

## Justice committees in Nunavik: Promoting integration and restoring balance<sup>1</sup>

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“Is the present [justice] system flexible enough to allow accommodation of what can appear to be cultural incompatibilities? Will the system endure encroachment upon its well established traditions to integrate aspects of a culture, language and lifestyle foreign to itself? At what point would acceptable tinkering become regarded as unacceptable radical surgery?”

- Zebedee Nungak, Chairperson, Inuit Justice Task Force  
Speech to the Royal Commission on Aboriginal Peoples

### Context

Aboriginal peoples<sup>4</sup> did not have written or codified laws, and justice as we know of today did not exist for these groups. What did exist was a desire to maintain social order and preserve a balance and harmony with the surrounding environment. Life was not linear, but circular. Life was seen as a system of kinship where all beings were interconnected:

For human beings there is really only one way of looking at life on this earth, and that is as a sacred circle of relationships among all beings, whatever their form, among all species...there are no peoples, races, or civilizations: there is only the human species, one among many species of beings...The underlying implication of the Sacred Circle is recognition of the other as a complement to oneself, leading to a situation of equal status for all (Sioui, 1999, p. xi-xii).

The desire to preserve balance led to the development of important values that were the foundation of social regulation for many groups. Such values included sharing, caring, respect, equality, courage, honesty, responsibility and collectiveness. In order to ensure social regulation, a social structure would be established and guidelines or ways of conducting the self would be taught and expected from the individual. By having a social structure and ways that maintained and regulated a natural social order, it was easier for all to live in harmony. Social order was learned by Aboriginal peoples from the time they

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<sup>1</sup> Please note that is an unpublished chapter in a forthcoming book.

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<sup>4</sup> We apply the term “Aboriginal” in order to be consistent with the Criminal Code. However, “Indigenous” is a more appropriate term to use.

were children and was continuously taught throughout their lives through storytelling, imitation, demonstration, games, songs, teaching and guidance.

For the Inuit, who traditionally lived in small family-based groups that travelled in search of food, behaviours and actions were regulated through beliefs and taboos that were essentially informal obligations or rules. These 'rules' could be interpreted as "corollaries of legal standards" to which one was supposed to follow in order to avoid reactions and possibly sanctions (Finkler, 1980, p.14-5).<sup>5</sup> Most rules, teachings or traditional ways existed, first and foremost, to ensure a safe and healthy future for the many generations to come.

For the Inuit, similar to First Nations communities, the well-being of the group was more important than the individual: "survival and sustenance of the collective was the primary factor which dictated the decisions of a justice and dispute resolution nature. The Elder and the most able providers were the undisputed leaders and arbiters of resolving conflict" (Speech by the Chairman of the Inuit Task Force to the Royal Commission on Aboriginal Peoples). If someone would not respect the social order that had been taught to him/her and would disrespect others by doing harm, then various ways of correcting the situation were applied. Crimes were to some degree categorized and assigned a level of severity. Depending on the individual's role and place in the group, the reaction chosen by the group would be adjusted. It was more important to treat the offender rather than the offence. Some examples of informal methods to deal with an incident included to ignore the situation, and to mock, shame and gossip about the person (Pauktuutit, 2006, p.10). If those actions did not work to change the behaviour of the individual, then other methods were used such as expulsion or ostracism of the offender. If the behaviour continued and someone posed a grave danger to the group, the offender could be physically ostracized from the group, and: "once the group decided that the person's behaviour had changed and that the offence would not likely be repeated, normal relations would be re-established" (Pauktuutit, 2006, p.12).

As of the late 19<sup>th</sup> Century, life for the Inuit would drastically change. Inuit traditional concepts and ways of maintaining social order were theoretically dismantled with the imposition of the Canadian justice system. Matters of crime would be administered solely by representatives of the federal government, which at the time was the Royal Canadian Mounted Police (RCMP). In the 1960s, the Government of Quebec increasingly took over the administration of justice.<sup>6</sup>

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<sup>5</sup> Hoebel (1954) and Birket-Smith (1929) among others provide interesting accounts of the types of crimes committed and their considered level of severity.

<sup>6</sup> Considering the limited space and objective of this chapter, it does not provide details on the history.

## Phase 1 - Aboriginal justice committees and their recognition

From the perspective of many Aboriginal peoples, the Canadian criminal justice system is a foreign system which had been imposed upon them (Zimmerman, 1992, p. 369; Ministère de la Justice, 1995, p. 2; Wrong, 2007, p. 43). Throughout the years, this imposition proved to be a major failure where it became increasingly evident that while Aboriginal peoples represented a small percentage of the Canadian population, they were progressively becoming overrepresented in prisons across Canada. At the same time, there was a growing realization and movement by Aboriginal communities, advocacy groups and legal experts for self-government. Aboriginal communities having greater control over justice-related services was seen as integral to self-government (Law Commission of Canada, 2003, p.27; Wrong, 2007, p. 43). Notions of ‘culturally-appropriate’ and ‘community-based’ were also becoming popular, as well as ‘alternatives’ for certain offenses that could be dealt with outside of the traditional court system.

In particular to Quebec, the first major report on justice in the North was produced by a committee set up by Justice Minister Jérôme Choquette in 1972. The committee was mandated to study the administration of justice north of the 55th parallel. The Choquette report’s main recommendations were to extend judicial services to the North with an itinerant court and to station more police officers in Nunavik. There were ongoing demands for increased participation of Aboriginal community members in the administration of justice, which, for example, was evident in the development of the first justice committees in Mistissini<sup>7</sup> and Puvirnituk<sup>8</sup>, the Waswanipi Peace Act<sup>9</sup>, and a proposal from the itinerant courts in northern Quebec for “more active participation of Aboriginal people in the administration of

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<sup>7</sup> A Cree reserve in Quebec.

