



Université d'Ottawa --University of Ottawa



**Healing the Circle: Exploring the Conjunction of  
Peacemaking Criminology and Native Justice Initiatives**

**Shruti Gola Gulati**

Shruti Gola Gulati  
1996

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## **ABSTRACT**

Peacemaking criminology is a non-violent movement against oppression, social injustice and violence as found within criminology, criminal justice and society in general. Richard Quinney proposes that crime and the criminal justice process are characterized by suffering to victims, offenders and society and that crime and justice problems may be eliminated or reduced by healing the suffering which makes them a possibility. A strategy of compassion and service is therefore advocated to affect suffering and thus crime. Peacemaking criminologists recognize the dialectical relationship between the individual and society, each shaping and being shaped by the other. It is therefore important that individuals achieve a measure of peace within themselves in order to move society in the direction of peace. To this end, peacemaking criminologists advocate spiritual practice, respect for the sacred and love as tools with which one may develop the discrimination to recognize injustice and the desire and ability to end suffering.

This thesis discusses the peacemaking potential of Native justice initiatives within the context of Canadian criminal justice. Like peacemaking which rose as a revitalization of peace and non-violence within criminology and its concerns, Native justice initiatives can be viewed as a revitalization movement which has risen in response to the injustice of the criminal process for Native people. By offering alternatives to criminal justice or healing approaches within the structure of the conventional criminal process, Native justice initiatives seek to provide healing and restoration and a meaningful delivery of justice to Native people in conflict with the law. The peacemaking potential of such alternatives lies in the observation that the current euro-based structure of criminal justice is foreign to the traditional spiritual and social understanding of Native people. The tragic consequence of this incompatibility is the overincarceration of Native people and the failure of conventional correctional programming to help them. The offering of a process which is sensitive to the needs of Native people in conflict with the law is a move toward peace and social justice within the Canadian criminal justice system which provides an illustration of how Peacemaking may be achieved. This thesis proposes that Native Justice Initiatives facilitate a healing process between Native people and the criminal justice process and do not represent a full restoration to health. Deep healing for Native people in conflict with the law will require an ongoing process of understanding and accommodation both within the realm of criminal justice and society in general.

**If your mind is empty, it is always ready for anything; it is open to everything. In the beginner's mind there are many possibilities; in the expert's mind there are few.**

**Zen Master Shunryu Suzuki**

## **ACKNOWLEDGEMENTS**

As I began to write this page, I was reminded of a story told to me by my father. One day, four blind men came upon an elephant standing motionless in the jungle. Not understanding what it was that they had come across in the middle of their journey, one of the blind men reached forward and grabbed onto its trunk. He announced to his fellow travellers that it was the root of a great tree. Another man caught hold of one of the elephant's legs and concluded that it was the pillar of an ancient palace. Still another man touched the elephant's side, felt up to its back and announced that it was a huge wall. Although I had heard the story many times over the years, it was not until recently that I understood its meaning. In the same way that the blind men could not truly understand what the elephant was, any search for knowledge is limited by the searcher. As human beings, we are only able to claim an understanding or an opinion and not total knowledge or truth. This work is offered in that spirit.

It is therefore appropriate to acknowledge those individuals who have contributed to my understanding of myself and of the world around me. The foremost of these is Sri Satya Sai Baba, whose inspiration and guidance started me on the path to self-understanding. Professor Robert Gaucher of the University of Ottawa is respectfully acknowledged for urging me to make something useful for myself during my studies and for his initial insight into the common ground between Peacemaking and Native Spirituality. Also, D.P. for sharing his way of life and understanding of traditional Mik'maq spirituality with patience and openness. A sincere thank you to my advisor, Professor Michael Petrunik of the University of Ottawa for his patience through the many draft versions of this work and for his help in focusing and fine-tuning along the way. Also, thank you to Professor Wendy Chan of Saint Mary's University for helping me to clarify and organize my research in its initial stages and to my readers Professor Maris Los of the University of Ottawa and Professor Marie-Francoise Guedon of the University of Ottawa for their much appreciated and needed contributions to the final draft. Finally, to my family for their continual support and to Francesco for helping me to learn that with love, commitment and sacrifice, anything is possible.

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## **INTRODUCTION**

***True morality consists not in following the beaten path, but in finding out the true path for ourselves and in fearlessly following it.***

***Mahatma Gandhi***

Within the contemporary discourse of criminology and conventional methods for controlling or eliminating crime, the emergence of peacemaking criminology, a non-violent criminology which is based in compassion and service, marks a radically different approach to crime, criminality, and injustice and their causes and solutions. Peacemaking criminology is founded on the understanding that crime and all that is associated with it such as victimization and punishment, is characterized by suffering to all involved. It is very much a movement against prevailing theory and practice within criminology and criminal justice which in recent decades in North America have reacted to crime and those whose lives are touched by it with increasing punitiveness and violence. It is important at the outset to articulate the peacemaking understandings of *crime* and *suffering* as they are integral to its theoretical framework.

