by anybody, handed over in a dowry, given as gifts at a *p'asa* or transferred at time of chieftainship transfer. There were different types of

¹²⁶ Martine J. Reid and Daisy Sewid-Smith (translator), *supra* note 38 at 207-226, especially see 215-217, 223.

canoes in earlier times, such as ceremonial, work, travelling and war canoes;¹²⁷ Axuw says there were two types, the regular type *x^wak^wən'a* and the war canoes called *mangā*.¹²⁸

Gumgumdum (songs)¹²⁹ are owned by a chief; they could be bought, could be transferred in a dowry, or could be handed down in title transfer.¹³⁰ Songs used to be commissioned for creation; the song would reflect the experiences of the person commissioning the song; my Aunt Mabel Knox explained it by saying that songs are the dances, the story told in the song is reflected in the dance.¹³¹ This tradition was lost for some time while there were no song composers but William Wasden Jr. has guided composing of songs. He does so by consulting the person a song is for, the person's friends, and knowledgeable elders. One such song was composed for my uncle James Walkus,¹³² and another was composed more recently for Ethel Alfred, an elder who passed away.

Dances are performed for people to witness. They demonstrate a spiritual connection to stories enacted in the dances; those stories are owned by families descending from the person whose story is told whether that be an animal being or a person's experiences. Dances could be handed over in a dowry; they are owned by a

¹²⁷ Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

¹²⁸ Martine J. Reid and Daisy Sewid-Smith (translator), *supra* note 38 at 90.

¹²⁹ Interview with Peter Knox, Mabel Knox and Dorothy Wasden by Lucy Bell (Fort Rupert, 20 January 2005).

¹³⁰ Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

¹³¹ Interview with Ann Brotchie, Lucy Smith and Colleen Hemphill by Lucy Bell (Gwa'Sala-Nakwaxda'xw Reserve, 25 January 2005); Interview with Pete Knox, Mabel Knox and Dorothy Wasden by Lucy Bell (Fort Rupert, 20 January 2005).

¹³² Franka von Specht, "James Walkus Honoured" and "Bighouse Celebration Honours J. Walkus" *Awa'k'awis "A Place to Sit and Talk."* (May 15 – June 15, 1996) 1, 7.

family and could not be bought.¹³³ Dances are kept in a family's box of treasures, this box in itself is another type of property and while the family owns it the chief is its guardian and it cannot be opened to be demonstrated without the chief being present or having given his approval.¹³⁴ Each box of treasures has its own name and contains all of the dances and the required regalia and paraphernalia for its performance.

My grandfather Henry Bell's box of treasures contains almost all types of dances possible and only lacks the animal kingdom.¹³⁵ Our family performed the dances contained in this box at the memorial *p'asa* held to complete the mourning process for Henry in 1987. The program included: *hamaća* / wildman (performed by: Johnson R. Bell, Hilikamegalis); *hiligaxste* / woman who tames the hamaća (Roberta Quocksister Latimer, Hiyəlikila); woman *hamaća* / wildwoman (Joye Walkus, K^wənwatəlagid^zəm); *nulcistəlat* / firedance or man who is always trying to touch the fire (Johnson E. Bell, T'et'isnəq^wala); *həmsħəmsd'as* (Edith George, Təyunəq^wala); *q'uminəwağas* (Verdeen Bell, Gəlgəlduk^wila); *gəlalətid* / (Maggie Bell, Məlididi); *m'am'aq'a* / person who causes or heals death (Julie Smith, Nəwalak^wid^zi); *həwinəlat* (John Powell, Winidi); *laluləlat* (Eliza Speck, Lułəyalis); *n'əla* / swan dance (Samantha Bell, ?a?adoł); *qosalat* (Lloyd Walkus, ?ik'awigilak^w); *madəm* (Diane Bell, G?axstalas & Lucy Bell, K^wənχ^walog^wa) *x^wix^wi* (John Henry George, Hiłəmas & Kerry Batsoulas, K^wa?elaskən); *gəla* / bear (Melvin Bell, Tl'ələwilila & Brian Walkus, Tlaliləlas); *g^wawina* / raven (Richard George,

¹³³ Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

¹³⁴ Interview with Patricia Dawson-Hunt by Lucy Bell (Gwa'Sala-'Nakwaxda'xw Band Office, 27 January 2005).

¹³⁵ Interview with Henry Bell and Lily Bell by Lucy Bell (Port Hardy, 22 January 2005).

Hixs?alisila); *d'unuq^wa* (Norman Bell-Flanders, Dzunuq^wamalis); and *holikəlat* / head dancer in the *tlasala* (Harold Powell).¹³⁶

My aunts who were still with us at the time of the memorial met with family members to determine who would inherit the rights to perform which dances. It's evident to me that they tried to follow my grandfather's teachings and included as many members of different branches of his family as possible. Now when our family has other *p'asa* each of these people are expected to perform these dances and when they cannot somebody will *mukstoy* (stand in for them), and an announcement to that affect is made.

The required regalia and paraphernalia: masks, rattles, whistles, cedar rings, button blankets used to be stored away in the box in a place for safekeeping and were either destroyed or hidden away so that only the rightful owners used the contents. These, like dances, are physical symbols of a spiritual connection that transcends time; it goes back to ancestors and forward to future generations. Today each person carries his/her regalia or stores it with a central family member. I believe that my Aunt Francis Quocksister (Henry Bell's daughter) has been appointed our box-keeper and this is because she attended *p'asa* with her father and listened closely to his wishes and therefore knows what our family has rights to use and who has been appointed in our family to perform each dance.

Names for people who do not hold chiefly titles used to be handed down through dowries, and chiefly titles were handed down through transfers of chieftainship title.¹³⁷ A title holding chief, has a *gigəxlēy* (a *p'asa* name or nobility name), and has the

¹³⁶ Daisy Sewid-Smith and James Sewid, *Sewid Potlatch Program* (Campbell River, British Columbia: 4-5 June 1987).