<sup>8</sup> Puvirnituk is a northern village in Nunavik.

<sup>9</sup> “...the Cree-Naskapi (of Quebec) Act forms the basis of the local governmental apparatus within the Cree and Naskapi communities. A series of by-laws adopted under the Act are presently being applied with varying degrees of success. However, some of the communities are concerned that the Act is not flexible enough to enable them to express their growing jurisdictional needs. Local governments, it is said, have a distinctly “municipal” flavour to them. For example, the Act applies only to Category I lands, which in certain instances can create problems of enforcement, for example, in the maintenance of peace within the community. In certain communities, the concept of self-government is decidedly evolving in areas not foreseen by those who framed the Act. Waswanipi, a Cree community in Quebec was dealing with a peace-keeping problem. It also felt that the administration of justice by the “travelling” court was inadequate when it came to maintaining local peace, mainly because the court did not reflect the community’s customs and culture, and it took too long to offer a solution when a member of the community did something wrong, negating the notion that the punishment was in any way related to the deed it was supposed to punish. The first action taken by Waswanipi was the adoption of the Waswanipi Police Act, which now regulates police procedures and accountability. This is a novel Act in the sense that it extends the police’s jurisdiction in some areas outside Category I lands. The community...adopted the Waswanipi Peace Act, which replaces all the old “behaviour” by-laws and, more importantly, establishes a Community Justice Panel with jurisdiction over the matters covered in the first part of the Act...Waswanipi looked at replacing the jurisdiction of the provincial court in matters of local behaviour” (Cree-Naskapi Commission Report, 1996).

justice”<sup>10</sup> (Ministère de la Justice, 1995, p.2). In 1992, during the *Sommet de la Justice* that the *Conférence des Juges du Québec* government officials and Aboriginal nations present at the event proposed a task force to explore the “transfer of responsibility for the administration of justice” to Aboriginal communities (Justice in Aboriginal Communities, 2008, p.16). A series of recommendations (54) were made to the *Ministère de la Justice* [Quebec] and *Ministère de Sécurité Publique* [Quebec] in the report *Justice for and by the Aboriginals* (1995):

The Ministry of Justice should adapt this global strategy for the administration of justice in Aboriginal communities and should adapt it to specific needs of each of the communities in accordance with their social and cultural values, the goal being the gradual taking over by Aboriginals of responsibility for justice in their own communities on the basis of the orientations discussed during our consultations, namely: mediation, diversion, appointment of justices of the peace, creation of justice committees and consultation with the community in the choice of sentences (Ministère de la Justice, 1995, p.61-2).

The recommendations also focused on collaboration and capacity building:

While recognizing principles relating to judicial independence, the working group proposes that reform be undertaken with actions in three main areas: the implementation of decision-making and consultation mechanisms to introduce gradually an overall, forward-looking approach adapted to the needs of Aboriginal communities; an increase in synergy between stakeholders involved, and a new commitment by all stakeholders to improve justice services for Aboriginal peoples; and closer collaboration among communities, in particular by integrating and developing community resources and by introducing mechanisms to promote discussions with the representatives of various Aboriginal organizations and communities on future actions in the field of justice (Justice in Aboriginal Communities, 2008, p.32).

The recommendations included the creation of justice committees, outlined in recommendations 4 to 7:

“...the *Ministère de la Justice* [Quebec] should encourage and support the creation of a group of persons (a justice committee or other type of organization) with responsibility for organizing and maintaining judicial and conflict resolution services and an individual should be hired on a remunerated basis to act as secretary for such a group” (Ministère de la Justice, 1995, p.62).

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<sup>10</sup> *A Proposal for More Active Participation of Aboriginal People in the Administration of Justice.*

“Resource persons should be hired in order to assist the communities interested in establishing such ‘justice committees’, in particular, by training the persons called upon to serve as committee coordinators or members” (Ministère de la Justice, 1995, p.63).

“The *Ministère de la Justice* should study the advisability of providing financial support to these ‘justice committees’ and should determine the form such financing might take” (Ministère de la Justice, 1995, p.63).

“A dialogue should immediately be established with the communities that have shown themselves to be the most interested in setting up such “justice committees”, and the *Ministère de la Justice* should be ready to assist any other community expressing an interest in pursuing such a course of action” (Ministère de la Justice, 1995, p.63).

Other recommendations included the development of a diversion or alternative measures program, the provision of mediation services, appointment of justices of the peace, and encouraging judges to consult communities in the choice of sentences.

Following the *Conférence des Juges du Québec*, Makivik Corporation<sup>11</sup> adopted a resolution at its Annual General Meeting in the hope of improving the administration of justice in Nunavik. According to the resolution: “Administration of justice is integral to self-government in Nunavik...Nunavik Inuit must participate in a meaningful way in the creation and implementation of any justice system for Nunavik” (Inuit Justice Task Force Report, 1993). The resolution set up a joint Makivik Corporation and Kativik Regional Government (KRG) Task Force that included six Inuit representatives. The task force members visited the communities to hold consultations and hearings on crime prevention measures, law enforcement issues, the court system, alternative dispute resolution systems, correctional services, post-correctional services, role of Inuit customary laws and traditions in laws for the region, problems facing youth and young offenders and civil law matters. It was the first time that Nunavimmiut<sup>12</sup> were consulted on justice issues in Nunavik (Inuit Justice Task Force Report, 1993). A series of recommendations were outlined in the report *Aqquasiurniq Sivunitsasiaguniqsamut* (Blazing the trail to a better future).