Pepinsky (1991c) has approached the definition of crime with the understanding that defining crime or the criminal varies according the political, economic, cultural or historical context in which such defining is done. With the presence of such relativity, Pepinsky visualizes humans as being born into two large seas of interaction, one which may be described as violent or criminal and another which may never be described as violent or criminal. The "anti-crime sea" is characterized by synergetic interactions which Pepinsky calls "democracy". He contends that in a democratic interaction individuals "attend to their impact on others, and seeing that others are attending likewise, shift motives" (1991c: 109). This synergetic shifting of motives is what maintains the anti-crime sea. He notes that democracy is known under such names as "peace, participation, accommodation, adaptation, healing, reconciliation, community, cooperation, mutual aid, communism, anarchism, music making, romance, harmony, charity,

love, compassion, and the fruits of justice” and that it represents the free exchange of information (1991c: 109). On the contrary, the sea of crime and violence is filled with interactions which occur as the result of power imbalances and authority. Interactions here are based not on democracy and synergy but rather on the exertion of authority from one group to another. Pepinsky proposes that life in this sea creates anxiety for both the rulers and the ruled as the ruler fears losing control and the ruled experience the loss of control. As social life is increasingly organized and institutionalized, the “voltage of violence” increases within the sea and the result is that “alarm over crime and violence rises, and punishment and other warfare proliferate” (1991c: 109). Therefore for Pepinsky, the cause of crime and violence is a lack of democracy and peace.

Pepinsky (1991a) has also noted that the definition of what constitutes a crime is more easily dealt with if it is defined negatively, much in the same manner as Galtung (1969) makes the distinction between negative and positive peace. Negative peace implies using conflict to create peace similar to the rationale behind war. In contrast, positive peace seeks to create peace by using peace, a method which is illustrated by Gandhi’s non-violent program of *Satyagraha*, or truth force which was used during India’s struggle for freedom from Britain. As with Gandhi’s approach to non-violence, peacemaking criminology is founded on the rationale of positive peace, that peace or a society free from war, conflict and crime, is only possible through peaceful means. The peacemaking definition of crime also shares this understanding. The definition of what constitutes a crime is closely related to the ideal of Justice. As Robert Elias proposes in his contribution to Criminology as Peacemaking, the first compilation of peacemaking criminology articles,

Positive peace describes not what government should prevent, but what government or the society should provide—*justice*: and not just criminal justice, but also political, economic, and social justice. You can’t have peace if you don’t have justice. Injustice is not merely unpeaceful in itself. It’s also the source of further violence and war in any

society, and it's the major source of the kind of violence and war we commonly call crime (Elias, 1991: 252).

For Elias, the definition of crime must include some reference to the political, social and economic injustices with which it is so closely tied. Bohm (1993) extends this definition to include those actions which he calls "Social Relationships That Arguably Should Be Criminal Although They Are Not", issues such as unequal wealth, killing, structurally induced poverty and hunger, racism, and sexism. Schwendinger and Schwendinger (1970) and Barak (1993) have offered definitions of crime which include the concerns of both Elias and Bohm as they have proposed definitions of crime which are based in the violation of human rights. For peacemaking criminology, such a broad and inclusive definition as a violation of human rights reflects both its transcendence of the legal definition of crime and its commitment to the ideal of Justice (See Appendix 1: 141). It is therefore appropriate that this definition of crime be used throughout the thesis with the acknowledgement that crime is also a social construct and that its meaning may vary according to culture, personal understanding and time.

Richard Quinney, perhaps the greatest proponent of peacemaking criminology, defines *suffering* as "a condition of our existence", whose forms are ubiquitous.

In our personal lives, there are tensions and anxieties. Each day we experience the physical pains in our bodies and the psychological hurts in our hearts and minds. Our interpersonal relations often are carried out in violence of one kind or another, if only in the withholding of what might be offered. We have created societies that are filled with the sufferings of poverty, hunger, homelessness, pollution, and destruction of the environment. . . . If the social and global sufferings ever are to be ended, we must deal with the suffering of personal existence. What is involved is no less than the transformation of our human being (1991: 4).

For Quinney, social suffering of which crime is a part, is caused by this existential suffering. The view of peacemaking criminologists that crime is characterized by suffering may appear to

be countered by the argument that in some cases crime does not involve suffering because it may produce a sense of challenge, exhilaration or success for the individual committing it (Katz, 1988; Ferrell, 1993). However, when one considers the possible pleasures which are derived from committing a crime may be based upon the desire for material gratification or the individual abuse of power over others, one notes that the pursuit of such pleasures is incompatible with peacemaking strategies as it tends to increase the suffering of others. Within peacemaking criminology and the Eastern spiritual understandings upon which it is largely founded, the *oneness* of existence is favoured over duality or distinctions between individuals and groups. The spiritual or religious approach to criminology which peacemaking favours may be understood as an attempt, originally by Richard Quinney, to transcend the materially-linked assertions of both mainstream and critical theory and the tendency within both to neglect the spiritual or the sacred in their discourses. In oneness, sufferings experienced by others are connected to individual sufferings. Therefore, the individual who experiences what is believed to be a positive effect from a crime is actually contributing to personal suffering by increasing the suffering of others<sup>1</sup>.

Like the spiritual paths from which it draws its theoretical inspiration, peacemaking criminology upholds the oneness of existence as a central theme. It is a holistic approach which is concerned with the *healing* of all individuals involved in crime: the offender and the victim, the oppressor and the oppressed, the suspect and the police, the inmate and the correctional officer. An excellent illustration of a peacemaking strategy to counter the violence within prisons is provided by Rucker (1991) who describes the Alternative to Violence Project (AVP) workshops at Greenhaven Prison in New York State. These three-day workshops, now

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<sup>1</sup> A note should be made here that suffering may not always be viewed as a negative thing, but in some ways may be viewed as a positive aspect of human existence which nurtures inner strength and self-purification. This understanding is visible in religious belief such as the Christian glorification of the suffering of Jesus Christ on the cross and the Hindu and Buddhist belief in the evolution of the soul through the overcoming of the suffering of human existence.

being held in 15 states and in Canada, include education on the core components of community, developing cooperation, trust, conflict resolution skills, and the sources of anger such as racism, fear and power. As Rucker notes, the workshops are powerful and moving experiences for the inmates who participate and are a testament to the ability of inmates to create and sustain a peaceful environment for three days within the violent circumstances of the prison. Rucker proposes that the work of peacemaking criminologists might build on this discovery of the inmates in order to "transform the energy which is prevalent within prisons from violent to non-violent" (1991: 179) and thus make the time that both staff and inmates spend within prison a more positive and constructive experience.