¹³⁷ Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

responsibility of ensuring that all of the babies born to the family receive names at the different stages of her/his life.¹³⁸ A chieftainship title is passed down through the male line to males,¹³⁹ and where this is not possible can be handed to a female child or grandchild of that line,¹⁴⁰ or can be handed down to such female in a dowry for future male children of that female.¹⁴¹ The “heir” of a chieftainship is normally announced during the lifetime of the holder of it and that person moulds the future holder; unless a *p’asa* is given to indicate otherwise it is understood that the eldest son of the current holder inherits that position.¹⁴²

A few members of my Bell family line hold chieftainships; I will state them starting from the eldest grandchild. My Uncle Harry was given the chieftainship of our grandfather *Mumuta*, which is *Walas Gayuklas* and he holds others but this one comes most readily to him.¹⁴³ My cousin Henry Walkus holds the name *Udzistales*, which was Henry Bell’s before him. My brother holds the name *Six’walas* (Travelling from place to place) but has not demonstrated that yet and cannot until my father has been gone for four years, at which time he should host a *p’asa* to mourn our father and to solidify his ownership of that title.

¹³⁸ Interview with Peter Knox, Mabel Knox and Dorothy Wasden by Lucy Bell (Fort Rupert, 20 January 2005); Interview with Harry Bell and Lily Bell by Lucy Bell (Port Hardy, 22 January 2005); Interview with Ann Brotchie, Lucy Smith and Colleen Hemphill by Lucy Bell (Gwa’Sala-‘Nakwaxda’xw Reserve, 25 January 2005); and see Martine J. Reid and Daisy Sewid-Smith (translator), *supra* note 38 at 131.

¹³⁹ Interview with Harry Bell and Lily Bell by Lucy Bell (Port Hardy, 22 January 2005); Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

¹⁴⁰ Interview with Ann Brotchie, Lucy Smith and Colleen Hemphill by Lucy Bell (Gwa’Sala-‘Nakwaxda’xw Reserve, 25 January 2005).

¹⁴¹ Interview with Peter Knox, Mabel Knox and Dorothy Wasden by Lucy Bell (Fort Rupert, 20 January 2005), re: being handed down in a dowry; handing down to be given to next male line is my own understanding.

¹⁴² Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

¹⁴³ Interview with Harry Bell and Lily Bell by Lucy Bell (Port Hardy, 22 January 2005).

Whether other names held by my family members are nobility or common names I am not certain. My great-grandmother (aunt if you follow my father's adoption) Margaret held the name *Məlidi* that was given to her by her grandparents *Mumuta* and *Dildala*, of which an interpretation could not be given.¹⁴⁴ My aunt Dora Speck held the names *Tlawigi*¹⁴⁵ and *K'esugwilakw*.¹⁴⁶ My aunt Janet Powell also held multiple names, one of those being *Tlatlagwol*; a name now held by her eldest grand-daughter Jennifer Smith. My aunt Doreen Walkus holds the names *Tl'axtləlīdzamğa* and *Wadzadiliga* (from her mother Eliza Walas Bell). My uncle Norman Bell carries the name *Nixilagilaxw*. Other family names were given above beside the names of people who hold various dances for our family.

Crests strongly symbolize an historic bond to spiritual beings; there are crests that belong to families and that belong to a nation. The Bell family for instance uses the whale, the Mamalilikulla hold the *sisiutl* and the sun.¹⁴⁷ Each of these crests has an origin story that is represented by a physical rendering of it. Crests are used on the various carvings and clothing used by Kwakwaka'wakw people such as button blankets, masks, *xwatum* (dance screen), totem poles/house posts, dance rattles, and other dance regalia.

Stories are again owned by a family and are associated with the various other items a chief, family or nation can own. They are the means by which a family backs up its claim(s) of ownership. They are therefore the means of making a claim but are also an

¹⁴⁴ Interview with Harry Bell and Lily Bell by Lucy Bell (Port Hardy, 22 January 2005); Interview with Edith George and Richard George by Lucy Bell (Port Hardy, 31 January 2005).

¹⁴⁵ Interview with Harry Bell and Lily Bell by Lucy Bell (Port Hardy, 22 January 2005).

¹⁴⁶ Martine J. Reid and Daisy Sewid-Smith (translator), *supra* note 38 at 137.

¹⁴⁷ Interview with Harry Bell and Lily Bell by Lucy Bell (Port Hardy, 22 January 2005).

item owned. When a chief, family or nation is making a claim to something they must be able to tell its story, how it came to be, and its lineage or in other words from whom it was passed along to in order to arrive at the person making the claim.

Knowing how ownership actually takes place in our society is pivotal to understanding Kwakwaka'wakw property. My Uncle Pete's answer as to whether the Canadian system could develop laws to help us to protect these things was "absolutely not." He said this because outsiders don't understand who we are or where we come from. Therefore, they don't understand where these things come from, or how intertwined they are with our everyday life, and without that you couldn't possibly know how to best utilize or protect such property.¹⁴⁸ *Mamatlas* are ignorant of our customs.

If somebody is wrongly claiming any of these items, especially *tlakwa*, *gukdzi*, and chieftainships the family disputing the claim should respond. This should not be done in the *gukdzi* during the *p'asa* where the wrongful claim is being made but at a separate *p'asa* hosted for that purpose or at a *digita*.¹⁴⁹ A separate function is preferable because only happy feelings are supposed to be in the *gukdzi* during any function, there cannot be words or feelings of anger. In order to ensure that the *gukdzi* is respected, each opposing claimant would react by hosting its own *p'asa* or *digita*. This would continue until one of the claimants caved and thereby chose to recognise the claim of the other.

