

**STL'UL NUP: LEGAL LANDSCAPES OF THE HUL'QUMI'NUM MUSTIMUHW****Sarah Morales\***

*Landscape is a part of every individual's sense of being. However, one cannot deny the special relationships that Indigenous peoples maintain with places they have inhabited since the beginning of creation. These places are deeply imbued with meaning, and are sites of personal and community identity. In addition, these places are legal in nature. They teach Indigenous people about their legal obligations – to each other, their ancestors and the natural world. This paper examines the connection between land and law for the Hul'qumi'num Mustimuhw, a group of Island Hul'qumi'num speaking First Nations, located on southeastern Vancouver Island. It discusses how lands within Indigenous territories can be transformed into legal landscapes, when considered in relation to place, time and experience. It also examines specific legal landscapes within the Hul'qumi'num territory and explores the laws and regulations that reside within and flow from them. Through this paper, one can gain insight into how these places inform the Hul'qumi'num legal tradition and impart important teachings to the Hul'qumi'num Mustimuhw about the nature of their relationships and their obligations to particular places and inhabitants of those places.*

*Le paysage fait intrinsèquement partie de l'identité de chacun. Cependant, nul ne saurait nier les liens spéciaux que les peuples autochtones ont noués avec les endroits qu'ils habitent depuis le début de la création. Ces endroits revêtent un sens tout particulier pour eux et sont des lieux auxquels ils s'identifient, tant sur le plan personnel que sur le plan communautaire. De plus, ces endroits ont acquis une grande signification juridique. Ils enseignent aux Autochtones en quoi consistent leurs obligations juridiques envers eux-mêmes, envers leurs ancêtres et envers la nature. Dans ce texte, l'auteure se penche sur la relation qui existe entre le territoire et la loi pour les Hul'qumi'num Mustimuhw, groupe de Premières nations de langue « mustimuhw Hul'qumi'num » qui vit dans le sud-est de l'île de Vancouver. Elle explique comment les terres des territoires autochtones peuvent devenir des paysages juridiques lorsqu'elles sont examinées sous l'angle de l'emplacement, du temps et de l'expérience. Elle analyse également certains paysages juridiques du territoire hul'qumi'num ainsi que les lois et règlements qui en*

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\* JD, LLM, PhD, Assistant Professor, Faculty of Common Law, University of Ottawa. The author is a member of the Cowichan Tribes in the Coast Salish Nation. Thank you to my dad, Tl'ul'thut (Robert Morales), for coming along on this learning journey with me. Many thanks to my Elder Luschiim (Arvid Charlie) who is always willing to sit with me, talk with me, and share with me the things I need to know to live a good life and keep my name clean. This article was inspired by a visit that I had with Luschiim and Tl'ul'thut in December 2015, where we met to discuss how our *snuw'uyulh* is connected to the land. The title of this article, *stl'ul nup* is a Hul'qumi'num word meaning "where we are." It can refer to a specific location; however, as explained to me by my Elders, the Hul'qumi'num Mustimuhw use it to refer to their traditional territory.

*découlent et qui en font partie. En lisant ce texte, le lecteur pourra mieux comprendre l'influence de ces endroits sur la tradition juridique hul'qumi'num et les leçons importantes qu'ils enseignent aux Hul'qumi'num Mustimuhw au sujet de la nature de leur relation avec certains lieux et leurs habitants et des obligations qu'ils ont envers eux.*

## **ACT ONE: WHERE WE ARE**

Location: Theik 2 Indian Reserve

*Ring, ring.*

Su-taxwiye pauses from playing with her daughter and answers her phone.

*Su-taxwiye:* Hello.

*Tl'ul'thut:* Hi. It's me. *Luchsiim* said he's feeling better today and can meet with us. Does that still work with you?

*Su-taxwiye:* Yes. That's great news. What time?

*Tl'ul'thut:* I told him we'd meet him at his house in an hour or so. Do you need me to pick you up?

*Su-taxwiye:* Sure. Can you meet me at Naomi's house? She and mom are going to watch Mylah while I'm gone.

*Tl'ul'thut:* See you there.

*Su-taxwiye:* Thanks! Bye.

Su-taxwiye walks to the window. A light frost has covered the ground below. Across the bay she can see that the face of Pi'paam (Mount Tzouhalem) is covered in snow. Overhead two eagles are playing in the morning sun. She reflects on the words of one of her former colleagues, when he stated:

We look at [Mount] Tzouhalem and we see the basking frog and flood story. We see the mouth of the Cowichan River and we see the whale and the thunderbird fighting, and we see the stone heads over by the Comiaken church. We see all the legends and battles and stories that have happened, and old village sites and burial sites, and our history is interwoven into the land. This is our home. This is us. We are it. This is home for us. We

can't go to Ireland and feel that. We can't even go to Nisga'a [territory] and feel that. This is it here.<sup>1</sup>

This is true. These mountains, rivers, sea creatures, eagles, cedar trees, ocean waves, and so on all represent the sights, sounds, and smells that characterize her home – her sense of place. This is home and being here conjures up all sorts of feelings, thoughts, and realizations that she does not feel or ponder upon in other places or spaces – some good, some bad.

As she drives along the back roads through the reserve to her sister's house, Su-taxwiye can also see objects that threaten her sense of place. The tide is out in the bay, and she notices the sea floor riddled with cans and other garbage; even an old boat lies abandoned. As her daughter plays with the window in the back seat, rolling it up and down, she notices that the ocean winds bring with them the stench of oil and sewage, the community harbours now housing commercial docks and treatment plants. As they pass the grove of old maple trees, she can see at least a dozen bald eagles sitting majestically in the top branches. Dogs run back and forth in the municipal dog park below, and the road is lined with tourists holding long lens cameras and taking pictures of these noble creatures. As they pass over the old wooden bridges through the reserve, Su-taxwiye notices how high the Cowichan River is. Its brown, muddy waters splash over the wooden planks, threatening to flood the road and the flats surrounding it. The landscape of her territory also reflects the overlay of settler colonialism, and this reality also influences her thoughts and feelings about home.

Just as the landscape reminds her of her two histories, they also remind her of the fact that she is living in a multi-juridical world. As a legal scholar, she has been influenced by at least two legal cultures: the common law and Hul'qumi'num law. Since she lives in this multi-juridical space, her Elders have taught her that she has obligations to follow Canadian law and Hul'qumi'num law.

It is somewhere between these two realities that she experiences her territory and legal obligations today. She hopes that her visit today will help bring clarity to some of the questions she has about the connection between land and law. It is something that she has thought a lot about, especially since moving across the country to Algonquin territory. How has the move affected her ability to learn Hul'qumi'num law? How vital is the territory to the continuance of Hul'qumi'num law? What are the legal obligations for a visitor in another people's land?