Within the theoretical discourse of criminology, peacemaking criminology also represents an alternative to the duality which characterizes contemporary theory and which often divides criminologists into the two camps of radical and mainstream intellectual pursuit. Groves (1991) has captured the essence of the peacemaking stance on the division which characterizes contemporary criminology. This division, he contends, stems from the tendency among both radical and mainstream criminologists to "carve people into *Us* and *Them*" and thus cause a schism within criminology through the use of negative dialectics and moral hate (Groves, 1991: 111-112). Groves proposes that it is a basic human tendency to "personalize evil, to embody it, to stuff it into another human being. . . . That way we can find the culprit, detect the enemy" (1991: 111). The divisive games played between criminologists and political personalities have frustrated the functioning and purpose of the discipline. Like a child on a seesaw who has angrily dismissed the playmate sitting on the other side, we are unable to perform wholly. The story of contemporary criminology may very well be the story of that child who sits alone with knees to earth, struggling to rise by solitary wit.

For the peacemaking criminologist, the understanding that "stuffing" evil into another individual fails to alleviate crime does not preclude action against what may be perceived as evil or injustice. On the contrary, action is a fundamental part of the struggle for peace in

criminology and criminal justice. Like other social movements, peacemaking in criminology and criminal justice hinges upon social transformation. For this reason, Peacemaking criminology represents what anthropologist Anthony F.C. Wallace has termed a *revitalization movement*, a “deliberate, organized, conscious effort by members of society to construct a more satisfying culture” (Wallace, 1956: 265). Wallace's conception of the revitalization movement, which reflects the functionalist approach common in anthropology during the 1950's, proposes that individuals within a society who are trying to construct a more satisfying culture must find their culture, or major areas within it, unacceptable without changes to fundamental relationships and understandings. Such individuals then organize to revitalize their culture. A more detailed discussion of peacemaking criminology as a revitalization movement will be carried out in chapter six.

### **Healing the Circle**

Much in the same way that peacemaking criminology represents a revitalization movement in criminology, Native justice initiatives within Canadian criminal justice exemplify a movement to make the criminal justice process more meaningful for Native people in conflict with the law. The term *justice initiative* as used within the context of this work refers to any program, procedure or alternative within the current structure which, in a spirit of innovation and creativity, seeks to create *social justice*.

Mohawk *Elders* provide us with the understanding that the sacred circle holds the wisdom to maintain harmony and peace within the world and all that it contains. It is not only a symbol of Native relations or spirituality, but encompasses all of earthly existence. The Sacred Circle or the *Medicine Wheel* is a symbol for the cyclical and changing nature of human existence and represents the wisdom by which all of creation may be healed and nurtured. Like the four seasons, human existence moves through childhood, youth, adulthood and old age, growing and gaining the understanding of the mind, body, heart and spirit. Peace is the natural

understanding which flows from the healing of these for aspects within oneself and others. With healing, one may come to understand the *Truth* and reality of all of creation, that all of existence is interconnected and that it is inspired and created by the *Great Spirit* or the *Creator*. Like a river that has forgotten that it flows from the sea, human existence without this realization moves aimlessly without purpose, without understanding and without peace.

For the Mik'maq people, the sacred circle includes all of humankind from every race and nationality. Furthermore, it is believed that differences between individuals must be accepted and honoured if harmony is to be created and maintained. Such an acceptance and honouring of the differences between cultures and experiences seek to produce equality, justice and peace in social relations. Within the context of criminal justice, such an understanding of the differences between the dominant Canadian cultures and the *Native* peoples has led to the implementation of Native justice initiatives which seek to make the experience of justice more "just" for the Native people in conflict with the law. The reasons and justifications for such justice initiatives are primarily found in the fact that Native people are highly over represented as objects of the criminal justice system and in the idea that this is due in part to the failure of the dominant cultures to address the needs of Native people and in part to the cultural breakdown and demoralization of Native people themselves. The current situation in which Native people come into conflict with the law must be understood in the context of centuries of violence, oppression, dehumanization and ignorance of the traditional Native way of life. As Black Elk, the revered *medicine man* of the Ogala Sioux once said,

I did not know then how much was ended. When I look back now from this high hill of my old age, I can still see the butchered women and children lying heaped and scattered all along the crooked gulch as plain as when I saw them with eyes still young. And I can see that something else died there and was buried in the blizzard. A people's dream died there. It was a beautiful dream. . . the nation's hoop is broken and scattered. There is no center any longer and the sacred tree is dead (Brown, 1971: 419).



The words of Black Elk make clear that the sacred circle was broken apart from the violence which European colonizers perpetrated upon the Native people. In the modern context, the scattering of the sacred hoop continues through discrimination, racism, poverty and self-defeating forms of resistance to this oppression such as drug and alcohol use, suicide and interpersonal violence. The delicate balance of creation which the sacred circle represents is not able to withstand such challenges to a peaceful existence. Native justice initiatives represent an attempt to heal the circle and to restore harmony and peace to the Native people, and thus to society as a whole, within the context of criminal justice.