Floodgates opened and cannot be closed

Having shared the different types of property and how they descend I would add that some of my interviewees see the flood gates as having been opened by the sale of our

¹⁴⁸ Interview with Peter Knox, Mabel Knox and Dorothy Wasden by Lucy Bell (Fort Rupert, 20 January 2005).

¹⁴⁹ Interview with Ann Brotchie, Lucy Smith and Colleen Hemphill by Lucy Bell (Gwa'Sala-'Nakwaxda'xw Reserve, 25 January 2005).

nawalogwatse and by having widely shared Kwakwaka'wakw art. My Aunt Patricia told me how upset her father was whenever he'd walk into an art gallery and see a mask displayed; a mask that in his earlier days was considered sacred and would never have been displayed in such a way.¹⁵⁰ While the floodgates view is true I think that there are other considerations, such as how did our *nawalogwatse* come to be exploited as they are? Is it really exploitation? Could it be that simply having our peoples works recognised as art is a good thing? What sort of restrictions, protection or prohibition would we be seeking?

For a history of the decline in use of Kwakwaka'wakw art and then its revival there are several books available, including *The Storage Box of Tradition* by Ira Jacknis.¹⁵¹ For the majority of my interview participants this ease of availability of our traditions means that there is now no hope of restricting their uses and further exploitation. For that to have been stopped it should have been taken care of straight away. It's far too easy to pick up a book and mimic the art for there to be any hope of halting it.

It's my understanding that our crests and stories became popular with the revival of these items through museum programs that commissioned masks, totem poles, *gukdzi* or button blankets, either as single new pieces or as replicas of aging items. The main person given credit for such a renaissance is Mungo Martin who was taught by people

¹⁵⁰ Interview with Patricia Dawson-Hunt by Lucy Bell (Gwa'Sala-'Nakwaxda'xw Band Office, 27 January 2005).

¹⁵¹ Ira Jacknis, *The Storage Box of Tradition: Kwakiutl Art, Anthropologists, and Museums, 1881-1981* (Washington: Smithsonian Institution Press, 2002).

such as Chief George Walkus.¹⁵² Therefore their work is quite similar; Paddy shared the following with me:

I'll use an example. I think it was about '78 I went to the provincial museum and everything and I seen it identified as my grandfather's. An eight foot long beak mask the cards were there and everything it was Chief George Walkus. But, somebody went in and re-identified and now it's Mungo Martin and Mungo Martin worked with my grandfather, he worked under him. So his work is the same as my grandfather's. So they re-identified it as his instead of my grandfather's. We don't know how that happened but we're trying to find out how that came about. They deny that there were any changes but a worker that we had that was looking for it did see that it was re-identified. So there are some changes like that but we're aware of it and we're trying to straighten it.¹⁵³

Through these museum programs of replicating or creating new items the art became more widely practiced by Kwakwaka'wakw peoples, so much so that many people claim lineage to Mungo while ignoring that the other elements of their ancestry are also important.

When I look at where the art work was revived I am led to think about whether it was a true revival of tradition or merely exploitation of our people. An answer cannot be simply arrived at. Many people now make a living by producing masks, plaques, paddles, jewellery, totem poles for the world market. I would not deny them the opportunity to earn a living from a talent they've worked hard to learn and improve upon. But at the same time for some of our artists it is difficult to make a living on this alone and galleries quickly exploit that difficulty by giving low payment while

¹⁵² I learned of Mungo's training by Chief George Walkus in Interview with Paddy Walkus by Lucy Bell (Gwa'Sala-'Nakwaxda'xw Band Office, 26 January 2005). For details about Mungo's work in revival of Kwakwaka'wakw art see Ira Jacknis, *supra* note 151 at 137-173.

¹⁵³ Interview with Paddy Walkus by Lucy Bell (Gwa'Sala-'Nakwaxda'xw Band Office, 26 January 2005).

turning around and making a huge profit on the resale. Other difficulties exist and Corrine's story will illustrate some of those.

Corrine Hunt – an Artist's Experience

I asked Corrine to share with me how she became an artist and she shared the following:

Well, my uncle Henry [Hunt] used to come to potlatches, we lived in Alert Bay and he'd stay with us. He would just draw these amazing things. But anyway, I was fascinated by it for a long, long time.

And it wasn't until I was about twenty that I was really interested in jewellery; I bought a lot of my Uncle Norman Brotchie's pieces. And one day I was in Fort Rupert and he showed me how to do a piece from beginning to end. And that was when I started.

I was interested in Corrine's perspective as an artist, especially as an artist who had to seek recourse in Canadian law for problems that arose in the dissolution¹⁵⁴ of her partnership with a non-Kwakwaka'wakw, non-Indigenous business partner. Corrine shared some of her own experience and why she thinks this occurs:

I think there's a confusion about what the designs are and what the culture is and whether the culture is a pre-contact culture that is not living versus people who are convening to a dance, to sing and to have the crests ...

Anyway, so, no there seems to be a confusion about that. So people don't respect the culture as a living culture and understand why we have the designs we have and even why we use them. So other people seem to feel free to be able to use the, the whatever you know in commercial art, especially. And in galleries where there are non-native people just replicating designs and not having any sense of what the meaning is or where their place in the potlatch and in the ceremonies that we use.

So, and I know from personal experience that it's, that as far as design goes it's a very fuzzy area for lawyers to say "they have the rights to the

¹⁵⁴ "Dissolution" is "putting an end to a legal entity or relation", see Daphne Dukelow and Betsy Nuse, *The Dictionary of Canadian Law*, 2d ed., (Ontario: Carswell, 1995) s.v. "dissolution".

___,” you know, the eagle or the sisiutl with the sun design. You’d have a difficult time saying to somebody “you can’t use that design.”