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In a fundamental sense, the landscape is part of every individual's sense of being, not just that of Indigenous peoples. This is demonstrated historically by the fact that the production and maintenance of cultural materials, knowledge, and values and the formation of individual and group identity have all stemmed from landscape and place.<sup>2</sup> For example, place is at the centre of relationships with mythic stories, spirit power, ancestors, and other beings for the Hul'qumi'num Mustimuhw, and these senses of place run through the expressions of property and territory that underlie their traditional economies and

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<sup>1</sup> Interview of Joey Caro, 13 October 2006, cited in Brian Egan, "From Dispossession to Decolonization: Towards a Critical Indigenous Geography of Hul'qumi'num Territory" (PhD dissertation, Department of Geography and Environmental Studies, Carleton University, 2008) at 376–377 [unpublished].

<sup>2</sup> Thomas T Thornton, *Being and Place among the Tlingit* (Seattle: University of Washington Press, 2008) at 4.

inter-community relations.<sup>3</sup> Similarly, legal geographers have also written about the culturally experienced community sense of place in urban landscapes and the way land is literally and figuratively inscribed with the lives of all of the people who have lived there – Indigenous and non-Indigenous.<sup>4</sup> As stated by geographer Edward Relph, “[t]here is for virtually everyone a deep association with and consciousness of the places where we were born and grew up, where we live now, or where we have had particularly moving experiences. This association seems to constitute a vital source of both individual and cultural identity and security.”<sup>5</sup> Accordingly, one could argue that personal and cultural identity, including the ways it finds form in law, is always bound up with place.

However, one cannot deny the special relationships that Indigenous peoples maintain with places they have inhabited since the beginning of creation. These places, which range in scale from specific locales as small as a boulder or bathing pool and as large as a mountainside or territory are deeply imbued with meaning and are sites of personal and community identity.<sup>6</sup> As Indigenous people and, more specifically, as Hul’qumi’num Mustimuhw<sup>7</sup> (Hul’qumi’num people), it is the land and environment that we come from that make us who we are.<sup>8</sup> As my uncle George Harris shared with me,

I want to let you know that when I speak, I speak from my heart – for my nation and for my people. The land is an inheritance that I received from our ancestors. Part of that inheritance includes the traditions and sacred and ceremonial rights that go with the land and our culture. I want to speak from the perspective of an Indigenous person of the land. I come from this land. My ancestors come from this land. I am now a living being for this generation, but my ancestors are connected to the land and I appreciate what they’ve given me and what they’ve left behind for us. You can’t separate land and culture.<sup>9</sup>

The ways we perceive land are rooted in the ways in which our cultured selves experience the world.<sup>10</sup> Dwelling in a particular place engages our memory, language, spirituality, and the social relationships

<sup>3</sup> Brian Thom, “Coast Salish Sense of Place: Dwelling, Meaning, Power, Property and Territory in the Coast Salish World” (PhD dissertation, Department of Anthropology, McGill University, 2005) at 1 [unpublished] [Thom, “Sense of Place”].

<sup>4</sup> See Nicholas Blomley, “Mud for the Land” (2002) 14(3) *Public Culture* 557.

<sup>5</sup> Edward Relph, *Place and Placelessness* (London: Pion, 1976) at 43, cited in Thornton, *supra* note 2 at 4.

<sup>6</sup> Thom, “Sense of Place” *supra* note 3 at 1.

<sup>7</sup> The Hul’qumi’num Mustimuhw are part of the larger central Coast Salish peoples. They include five individual First Nations who comprise the Hul’qumi’num Treaty Group: Cowichan Tribes; Penelakut Tribe; Halalt First Nation; Lyackson First Nation; and Lake Cowichan First Nation. The core territory of the Hul’qumi’num Mustimuhw includes southeastern Vancouver Island, the Gulf Islands, and the lower Fraser River.

<sup>8</sup> Gregory Cajete, *Look to the Mountain: An Ecology of Indigenous Education* (Skyland, NC: Kivaki Press, 1994) at 164.

<sup>9</sup> *Hul’qumi’num Treaty Group v Canada* (2009), Inter-Am Comm HR, No 105/92, *Annual Report of the Inter-American Commission on Human Rights: 2009*, OEA/Ser.L/V/II (Affidavit of George Harris), cited in Sarah Morales, “Snuw’uyulh: Fostering an Understanding of the Hul’qumi’num Legal Tradition” (PhD dissertation, Faculty of Law, University of Victoria, 2014) [unpublished].

<sup>10</sup> “The very notion of what it is to be a person is cultural and consequently variable. For example, the individualism and self-centeredness of Western societies is not shared by cultures for whom personhood is inseparable from a network of kinship relations and social obligations.” Chris Barker & Darius Galasinski, *Cultural Studies and Discourse Analysis: A Dialogue on Language and Identity* (London: SAGE, 2001) at 29.

that are entangled in these places. Places and people continually form each other in our collective experiences of place: “As we experience the world, so we are also experienced by the world.”<sup>11</sup> By experiencing or dwelling in a place, we are also “recreating” that place. In other words, “place” is also made up of selves that experience.

Indigenous author, theologian, and historian Vine Deloria, Jr, confirms the special relationship between Indigenous peoples and their territorial spaces when he states that Indigenous people often give greater prominence to space (or the place and environment that we occupy) than we do to time in the Western sense of the word.<sup>12</sup> So our continuing connection to the land and fulfilling our role within that ongoing relationship is centred on our specific environment and the relationships it maintains rather than on events that may be seen as historically important to others but have only a tenuous connection to our land. For example, despite the creation of Indian bands and Indian reserves within the territory in the mid-1800s, the Hul'qumi'num Mustimuhw continue to conceive of their land and resources as shared with relatives and teach that people have to respect each other and that there are no boundaries because everyone is related through kin or Indian names.<sup>13</sup>

But that is not to say that time does not help us define place. I would argue that space, time, and experience are all important to Hul'qumi'num Mustimuhw definitions of place. Furthermore, in my discussions with my Elders, I have observed that the teachings of *snuw'uyulh* are never discussed in the abstract, without relation to place, time, and experience. *Snuw'uyulh* is a Hul'qumi'num word translated roughly into English as “our way of life” or “our way of being on Mother Earth.”<sup>14</sup> In essence, it provides the guiding framework for our legal tradition, encompassing all the animating norms, customs, traditions, and laws that produce or maintain that state.<sup>15</sup> Just as Hul'qumi'num names, stories, songs, and art are transformed when taken out of their geographic context; Hul'qumi'num laws also lose a vital part of their meaning and wholeness when abstracted from their landscapes. Accordingly, place has become an archive or storage for Hul'qumi'num laws and traditions. I will explore this notion of legal landscapes in more detail in the sections below in relation to place, time, and experience.

### A. Place

One of the fundamental elements of legal landscapes is that of place. This is because people do not experience abstract space; they experience specific, unique, and material places.<sup>16</sup> As stated by Clifford Geertz, “[n]o one lives in the world in general. Everybody, even the exiled, the drifting, the diasporic, or the perpetually moving, lives in some confined, limited stretch of it – the world around here.”<sup>17</sup> In essence, without our individual and collective experiences, space would be endless and indeterminate.<sup>18</sup> Thus, place is a particular or lived space.