The recommendations did not make specific reference to the need for justice committees. Instead, there is a demand for alternative dispute resolution systems for greater community involvement in justice

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<sup>11</sup> <http://www.makivik.org/>

<sup>12</sup> The Inuit of Nunavik. They live in 14 coastal communities. Nunavik includes the Québec territory located north of the 55th parallel.

decision-making in Court and at sentencing, and for greater consideration of Inuit cultural and traditional values in such decision-making. In addition, there is a demand for supervision at the community level for offenders who are not incarcerated, and for further discussions with Inuit on the incorporation of customary laws and traditions. Following community consultations, a Task Force member makes reference to the need for a committee-like structure, yet it is not a final recommendation:

In the past, Inuit used to have Elders meet with people involved in their family who were having difficulties. I would like to see a continuation of this helping process with offenders. Perhaps a group of community members could act as advisors to youth and adults guilty of some offences. They could work out a program of service and rehabilitation for these offenders which could avoid sentencing for the individuals. Support groups could use the meeting room as well. These courthouses could be the centre for providing information to the community about the justice system and the changes taking place (Inuit Justice Task Force Report, 1993).

Another Task Force member stated that: “What is truly missing now is the gathering of families and related groups to consider restoration of good order and harmony when conflicts or offences make such action necessary. Inuit traditionally never let any wrongdoing pass without devoting attention to it” (Inuit Justice Task Force Report, 1993).

The work of the Task Force demonstrated the strong desire by the Inuit to be involved in justice decision-making and in adapting the system to customary laws and traditions. It was clear that the Inuit wanted to be involved in the way forward. If any real improvements were going to happen, these conditions were crucial. At this time, several important events were taking place that would further advance the work of the task force and the recognition for the need for ‘culturally appropriate’ and ‘community-based’ responses to crime in Aboriginal communities. Some examples include: the 1995 amendment of the Young Offenders Act to use more community-based alternatives; the Royal Commission on Aboriginal peoples and report in 1996; the amendments made to the Criminal Code by the legislator in sentencing principles under 718 e and f to reinforce reparation to the victim and community and accountability of the offender, and the need to explore alternative sanctions when reasonable and to pay particular attention to Aboriginal offenders’ contexts in 718.2e, the possible use of an alternative measure program under 717 and the introduction of conditional sentence order of imprisonment under 742 - the Supreme Court’s decision in R. v. Gladue - reinforcing how 718.2e is an important sentencing principle when sentencing an

Aboriginal person accused; the political agenda to reduce the growing costs of courts and corrections, among others.<sup>13</sup>

The Ministry of Justice Canada and the *Ministère de la Justice* [Quebec] began to invest small amounts of funding in Aboriginal communities. For the federal government, investments were supposed to be made in capacity building for community-based alternatives through the Aboriginal Justice Strategy and Aboriginal Justice Learning Network (AJLN). Quebec's investments were supposedly directed towards promoting Aboriginal community justice and restorative justice initiatives through the funding of justice committees in the communities. A coordinator would run the justice committee and act as a liaison with the Ministry (Justice in Aboriginal Communities, 2008).

All of these efforts were incredibly important in getting the government and justice system to recognize the right of Aboriginal groups to have community justice. However, what did community justice mean? Who was the community? What would be implemented and how? What were community-based alternatives?

At that time, there were no clear answers to the questions. For the government, Aboriginal community justice was not necessarily about Aboriginal communities determining what they needed in order to meet their community's needs and values, but suggested more community participation. The government dictated the objectives of justice committees that the government funded. The government followed recommendations of the report *Advisory Committee on the Administration of Justice in Aboriginal Communities. Justice for and by the Aboriginals*, which described the roles of a justice committee. Justice committees were expected to "play a part in the administration of justice" without asking communities to define what justice represents for them. Thus, they were expected to play a role which in part was foreign to them.

In the late 1990s, sentencing circles that were initiated in Kawawachikamach were mainly led by a judge; Judge Dutil. The funding of \$20,000 a year was provided to pay honorariums for members of this committee and other expenses. While it was innovative, the members of the community involved were not leading this initiative. It was owned and led by the judge and involved community participation. A clear indication that the community never owned it, is that as soon as Judge Dutil left, the circles ended and the members did not know what to do to maintain it. The program came back to life in the mid-2000s

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<sup>13</sup> Due to limited space and mandate of this chapter, it does not cover all the important events. However, for more information, please consult the bibliography.

in a new form, once community members were able to take ownership and define what they needed from their justice program.

In 2002-2003 as the Young Offender Act was being replaced by the Youth Criminal Justice Act (YCJA) in Quebec, the *Centres jeunesse de Montréal, Regroupement des organismes de justice alternative du Québec* (ROJAQ) and representatives from the *Ministère de la Justice* [Quebec], *Directeur des poursuites criminelles et pénales* and the *Ministère de la Santé et des Services sociaux* [Quebec] met to build a collaboration framework under the YCJA. They wrote chapter 12 on the framework of justice committees, which provides explicit details such as the committees' roles, its composition, where it should meet, etc. However, they never directly consulted with Aboriginal organizations.