Or in the case with my business partner, ex-business partner, non-native. Am, to say that, you know, she felt that the motif designs were mine but that the furniture that we designed together was hers. And some of those designs were in the shape of the copper, the ovoid, the bentwood box. And her lawyers felt that those pieces could be replicated by anybody. And so, I didn’t feel that way; eventually she’s not making any of these things. She had to agree to not do that. But it took some negotiating on the part of my lawyer and her lawyer to get that done.

I asked Corrine about the terms of her business partnership agreement and how helpful they were if they were helpful at all. Her answer:

Well our business contract was really not well done. It was a terrible contract actually. We had, it set out in the partnership agreement that we would mediate any kind of dissolutionment of the partnership and she wasn’t interested in doing that. She went straight to a lawyer and the lawyer contacted me and she decided that those designs were hers, the actual furniture shapes and designs. And some of them were.

But we did for example a Chilkat, a bed in a Chilkat design out of the headboard. She wanted to be able to use that. And the whole concept and design were done by me because Anislaga. And we’d done a Chilkat design table and it was in Vancouver magazine and a man was reading it and he was familiar with Anislaga.

So he called us and commissioned a piece from that design. So the headboard was made like a Chilkat blanket and she thought she had the right to use that, not the motif but the shape.

And I think in the end, in the end she had to agree to it. But she really fought not to for quite a while. She had two lawyers engaged. And in fact my lawyer said that if she wanted to she could change it by 20%, that’s the standard for designs.

If you see a chair made by somebody; you can change it by 20% and then it’s yours.

But I think that for her in the end she knew that if she did it there would be some serious implications for her as a designer and for the pieces she sold. So she wouldn’t do it, which was pressure in a different kind of way.

One of the ways of putting a different pressure that Corrine speaks of would be to educate the general public, galleries that sell the art and lawyers who represent Kwakwaka'wakw artists. Such an education would include the importance of the *nawalogwatse* that is protected, the laws that protect them and how and why they are intertwined.

Life in our communities is difficult in itself and opportunities to make a living above the poverty line are hard to come by. Therefore talents such as artistry need to be allowed to grow and my Uncle Pete and most interviewees would not take that away from them even though sharing crests in such artwork is contrary to the sacred nature of those crests and their stories.¹⁵⁵ Where they might draw the line is at preventing non-Kwakwaka'wakw peoples from producing the works.¹⁵⁶ This is a grey area for some and Corrine had the following to share regarding the issue:

You know it comes to, we were talking the other day about non-status Indians and you know the, who has the right to do something.

But for me it's clear that First Nations people have the right to reproduce what is theirs, for commercial reasons and for family reasons. But there [are] few people I know who are non-native who I would accept as Native. And one of those was John Livingston for example, so he would be in a fuzzy grey area. And I don't know that the law addresses those things.

And I know that some Native People wouldn't accept that either. But I know that John Livingston has lived among the Kwakiutl for most of his life. And knows about it in a way that is internal and that's a part of him rather than something that is intellectual. It's who he is, I think, which is important too.

It's not a black and white situation with non-native artists. And then there ... So I think it would be difficult to define those things.¹⁵⁷

¹⁵⁵ Interview with Peter Knox, Mabel Knox and Dorothy Wasden by Lucy Bell (Fort Rupert, 20 January 2005); sacred nature of artifacts from Interview with Patricia Dawson-Hunt by Lucy Bell (Gwa'Sala-Nakwaxda'xw Band Office, 27 January 2005).

¹⁵⁶ All interview participants.

¹⁵⁷ Interview with Corrine Hunt by Lucy Bell (Fort Rupert, 04 February 2005).

This points to another area of Canadian law that would be difficult to mould to the situation, which is how Corrine came to speak of it. Corrine and I had discussed the Douglas Treaties with the “Queackar Tribe” (Qomoye) and the “Quakeoth Tribe” (Kwakiutl) of 1851;¹⁵⁸ we discussed the Canadian definition of “Indian” and how narrow that is and how it’s inapplicable when you look at beneficiaries of such treaties. This is easily talked about because most people agree that any and all descendants of the original signatories are beneficiaries of the Douglas Treaties regardless of which nation they have come to be registered with under the *Indian Act*.¹⁵⁹

However, the ability to produce and sell Kwakwaka’wakw art if you are not a Kwakwaka’wakw person is less straight forward and there are varying strong opinions. I would agree with those who believe that only Kwakwaka’wakw people ought to be allowed to produce the artwork. Or there should be clear definitions set out by Kwakwaka’wakw people regarding requirements for a person to be allowed to produce Kwakwaka’wakw art. Art should be allowed to be used as a means of educating our people about the deeper meaning of the symbols.

This chapter has provided more strands of the colours that my interviewees and the biographical sources have to provide to my overall project. The complexities and some of the abundance of opinions have been shared. Some of the weaving of these complex concepts has been done. We have a frame within which to work. We are now ready to complete the intertwining of colours and strands. In the final chapter I have

¹⁵⁸ For the text of the treaties see BC Government, *Indian Land Question 1850-1875, 1877: British Columbia Papers* (Victoria, British Columbia: Richard Wolfenden, Government Printer, 1987) at 11.

¹⁵⁹ The courts may also agree based on the fact that the *Indian Act* and registration of “Indians” came after such treaties were signed; however, to date there are no cases that faced this issue.

attempted to piece together these different colours and strands to provide principles upon which our laws and protocols respecting our *nawalogwatse* is based.