<sup>11</sup> Gregory Cajete, *Native Science: Natural Laws of Interdependence* (Santa Fe, NM: Clear Light Publishers, 2000) at 20.

<sup>12</sup> Vine Deloria, Jr, *God Is Red: A Native View of Religion* (New York: Grosset and Dunlap, 1973).

<sup>13</sup> Thom, “Sense of Place” *supra* note 3 at 356.

<sup>14</sup> See generally Morales, *supra* note 9.

<sup>15</sup> *Ibid.*

<sup>16</sup> See John A Agnew and David N Livingstone, eds, *The SAGE Handbook of Geographical Knowledge* (Thousands Oaks, CA: SAGE Publications, 2011) at 316–330, ch 23 “Space and Place.”

<sup>17</sup> Clifford Geertz, “Afterword” in Steven Feld and Keith H Basso, eds, *Senses of Place* (Santa Fe, NM: School of American Research Press, 1996) 262.

<sup>18</sup> Thornton, *supra* note 2 at 11.

The same is true for our legal landscapes. It is our individual and collective experiences in a place that transforms what would otherwise be a meaningless aspect of space into something of meaning for our legal tradition. In other words, once the human and cultural dimensions of place are recognized, it is possible to analyze socio-cultural phenomena, including the exercise of power, social relations, and, arguably, the evolution of law, within this medium of space.<sup>19</sup> The relationship between physical space and legal space within the Hu'qumi'num world is illustrated by our first ancestor stories. The following extract from a Cowichan first ancestor story illustrates a typical series of events:

Before there was anybody and long before the great flood had swept through the Cowichan world, there appeared twelve separate human beings who fell from the heavens to populate this pristine and untouched wilderness. The very first sky-man that was sent plummeting to earth was a gifted soul by the name of Syalutsa.

... [A]fter Syalutsa fell to the warm ground of Quwutsun near present-day Koksilah Ridge, his younger brother Stutsun next appeared from the heavens, landing between the two majestic peaks of Swugus, also known as Mount Prevost. There soon followed a succession of other first Cowichans ... who founded the present-day Cowichan tribes. Among them were the following: Suhiltun, who descended to the site marked by the Quamichan bighouse; Swuttus, who was set down at Mount Newton in neighbouring Saanich Peninsula; and Swutun who when he fell from the sky stood on a massive heaven-sent boulder that thundered when it collided with the earth.<sup>20</sup>

As the work of anthropologist Brian Thom so aptly describes, these ancestor stories have important implications for property law in the Coast Salish world:

These local descent groups have property, both material and intangible, that has been inherited over the generations within the group. This property includes: names of these First Ancestors; certain family-owned *sniw'* (private knowledge such as special ritual teachings or detailed resource harvesting knowledge; family ritual property (*ts-uxwten*) which these First Ancestors brought with them from the heavens; certain *hwnuts'aluwum*-owned legends, songs, dances, secret words, medicinal remedies and ceremonial prerogatives. People claiming these hereditary privileges know and often develop a special relationship with the places from which these things originated.<sup>21</sup> (citations removed)

<sup>19</sup> See Nicholas Blomley, *Law, Space and the Geographies of Power* (London: Guilford Press, 1994); Nicolas K Blomley & Joel C Bakan, "Spacing Out: Towards a Critical Geography of Law" (1992) 30:3 Osgoode Hall LJ 661; Alexander (Sandy) Kedar, "On the Legal Geography of Ethnocratic Settler States: Notes Towards a Research Agenda" (2003) 5 Current Legal Issues 401.

<sup>20</sup> Daniel Marshall, *Those Who Fell From the Sky: A History of Cowichan Peoples* (Duncan, BC: Cowichan Tribes, 1999) at 9, 11.

<sup>21</sup> Thom, "Sense of Place" *supra* note 3 at 85.

As indicated in the quotation from Thom, the places where these ancestors dropped from the sky are the source of many Hul'qumi'num property laws. For example, Mount Prevost continues to be an important place for food and ritual activities of the descendants of St'uts'un (communities like Halalt<sup>22</sup> and several Penelakut and Lyackson people<sup>23</sup>). Syalutsa is the ancestor for the Cowichan people at So'mena,<sup>24</sup> and, therefore, Koksilah Ridge is a significant area for this community.<sup>25</sup> These ancestral stories re-affirm the Hul'qumi'num Mustimuhw's ancient and ancestral connections to these landmarks within the Coast Salish world, and, in turn, these landscapes hold within them fundamental property laws for them.

## B. Time

Time is another basic element to the concept of legal landscapes.<sup>26</sup> As anthropologist Thomas Thornton so aptly states: "Places are products of history; to ignore this fact is to risk missing a good deal of their nuance and meaning."<sup>27</sup> In other words, it is impossible to understand the meaning of places without knowing something of their history. Some scholars argue that there is even more to it than this. They maintain that by filtering a location through events of the past, places can reach across time, making elements of the past accessible to those who have not experienced them directly.<sup>28</sup> This transcendental quality of place then enables places to mingle elements of history and the landscape in the human consciousness.<sup>29</sup> As such, the landscape helps not only to make history but also to hold it in place "as a repository of distilled wisdom, a stern but benevolent keeper of tradition."<sup>30</sup> These geomorphic landscapes can then be used as educational tools in that they can teach people about seeing multiple time-space scales simultaneously.<sup>31</sup>

This concept is illustrated best among the Hul'qumi'num Mustimuhw by the stories about the Kwu Yuweenlh Hwulmuhw (First Ancestors). In Hul'qumi'num culture, oral traditions about the First Ancestors of local communities provide some of the basic cultural material by which people develop and express their relationship to the land and each other – in a sense, their legal tradition. Through these stories, ancestors are associated with, and embodied in, the land. The telling of these stories, along with the experience of these beings at these places, brings the legendary people to life.<sup>32</sup> In essence, these

<sup>22</sup> Franz Boas, *Indian Myths and Legends from the North Pacific Coast of America* (Vancouver: Talonbooks, 2002) at 143.

<sup>23</sup> Thom, "Sense of Place" *supra* note 3 at 93.

<sup>24</sup> Elizabeth B Norcross, *The Warm Land* (Duncan, BC: Elizabeth Blanche Norcross, 1959).

<sup>25</sup> Thom, "Sense of Place" *supra* note 3 at 93.

<sup>26</sup> See Mariana Valverde, *Chronotopes of Law: Jurisdiction, Scale and Governance* (New York: Routledge, 2015) at 30–55, who argues that space and time are not separate coordinates but co-evolve in a "chronotope."

<sup>27</sup> Thornton, *supra* note 2 at 16.

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*

<sup>30</sup> Keith Basso, *Wisdom Sits in Places: Landscape and Language among the Western Apache* (Albuquerque, NM: University of New Mexico Press, 1996) at 63.