Around 2006 communities and government started to share the same ideas regarding which cases the justice committees should manage and how they should do it. The government finally agreed that cases directly referred by local resources, families or individuals, which were considered as social conflict cases, would be recognized in funding agreements in Quebec. With an increasing openness for Aboriginal communities to voice their concerns and ideas, communities slowly began to identify the values and visions of their justice committees. In 2007, a Cree elder from Chisasibi was asked in a training aimed at implementing a justice committee: "What is justice for you?" His answer was: "Justice is not a system, justice is a way of life". He went on to explain that the traditional teachings had been replaced by the teachings from the residential schools and that his people needed more guidance than ever to get back to a life where justice matters.

For many years after the implementation of justice committees, government investments in the committees were still extremely low, leaving committees to operate in survival mode, without permanent full-time staff, and practically unable to fulfill their mandate in a consistent manner. Further, there was sparse capacity building interventions and committees lacked proper knowledge on policies and procedures, mobilization, partnering and problem-solving, for example. The imposition of a vision as well as little resources and lack of regular training created a scenario where the committees were unsure of how to adapt their interventions to meet their community's social and cultural values, as well as to meet the standards of the justice system and their funders. Crime prevention was not at the forefront of the interventions and the committees had to turn to external resources for assistance.

## **Phase 2 - Transition to Aboriginal-based approaches – Reclaiming justice – The case of Nunavik**

Although three youth justice committees had been in place for a few years in Nunavik in Puvirnituq, Kuujuaq and Kuujuaaraapik, justice committees in Nunavik had never worked with adults. The Community Justice Initiatives program under Makivik Corporation was officially launched in 2000. In 2001, it included only six committees at the time.<sup>14</sup> Each community nominated five people as members of the justice committee. A regional coordinator was also hired. After their training, the committees signed an alternative measure protocol with the Attorney General of Quebec, allowing the Crown Attorney to divert specific cases to the justice committee after intending proceedings. Soon enough, Makivik realized that a local coordinator would be needed, however funding was insufficient. Therefore, one of the members became a part-time local administrator and in addition to his regular duties, he was responsible for the paper work in case management. At the time, most measures given by members and the administrator involved simple community hours as they were reproducing the justice system. It was difficult for them to see the space for creativity as they felt that they were expected to perform the way the system was used to. With minimal resources and knowledge, lack of assurance to implement measures that had meaning for them, and most of the funds going to the regional coordinator position, the local justice committees were struggling.

In order to avoid following a predetermined model and to explore possibilities, the Nunavik Justice program under Makivik Corporation reached out to external resources that were independent from the government. Throughout the 2000s, Ms. St. Louis (who at the time worked for ROJAQ for the first three years and the remaining years under Taiga Vision) provided training to assist committees to implement more community-based and culturally appropriate measures. During one of the first training sessions, a member of one community recounted to Ms. St. Louis that the justice committees were seen as 'mini judges' and were an extension of the justice system whose role was to instil punishment. Committees were then asked to take a step back and look at what they wanted to achieve and ways that would have meaning for them and for the people they served. There was a sudden desire to change the way justice committees were working and the way the community members envisioned their role. It was then that the justice committees were asked to change their name to one that would describe how they wanted to be perceived. Some names chosen in Inuktitut had meanings such as - the ones who guide you toward peace, the one who shows you the path, the one you can lean on, or symbolic words such as Kakautik which is the traditional piece of equipment that women used to carry water on their back. A simple

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<sup>14</sup> Puvirnituq had a justice committee in the 1990s that worked with young offenders. Later on, Puvirnituq set up a separate justice committee for adults, which would later merge with the one for youth.

distance from the word ‘justice’, which is too often associated with punishment, made a significant difference for justice committees and community members who at that point began to see the committees as a resource that is there to help and not to judge.

In the next few years, a number of events helped to advance the importance of a ‘community-owned’ and ‘community-controlled’ approach: the 2007 report following an investigation by the *Commission des droits de la personne et des droits de la jeunesse* (CDPDJ); the 2008 Report of the Court of Quebec Working Group on Aboriginal Justice that focused on improving services; the 2010 CDPDJ’s follow-up report; the 2010 Plan Nunavik developed by Makivik; and the 2011 Working Group on Justice in Nunavik.

Although it seemed that restorative justice and community empowerment in the area of justice was at the heart of many reports, up until 2008, none of the justice committees had a full-time coordinator due to lack of funding. In 2008, Inukjuak was the first committee to have a full-time coordinator and in 2010 a full-time coordinator was in place in Puvirnituq. Gradually, with increased government funding, along with more training on adapting measures and approaches that were suitable to Inuit, the committees gained an increasingly important role in the communities.

In 2008, Makivik Corporation, through the Safer Communities Funding Program<sup>15</sup>, began to invest in the Nunavik justice program. In 2011, Makivik created the position of Nunavik Justice Officer, which allowed then to increase the work force to three regional justice workers for a while and provided additional funding for traditional activities. The Justice Officer is a regional position that provides support and training to the justice coordinators and committees, in addition to promote and raise awareness about community justice for a greater recognition of justice committees and to increase collaboration. In 2014, it was clear that more full-time local coordinators were needed in order for justice committees to be able to fulfill their tasks and meet the deadlines imposed by the justice system. As a result, Kuujjuaraapik and Kangiqsualujjuaq were also given full-time coordinators.

Currently, the Nunavik justice program has five full-time local contract positions (Puvirnituq, Kangiqsualujjuaq, Salluit, Kangiqsujuaq-Quaqtaq and Kuujjuaraapik), and two local part-time contract coordinators (Kangirsuk, Aupaluk) that serve their respective communities. There is still insufficient funding to offer permanent positions to those coordinators, leaving them with precarious conditions. With an increased funding from the government, recently two coastal positions were created, and are based in Inukjuak and Kuujjuaq. The coastal workers assist their own local communities, help other local

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<sup>15</sup> <http://www.makivik.org/ungaluk-program/>

coordinators on their respective coast, and visit communities who do not yet have justice committees. In 2016, it was agreed that some committees should also serve young offenders. With the financial support of the Nunavik Regional Board of Health and Social Services to share cost for the salaries of two coordinators, the committees of Kuujjuaq and Puvirnituq established a work collaboration with the young offender workers and are taking on young offender cases.