This thesis seeks to explore this healing of the circle through the application of *Native Spirituality* to the conventional criminal justice system. It is an exploration of how such an integration of the traditional Native way of life and criminal justice may be understood as a practical example of peacemaking criminology. The connection between Native justice initiatives and peacemaking criminology is important for two reasons: first, in the presentation of justice initiatives that are founded in healing, rehabilitation, non-violence and the restoration of harmony, we may come to understand that peacemaking in criminology is practical and possible; and second, that Native justice initiatives, which are increasingly appearing within criminal justice may be brought into the theoretical discourse of criminology with a clear understanding of what they seek to do, namely create peace for both Native people and the greater society. In response to those critics of Native justice initiatives who propose that they offer unfair advantage for Natives over non-Natives, this thesis will show that within the context of history and the modern social reality of Native people, such initiatives represent long overdue steps to equality instead of inequality.

### **Exploring Peacemaking Criminology and Native Justice Initiatives**

As proposed by C. Wright Mills in his significant work The Sociological Imagination (1959), an understanding of the social world is clearer or closer to the truth when the

"sociological imagination" is used when formulating one's understanding of the subject of inquiry. The sociological imagination is the ability to understand "the larger historical scene in terms of its meaning for the inner life and the external career of a variety of individuals" (Mills, 1959: 5). The method used is to place the subject of inquiry within a historical, political, or social context with an understanding of the dialectic processes which occur between each. Using this imagination to understand the interplay between history and the present, the political and the personal, larger and smaller social structures, relations, behaviours and sensibilities of culture and social life is a strategy which has the potential to counter the separation and violence which characterizes mainstream criminology and criminal justice. Social movements, in particular, benefit from this sort of analysis because their fundamental struggle for change is premised upon the inability of social structures to address widespread concerns. Therefore, the knowledge of where, when, how, and why they came into existence provides a broader and clearer understanding of their role and purpose.

Both peacemaking criminology and Native spirituality, the foundation of Native justice initiatives, recognize the interconnection between all social life. It is this appreciation for the interplay between the historical, the social and the political from which both peacemaking criminology and Native spirituality have emerged as modern social forces in the context of criminal justice. Following Mills, this work is an exploration of the historical, political and socio-cultural contexts which gave rise to peacemaking criminology and Native justice initiatives. To these contexts, a fourth is added, the spiritual understanding upon which each is based. In the current social setting where science as a way of understanding has dominated all other methods of inquiry (Appleyard, 1993), such ideas of spirituality and sacredness are incompatible with modern thinking and therefore experience resistance in their application to social life. As Russell Means (1983: 21) has observed, the impact of science upon intellectual understanding has served to "remove the wonderful complexity and spirituality from the universe and replace it with a "logical sequence"; a one-two-three ANSWER". It is therefore in an effort to understand

the complexity of each movement's arrival in criminal justice and to illuminate the idea of the sacred which is so important and truly alternative within both, that the spiritual is explored as a context.

In chapter one, the historical, political and social context in which peacemaking criminology emerged as an alternative to existing criminological theory is discussed. Peacemaking criminology is also tied to the personal and political evolution of its originator, Richard Quinney. In response to the increased incarceration of individuals, the persistence of crime and violence and the failure of contemporary criminology and criminal justice to do anything about it, peacemaking emerged with the idealized understanding that if there was widespread peace crime would no longer be a significant problem. In this way, peacemaking represents a revitalization movement within criminology. Chapter two is a discussion of the spiritual perspective underlying the peace and social justice orientation of peacemaking criminology. The spiritual context of peacemaking operates at two levels, the personal and the political. Before peacemaking may be undertaken by an individual, a certain amount of spiritual preparation is required. This aspect of inner or personal readiness within peacemaking is informed by the teachings of many religions and spiritual understandings through their common concern with perfecting the self. The political context of peacemaking spirituality which requires that the peacemaker actively resist injustice is well expressed by Mahatma Gandhi's concept of *Satyagraha* (truth-force) and his articulation of the Hindu principle of *Ahimsa* or non-violence (Quinney, 1991). In chapter three, the reality of the Native people is explored through a discussion of the oppression and violence which has characterized the history of Native people within the dominant culture of the Western world. It is this history of inequality and the suppression of the traditional Native way of life which has resulted in the modern context where Native people are more likely to come into conflict with the law. The contemporary reality of Native people in conflict with the law is also presented to illustrate the pressing need for criminal justice alternatives. Native justice alternatives, like peacemaking are offered as a

revitalization movement in response to social inequality. Chapter four is a discussion of the spiritual principles upon which specific Native justice initiatives currently operating in Canada are based. Such principles and understandings are drawn from the Algonkian world view and may not be shared by other Aboriginal nations which are themselves diverse in culture, language and belief. As the Native way of life and Native Spirituality within this worldview are indivisible (Native spirituality is to live in a sacred way), the discussion is first directed to nine ethics and principles of the Native way of life as articulated by Dr. Clare Brant (1986), and then to the spiritual wisdom as contained in the sacred Mik' maq Medicine Wheel and as represented by Seven Sacred Teachings of the Seven Clans. The chapter will conclude with descriptions of the Sacred Pipe Ceremony and the Sweat Lodge, two rituals which symbolize the message of healing which underlies Algonkian Spirituality. Chapter five is devoted to an examination of selected Native justice initiatives; the Hollow Water Treatment program for sex offenders, the use of the sentencing circle in *R. vs Moses* 1992, the Stan Daniels Correctional Centre and the newly operational Healing Lodge for Federally Sentenced Women in Saskatchewan.