<sup>31</sup> Deirdre A Wilcock & Gary J Brierley, "It's About Time: Extending Time-Space Discussion in Geography Through Use of 'Ethnogeomorphology' As an Education and Communication Tool" (2012) 3 *Journal of Sustainability Education* 3, <<http://www.jsedimensions.org/wordpress/wp-content/uploads/2012/03/WilcockBrierleyJSE2012.pdf>>.

<sup>32</sup> T Ingold, "A Circumpolar Night's Dream" in T Ingold, *The Perception of the Environment: Essays in Livelihood, Dwelling and Skill* (London: Routledge, 2000) 92.

places become these ancestors: they serve as “living” legal scholars. They are places where the Hul’qumi’num legal tradition can be “applied, studied, perfected and taught.”<sup>33</sup>

As one travels through the Cowichan Valley, contemporary village sites and stone landmarks mark the places where these First Ancestors fell. For example, Syalutsa was the first ancestor to fall from the sky. He fell to the warm ground of Quwutsun near present-day Koksilah Ridge. His younger brother St’uts’un was the second ancestor to be dropped from the sky. He landed in between the two majestic peaks of Swuq’us (Mount Prevost). If you look carefully at the mountain called Swuq’us (Mount Prevost), you can see the face of St’uts’un in the profile of the mountain.

The places where these First Ancestors dropped from the sky serve as a reminder to the Hul’qumi’num communities of their historic and continuing relationships to each other. Just as the First Ancestors of the original communities were interrelated through kin, so are their living descendants. As my great uncle Angus Smith said:

Where you dropped is where you belong ... Particular areas were peculiar to certain groups or families, where our ancestors were dropped on earth. They were carrying the cultural teachings ... Several peoples would go up the Cowichan River to the lake gathering their food. They knew where food was available. They gathered elk, deer and trout at the lake. Each place was designated to them. The cultural teachings were shown them, instructing them what was good for their life. It was showing the first people what they could use. It was only from the Elders; they would decide as they would go up to the Lake area. That’s the way it was with our ancestors; that’s why the Cowichan people carry this tradition. All the places have names.<sup>34</sup>

In essence, the kin networks formed through these First Ancestors serve as a link between the present-day, more politically autonomous residence groups – that is, First Nations or *Indian Act* bands, throughout the Vancouver Island Hul’qumi’num communities.<sup>35</sup> Furthermore, these stories provide the legal basis for communities and their ownership of, and attachment to, particular places. As illustrated by the words of Smith, although the events associated with my Kwu Yuweenlh Hwulmuhw are rooted in the past, their history is ongoing and reoccurring in the sense that the Hul’qumi’num Mustimuhw continually make reference to their rights and obligations (their laws) in relation both to these events and to the locations where these events took place.

### C. Experience

The third element that helps to define legal landscapes is experience. Unlike abstract spaces, places come to have meaning and value through the process of human experience.<sup>36</sup> The events, feelings, and activities that characterize experience serve to construct places in our minds.<sup>37</sup> These experiences can be

<sup>33</sup> JH Merryman, *The Civil Law Tradition: An Introduction to the Legal Systems of Western Europe and Latin America*, 2nd ed (Stanford, CA: Stanford University Press, 1985) at 1.

<sup>34</sup> (May 1998) 1:10 Hul’qumi’num Treaty Group Newsletter 2.

<sup>35</sup> *Indian Act*, RSC 1985, c I-5.

<sup>36</sup> Thornton, *supra* note 2 at 22.

<sup>37</sup> *Ibid.*



direct or indirect. This means that places can acquire meaning from one's primary interaction with the landscape and through indirect experiences of place conveyed through language, songs, stories, poems, names, art, and so on.<sup>38</sup> Viewed together, these direct and indirect experiences with the landscape codify not only knowledge and conceptions of place but also one's feelings and obligations towards place. As Thom observes, "[t]he canon of narratives that are associated with place names ... are powerful linguistic devices that bring certain storied senses of place into being."<sup>39</sup> Similarly, in his seminal work, *Wisdom Sits in Places*, Keith Basso demonstrates how place names are used by the Western Apache to evoke stories that contain important teachings that are used to direct people to "live right."<sup>40</sup> These stories illustrate the relationship between language, practice, and culture, where people represent their physical world in a way that consistently presupposes mutually held ideas of what [the landscape] actually is, why its constituent places are important, and how it may intrude on the practical affairs of its inhabitants."<sup>41</sup> According to Basso, language does not simply shape the way people know the world but, more profoundly, influences how people relate to it and each other. In thinking about what a particular landscape can be "called upon to say," one must also consider what one is being "called upon to do."<sup>42</sup> In other words, what are the practices, obligations, and teachings associated with that place – in essence, the law?

In order to illustrate this idea, I would like to share the story of the crying Mount Tuam that my late great uncle shared with Thom, shortly after some unusual archaeological sites were located by local residents high up the slopes of the mountain. The local residents were hoping that the archaeological site could help to halt the Texada Logging Company from clear-cutting portions of the mountain. After a trip to Saltspring Island, Thom brought a topographic map of the area, sat down at a boardroom table and explained to Smith what he had seen. Smith responded by telling the story connected to a nearby place name:

Shqu'alus [place name meaning "tear drops"], there someplace. That is it right there [pointing to the east side of Mount Tuam on a map]. That is the place we call Shqu'alus. Another one is straight across here and that is supposed to be the eye. This is the left eye, this is the right eye there.

That is the biggest creek. *Qulum' utl' ts'uween, nih ts'uween tu'I* [Eye of Mount Tuam, this one here is Mount Tuam].

*Nilh kwu'elh qulum utl' ts'uween* [It is the eye of Mount Tuam].

Yes, that's the eyes of Tuam. *Nilh pe'tthu no' shni's tthu smeent* [It is where the mountain is].

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<sup>38</sup> *Ibid.*

<sup>39</sup> Thom, "Sense of Place," *supra* note 3 at 214.

<sup>40</sup> Basso, *supra* note 30 at 70.

<sup>41</sup> *Ibid* at 74, cited in Thom, "Sense of Place," *supra* note 3 at 215.

<sup>42</sup> *Ibid* at 75.

See the mountain, that's Tuam. Looking at it from here [pointing to the water south of Saltspring Island], you can see that mountain, the whole mountain. That's Tuam. [citations deleted].<sup>43</sup>

After discussing the place names, Smith explained the significance of this story.

I remember this history about this [Mount Tuam]. Camping, I heard it from the old people. I was asked about this one place in Saltspring. There is one creek on this side, on the west side and one on the east side. And they had names, the same names as this one here. The one on the west and the one on the east.

And the reason why they have it was, that way it was supposed to be the eyes of the mountain. And it also has the power of the wind, east wind and west. The old people knew this when they're travelling they would go up to this one and they would splash water. That's how it's got a name. Splash water. See they'd come around a point like that and they'd just wait there, right along it. And they would do it [the splashing] and away they'd go. And the same way on this side.

