

Systemic Factor: Cultural Alienation / Communal Dislocation

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Land as a Foundation of Identity

"Before colonisation, Indigenous identities had always been rooted in place and the original people of place. Blood and adoptive relations are part of an Indigenous worldview, and belonging to place is certainly not restricted to human beings (Weaver 2001, p. 242; Kwaymullina and Kwaymullina 2010, p. 196). In colonised territories all over the world, place-based identity has been interrupted by invading displacement cultures."

"The colonial view of land as a place for commodification and control differs from the Indigenous view of land as the foundation of identity, relationships, and spirituality (Thistle, 2017). Traditional land uses of Indigenous people are based on spiritual, reciprocal relations to the animals, land, and waterway (Thistle, 2017). Colonial powers undermined these relations by forced relocation."

Cultural Alienation and Communal Dislocation on Health and Identity

"Displacing Indigenous peoples from their Native homeland negatively impacts their cultural survival. Recognizing relocation's severe consequences on Indigenous peoples' survival as distinct cultures, displacement of Indigenous communities contravenes the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2008). Land destruction and displacement are associated with severe psychological distress, a cultural identity crisis, and dysfunction levels. This trauma is akin to a death in the immediate family of Indigenous people, and is associated with higher morbidity and mortality rates (O'Sullivan & Handal, 1988). The most severe and enduring impacts occur for Indigenous communities where the disaster is man-made rather than a natural occurrence and where the entire community is affected (Martin et al., 2017; O'Sullivan & Handal, 1988)."

"The potential health benefits of sustaining a strong cultural identity and/or participating in cultural activities have been documented in prior research with Indigenous and other non-white samples in Western settings. For example, possessing a strong cultural identity has been found to promote resilience, enhance self-esteem, engender pro-social coping styles and has served as a protective mechanism against mental health symptoms [3–9]. Moreover, cultural identity may buffer discrimination-induced distress [10–15]."

"Among status First Nations people, just over two-fifths (40.6%) lived on reserve in 2021. The term "on reserve" refers to census subdivisions legally affiliated with First Nations or Indian bands." Therefore, approximately 60% of status First Nations people live off reserve. Additionally, some status First Nations people may live on a reserve, but on a different reserve than their home community.

"Indigenous people were more likely to live in a large city in 2021 than in 2016. Over this five-year period, the Indigenous population living in a large urban centre grew by 12.5%. Within the total Indigenous population, the share of Indigenous people living in a large urban centre rose from 43.1% to 44.3%."

"This continuing process pulls Indigenous peoples away from cultural practices and community aspects of 'being Indigenous' towards a political-legal construction as 'aboriginal' or 'Native American' both of which are representative of what we refer to as being 'incidentally Indigenous'."

"This included experiences of "othering" and cultural disconnection during childhood and adolescence (Brunanski, 2009; Lucero, 2010), which were coupled with emotional struggles of feeling lost, detached, and isolated, as well as attempts to reject Indigenous culture and question cultural identity (Lucero, 2010). Participants also spoke about making a conscious choice to re-connect with their

communities and identities (Brunanski, 2009; Hunter et al., 2006; Lucero, 2010), where they made references to going home or "returning to the people" (Lucero, 2010, p. 332). In a more general sense, cultural re-connection involved a process of "learning about traditional ceremonies and then by using ceremonies to understand and become a part of Aboriginal culture" (Hunter et al., 2006, p. 17). Similar stories also included the role that forgiveness plays in connecting with culture, with respect to healing past trauma and as an aspect of cultural resilience (Smith et al., 2005; Wexler, 2014)."

"Nearly all of the reviewed papers found that there were health and wellness outcomes connected to cultural continuity for Indigenous Peoples. Most commonly, wellness outcomes were associated with a sense of cultural identity (i.e., being proud of who you are), a positive identity, and strong self-esteem (Brunanski, 2009; Drywater-Whitekiller, 2006; Lucero, 2010; Oster et al., 2014; Smith et al., 2005; Wexler, 2014). Wexler (2014) positioned this concept through a life course3perspective: Cultural understandings, including those related to historical trauma and current strengths, can provide platforms for mutual affinity and shared meaning-making. These perspectives inform ideas of selfhood, and can define youth pathways into adulthood. This orientation can provide a sense of self-worth, social belonging, and purpose to help youth overcome challenges. (p. 86)" ix

"Paradies (2016) noted that colonial mentalities involve tolerance of historical trauma and ongoing oppression, and therefore have been connected to a number of mental health concerns (e.g., anxiety, low self-esteem, emotional distress). Colonization has had profound effects on individual notions of identity, collective memory, and community cohesion (Kirmayer et al., 2009), thus impacting cultural continuity for Indigenous communities."