Chapter six will articulate the connection between peacemaking criminology and Native justice initiatives in two fundamental areas. The first is that both peacemaking criminology and Native justice initiatives represent what A.F.C. Wallace (1956) has referred to as a revitalization movement which has as its basis the understanding that the existing culture or major areas of it are unsatisfactory. Both movements are offered as responses to the injustice, oppression and violence which plague the current structure of criminal justice. The second area that the two share is the spiritual context of personal perfection, political consciousness, peace, and the harmony of all creation. Gandhian concepts of non-violence, truth-force, and self-sacrifice for peace and community are similar to the teachings of Native Elders who offer the principles of harmony, truth, caring, sharing, and the survival of the community instead of the survival of the individual. The Native way is one which contends that "Spiritualism is the highest form of political consciousness" (Akwesasne Notes, 1978: 12). In the philosophy of Gandhi, such

political consciousness is not only present in but is required of a spiritually-inclined person. As Gandhi wrote, "friends have told me that truth and non-violence have no place in politics or worldly affairs. I do not agree. . . . Their introduction and application to everyday life has been my experiment all along" (Estey and Hunter, 1971: 85). In this way, both peacemaking criminology and Native justice initiatives represent active movements for peace which are built on foundations of sacredness and spirituality.

Finally, the conclusion will explore the potential which Native justice initiatives have for creating peace and equality for Native people within the realm of criminal justice. Such programs and alternatives which Native justice initiatives have opened are the beginnings of a movement toward a peaceful end within the realm of criminal justice and thus may be called peacemaking. However as the title of this work suggests, such initiatives represent a "healing" and not a full restoration to health and harmony. Native justice initiatives should not be regarded as complete in terms of their function to inject equality into criminal justice for Native people. Such initiatives are only contributing to the healing of the circle of justice and must remain flexible in order to maximize their healing potential. Like peacemaking criminology which views crime as a condition of suffering in society, Native justice initiatives must also look outside the realm of criminal justice and into broader society to challenge the racism, classism and ignorance which breaks apart the circle of life. With this, a deep healing is possible for Native people in conflict with Canadian criminal law and a greater level of peace and justice may be achieved for all.

## 1

## PEACEMAKING CRIMINOLOGY, ORIGINS AND UNDERSTANDINGS

***What I want to develop is a radical social theory, a theory that will liberate us as human beings rather than oppress us. Sociological theories have supported a society that oppresses. Ideas themselves have oppressed us.***

***Richard Quinney, 1971***

***Peacemakers know the world is far more dangerous than Warriors let themselves imagine***

***Hal Pepinsky***

***It looks like we're going to have a white boy before this is through, his skin is so dirty and rotten its all fallen off !***

***Correctional Officer, Pelican Bay State Prison  
After forcing an African-American inmate  
into a tub of boiling water***

***At times when I'd burn my medicines, when we had sweetgrass smuggled into us because sometimes it was seen as contraband, the sweet smell of the earth would create a safe feeling, a feeling of being alive even though the cage represented a coffin, the prison a gravestone***

***Native inmate  
Prison for Women (P4W)***

***145 inmate deaths in Canada: 30% suicide; 6% murder; and  
64% other (includes accidental or no reason given)***

***Canadian Centre For Justice Statistics for 1994 and 1995***

Peacemaking in criminology is not unlike peacemaking in other spheres of social life which attempts to create peace in the face of war, harmony rather than conflict, and non-violence instead of violence. As a new branch of criminology, it encompasses the works of those theorists and practitioners who are dissatisfied with the direction and conventions of modern

criminal justice and criminological theory. What peacemaking criminologists provide is an alternative to those aspects of the current discourse and structure of criminal justice which are characterized by violence and separation. The fundamental assertion of the peacemaking criminologist is that the more there is peace the less there will be crime and injustice. Since much of crime and all of what may be called injustice is characterized by suffering, it is only through lessening or eliminating that suffering that they will be reduced. A strategy of service and compassion is therefore advocated to affect suffering and thus affect crime and social control. The role of the criminologist is offered as that of a healer and a peacemaker who operates with a strong awareness of the common bond of humanity which ties one to another. This results in a holistic orientation which is extended to include a concern for all those involved, the guard as well as the inmate, the victim as well as the perpetrator, and the oppressor as well as the oppressed.

### **Approaching Through History, Social Reality and Biography**

Richard Quinney, the renowned American criminologist and originator of peacemaking criminology, approaches the subject matter of crime with the following words:

No amount of thinking and no amount of public policy have brought us any closer to understanding and solving the problem of crime. The more we have reacted to crime, the farther we have removed ourselves from any understanding and any reduction of the problem. In recent years, we have reformulated the law, punished the offender, and quantified our knowledge. Yet the United States remains one of the most crime-ridden nations. In spite of all its wealth, economic development, and scientific advances, this country has one of the worst crime records in the world (Quinney, 1991: 3).

Quinney and other peacemakers in criminology understand that both past and current attempts to control or eliminate crime have not succeeded. Quinney submits that the subject of crime

"remains one of our most critical indicators of the state of our personal and collective being" (1991: 3) and as such should be approached from a transcendent perspective which seeks to understand the problem of crime within the greater context of social relations and culture. Such a perspective is grounded in the 1959 work The Sociological Imagination by C. Wright Mills which proposes that an understanding of the social world is clearer or closer to the truth when is framed within the context of the larger historical, political and social scene. The popular emphasis on the act and the actor of crime within contemporary criminological theory has ignored the process of crime and its existence within an active social climate. In this way, a transcendental perspective of crime has not been possible within contemporary criminology and some fundamental realities of crime have been left both undiscovered and further obscured. Perhaps the failure of contemporary theory to effectively address the subject of crime and its concerns may be understood within this context.