The reason why they ask about this history about that place is because there's logging that's [bothering] the people up there. People up there need a little bit of help. Want to know the history. That's why I learned a lot about our history, not just this one place, you know. [citations deleted].<sup>44</sup>

What does this story and these place names tell about the experiences of the Hul'qumi'num people, and what do these experiences teach us about our law? In this story, as evidenced by the place names, Mount Tuam's crying eyes hold the power of the wind. This power can be drawn upon by those who know the ritual to perform there; in this case, the splashing of water on either side of the mountain. When done correctly and respectfully, this ritual helps to harness the power of Tuam to change the weather and can be used by travellers to aid them in their journey. From a legal perspective, this story illustrates the power within Mount Tuam and establishes a legal obligation that this place should not be mistreated – by development, for example. It serves as a reminder to the Hul'qumi'num Mustimuhw that we are connected to these places, and if we respect and protect these places, they, in turn, will respect and protect us. It teaches us that we owe legal obligations not only to each other, as human beings, but also to the lands and mountains around us because these things also are possessed of power and spirit and have the ability to help and hinder our journey through life. My great uncle recognized this power when he spoke about learning the history of places within the territory because he understood that this knowledge has the ability to help people.

As the discussion above has indicated, lands within Indigenous territories can be transformed into legal landscapes when one considers these spaces in relation to place, time, and experience. In the next

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<sup>43</sup> *Ibid* at 217.

<sup>44</sup> *Ibid* at 217–218.

act of this narrative, I will be considering specific legal landscapes within the Hul'qumi'num territory and discussing what they have to teach us about the Hul'qumi'num legal tradition.

## **ACT TWO: HUL'QUMI'NUM LEGAL LANDSCAPES AND THE TEACHINGS**

Location: Shhwuykwselu ("Koksilah") or Cowichan 9 Indian Reserve

### *Scene I: Stl'ul nup: Locating Learning*

*Su-taxwiye and Tl'ul'thut pull up in front of Luschiim's home. Su-taxwiye heart is heavy, as she and her dad have been discussing difficult issues on their way over. A family member is dealing with mental health issues, and her family, despite their education, resources, and best efforts, is struggling to deal with their reality. Her dad has also been sharing with her his struggles as the chief negotiator for the Hul'qumi'num Treaty Group. Despite over two decades of negotiations, there are still deep divides both within the communities and between the communities and governments. The challenges for her family and for her community are immense and the stakes are high and being home, in this place, reminds her of that. She can feel the weight of these problems pushing down upon her through the moisture in the crisp and cool west coast air around her. She takes a deep breath, grabs the gifts she brought for Luschiim and steps out of her Dad's truck.*

*Su-taxwiye:* This is going to be good.

She smiles and turns to her Dad.

*Su-taxwiye:* Let's just take some time and forget about everything and just listen to what Luschiim has to say to us. I always learn so much when I get the opportunity to visit with him. I'm still gaining new insights from teachings he shared with me years ago. It's like he knows what I need to hear, even before I realize it myself.

*Tl'ul'thut:* That is true. He has so much to share and you can learn so much from him. You are really fortunate to have this time with him. We've lost so many Elders in the past few years. Luschiim is such a valuable resource to our community. You will benefit a lot from what he has to teach you.

They walk up to his front door and ring the doorbell. Luschiim answers the door, and two of his young grandchildren poke their heads out behind his legs.

*Luschiim:* 'Uy' skweyul. 'il ch 'o' sthuthi? (Hello. How are you?)

*Tl'ul'thut:* 'I tsun 'o' sthuthi (I'm fine)

*Luschiim: thh'I'hweum 'I' nuw'ilum tseep* (Please come in)

They walk inside and take a seat around his kitchen table. Luschiim calls out to his two young grandsons to turn down the television and go upstairs and play for a bit. Giggling, they quickly scamper upstairs.

*Su-taxwiye:* Happy Holidays Luschiim. Thank you so much for taking the time to speak with me. As we spoke about earlier, I am still thinking about our *snuw'uyulh*, our laws, and trying to come to a deeper understanding of them. Right now, I'm really interested in learning more about the relationship between our laws and the land. Why is it so important to understand the land in order to understand our laws? What does the land teach us about our *snuw'uyulh*? How can the land be used as a tool to teach us our laws? I was hoping that you could share some of your knowledge about that, or whatever else you feel I should be thinking about, with us today.

Luschiim thinks for a moment, leans back in his chair and smiles.

*Luschiim:* The land opens the door for our *snuw'uyulh*. It gives us the opportunity to learn.

For me and my family, being out on the land, it opens the door to share our *snuw'uyulh*. Looking back, so many plus years ago, that's what it did for myself. When my great grandfather Luschiim would come to visit, after sitting down with us for a while, he would always take us for walks (me and my sister) and that's where he shared the *snuw'uyulh*.

At that particular time, I didn't know why he was doing that. But as I think about it now, in relation to my experiences with my own grandchildren, it becomes clear. You see, I can sit here, like we're doing, in the house and talk about these things, but there are always some things you can miss. But when I'm out there in the mountains, or on the salt water, it opens my eyes to what I should be sharing. What I should be sharing with them right now.<sup>45</sup>

*Tl'ul'thut:* Is that because when you're out on the land there are certain plants, minerals and places that you can use to share about those things?

*Luschiim:* That's all a part of it. As you approach it, be it a plant or mineral, there are specific teachings that come with it and so that interaction gives us the opportunity to really open our eyes to receiving that information.

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<sup>45</sup> Interview with Luschiim (Arvid Charlie) by Sarah Morales, 29 December 2015.

But if we were in the classroom, that opportunity is not there. So for a lot of my teachings, I will bring plant and mineral material into the classroom to show the students.<sup>46</sup>

Luschiim paused for a moment and looked down at his notebook. After skimming through his handwritten notes, he looked up again.

*Luschiim:* I'm going to back up to a teaching that we have in our family and in our community. It's a Hul'qumi'num teaching.

*Lemut* is to look at something. *Lumnuhw* is to see something. *Kwi' lusum* is to lay eyes upon it.

As soon as you *kwi' lusum*, or lay eyes upon that offspring, be it your child, your grandchild, or your great grandchild, you start talking to them. Language first and then you include the *snuw'uyulh*. As soon as it is born and even before it is born. For example, I had the opportunity to go the hospital with my daughter when she was in labour and I was able to sit and talk to my grandchild as soon as they were born.

Here's another example. This spring I was up Mount Tuam. We were up there on a Parks Canada trip, and I took my grandson (the one you met earlier) along. I pulled him aside on our walk, and we had a moment to be able to talk. So we sat there, and we were naming all the difference places in Hul'qumi'num. And I pointed out to him what we harvest over there. So with that came the opportunity to share our teaching with him that we don't just harvest until our canoe is full, you take only what you need.