CHAPTER FIVE - SUGGESTIONS AND CONCLUSIONS

I can now finish weaving the strands together by pulling issues that can be drawn out from Corrine's story and the story I shared in chapter one. I would like to emphasize that this weaving, this intertwining of concepts, of our culture and of our traditions is my own opinion and rendition. There are multiple perspectives not only within our Kwakwaka'wakw communities but also within my own family. I have remained cognizant of my *ha'se* and my responsibilities and will do so in these remaining pages and I take full responsibility for the conclusions drawn.

I will start by articulating the issues and then I will share how I think what my *ninogad* had to share with me can be of assistance in resolving these issues. I set out in hopes of articulating a framework while using my family as an illustration. Without a full meeting of my family this was not possible on such a grand scale for this particular piece of writing nor would it have fit in such a small space. I was still able to share concepts and ideas from my families' perspective and at times how Kwakwaka'wakw customs have been followed or not followed in my family lines.

From the narratives that I have shared, the elements of our society that I have shared, and describing of our different types of property and their ownership I can draw out some of the principles that these things stand for. It must be understood that these are only what I see at this particular time in my life. I still have some growing, maturing and learning to do as I gather knowledge in the hopes of a glimpse at the wisdom Paddy spoke of. As my academic undertaking requires of me I will give you my own analysis of my findings but will emphasize that despite my academic background, or maybe because of it, I may have missed some connotations or inferences made by *ninogad* in

what they shared with me. I apologize only to them for any such ignorance and ask for their patience as I strive to learn more.

How could our traditional laws apply today?

I would again like to emphasize that I am not looking to historical traditions here. What I am referring to is very much alive today and is how our living elders remember our laws; while they looked to people who have passed on for their knowledge, that knowledge is alive in them and changes have been tolerated over the years. Despite the attempt to wipe out our culture and traditions, or perhaps because of that attempt, our people have held on to those teachings. I didn't realize how much of it I had actually learned over the years until I heard it being articulated to me in my interviews; I thought that having gone through the British Columbian public school system that I hadn't learned anything from my own family. But as I have illustrated their lessons were not always explicitly given; I'd like to share what Paddy had to say about how his grandfather taught him and what he has observed:

And I've seen this a lot of times hey with our people; they were able to, I mean they just watched the young people, the activities and what they did. And then they'd share something pertinent to who they are, what they are. And when it comes down to like say contemporary times, we can pull this together now, we can start.

I'm just really very amazed sometimes at the foresight our people had. They know one person won't be able to go with all this data and all this information together. So they do it with say a matriarch of the family; where the deal might be one can be a leader or a patriarch. And be able to say this is your role; this is what you're going to do and how you're going to carry this over. You're going to cultivate this work of this chief, this leader, or this head of the household. And maybe a number of them were able to pull our people together that way. And we don't even know ourselves how they're doing it; they just do it because they know that they have the foresight. They just know that they have to teach these people in order to make something work. That's really interesting how they did this.

I'll go back to when I was probably five, six years old. And I was amazed when I look back on it. I had a grandfather, George Walkus, that taught me a lot of subliminal teachings and I didn't even have a clue, thirty-four years old what subliminal was all about. But he knew at the time that he was teaching me. He'd have a pile of comic books; I don't know if this is any relation to this but I wanted to touch into that a little bit of how they taught.

He'd have a pile of comic books in front of me and tell me stories and tell me legends, tell me my history. And I had to always acknowledge; I'd have to say "ah" or "um" each time he'd say and I failed to do this I was too into the comics and he'd give me a hook with his cane, a hook with his cane and I'd have to acknowledge. So he was teaching me even though I was looking at the comics. He knew that I was picking up in the back of my mind something.

And he told me even then "you're not going to need this until you're ..." and pointing to somebody about fifty, one of our people that was about fifty years old "you're not going to need it until you're that age." He said to me, "But you have to listen and you have to acknowledge." So, he did a lot of this kind of teaching.

So you may have experienced that with your elders somewhere along your life's line; you know they do this. I just wanted to touch on that, you know, how much wisdom our forefathers had, how much foresight they had; they had a vision of how much we're going to need to pull a lot of this together because they knew they weren't going to be here to do this.¹⁶⁰

This in itself demonstrates that the ways of the elders in Paddy's youth passed their ways on to Paddy's generation. They have now been adapted somewhat and my generation has benefited from it and has been carrying on in much the same fashion.

Principles from p'asa

P'asa is the forum for showing what your family's box of treasures contains, it's the forum for disputing claims of ownership but more importantly it's a ceremony that demands respect. The dances, songs, regalia, paraphernalia, and other items shown during a *p'asa* command that same respect. Each of these aid in showing the crests and

¹⁶⁰ Interview with Paddy Walkus by Lucy Bell (Gwa'Sala-'Nakwaxda'xw Band Office, 26 January 2005).

mythical beings to which a family has connection. Therefore, to my understanding *p'asa* is the ceremony to which we need to look for laws that dictate how Kwakwaka'wakw property can and cannot be used.

I would like to discuss eight issues that I saw in relating my observation in chapter one and in sharing Corrine's experience in chapter four. They are as follows. One: who has the right to perform a dance? Two: what are the customs around using songs? Three: where is the proper place to share songs and dances? Four: who can learn and teach Kwakwaka'wakw artwork? Five: who can own Kwakwaka'wakw artwork? Six: what is the proper forum for resolution of ownership or other disputes? Seven: who has the capacity to resolve such disputes? Eight: what role can education play and how?

1. Who can perform a dance?

As I have discussed, only a family that owns certain dances has the right to perform those dances. Within families there are people designated to perform the dances owned by the family. And when that person is unable to perform somebody is appointed to *mukstoy* (stand in his/her place). The customs are pretty straight forward. Furthermore, there are dances like the *hamatsa* and the *tlasala* that aren't "owned" by many families and that makes it even easier to determine when somebody is going beyond their own or their family's reach. Here all four concentric rings come into play. As individuals and as families we should know whether or not we have the right to use a certain dance. As individual and collective nations we should continue to hold one another to a high and strict standard and help to ensure that no individual or family *witsatla* (wrongly reaches into somebody else's box of treasures).