After observing the growing rate of incarceration for Nunavimmiut and the lack of culturally adapted programs in detention, in 2015, Makivik created a position for a Justice Development Officer to work with the Nunavik Justice Officer and to develop programming for incarcerated Inuit on anger management, Inuit history, parenting, substance use, healthy relationships, self-esteem, traditional activities and other topics. Some of the programs have started in two provincial detention centers and have been received with great enthusiasm from male and female Inuit detainees. These programs have been made possible with the financial support of the region through the Ungaluk Safer Communities Funding Program.

In 2015, the Québec Ombudsman conducted an investigation into detention conditions for Nunavik inmates. A lengthy report was published in 2016, which outlined the importance of the justice committees:

The justice committees — when trained and financed appropriately — contribute significantly to the wellbeing of Nunavik communities. In addition to providing alternative measures for dealing with adults, and extra-judicial sanctions for young offenders, the committees meet with the accused and explain the legal proceedings. They provide inmates with support after their detention, interim release, probation or conditional release. Finally, they take part in developing social reintegration action plans with the people concerned, or, where applicable, help them plan treatment. Others plan traditional activities, which creates a sense of belonging to the community before, during and after incarceration (Special Report by the Québec Ombudsman, 2016, p.54).

The report goes on to demand from the *Ministère de la Justice* [Quebec] that: “all fourteen Nunavik communities have an active, funded justice committee that its members are provided appropriate training and support” and this was to be done before December 31 2016 (Special Report by the Québec Ombudsman, 2016, p.56).

### **Phase 3 – Owning it - Nunavik justice committees and their impact**

The main Inuit actors in Nunavik working on justice-related issues include the justice committees, which are currently established in ten communities, Community Reintegration Officers (CRO) and the *Centre*

*d'aide aux victimes d'actes criminels* (CAVAC) Sapumijit agents, and Inuit court workers. Nunavik has an itinerant court, which visits nine communities. Only two communities have courthouses (Kuujuuaq and Puvirnitug) and Kuujuuaq has permanent court workers staff, a crown prosecutor and a legal aid lawyer. Currently, justice committees are composed of five to eight members, and one coordinator who is responsible for the intake of cases, case management, relations with the court and local resources, and the organization of all activities by the committee. Justice committees are recognized by the Court and by their respective communities as important actors in the socio-judicial field. The committees are the only justice interveners in Nunavik that work with all parties involved in a crime or conflict (victims, offenders, families and surrounding resources). They work with people at various levels along the justice continuum<sup>16</sup> and are a key player in crime prevention.

The justice committees may also help a person who has not committed a crime, but who is struggling or at-risk. However, due to limited time and resources, most of the work is done with adults who have committed crimes and who are vulnerable to reoffending if they do not get support, guidance and opportunities to deal with the underlying issues. The justice coordinators along with the justice committee members are part of the community and the culture, and provide activities, teachings, informal counselling and guidance, tools, ongoing support, and connect people with their culture and land. One of the objectives of justice committees is to address the underlying causes of crimes, and to guide offenders toward healing and recovery while using global, rehabilitative and traditional approaches. They promote accountability and reparation of harm caused to the victim and/or the community. When going through the justice system, the causes of their crimes are rarely addressed within judicial procedures, and sentences are infrequently crafted to help those individuals in terms of rehabilitation and healing, unless an intervention of socio-judicial resources is carried out. Justice committees believe that offenders need to understand their own behaviour, identify the sources of their action, deal with their pain and suffering, gain new healthy coping mechanisms, live experiences of positive attachment and bonding, regain trust in themselves and in others, and feel proud of who they are. They also need to be supported throughout this process to be able to be resilient when obstacles appear and in order to reduce their risk of reoffending. If the underlying causes are not addressed properly, there may be ongoing recidivism and the community suffers from it.

### **3.1 Diversion**

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<sup>16</sup> The entire process undertaken by an individual accused of committing a crime.

The Nunavik justice committees engage in many important tasks along the justice continuum. The first is diversion from the court to the justice committee through alternative measures. Since 2002, the Protocol of Alternative Measures was signed with the nine justice committees, suggesting that the Crown would refer minor crimes committed by adults to the justice committee. The goal is to address the crime with the participation of the victim if possible to offer guidance and non-formal counselling by justice committee members and to involve the offender in community events to repair harm caused to the victim and community. The offender has to recognize his/her responsibility and show willingness to repair and/or receive help to address the causes of the crime. The offenders are actively involved in finding ways to fix what they have done and are quickly guided to address issues to avoid the reoccurrence of crimes. When they collaborate and participate as agreed, the charges laid are withdrawn by the Crown and they avoid having a criminal record for those accusations. Some examples of activities that are organized by the justice committees in order to assist the offender in this process include:

- Sewing parkas with members to give to less fortunate families
- Sewing traditional tents with elders
- Cleaning the homes of elders
- Guiding on the land activities with justice committee members
- Attending family house sessions on specific topics
- Meeting with the victim to discuss the event and apologize
- Collecting ice from the iceberg for elders
- Fishing for single women and elders
- Berry picking with a member and giving berries to elders
- Teaching sewing to others

In addition the offenders receive traditional guidance to deal with the cause of their actions.