That's what it's all about. It may be taking us a step further than what you are asking me about, but that's where it's at.<sup>47</sup>

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As illustrated by Luschiim's teachings above, it impossible to speak about the connection between land and *snuw'uyulh* (law) without also discussing the transmission of *snuw'uyulh* or the manner in which our *snuw'uyulh* is taught, refined, and studied. In fact, in previous conversations, he has respectfully pointed out to me that I was going about my inquiry in the wrong manner by asking about *snuw'uyulh* before understanding how we learn about *snuw'uyulh*. He expressed this teaching to me in the following way: "We are almost putting the cart ahead of the horse when it comes to *snuw'uyulh* ... The teachings start at a very early age. So you understand the values of *snuw'uyulh* at an early childhood, and it gets

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<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*

deeper and broader as you're putting on age."<sup>48</sup> He elaborated, in more detail, about his own learning journey, referenced above in his discussion about his experience with his great grandfather:

The teachings of the unborn child, to the unborn child, that's when teachings begin. That's where values are learned – right at the beginning ... The very first thing I can remember was laying with my grandfather. He always laid me on the right arm ... Teaching me language ... How to put the word into different tenses. That was the beginning of the value of knowing the language for me. Also, at that same time he started walking us through the forests, me and my sister Myra. He started by naming the trees. I didn't know there was value in that at the moment. As we started naming the trees, he started to say what they were for. Eventually he taught me about the medicines. When to harvest them and what's harvestable all year round ... The value of knowing what you can survive on. Along with it, has been said many times, don't waste it. The value of not wasting. There's more to it. If I've got a surplus of something I can give to somebody, maybe that person won't give me anything right away. But maybe in ten years he will give me something in return ... That is one of the values of our ways ... The values are there in everywhere we look at in our life.<sup>49</sup>

Another Hul'qumi'num elder, my uncle Joe Norris, shared a similar understanding with me:

It's really important to look at our teachings today. Looking back, when my grandmother was talking to me about a child being conceived, and in the fourth month, God puts the soul in the baby. When you're carrying a child, that's when it starts to kick, so that's when the teachings begin – you start talking to the child the mother was carrying. So she said I was very alert when I was born because I recognized their voices. When my grandfather spoke to me, I knew who he was. So that's the teachings. It goes all the way back that time. All the way back to that era and how our Elders taught. So you always knew who you were and walked with dignity ... It's taken me 67 years to really come full circle in the teachings that were given to me. So it's not overnight. It takes time.<sup>50</sup>

One significant understanding that arises from these discussions is that learning about and understanding Hul'qumi'num law is a process – a process that begins even before one is born. However, this is not to suggest that if you were not exposed to the Hul'qumi'num legal tradition at this early stage in life that the teachings and laws that flow from it are not accessible to you. Although my Elders have expressed to me that traditional teaching began in the womb, this practice is not integral to the legal tradition. Although it may be considered the preferred practice, Hul'qumi'num Elders recognize the importance of passing on these traditions in whatever manner or form necessary.<sup>51</sup> They recognize that transmission is necessary for the continuance of their legal traditions. As Luschiim indicated in the previous narrative, with a little bit of adjustment, such as bringing in traditional plants and minerals, the teachings of *snuw'uyulh* can also be received in a classroom or around a kitchen table.

Furthermore, as Luschiim's words demonstrate, within the Hul'qumi'num legal tradition, it is, at times, difficult to designate specific actions or teachings as being strictly legal. As his experiences on the

<sup>48</sup> Interview of Arvid Charlie, 23 June 2010, cited in Morales, *supra* note 9 at 213.

<sup>49</sup> Interview of Arvid Charlie, 16 June 2010, cited in Morales, *supra* note 9 at 213–214.

<sup>50</sup> Interview of Joe Norris, 16 June 2010, cited in Morales, *supra* note 9 at 215.

<sup>51</sup> Morales, *supra* note 9 at 216.

land illustrate, oftentimes the teachings conveyed are layered and fulfil more than a legal purpose. For example, the teachings he received about traditional plants and materials fulfil a purpose related to health and well-being as well as regulatory purpose regarding when to harvest such materials, how much to take, and so on. This is true of other teachings as well. Law is intertwined with hunting practices, fishing practices, cooking practices, medicinal practices, and so on.<sup>52</sup> Accordingly, its transmission cannot be separated from the other cultural practices of the Hul'qumi'num Mustimuhw. This means that when Hul'qumi'num Mustimuhw are out on the land, engaging in any form of cultural practice, they are also engaging with, and deepening, their understanding of their legal tradition.

The next two scenes will illustrate how the teachings of *snuw'uyulh* can be studied and taught by the Hul'qumi'num Mustimuhw through engaging with, and thinking about, their *stl'up nup*.

*Scene II: Pearce Island and Mayne Island – Owned, Overlapping, and Shared Territories*

*Luschiim*: What is land? One of our lands is *stl'ul nup* – where we are. The land we're at. *Stl'ul nup* could be as small as a garden but, as a community, *stl'ul nup* is your territory.

So how do we use the land? Some of it is owned outright by a person or a family and that land is passed down. I have both shared and overlapped [land] written down. They can almost be used interchangeably, but I don't think so, not in the way I know it.

Pearce Island at Swartz Bay. I was camped there in 1949, when I was seven years old, with my dad Simon and my great grandfather Abel Charlie. We were camped there for some time when he told my dad, "If Saanich get here, this is a Saanich campground, so you move. No question. You just move."

So some of it was shared that way. Where you can camp there, but if the owners that live there or camp there show up, then you move. That's the way it was and you respected that.

To me overlap is a bit different. It's where you can both use the territory for things like fishing and hunting. That's the difference for me.

So we were kind of overlapping their clam digging area on Pearce Island, but we shared their camping site. So we would've moved if they arrived there. They didn't arrive thankfully [laughing], it was cold and we would've had to pitch a tent.<sup>53</sup>

*Tl'ul'thut*: Were those places taught? How did you know that one particular place was used by a certain village or people? Was it passed down orally?

<sup>52</sup> *Ibid* at 214.

<sup>53</sup> Interview of Luschiim (Arvid Charlie) by Sarah Morales, 29 December 2015.

*Luschiim*: Much of it was passed down orally, but also by presence. One of the indicators was its name. So if it had a Hul'qumi'num name, it would've been a Hul'qumi'num place. If it had a Saanich name, then that would be an indicator, for me anyways. So we'd ask ourselves, where does the name come from?<sup>54</sup>

*Tl'ul'thut*: So I know on some of our maps at the treaty office there are certain places that have Hul'qumi'num names and Sen'coten names – both.

*Luschiim*: I'm not saying they are, but it's possible that that could indicate an overlap.