It was the *tlasala* that I witnessed being performed on the University grounds. I recognised the regalia and the dance. I can remember attending *p'asa* as a child and

watching the men as they performed it. After the seriousness of the *tseka* ceremony on a previous day it was fun to sit and watch as the attendants teased one of the dancers until he left. And then sitting there in angst wondering what masked dance that dancer's spirit was going to come back in. I grew up understanding that only men could perform this dance. It wasn't something that I could ever have expected to perform when I grew up. This has changed though and I have performed the dance.

The importance of the dance was successfully conveyed to me even as a child. This is why it infuriated me to watch it performed for an audience as a spectacle. This in itself is hard to come to terms with because it was in such a fashion that I learned about our dances and songs. I was a part of a dance group that performed these dances for such audiences and as I shared in one instance chose to share a fun song and dance on foreign soil. There are dance groups that still do this today. I would say that when it is done with an educational element, both for the people in the dance group and the audiences for which they perform, and the people performing the dances have rights in their family line to be doing so, then that is okay. What is not tolerable is to see a non-Kwakwaka'wakw person at the centre of such a group. However, when dances are used in a way that breaches our traditions I think that elements mentioned later under issue number six (forum for disputes) from *p'asa* are efficient means of remedying the breach.¹⁶¹

2. Customs around using songs

When I finally started to understand dances it was because my Aunt Gloria Roze taught us what the songs meant. When we did performances she always introduced each dance with whose dance it was, whose song it was, how it had descended over time, and

¹⁶¹ *Infra* 102-104.

who she had sought permission from to use it for the Kwakiutl Dance Group. In a *p'asa* when you use somebody else's song and dance, from outside of your family, you demonstrate your respect and honour for that person by saying that it is their song and you have previously asked for permission to use it at that particular time. When as Kwakiutl teens we joined Gloria's dance group we were taught this. Such respect and honour should always be bestowed.

Again, individuals and their families are responsible for knowing what they have the right to use, what they own and what is beyond their reach. Nations, individually and collectively can help to ensure that the customs for use of songs are followed. Songs are an important element of dances; as Mabel said "songs are the dances."¹⁶² Without the stories, there would be no song and without the song there would be no dance.

When I think about songs and their educational value for those Kwakwaka'wakw who don't speak Kwa'kwala, such as myself, I appreciate the recording of songs to compact disc. The U'Mista Cultural Centre has CD's available for purchase and each disc carries a copyright by U'Mista. Please forgive my digression and choice to actually refer to intellectual property law here. I understand that the copyright was likely used so as to protect the creation of the songs as against the non-Kwakwaka'wakw world. But I can't help but see potential for problems; what if as descendants of Henry Bell my family decided to use one of the songs that has been recorded and copyrighted by U'Mista? Add to this scenario a dispute by another family regarding my family actually being descendants of Henry Bell or the song actually belonging to him. Copyright could be invoked in such a situation to U'Mista's governing body's favour. This brings decision-

¹⁶² Interview with Peter Knox, Mabel Knox and Dorothy Wasden by Lucy Bell (Fort Rupert, 20 January 2005).

making outside of the regular circle, out of the *gukdzi*, and puts it into the hands of a somewhat foreign governing body.

Such an example reinforces how dangerous it would be for our people to continue use of the Canadian intellectual property rights system. Copyright protection endures only for the life of the author plus fifty years. A primary question then would be does U'Mista have the authority or capacity to undertake such copyright? And if they do what mechanisms should be in place to ensure that the copyright is used as was originally intended? Even with these questions answered there is the difficulty of the limited protection copyright offers. For a general review of such problems see the papers by Catherine Bell and Robert Howell at the website of the *Project for Protection and Repatriation of First Nation Cultural Heritage in Canada*.¹⁶³

Sitting at my computer thinking of these issues reminds me that we have two centres for displaying our culture in Kwakwaka'wakw territory. At the northern end of Vancouver Island in Alert Bay we have the U'Mista Cultural Centre and mid-island at Cape Mudge on Quadra Island we also have the Kwagiutlh Museum. The Kwakwaka'wakw have these two museums as a result of the repatriation of the potlatch collection that was taken in 1922 after Dan Cranmer's *p'asa*. The creation of two separate museums came from recognizing irreconcilable opinions as to how objects should be handled and housed.¹⁶⁴ Perhaps by recognizing the differing opinions and

¹⁶³ Catherine Bell and Michael Solowan, *A Selected Review of Canadian Legislation Affecting First Nation Cultural Heritage* at 37-43, online: Project for the Protection and Repatriation of First Nation Cultural Heritage, Research Papers < <http://www.law.ualberta.ca/research/aboriginalculturalheritage/index.htm> > (date accessed: 07 May 2005); Robert G. Howell, *supra* note 5.

¹⁶⁴ For a discussion of our differences from an outsider perspective see Barbara Saunders, *supra* note 35 at 144-150.

being respectful of those differing opinions we could collectively decide how best to ensure the endurance of our songs for future generations.

3. Proper place and time to share songs and dances

I have shared this as being the *gukdzi*. However, I would add that I have seen them performed out of doors, on the beach, in a forest clearing, from a canoe. Place may not seem to be a problem, unless you get ridiculous and bring them into a bar. The key is that the person or people sharing them have authority to do so. I would add that there are times when even the authorized cannot share dances. For example, with the death of a chief the family of that chief is in mourning for one year and for that year cannot participate in dances; this is extended to four years for high ranking chiefs.