Several years ago, requests were made by Makivik Corporation to the *Ministère de la Justice* [Quebec] to extend the alternative measures program to include other infractions such as family violence in minor cases, break and enter without other serious crimes committed, and some others. With the Healthy Relationship program developed by the Nunavik Justice Officer and collaborators, a new alternative measures protocol in domestic violence should start hopefully in 2017, once local partnerships are established to deal with such offences in an alternative way.

### **3.2 Release**

The justice committees are also involved upon release by the crown attorney, at the bail hearing stage or on request by offenders throughout the Court process. They then offer support and guidance to the offender so he/she can address the causes of his/her crimes, repair his/her action if possible and improve his/her life. Since December 2014, some offenders have been released by the Crown attorney with conditions to meet the justice committee within seven days of their release to deal with the underlying causes of their crime. Offenders meet the justice coordinator and committee members and are often asked to help the community by going on the land, fishing, hunting with members or on their own, and by being involved in traditional activities in the community with committee members. This is an important moment, as it connects the offenders to community members right away and the offender has someone to talk to and receive guidance from, and they may have the opportunity to repair their actions. It has been found that offenders tend to respect their conditions more easily when having access to help and resources and they feel supported rather than being judged and isolated.

### **3.3 Sentencing**

The justice committee is present at the sentencing stage through counselling and consulting other parties to make recommendations. The committee is asked to present recommendations, however, this has been done mainly in Inukjuak and Aupaluk. The justice committee would have normally worked with the accused before sentencing and met with the victim. The committee will recommend a sentence based on their knowledge of the past behaviours of the accused and how the accused has been doing in improving her/his life since the crime. The recommendation focuses on rehabilitation, reparation and healing, and considers the community's safety. Oftentimes the justice committee will be involved with the individual after sentencing as part of the sentence conditions and will offer non-formal counselling, guidance and traditional activities. The accused will usually be paired with a justice committee member for one on one follow-up when needed.

#### **3.3.1 Gladue reports**

The justice committee is involved at the sentencing stage in regards to preparing a Gladue report to respond to the section 718.2e of the Criminal Code. A Gladue report is similar to a short biography of an individual. It sets out the life history of the offender and the history of his/her community. It highlights the systemic discrimination and the result of it. It includes an alternative plan to incarceration that is reasonable under the circumstances which can be dissuasive, but is also restorative, rehabilitative and encourages accountability and healing. It takes into consideration the safety of the community. Gladue

reports were introduced in Nunavik in early 2012 in response to the R. v. Gladue Supreme Court decision and the lack of consideration from the Court to consider systemic and individual factors of Inuit accused.

Gladue reports are crucial as they allow the justice committees to identify resources that would help the accused deal with the underlying causes of his/her crimes, it encourages judges to consider the social issues related to the criminal behaviours and to search for 'creative' sentences that could help the accused deal with his/her past and avoid reoffending. It increases knowledge and understanding about the history of the Inuit and the impact of policies of assimilation. Gladue reports are increasingly being asked and are having a significant impact on the offenders, their family and the community. In 2015, fifty-five reports were requested in Nunavik only. It is important to note that some justice committee coordinators received training in writing Gladue reports, but they remain very difficult to write. Aside from gathering information from the individual and his/her close relations and resources, it also requires that the individual discusses intimate details about his/her life, and this discussion may open up wounds and trauma. Although they are given support by the Makivik (justice program) regional office, justice committee coordinators do not usually have an extensive background to deal with these topics and sometimes have their own personal trauma. Ongoing efforts are being made to ensure Gladue writers are prepared and able to complete the task, and conduct self-care. Increasingly, Gladue reports are used in provincial and federal Parole Board hearings. At this time, more than half of the reports are being done by the regional office and other writers, but the number of reports by local coordinators is increasing each year as they feel more competent and comfortable to take on such an intervention.

### **3.4 After sentencing**

The justice committees are involved after sentencing; during the offender's community sentence (probation or house arrest) by offering non-formal counselling, traditional activities and guidance. The committees are also implicated once offenders have been sentenced and they offer the same services to offenders who have been released from detention. Some justice committees have been engaged in conditional release planning and in support to prepare the individual's reintegration. The Nunavik justice program not only offers assistance in preparation of a parole hearing, but can be present at the hearing to offer additional information and support. The roles of the communities are important since as a result, offenders and families do not feel isolated and maintain positive contacts with community members. When the court process is over, they are still offered ongoing support. It is an opportunity for community members to support their fellow Inuit who are struggling. Offenders are asked to establish a life plan that

will help them live a healthier life and to address the issues that brought them in front of the justice system. This step is crucial as it helps the offender to reintegrate with a plan, while feeling supported. Justice committees in Nunavik are increasingly extending their interventions to post sentence, and in supporting Inuit in the correctional system and during reintegration on parole within the provincial system and for Section 84 within the federal correctional system. However, no financial support from the Ministry of Public Security Canada and Correctional Services Canada (CSC) was ever given to the justice committees. Both Ministries have explained that they do not have the funding for such interventions. The justice committees apply many of the traditional ways of dealing with a crime. In the past when a crime was committed, the solution was to re-establish harmony. Justice was about members of one community caring, guiding and helping another individual who was encountering difficulties. It was understood that crimes hide conflicts or issues that were never addressed or inappropriately managed. Justice committees focus on the historical, systemic and individual factors of each individual involved, and it is understood that all of these factors have contributed to the situation. An understanding of these factors can help to make changes in the present and ensure a peaceful future. The justice committees are inspired by the notion of collectiveness, in that what happens to one affects many others in the circle of life. This collectiveness is about collaboration, and resources and community members are increasingly working together to provide a wrap-around approach to the individual, which has shown great success.