Okay, here is a good example of a difference between overlapped and shared. I'm not sure the name of this bay, but on Mayne Island there's a point called Graveyard's Point and a bay, it might be called Miner's Bay, but I'm not certain. In my travels with the Elders I was trying to map where the houses were at that bay, not big longhouses, but smaller individual houses. They were pointing out, this is Big Joe's house, from Chemainus, this is so and so's house from Cowichan, I forgot the other ones. Those houses, older time dwellings, were right next to each other. So those three were at that place in the bay, but within that spot they each had their own little spot. And there are teachings that come with that. Like, if Big Joe wasn't there, then those others could use his spot until he arrived. That's shared.

Now the overlap.<sup>55</sup>

Luschiim picks up his notebook and a piece of paper to demonstrate the following concept.

*Luschiim*: Okay, if this is Cowichan's territory and this is Saanich's, you can see there's some overlap. But there might be an empty spot, here in the middle, and maybe Saanich might come in there. Some of them had their campsites right within the heart of Cowichan territory. But in return, we also had campsites in their spots, like Piper's Lagoon. So that's overlap, if we can call it that.<sup>56</sup>

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What does the preceding narrative teach us about the Hul'qumi'num legal tradition, particularly with respect to notions of property? First, it is important to comment on the importance of place names in the Hul'qumi'num legal tradition. As illustrated above, place names are an important legal tool for maintaining property relations with respect to resource sites and residence areas. These names do more than simply identify an area on a map. Rather, they have the ability to impart knowledge, not only relating to ownership rights but also relating to teachings around how an individual should conduct him

<sup>54</sup> *Ibid.*

<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid.*



or herself when residing on, or visiting, a particular place. For example, it is possible that different places would require the Hul'qumi'num people to draw on different protocols based on their relationships with the owner or host nation of the particular place. The place name would provide the visitor with the knowledge necessary to ensure that he or she was acting in accordance with *snuw'uyulh* and the legal traditions of the host community.

Second, the differentiation between the terms “owned,” “shared,” and “overlapped” also gives insight into the Hul'qumi'num legal tradition. As Luschiim articulated, individuals or persons own some places within the territory outright. As previously mentioned, individuals who can connect themselves through descent to ancestors who were connected to specific places, like the First Ancestors, can gain ownership rights to many productive resource locations within the territory.<sup>57</sup> For these individuals, relations with these ancestors require reciprocity, sharing, and respect for other persons, both human and non-human, who are associated with those particular places.<sup>58</sup> As such, these places within the territory create and reinforce kin-based property laws, where the land is acknowledged as belonging to both the ancestors who dwell there and to those living today.<sup>59</sup> Accordingly, the protocols and laws governing those places and the people connected to them draw upon teachings of respect, trust, sharing, and kinship in relation both to the physical spaces themselves and to the living beings who occupy and visit those places.

As illustrated by Luschiim, the kin-based property system of the Hul'qumi'num people is complex. Not every place within the territory is owned by a specific kin group, as demonstrated by the existence of overlapping areas. Ancestors may be associated with lands all across the territory, and individuals associating with these ancestors may enjoy property rights in a number of places.<sup>60</sup> This could give rise to both shared and overlapping territories. Furthermore, one cannot understand the Hul'qumi'num legal tradition without considering it within the framework of kinship relations. The notion of kinship is inherent to *snuw'uyulh*.<sup>61</sup> Since kinship was, and still is, the primary vehicle through which the ethics of sharing is exercised, Hul'qumi'num communities value strengthening their kinship ties.<sup>62</sup> This was often achieved through the hosting of visiting relatives who wished to harvest locally owned and controlled resources. However, as described above, community members have the right, in theory and in practice, to restrict distant relatives or non-kin outsiders from trespassing or using land and resources that are owned by family or residence groups.<sup>63</sup> Enforcement against trespass is largely the result of outsiders over-harvesting or overstaying their welcome or failing to respect social, ritual, and technical protocols that are often only locally known.<sup>64</sup>

As this scene has demonstrated, place names and their categorization as owned, shared, or overlapping territories has a lot to teach us about the Hul'qumi'num legal tradition, particularly with respect to its land tenure or property system. The land is vital to the understanding of these laws, not

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<sup>57</sup> Brian Thom, “The Paradox of Boundaries in Coast Salish Territories” (2009) 16 *Cultural Geographies* 179 at 185 [Thom, “Paradox”].

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.* at 186.

<sup>61</sup> See generally Morales, *supra* note 9.

<sup>62</sup> Thom, “Sense of Place,” *supra* note 3 at 358.

<sup>63</sup> Thom, “Paradox,” *supra* note 57 at 186.

<sup>64</sup> *Ibid.*

only in terms of illustration but also in terms of transmission. The next scene will consider, in more detail, what the Hul'qumi'num legal landscape can teach us about maintaining good relations.

*Scene III: Sechelt and Yale – Maintaining Good Relations*

*Tl'ul'thut:* Now the overlapping territories. Was that because of the family connections Luschiim?

*Luschiim:* It was, some of it was. And we went to great lengths to make sure we kept that connection going. Like we have connections at Sechelt. We have many Sechelt names here. Even some of our masks came from Sechelt. One of the big reasons, from what I understand, is the mountain goat wool. When I went to see my great grandmother, one time in the 1970s, she pointed to the mountain across the water and said, "We always watched over there. When the mountain goats show up over there, then we went over there."

There's many places like that. Where we kept family unity going to be able to access resources.<sup>65</sup>

*Tl'ul'thut:* So, if you use that example from the mountain goat wool, they use mountain goat wool to make some of our very important cultural materials. So is that why it was important to maintain or foster our connections there.

*Luschiim:* Yes, it was very important because there was nothing else that could match that, and, for us, we couldn't get it here locally so it was very important to keep those connections.

Another one is Yale. I knew about that all my life. But, more recently, about 15 to 20 years ago, I was sent over there to do an affidavit. When we got there, this old man was there, and he showed us (this is where showing comes in handy) all the fishing spots. This man was probably in his mid-80s, early 90s, and he showed us the fishing spots and the teachings that go with it

We could access their fishing spots. But across the river, that was their home. It's swift there at the Fraser River, because it's right at the beginning of the canyon. You can't access it from above, because it's just straight cliffs. The only way to get to their home was to come up along the edge of the river, but, of course, if you were the enemy you'd just get picked off because you couldn't move away from the shore because the river was just too swift. So the old man told me that if they thought they might get raided, they'd all just move over there.

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<sup>65</sup> Interview of Luschiim (Arvid Charlie) by Sarah Morales, 29 December 2015.

After we finished our work, they served us a meal, and after we were all fed, I made my way over to this man. I told him that I understood that we used to come over here on our way up to Kamloops and Chase. I was looking at how swift the river was over there, and it was so swift I was wondering how did we make it by these places?

He gave me a little chuckle, "Oh it was easy," he said. "We knew when you guys were coming and we'd build walkways with ropes along these steep cliffs and when we saw you guys coming up we'd hook you up to our ropes and pull you through these swift places.

He said everybody looked forward to our visits because we traded things on our way up and we traded things on our way down. So trade was a big item.