This chapter will present peacemaking criminology as originating in response to the historical and political milieu of North America beginning in the late sixties and continuing until present day. These years have seen attempts to control crime and punish offenders escalate in terms of violence and in assigning divisions between the criminal and the non-criminal. The current structure of criminal justice is one which "assumes that violence can overcome violence, evil by evil" (Quinney and Wildeman, 1991: 118). Dissatisfaction with the reality of violence and oppression which the conventional structure of criminal justice perpetuates has hastened the need for the alternative discourse or mode of reference within criminology which peacemaking offers. As Mills (1959) has further submitted, every individual lives and contributes to the social world through a biography and any social study which does not address the interaction of the individual and history has not fulfilled the potential of its "intellectual journey". Within peacemaking criminology, this conjuncture of history and biography is an especially informing one. Indeed the origins of peacemaking may be tied to the life's journey of its founder Richard



Quinney from the late sixties until the present day. The beginnings of peacemaking criminology are the beginnings of a truly alternative discourse which is founded on peace and non-violence rather than on violence. To tell the story of how peacemaking in criminology began is to know a great deal about what it is. Its entry into contemporary discourse is clearly an infusion of peace into the otherwise war-like atmosphere of crime and criminal justice. Having fully discussed the origins of peacemaking, attention is directed to its fundamental premises and understandings about crime, violence and peace as exemplified by the works of Richard Quinney and Harold Pepinsky.

### **A Response to Crisis in Conservatism and Increasing Violence**

Richard Quinney proposes that the present atmosphere in criminal justice comes as the result of an attempt to put an end to violence and injustice. As Quinney describes it, the modern context of criminal justice lies "in the depths of an era that began twenty-five years ago", an era "with the hopes of a good society, a great society, a society of equality, job security, health care, the ending of poverty and the reduction of crime" (1993: 5). Within the realm of criminal justice during this time, the demands for equality and the reduction of crime led to questions about the capability of conventional criminological theory to address crime. The mid-fifties saw the emergence of critical inquiry as marked by the intellectual shift from positivist explanations of "crime as an event" to the more radical idea of "crime as process" (MacLean and Milovanovic, 1991: 1). Critical ideas solidified in criminology as a school of thought in the late sixties as social upheaval and movements against existing structures threatened the status quo. As Quinney and Wildeman (1991) propose, the anti-war, civil rights, and women's liberation movements; the counterculture of the hippies and the attack which it provoked against prevailing values and mores; the increased availability of Marxist literature; the growing union of university students

across the country; and the movement towards peace as a way of solving social problems resulted in a new way of looking at crime and approaching criminality. The most significant contributions which this social turmoil made to criminology were: 1) the rebirth of critical inquiry under the banner of critical criminology; 2) the emergence of Marxist criminology; 3) the formation of criminal justice studies as a branch of criminology in America; and 4) the entrance of women into the field of criminology and the development of the feminist perspective (Quinney and Wildeman, 1991: 71). Since that time, MacLean and Milovanovic (1991) contend that critical criminology has vacillated between periods of agreement and disagreement on how best to pursue a critical line of investigation. Times of agreement in critical criminology were indicated by the labelling tradition in the United States and the "New Criminology" of England which both emerged from the social turmoil of the 1960's. MacLean and Milovanovic (1991) contend that a neo-conservative backlash erupted in the 1970's and filled the political agenda with a low tolerance for crime and criminals and ushered the crime control machinery into an unprecedented pace. This conservatism, manifested in the 1980's by Reaganism in the U.S. and Thatcherism in the U.K, significantly shifted criminology away from attempts to identify the causes of crime and instead promoted criminological investigation into strategies for managing or controlling it.

Nils Christie's 1991 work Crime Control As Industry, explores the recent state of affairs to which such a conservative reaction to crime has led within American corrections. His work shows that the United States leads the world in the number of individuals under the control of penal law. As of 1991, the total prison population in the U.S. was 1.2 million inmates. This means that roughly 504 out of 100 000 Americans are incarcerated. The number of individuals on parole or probation in 1990 was 3 201 641, bringing the total number of individuals under the control of penal law to 4 454 360. This translates to roughly 1 794 out of 100 000 Americans who are directly controlled by the penal system, the highest in the world. Christie's statistics also show that between the years of 1979 and 1989 when the imprisonment rate seemed to have

dropped in many other countries (but not Canada), the United States underwent a staggering increase from 230 (per 100 000) to 426, perhaps because of the low tolerance for crime and criminals and a reliance on the prison as the most appropriate response. Christie concludes that because Canada is close to the United States both in proximity and culture, it is heavily influenced by American criminal justice policy and practice. This may explain why the imprisonment rate in Canada has also increased, although not as sharply as that of the U.S. rate. As Rothman also observes, the prison population in the U.S. is growing at the fastest rate in the world. When compared to the incarceration rates (per 100 000) of other countries such as the Netherlands (40 per 100 000), Japan (45), France (81), and England (97), the U.S. rate is clearly excessive (Rothman, 1994: 34). Common to all of the "get tough on crime" strategies proposed by the conservative administrative criminologists in the era of Reaganism and Thatcherism are a number of beliefs about crime which Quinney and Wildeman (1991) consider to be misconceptions. These include the following: crime is increasing; most crime is committed by the poor; some groups are more law-abiding than others; white collar crime is non-violent; regulatory agencies prevent white collar crime; drug addiction causes crime; and law makes people behave. Quinney and Wildeman (1991) and Pepinsky and Jessilow (1984) contend that these beliefs underlie mainstream criminology and thus have contributed to the modern chaotic results of conservative attempts to handle crime.