"For some [I]ndigenous people, a sense of community identity comes increasingly from intertribal or pan-Indian groups..... Through these activist efforts, some [I]ndigenous people began to see Native heritage as a valuable part of personal identity and as a foundation for pan-Indian solidarity. Although a growing climate of activism led to increased cultural renewal, this should not obscure the social and cultural continuity that has been maintained in some communities.[43]"xi

"[B]uilding on this notion of a dynamic and interconnected concept of Indigenous identity constituted in history, ceremony, language and land, we consider relationships (or kinship networks) to be at the core of an authentic Indigenous identity. Clearly, it is the need to maintain respectful relationship that guides all interactions and experiences with community, clans, families, individuals, homeland, plants, animals etc. in the Indigenous cultural idea. If anyone of these elements of identity, such as sacred history, is in danger of being lost, unified action can be taken to revitalize and restore that part of the community by utilizing relationships, which are the spiritual and cultural foundations of Indigenous peoples."xii

Importance of Cultural Connections

"Indigenous identity is connected to a sense of peoplehood inseparably linked to sacred traditions, traditional homelands, and a shared history as indigenous people.[35] A person must be integrated into a society, not simply stand alone as an individual, in order to be fully human.[36] Additionally, identity can only be confirmed by others who share that identity.[37] The sense of membership in a community is so integrally linked to a sense of identity that Native people often identify themselves by their reservations or tribal communities. This stands in striking contrast to the practice of many members of the dominant society who commonly identify themselves by their professional affiliations. Tribal members have an enduring sense of their own unique indigenous identity.[38] The sense of a traditional homeland is so strong for many Navajos that when outside their traditional territory and away from sacred geography they sometimes

experience an extreme imbalance that can only be corrected by returning to their home communities for ceremonies.[39]"xiii

"The strengthening of culture serves to build resilience and positive coping mechanisms facilitating life balance and protecting against adverse life experiences including 'the impact of history in trauma and loss' [17]. This includes the fostering of effective responses to stigma, discrimination and the ongoing impacts of colonisation [17]. Identifying and engaging in Indigenous cultures has been linked with enhanced self-assessed health, im-proved educational and employment outcomes, and greater life satisfaction."xiv

"In the policy paper, *Indian Control of Indian Education* (1972), the National Indian Brotherhood and Assembly of First Nations presented their statement on Education that included the rationale for local First Nations control of First Nations children's education. The authors explained "we modern Indians want our children to learn that happiness and satisfaction (comes) from: pride in one's self, understanding one's fellowmen, and, living in harmony with nature. These are lessons which are necessary for survival" (p. 1). The Assembly of First Nations pointed to the necessity for Indigenous children to receive Indigenous teachings in order to have a healthy identity."xv

"The facets of identity interact with and sometimes reinforce or challenge each other. Given the strong emphasis on the collectivity in indigenous cultures, it is problematic to have an individual who self-identifies as indigenous yet has no community sanction or validation of that identity. Historical circumstances, however, led to thousands of Native people being taken from their communities and raised without community connections through mechanisms such as interracial adoption, foster care, and boarding schools. Indeed, there are many indigenous people with tenuous community connections at best, and some of them try to reassert an indigenous identity and find their way home to their cultures."xvi

Culture and Community within the Justice System

"The benefit of cultural healing for inmates extends beyond the prison cell; cultural healing can be used as a rehabilitation tool to prevent recidivism upon release (Cox, Young, & Bairnsfather-Scott, 2009). To begin, Sacred Circles can also have a positive impact when former prisoners participate in community Sacred Circles (Cox, et al., 2009)."xvii

"In *Bridging the Cultural Divide*, the Royal Commission on Aboriginal Peoples listed as its first "Major Findings and Conclusions" the following statement, "The Canadian criminal justice system has failed the Aboriginal peoples of Canada - First Nations, Inuit and Metis people, on-reserve and off-reserve, urban and rural - in all territorial and governmental jurisdictions. The principal reason for this crushing failure is the fundamentally different world views of Aboriginal and non-Aboriginal people with respect to such elemental issues as the substantive content of justice and the process of achieving justice."xviii

"A key factor to the disproportionate incarceration rate of Aboriginal people, which is not mentioned in the Perreault report, is the loss of Aboriginal culture (Martel, Brassard, & Jaccoud, 2011; Martel & Brassard, 2008; Waldram, 1997). In 1884, the Canadian government passed legislation that made participating in Aboriginal ceremonies illegal (Martel, et al., 2011; Waldram, 1997). The legislation was expanded upon in the following years and prohibited participation in: potlatch feasts, sweat lodges, and the sun dance (Waldram, 1997). This legislation was part of an effort to assimilate as well as 'civilize' Aboriginal peoples (RCAP, 1996; Waldram, 1997). Although these laws were repealed in 1951, the cultural damages were already incurred (Waldram, 1997). The combination of this detrimental legislation and the residential schools means that some Aboriginal people today have "no knowledge of traditional spirituality,

language and in some instances, culture. The Elders who harboured traditional knowledge, have dwindled in number, and fewer young people have been inclined to pick up their mantle" (Waldram, 1997, p. 8). Thus, some Aboriginal inmates enter Canadian prisons with more concerns than non-Aboriginal inmates including: unhealthy communities, lack of positive role models, little understanding of Aboriginal cultural and spirituality, loss of pride in their Aboriginal identity, the need to heal from direct traumatic experiences and intergenerational traumatic experiences of emotional, physical, and sexual abuse, troubled interpersonal and familial relationships, lack of formal education, and a lack of job skills (Champagne, Torjesen, & Steiner, 2005; McMaster, 2011; Nielsen, 2003; Rugge, 2006)."xix