So after a while I said to him, "I also understand we'd get mountain goat wool here." He said, "Yeah, that's right, when you guys got here, after resting for awhile, we'd send our youths up to show you where the goats were." That's how we got our mountain goat wool there.

I thought that was the end of that, but he continued: "You know you guys used to make a lot of smoked fish over here. When you guys came up, you'd smoke a lot of sockeye and pinks." By the time the fish get up there, they're a little bit skinnier. I was told that's one of the reasons we'd go up there. I was told that by him and by others, that if you smoke the skinnier fish it will keep longer and better.

And, again, I thought he was finished, but he went on a little bit more and said, "You know, we sure looked forward to those times because when you guys went home, you'd leave those big canoes." That was our thanks for being there and sharing their resources.<sup>66</sup>

*Su-taxwiye*: So during these visits, who's laws did we follow? Did we follow our own *snuw'uyulh* or would we respect the laws of the communities who we were visiting?

*Luschiim*: For me, I need to respect the people and the place that I am visiting. So, for me, if I was hunting in another people's territory, I use my ways, but I also have to respect their ways for treating that animal that I just caught.

I try to use both teachings. I'll do the things I have to do, but I'll visibly show the people I'm visiting that I am using and respecting their ways also.<sup>67</sup>

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<sup>66</sup> *Ibid.*

<sup>67</sup> *Ibid.*

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As the story above illustrates, amongst the Hul'qumi'num Mustimuhw relationships, economies and dependencies foster a legal tradition that is grounded in the teachings of respect, trust, obligation, reciprocity, and sharing. These teachings are also held with the land, as the land gathers legal significance through these communities' experiences with and shared memories of these places. Ideologies of kinship and sharing and engagements through travel underwrite these senses of territory throughout the Coast Salish world<sup>68</sup> and guide the development of laws for the Hul'qumi'num Mustimuhw with regard to how to conduct oneself in relation to other people and other places.

One important teaching, which forms the basis of our *snu'wuyulh*, is *hw'uywulh* or sharing. *Hw'uywulh* provides the basis for developing protocols with our relatives and non-relatives in the Coast Salish world.<sup>69</sup> As Luschiim's story about Yale demonstrates, establishing strong ties through the process of sharing brought both security and protection to the Hul'qumi'nun Mustimuhw. The Hul'qumi'num Mustimuhw relied on their relationship with the people of Yale for access to specific resources, which were necessary for both physical and cultural survival. Reciprocally, the people of Yale relied on the Hul'qumi'num Mustimuhw for trade items from the Coast and from the interior. Accordingly, laws and practices were developed, based on the teaching of *hw'uywulh*, to ensure that good connections were maintained between these two communities.

The Hul'qumi'num teaching of *si'emstuhw* ("respect") and *thu'it* ("trust") also guided the protocols and laws developed between the people of Yale and Hul'qumi'num Mustimuhw. As recounted by Luschiim, it was not easy for visitors to access the village of Yale and, subsequently, make safe passage on to Mission and Chase. The Hul'qumi'num Mustimuhw had to rely on the goodwill of the people of Yale and their system of ropes to guide them through the fast waters of the Fraser River. These practices were based on *thu'it*. But *thu'it*, is closely connected to *si'emstuhw*. The Hul'qumi'num Mustimuhw knew that if their relationship with the people of Yale was governed by the principle of *si'emstuhw*, then the relationship would also be governed by *thu'it*. Accordingly, the Hul'qumi'num Mustimuhw made sure to always respect the laws and protocols of the people of Yale when they were visiting. As discussed by Luschiim, although it is important for the Hul'qumi'num Mustimuhw to follow our *snuw'uyulh*, it is equally important to demonstrate to the community members whose territory you are visiting that you also respect their legal traditions and practices. That is in keeping with the teaching of *si'emstuhw*. Furthermore, the Hul'qumi'num Mustimuhw also demonstrated their respect and thanks to the people of Yale by leaving their big canoes with them after their journey. These were vessels of great worth and value to the Hul'qumi'num Mustimuhw and gifting them to their hosts demonstrated their respect and love for them.

As this encounter at Yale has illustrated, there are places all throughout the Coast Salish world that contain important legal teachings for the Hul'qumi'num Mustimuhw. Although these places may not have as direct a connection as the ancestral places within their traditional territory, these places have come to take on a legal nature by virtue of the collective memory regarding the experiences at that place. Even though these practices may not be ongoing today, they still inform the Hul'qumi'num legal

<sup>68</sup> Thom, "Sense of Place," *supra* note 3 at 31.

<sup>69</sup> Morales, *supra* note 9 at 233.

tradition and impart important teachings to the Hul'qumi'num Mustimuhw about the nature of their relationship and their obligations to that place and the inhabitants of that place.

### ACT THREE: WHERE WE ARE GOING

Location: Theik 2 Indian Reserve

It is now dusk, and Su-taxwiye is back at her parents' home in Cowichan Bay. She is reflecting upon and pondering the teachings that were shared with her today, by both her Elder and her dad. As she looks out the window, across the bay and up to the face of Mount Tzouhalem, she is overcome with a sense of peace, understanding, and a fullness of heart. Even though work has taken her out of her territory, across the country, and has now made her a visitor in Algonquin territory, this is home. This land best tells the story of who she is. This land has inspired, recorded, and preserved the histories of her people, her family, and herself. Through land, one can come to understand who she is as a Hul'qumi'num Mustimuhw. Through land, one can come to understand the legal tradition that guides her. Through land, one can come to understand who she is an individual. That connection can never be severed – just as her *snuw'uyulh* lives within her, so does the land. As she sits down on the floor to play with her daughter, she remembers the teaching that Luschiim used to begin their conversation: “*Kwi'lusum* – to lay eyes on something. As soon as you see that offspring, that child, grandchild or great grandchild, you start talking to them ... then you include the *snuw'uyulh*.”<sup>70</sup> She calls her daughter over to the window.

*Su-taxwiye*: Do you see that mountain over there? It's called *Pi'paam*. Do you see the top? Doesn't it look like a really big frog? ...

After a few minutes, she stops, and they go back to playing together. Even though she knows her two-year-old daughter probably won't remember the teachings she shared with her this evening, she understands the importance of connecting her to these landscapes in order to help her understand who she is and how she should be living her life according to her *snuw'uyulh*. She wants her to come to know these landscapes and the stories they house. She wants her to be able to draw from the laws embedded in these lands. She wants her to know that she comes from a history of strength and that these lands testify to that. Although the appearance of these landscapes has changed, the laws within them have remained steadfast. They are sitting there, patiently waiting for their revival. Even though Su-taxwiye acknowledges that the struggle to revitalize these laws may not be reconciled in her lifetime, she is hopeful that her daughter will live in a time when the laws of all her relations are respected. So she will continue to share these stories about their home with her daughter and others, just as she has been taught, so that people will be ready to embrace these legal traditions when the time comes.

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<sup>70</sup> Interview of Luschiim (Arvid Charlie) by Sarah Morales, 29 December 2015.