4. Who can learn, teach and sell Kwakwaka'wakw artwork?

Corrine raised this directly and spoke about how all Kwakwaka'wakw should definitely be permitted to participate in that art market. What became a fuzzy area for her was can a person become Kwakwaka'wakw without having been born Kwakwaka'wakw. She gave the example of John Livingston who has lived amongst our people for so long, is the partner of one of my cousins, and because of this Corrine says he could be considered Kwakwaka'wakw. Indeed, George Hunt, who was not Kwakwaka'wakw by birth, married into the Kwakiutl and became somewhat accepted as Kwakiutl through practicing Kwakwaka'wakw traditions.

Other interview participants felt the same way as Corrine when it came to Kwakwaka'wakw people's capacity to fully participate in the art world. They did not touch on the same grey area identified by Corrine. As I explained there were some who felt that to try to limit anything now at all would be a waste because the floodgates have already been opened; the spiritual works should never have been displayed or sold in the

art market. What people would support and suggest is that some sort of system to demark authenticity be set up so that non-Kwakwaka'wakw can be prevented from exploiting these spiritually imbued works. This system of authentication might take the form of a stamp of authenticity with a web-site or some database that shows which artists are actually Kwakwaka'wakw.

5. Who can own Kwakwaka'wakw artwork?

I can remember my mom preparing to make my sister's prom dress. My sister wanted something that showed who she is and where she comes from. My mom put a crest on a black dress and asked my Uncle Harry for advice about what Sam could use. That was easy enough; she had the right to use any crest that she wanted. Okay, not so easy. But it does demonstrate that there are limits as to what crests can be used by any given individual or their family. Corrine mentioned that she sells commissioned work to people who have the right to use the crests that they are asking her to render.

When I walk into a gallery to purchase a piece of jewellery or a print I select my purchase carefully. I've bought gifts for non-Kwakwaka'wakw and didn't want them to be something impersonal. So, from my own knowledge of what I had the right to wear I would choose something for the recipient in that way. Not only are the crests within my capacity to use but the artists I choose are always familiar family members. Purchase and sale to me is about being an informed consumer who is aware of and respectful of the cultural significance of the purchase.

6. Forum for Disputes

I am referring to disputes regarding the proper use and descent of Kwakwaka'wakw *nawalogwatse*. Through my literature review and my interviews I see three avenues through which disputes can be resolved. One is what were called rivalry

p'asa; second is breaking of *tlakwa*; and third *digita*. In addition to these forums I would add an overall concept that mourning *p'asa* serve, which is to let go and come to peace with the death of a loved one.

One of the uses of *p'asa*, as I have come to understand it, was to determine which party was correct or which party had a stronger claim in a dispute. This was done by hosting *p'asa* until relevant families supported your claim, thereby denouncing the claim of your rival. Today however, decisions need to be timely and not costly, which rivalry *p'asa* does not easily bend to. As I understand it the principle at play in rivalry *p'asa* is laying your claim through speeches and having people speak on your behalf until all can agree who has the rightful claim. In this instance dialogue is more critical than the gift distribution of *p'asa*.

Breaking of *tlakwa* is another useful element of our traditions. It symbolizes discontent and shows intent to fight for what you believe to be true or proper. When somebody broke a copper it was a strong demonstration of power and either meant war was ensuing or rivalry *p'asa* until the dispute/discontent was solved/wiped away.¹⁶⁵ This practice was also accompanied by words that expressed the discontent and in some cases simply speaking of the dispute will at least help to better understand the problem.

Another element of *p'asa* that can be used is the principle behind a *digita*. These feasts are meant to either wipe away a shame or wrong that a member of the host family has suffered or to point to a wrong or shameful act that a member of the family has caused. The person or people are put at front and centre and the wrongs suffered or inflicted by that person or persons are identified. Following this the host family proceeds

¹⁶⁵ See e.g. Martine J. Reid and Daisy Sewid-Smith (translator), *supra* note 38 at 124.

to either wipe that away or show its discontent by feeding and gifting those present, in the case of pointing to harm suffered, the inflicting party then must reciprocate. However, for such a method to be effective the wider community must be taught and come to understand its significance otherwise it is rendered meaningless where non-Kwakwaka'wakw peoples are involved.

The idea behind having a memorial *p'asa* and the proceedings at that *p'asa* as I have come to understand them today are that the *p'asa* is started with *tseka* (cedar bark ceremony) and finishes with the *tlasala* (peace ceremony). *Tseka* includes passing along names and dances. *Tlasala* symbolizes the peace that the grieving family has arrived at and the peace that the deceased is allowed by being officially let go of by his living family and friends. For me this is the type of procedure that we are in at the moment; we must go through the motions of mourning our ancestors and other losses in order for us to arrive at a peaceful co-existence and to allow our ancestors a peaceful afterlife.

7. Who has capacity to resolve disputes?

We know that disputes are resolved in the *gukdzi* or through *nanokwala*. The *ninogad* who are called together are knowledgeable and equipped to aid in resolving problems. What is it that makes them capable? My understanding is that they are holders of stories and history, that together they are best able to remember how things were and how they came to be today. Paddy shared an excellent example of how he got to listen to one of our elders do just that. There was a sharing of stories about the ownership and use of a particular place. The story of another nation was listened to and the Gwa'Sala-'Nakwaxda'xw elder indicated with a nod that that is how it should be; they had to listen and let the other person finish. The Gwa'Sala-'Nakwaxda'xw elder in turn challenged certain facts of the story with his own teachings and understandings. The other nation

backed off from their claim of that particular spot. The power is in our elders who know the stories and who have the patience to hear from all parties.

Our *ninogad* are the people most capable of resolving disputes. They learned from and observed their *ninogad*. They have lived a life full of its own lessons that are beneficial to resolving disputes. In the past decisions reached or rights demonstrated and accepted in the *gukdzi* were final decisions. In this case we need individuals who have traditional training, and who are trusted and respected by their family and community. Traditional training in this case means knowledge of our *ninuyem* and interpersonal skills. In special cases it may be necessary to gather all *ninogad* of all Kwakwaka'wakw communities to resolve issues.