"Though it is assumed that it is up to the individual to assume responsibility for aberrant behaviour, it is up to the group to provide the necessary skills, both mental and actual, to enable any member to function as equals. When the lives of other members are at stake, then the group contends with the individual."xx

"The traditional legal system of First Nation peoples is an oral tradition which served to maintain law and order as well as to restore a public peace. The principle difference between Euro-Canadian and First Nation law is seated in the intent of the individual and the act which is considered to be the crime. That is, the criminal act or crime in Euro-Canadian culture requires the presence of a guilty mind to carry out a guilty act. With a First Nation person, however, the offence is viewed as completely subjective and situational. There is the possibility that the criminal act, according to First Nation standards, may not exist at all. Furthermore, if a First Nation community has defined that a crime has been committed and the narrative suggests that the individuals involved, including the victim, are at fault, then the community's goal is not punitive and is solely directed towards healing the offender as well as the victim (Monture-Okanee, 1995:2). Thus the emphasis of Native justice is on healing, rather than on imposing punitive sanctions on individuals who are deemed by his or her community to be unwell. The actions of the individuals are conceptualized within the greater story, and as far as the community is concerned transgressors require rehabilitation."xxii

"In recent years a number of courts in Canada have adopted innovative procedures for dealing with Aboriginal offenders. These include such practices as sentencing circles, a means of reaching decisions on punishment and rehabilitation within a community setting, and vision quests, or healing approaches rooted in traditional concepts relating individuals to spirits within the communities. These methods seek to substitute emphasis upon healing and rehabilitation for the usual practice of simple-and remarkably ineffective-punishment and/or compensation for offenses committed against individuals and communities. In effect the courts have finally begun to recognize that the previously accepted means of dealing with many offenses, means which have separated the offender from the offended, have all too often failed to do more than delay further offenses. In recent years the courts appear to have discovered a greater ability to consult with all parties, including the communities of both the offenders and offended, and have begun to seek ways of healing those problems within individuals and communities which often lead to breaches of the peace. This new emphasis upon healing and rehabilitation necessarily falls back upon methods of socialization within Aboriginal communities, means which have for generations worked to minimize conflict[.]""xxxiii

Sentencing Circles in Practice: The Case of R v. Moses

"One of the earliest cases recorded in Canada to use a sentencing circle, *Regina v. Moses*, ([1992] 3 C.N.L.R. 116 Y. Terr. Ct.), includes a well thought out plan with procedures intended to be applied to other cases. While of interest, these procedures pale beside the clear purpose of the circle itself... Mr. Moses was a twenty-six year old youth with a very lengthy record. He was found guilty of carrying a gun with which he intended to assault a police officer, and of theft. He already had a record of 43 convictions and had previously been sentenced to a total of eight years in [jail] ([1992] 3 C.N.L.R. at 116)... Typically he would commit offenses fuelled by significant alcohol abuse. Mr. Moses would appear in court and be sentenced to [jail]. Upon release he would again fall victim to his long standing abuse problem, commit more offenses, and would be sent back to [jail]."xxiii

The sentencing judge in *R v. Moses*, Judge Stuart, recognized the futility of further incarceration as it had proved an ineffective method to rehabilitate Mr. Moses. Instead, Judge Stuart ordered a sentencing circle with representatives from Moses' family, community members, and justice professionals to participate.

"Formal opening statements by the judge and lawyers led into an informal discussion of what could be done to help Mr. Moses and to protect the community from further crimes and violence by him. The accused listened as many members of the community, and notably both his family and the police, spoke of the need to bring him fully into the community, to help him overcome his problems. It was clear the community did not simply want to remove him from their midst, but to have him back as a valued member of society. Mr. Moses was drawn into the discussion too, an unusual thing in itself. As Judge Stuart noted, his:

... eloquence, passion and pain riveted everyone's attention. His contribution moved the search for an effective sentence past several concerns shared around the circle... he did not convince everyone, nor did he ultimately secure what he sought, but his passion and candour significantly contributed to constructing the sentence ([1992] 3 C.N.L.R. at 127)."xxiv

"The accused had been through seven sentencing sessions before, but never had such an opportunity to participate, except through officials of the justice system. But a sentence was constructed for him, through this circle, with both family and community involvement, which clearly reflected that wide participation."xxv

"The sentence that resulted from this community endeavour was a suspended sentence and two years probation. The sentence could be considered to be a three-part sentence; that is, the first part involved living on the family trapline for a period of time, always in the company of a family member; the second part was a two month residential program for Native alcoholics in the south; and the third part was residence with his family in the community and continual support services including skill upgrading, substance abuse counselling and assistance in finding a job. This, of course, is the crux of the community sentencing circle. That is, essentially it was aimed not at continuing the cycle of abuse, crime and [jail], but trying to reintegrate an offender into his family and community after he had been virtually written off. It was a rare instance of culturally appropriate rehabilitation rather than an exercise in providing fodder for what has become simply a costly penal system."xxvi

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