The theoretical history of criminology is characterized by a reliance on the discourse of positivism and science as a method of inquiry and discourse of causation. Galliher (1991: 247) observes that the history of criminology theory embraces such views as the following: "Freud and his notion of the id housing a human's animal impulses; Lombroso emphasizing incomplete biological evolution as the cause of crime; and of course, Goddard's claims of inherited feeble-mindedness as the cause of crime". Noting that it is criminology's history which allows it to assert things that other disciplines cannot, Galliher quotes from the 1985 work Crime and Human Nature by James Q. Wilson and Richard Herrnstein in which they state that, "to allude to

the possibility that races may differ in the distribution of those constitutional factors that are associated with criminality will strike some persons as factually, ethically, or prudentially wrong. We disagree. (Wilson and Herrnstein, 1985: 468 in Galliher, 1991: 247). The tendency which such a statement or even the suggestion of a relationship between crime, biology, and race has for demarcation, division, separation and ultimately violence is apparent.

### ***No Peace in Prison***

The violence of the modern context of criminology is not limited to theory but is also found within the criminal justice practices through which such theories are given voice. Whether we view the causes of crime to be within individual tendencies or whether we view crime largely as a rational choice of responsible individuals, the elimination of crime would require the changing of individuals. The most heavily used method for changing individuals is the prison whether its use is viewed as a matter of punishment, or rehabilitation, or some combination of the two. As Foucault (1977) has observed, the reliance upon and appeal of the prison is due to its original idea of the simple principle of depriving liberty and upon its stated objective to transform individuals into positive and contributing members of society. The self-evident question which Foucault asks is, "How could the prison not immediately be accepted when, by locking up, retraining and rendering docile, it merely reproduces, with a little more emphasis, all the mechanisms that are to be found in the social body?" (1977: 233). If the prison has tried to remain true to this attempt to reproduce the mechanisms of the social body within its walls and thus transform individuals, then it too may be characterized by the word 'failure'. The level of violence within prisons is something which many on the outside will never experience. An example of this violence was clearly captured by a tape produced by the Emergency Response Team (ERT) of Kingston Penitentiary on which was documented their duties in Kingston's Prison for Women (P4W) on April 26, 1994. When broadcast by the CBC program Fifth Estate on February 21, 1995, the viewing public was exposed to the brutal reality

of prison. As Faith (1995) describes, the tape shows

a team of six men dressed up in black Darth Vader costumes, helmets, boots and shields. Their black helmets with masks cover their faces. They are silent. They carry weapons....Eight times (in real time this took over two and a half hours) they charge into each woman's isolation cell. They pull the eight women from their cots (one is clearly asleep), squeeze their heads between their batons, knock them to their knees, push them face down on the cell floor, and order or force them into other degrading positions. When the compliant women were spread out flat or had crouched in terror on the floor, surrounded and roughly held down by their gladiator captors, their nightclothing, and underwear, is ripped, pulled and cut off from their bodies (some lucky few have already managed to remove their own clothing).....The women are then forcefully cuffed, shackled, and chained at the wrists, waist and ankles. They are then dragged and pushed stark naked against the walls, their bodies poked and prodded with batons, held in place by shields while the professional "goon squad" bang their truncheons on the concrete beside the women's head. Some of the few women whimper in fear and humiliation. They sound terrified. Some are pleading "Can I have some clothes please?" "You guys are all men" "Can I have a gown" "Please don't hurt me" (Faith, 1995: 92)

The explanation of the Correctional Service of Canada (CSC) for the response of the ERT was that beginning on April 22, the women began threatening the guards. In contrast some women in segregation offered that on April 22 a guard had said to two native women, "Why don't you just get a rope and hang yourself?" in response to recent suicides by aboriginal women (Faith, 1995: 93).

Burkhalter (1995) proposes that the experience of violence within prisons may very well contradict the UN Convention against torture. She recounts the experience of a nurse at Pelican

Bay State Prison in Northern California who watched the torture of an inmate.

A mentally ill inmate named Vaughn Dortch had his hands cuffed behind his back by a group of correctional officers and was forced into a tub of 145 degree water. She [the nurse] heard an officer say of Dortch, an African American, "It looks like we're going to have a white boy before this is through; his skin is so dirty and rotten it's all fallen off". She saw that Dortch's skin had indeed been peeled off and was hanging in clumps around his legs. When officers attempted to return the prisoner to his cell, over the protests of the medical staff, he collapsed and was taken to the emergency room. Dortch's offence was that he had bitten an officer and later had smeared himself with feces (1995 : Prison Activist Resource Center ).