### **3.5 Real-life impact**

The following examples provide a glimpse into the work of justice committees and their collaborative and holistic approach. It also highlights the importance that the committees remain independent to be able to adapt to the local context and to the individual they are helping:

An 18 year-old Inuk woman whom we will refer to as Jessie was at a Christmas party for work. She was a Secondary 4 student at the time. Jessie suddenly left the party on her snowmobile, upset about a situation. She had been drinking wine at the party and as she drove while intoxicated, she hit another snowmobile with two passengers. One passenger was hurt and suffered a broken ankle and the other had bruises. Jessie was facing a charge for which house arrest was no longer possible. Jessie pled guilty to the charge, admitting having drunk alcohol. Her lawyer asked for a Gladue report and a justice committee intervention was initiated. The writer, Ms. St-Louis, realized that Jessie had a lot of childhood trauma and had been suicidal. Her self-esteem was very low and she had lost interest in things that used to make her happy such as throat signing and being with friends. The charges that she was facing made her feel worse about herself, knowing that she had hurt someone. A female elder from the justice committee was asked to counsel Jessie and to engage her in traditional activities. The Vice Principal of the school was called in as

Jessie identified her as someone she trusted. The Vice Principal shared that she could not imagine that Jessie would go to detention and not graduate, as few Inuit reach the level where Jessie was at. She saw a lot of strength in Jessie as she suspected that she was carrying emotional trauma, yet was attending school. The Vice Principal accepted to coach and support Jessie.

The coordinator of the justice committee started a sewing project in which Jessie participated. She knew Jessie loved sewing traditional clothing, and with two other women Jessie was taught to make a traditional Inuit tent. Jessie felt proud as it is rare to find people in the community who still make those kind of tents by hand. During these months, the case was postponed in Court due to weather conditions and that the Court only travels three times a year to the village. The committee continued to make sure that Jessie was supported. Jessie started to feel better, was more confident and went to Secondary 5. She got involved in a relationship with a young man her age and became pregnant. Although she was not sure if she would be a good parent, she started sewing clothing for the baby, continued to go out on the land with the justice committee elder and continued attending school. At time of sentencing, a few months before graduation and before the delivery of the child, the judge heard the Vice Principal, the justice committee elder and the writer of the report and saw that the community had taken care of the situation and the judge followed the recommendations of the report. Jessie was given a suspended sentence with a probation with some conditions including, to complete the maximum amount of community hours. The final step was for Jessie to apologize, which she could not do before as she had a condition not to speak with the victim.

Jessie graduated, had her baby and continued to work with the justice committee and completed her hours. In November 2015, a delegation from the *Ministère de la Justice* [Quebec] and Minister Kelley visited her village to witness the actions of justice committees and the itinerant court. As part of her hours, Jessie was one of the cooks for the lunch served to the delegation. In addition to serving the meal, she proudly showed her traditional tent. For Jessie, this intervention went further than preventing detention, it created a network of support when she was in need. It demonstrated to her that she was loved and she has the potential to succeed. Following the birth of her child, Jessie gained employment at the school.

In another community, a young Cree-Inuk 20 year-old man whom we will refer as James had been in and out of the criminal justice system since he was 14. He first appeared as a young offender for break and enter and assault, and later as an adult. This time, James had four charges - drinking and driving, dangerous operation of a vehicle, assault causing bodily harm, simple assault and threats, and breached his undertaking conditions. James, who was in preventive custody, pled guilty to the charges and a Gladue

report was requested. James had been experimenting with drugs and alcohol since the age of 13, and he had been a witness and a victim of severe family violence, among other things. He had dropped out of school at 17 with a Secondary 1, yet had gone back to adult education from 18 to 20 years of age and graduated. In addition, he completed a course in operation of heavy equipment.

Although many people in the Inuit and Cree communities (neighbors to one another) knew of his difficult family life and ongoing issues with the law, he did not receive much help except when he had sought out assistance from social services for alcohol addiction. James was a proud hunter and trapper, and had learned both the Cree and Inuit way of life. As the interviews went on for his Gladue report, James began to make a connection between his anger, his violence acts and his difficulties. He realized his capacity to use his survival skills and strengths. The Gladue writer involved the two justice committee coordinators; Cree and Inuit, to help redirect James on a more positive path. Social services came on board as well as addictions counseling. An elder with a traditional Cree approach was found by the justice committee as James wanted to connect with his Cree culture and share his past issues. James also took part in a two-week Cree winter traditional and healing journey that was being organized few days after his sentence hearing. His mother and a few community members made and found him some equipment.

James was sentenced and released the same day to be able to take part in the journey as it was recognized by the court that this journey could have a positive impact on James. He participated in the journey and saw the Cree elder as a follow-up. He also attended the Cree camps and immersed himself in the culture. The two committees continued to support him and he gained employment. One year later, he began a traditional walk to Inuit villages that his father had started the previous year as a healing journey. Unfortunately he could not finish due to health reasons.