8. Role of Education

Here I see a few different forms and levels of education coming into play. When we think of education we tend to think of schools; within Kwakwaka'wakw territory there are two Elementary Schools, a number of pre-schools and some adult programs. The Elementary Schools of the Gwa'Sala-'Nakwaxda'xw and the Namgis have cultural programs that I believe are quite successful in teaching children our language and our culture.

In fact while I was home and on one of my visits to my grandmother, my Uncle Rick pulled out a DVD. It was a production of the intermediate classes of the Gwa'Sala-'Nakwaxda'xw School. Many of our leaders are keen to share their knowledge and to teach children Kwa'kwala and our community hasn't been taking full advantage of that resource. A group of students were given the opportunity to sit with four groups of elders and listen to them tell stories. The stories were from their lives, they were told in Kwa'kwala. The children sat and listened even though they didn't understand the elders,

some because of the opportunity to sit behind a camera or hold a microphone. I couldn't help but envy the opportunity.

That is a good approach to teach children. One of the elders, Spruce Wamiss, spoke about a need to be immersed in order to learn it or at least to use it when you're talking to your grandparents. Immersion was used for a one-time short period camp in July of 1996, in the Kwa'kwala Immersion Teacher Training Program (KITTP). Daisy Sewid-Smith with colleagues and some support people spent twenty-six days on Gambier Island with twenty students.¹⁶⁶ My gran Irene Hayman (my grandfather Roy Hunt's sister), and my cousin, Irene's grand-daughter Robin Rosborough, were among this group and I remember them both having enjoyed the experience. The only down-fall mentioned of the program was time, it wasn't long enough. This is yet another educational opportunity that our people have come together to offer and this time to adults.

In addition to the chieftainships mentioned in chapter four there are other chieftainships that our grandfather Henry Bell had. These chieftainships can be given to his grandsons born to his sons but that requires our family to host a *p'asa* and my understanding is that given previous instructions such an event is not forthcoming. My uncle Dick suggested that a more contemporary way to record such ownership would be to have a family member write a book recording our family history and in that way lay our claims of ownership down for others to see.¹⁶⁷ Such a book would be mainly for the benefit of future generations of each family but would also be beneficial in educating other Kwakwaka'wakw as well as non-Kwakwaka'wakw people about a family history.

¹⁶⁶ Colleen Hemphill, "First Nations Unify To Revive Language" *Awa'k'wis "A Place to Sit and Talk."* (August 15-September 15, 1996) 1 at 8-9.

¹⁶⁷ Interview with Richard Dawson by Lucy Bell (Port Hardy, 01 February 2005).

The above examples are for the most part ways in which we can educate one another as Kwakwaka'wakw people. Knowing our language, songs, dances, crests and stories of each and how all of these interconnect is integral to protecting our *nawalogwatse*. By doing this we are better able to stand up to and speak when somebody is out of line. Had I known more and been more comfortable with my knowledge a year ago I probably would have interrupted the scene I came across on the University of Victoria campus.

However, interrupting and speaking up aren't effective without people who are respectful in return. You wouldn't interrupt out of anger at the person but at the wrongful display of a dance, song or crest. Much like the Gwa'Sala-'Nakwaxda'xw elder it's important to know and to remember to be patient and not confrontational. By offering criticism from a respectful place, you hope that what you hear in return is respectful.

Conclusion

As I prepared for and conducted my interviews respect for my potential interview participants was at the top of my mind. My research interest itself could have crossed "cultural boundaries" and its content had high potential for wrongly using information and exploiting interviewees. In themselves *ha'se* and *tlikilala* were my guides at the beginning and as I neared the end. As I drafted and re-drafted my interviewees were as important a critical eye as were my supervisors and I included them as much as I could considering my time frame and their schedules.

The experiences that we each have throughout our lives are affected by the history and affect the future of our people whether we are aware of the affects or not. We have choices to make as individuals, as families, as individual nations, and as Kwakwaka'wakw peoples. As Paddy said, those choices need to be made with a view to

how our children and their children and so on are going to survive and how their lives and livelihood will be affected. The more obvious decisions deal with *awinak'ola* in the choices faced as some of our nations engage in the treaty process. There are others that affect our *nawalogwatse*, *gigitsu*, and *tlugway* and we must make those choices in the same careful manner.

The principles and elements described above are not only helpful in situations regarding proper *mayaxa* for Kwakwaka'wakw *nawalogwatse*, *gigitsu*, *tlugway*, and *awinak'ola*. They are applicable to other situations regarding Kwakwaka'wakw people. Considering property and having read the available research papers of the *Project for Protection and Repatriation of First Nation Cultural Heritage*,¹⁶⁸ I see these principles, elements, and stories as being applicable to other areas of “property law.” For example, repatriation of cultural heritage, creating a mechanism for authenticating Kwakwaka'wakw art, ensuring proper respect of Kwakwaka'wakw sacred sites (including burial sites), providing a mechanism to ensure research of Kwakwaka'wakw peoples and property is *mayaxa*, and building internal capacity to do all of these things.

Our protocols and laws found in *p'asa* are as important today as they were in my grandfathers' time. They may have changed and adapted over time but they are no less significant because of that. Our *nawalogwatse*, *gigitsu*, and *tlugway* command *mayaxa* and *tlikilala* from us as Kwakwaka'wakw peoples. To demand anything less from non-Kwakwaka'wakw is not an option.

¹⁶⁸ Online: Research Papers, <<http://www.law.ualberta.ca/research/aboriginalculturalheritage/index.htm>>.

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