### **The final phase - The future**

These examples act as an important message. They aim to demonstrate that justice committees have a crucial role to play in community mobilization and prevention. These examples also speak to their larger role, which is to restore a greater sense of responsibility by bringing back traditional ways of dealing with crime and conflict that connects people. It moves away from our society's 'linear' mindsets and brings us back to the circular way of seeing society, which is the understanding that: "life is a great and sacred circle of relationships" and that we need to reinforce those links to restore the balance (Sioui, 1999). The justice committees are attempting to do something more powerful than to connect the accused or offender to the right resources. The intention is to reinforce a sense of community, to promote peace and harmony, and to regain power to solve conflict internally. Government agencies responsible to fund these programs and justice officials need to develop more trust in justice committees and be open to the measures that

make sense to the community and to local resources. Justice committees can only have a significant impact if they are free and independent to apply what they believe is best for their own people, and in respect to the law. Justice officials need to recognize justice committees' capabilities. As in the examples provided, most crimes committed in Nunavik are linked to drug and alcohol abuse, and it has been proven that sentences and punishment serve only as minor deterrents for individuals struggling with alcoholism and drug addiction. It is obvious that the system alone cannot succeed in improving social behaviour in Nunavik. As there are many layers to uncover to get at the roots of a crime committed, cultural and locally based assistance is crucial for change to occur.

When a judge makes a decision, he/she must take into consideration the safety of the community and the ability of that community to help someone. Justice officials are oftentimes not aware of the community's capacity for assisting the accused or offender. It is true that each community is different and there is a major lack of resources in Nunavik. However, the two examples from communities of less than a thousand people demonstrate that it takes only one person to mobilize and it only took a few people with particular areas of knowledge to make a difference. The success was due to the way they collaborated and how they worked in a non-authoritative manner to help those young people rebuild their lives. In addition, Gladue reports can inspire the community to collaborate and mobilize with the goal of helping the individual. It empowers the community to assist that person in a culturally appropriate way, and to heal the pain it may have caused to other community members.

### **Challenges and possible solutions**

Although judicial interveners and justice committees are gradually understanding their differences as well as their respective concerns, some challenges still need to be overcome. The justice and correctional systems and Inuit communities continue to have divergent visions. This situation is evident when Inuit elders from justice committees state in Court that the best deterrence in their experience is achieved when the accused faces the individual(s) he/she hurt, acknowledges their pain and takes responsibility by doing what is in his/her power to better his/her life by getting the necessary help. For many in the communities, taking someone from the environment where he/she committed the crime and isolating him/her in a foreign environment with no guidance from elders and community members is a recipe for disaster. A well respected elder and former member of the Inukjuak justice committee; Elisapie Inukpuk, told the Court on sentencing: "When you take those away for a period of time where we cannot help them, they often come back worse, isolating themselves and suffering. At the end, it is not the Court who sees those coming back in our community as lost and struggling, it is us". As little help is available in

detention and access to programs is very limited for Inuit, either due to language barriers or classifications in the correctional system, Inuit oftentimes return to the community in the same state as when they left; with the same trauma, with little planned support and not having addressed the causes behind the crime.

Justice committees understand that detention is sometimes unavoidable, however concerted efforts should be made to address the underlying causes of the crime. Institutions and organizations need to make an effort to ensure that Inuit have access to culturally adapted programs. The justice and correctional systems cannot achieve such a task alone, and thus Inuit resources (i.e. justice committees, treatment centers and other support resources) are crucial. The Inuit resources also need to listen to the knowledge of the elders for guidance in helping the individual build resilience and healthy coping skills. Further, we all know that we are most often dealing with people with severe trauma and addictions who need to grieve, heal and seek help to avoid reoffending. The Ipeelee and Gladue Supreme Court decisions clearly acknowledge that systemic discrimination and multi-generational trauma are responsible for the overrepresentation of Aboriginal peoples in the criminal justice system, and thus priority must be given to alternatives which focus on rehabilitation and healing.

Another challenge faced by justice committees is to continuously have to prove to the criminal justice system that it is worthy of its trust. It is crucial that justice and correctional institutions officially recognize justice committees as an important partner. The high turnover of staff in the judicial and correctional systems in part makes this difficult. If there are new probation officers, Crown Attorneys, defense lawyers, young offenders workers, police or agents in correctional facilities, it would be important that they are told that the justice committees are not only an important community resource with varied knowledge but are also a resource that works differently; preferring a holistic and wrap-around approach. In addition, in order for trust to be built, regular communication is needed where concerns can be discussed. The itinerant court arrives with a busy schedule and does not have time to meet with the justice committees to discuss important matters. Justice committee coordinators often feel intimidated by justice officials and are timid to ask to be heard. In Kawawchikamach, a Naskapi community, Judge Coté, Ms. St-Louis and the justice committee initiated yearly meetings in the evening to discuss matters and to build a relationship. The judge encouraged all justice officials, police, probation and correctional agents to attend the meetings. It gave an opportunity for elders and members of the justice committee to be heard and to understand the concerns of the Court. This process facilitated future exchanges and avoided many issues. These kind of meetings could be done in Nunavik on a yearly or bi-yearly basis. The justice coordinators could also begin to collect 'best practice' cases as examples of what works well for their community, and

could share the information at the meetings. The meetings would also provide the opportunity for the justice committees to reflect on additional resources that are needed in order to better carry out their tasks. Further, it is crucial that justice officials receive annual training or courses on the realities and the history. Such an initiative would require a commitment of multiple years to result in a real shift of thinking and understanding.

For the justice committees, a genuine 'community-based' approach that adapts to the Inuit is crucial: "Real change reflective of the goals and aspirations of Inuit will come only when the community members define what the change will be and control that change" (Crnkovich, 1995, p.110). While there is ongoing improvement towards community-based justice, justice committees are small players in the justice world, and therefore justice officials such as the readers of this chapter have an important role to play in seeing the potential and making a difference.

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