Violence within prison is not only an occurrence between correctional officer and inmate but is also common between inmates themselves. As Wilkberg (1992) observed in an anthology of articles from the prison newspaper The Angolite from Angola State Prison in Louisiana, violence between inmates, from assault to rape is a dangerous and threatening part of life inside. There are those who propose that such behaviour on the part of the inmates comes as the result of a personal tendency towards violence which is exaggerated within the confined environment of prison. Others, mainly abolitionists, view such behaviour as a "natural" and unavoidable reaction to the structure and situation of prison. The issue of violence in prison is a complicated one with many factors and opinions involved in its explanation. For the purposes of the present work, it is sufficient to note that violence in prison is an important issue for contemporary criminal justice to confront. Within the discourse of peacemaking criminology, the maintenance and reproduction of such violent structures is counterproductive to those strategies which seek to promote peace and non-violence. In a ground-breaking experimental study which they applied to life in prison, Haney, Banks and Zimbardo (1973) suggested that the structure and situation of prison was the significant cause of its violence, "since prisoners and guards are locked into a

dynamic, symbiotic relationship which is destructive to their human nature, guards are also society's prisoners (Haney et al., 1973: 97). Peacemaking criminologists would argue that in addition to the guards and others directly affected by prison, society is also locked into this destructive relationship. The violence within prison cannot be separated from other instances of violence in society and therefore involves all individuals. Prison violence may even be more threatening to a peaceful social existence because its acceptance by social institutions indicates that violence may be tolerated under certain conditions. For the peacemaker, violence can never be accepted if peace is the desired result. To do so is a clear disjuncture of ends and means. Even cutting-edge correctional programs such as the Boot Camp design of young offender programs are illogical in terms of the disjuncture between their desired result and their means for achieving it. Boot camps seek to instill conforming behaviour through a military-like regimen of physical training and discipline. Morash and Rucker (1990: 206) have asked, "Why would a method that has been developed to prepare people to go into war, and as a tool to manage legal violence, be considered as having such potential in deterring or rehabilitating offenders? The work of Haritos-Fatouros (1988) on the training of the Special Interrogation Section of Military Police during the military regime in Greece from 1967 to 1974 (which later investigation found to be a unit of torturers) closely parallels what new recruits receive in basic training. Haritos-Fatouros notes that new recruits were subjected to intense physical exercise and required to follow all orders of their trainers no matter how illogical or degrading. They were desensitized to physical pain by "a daily routine of flogging in which they were often forced to run to exhaustion, fully equipped" (1988: 155). In the words of one who had experienced the training, "we learned to love pain" (1988: 156). In this context and with the continued desensitization of the recruit to the concept of torture, Haritos-Fatouros notes that the torturer develops the ability to inflict pain upon others without any internal conflict or questions of propriety. With a new Boot Camp program for juveniles having recently opened its doors at Trenton, New Jersey in January of 1996 (Trenton Times, 1996), one may wonder at its chance

of success.

### **Richard Quinney: From Positivist to Peacemaker**

Richard Quinney's writings in criminology represent the completion of a full circle in an individual quest for knowledge and search for meaning. The following section is a brief review of selected works by Quinney beginning from his transition from sociological positivism to critical marxist-influenced criminology and ending with his more recent writings in peacemaking. This discussion will attempt to trace the evolution of Quinney's thought by examining each work and by colouring each discussion with statements made by Quinney during interviews or through autobiographical and biographical accounts. What remains is an attempt to understand the origins of peacemaking through the theoretical and personal evolution of its originator.

Richard Quinney began his career with a Bachelor of Science degree from Carroll College in 1956, moving from there to Northwestern University where he received his Master's degree in Sociology in 1957, and finally receiving his doctorate in Sociology from the University of Wisconsin in 1962. Despite a keen interest in general social theory and the sociology of religion, Quinney made the transition from sociology to criminology after the death of Howard Becker, the renowned social theorist with whom he was working. With Becker's death, Quinney accepted a teaching position and made the transition into the discipline of criminology (Goldwyn, 1971). Although he is now known as one of the foremost American critical criminologists, Quinney produced some early works which had taken the concepts of law and legal crimes for granted, not questioning their creation and function in an active social world. However, these works (1963; 1964) still challenged existing theory which relied on the individual characteristics of an offender as an approach in the study of crime. As Quinney notes, in his doctoral dissertation on prescription violations by retail pharmacists,

very little consideration was given to the law. Yet I tried to go beyond the confines of criminology by looking at the occupational structure. Where criminologists had tried to



explain behavior in terms of the social characteristics of the individual, I turned to the characteristics of the occupation in which the individual was employed, and I tried to account for the offender's behavior that way (Goldwyn, 1971: 42).

As Martin, Mutchnik and Austin (1990) note, Quinney's assumptions about people and society did not start to noticeably change until after he finished his dissertation and began a job at the University of Kentucky. At this point, Quinney's focus shifted to the concept of crime. In 1967, Marshall Clinard and Quinney wrote the first edition of Criminal Behavior Systems: A Typology in which they stated, "We feel that continued progress in criminology will largely depend on the study of types of crime" (1967: v). They further noted that, "there is the fact that crime is relative. That is, the definitions of crime change from time to time and from place to place. Therefore the behaviors and persons to be included in a typology will vary according to time and place" (1967: 14). Despite the observation that the future of criminology depends on the study of the relative concept of crime, Clinard and Quinney make no reference to uncovering how crime comes to be defined until the second edition of Criminal Behavior Systems: A Typology in 1973 (Martin, Mutchnik and Austin, 1990).

In 1970 with the publication of The Social Reality of Crime, now recognized as an important text in critical criminology, Quinney proposed six propositions to guide the study of crime. These are: 1/ Crime is a definition of human conduct that is created by authorized agents in a politically organized society; 2/ Criminal definitions describe behaviors that conflict with the interests of the segments of society that have the power to shape public policy; 3/ Criminal definitions are applied by the segments of society that have the power to shape the enforcement and administration of criminal law; 4/ Behavior patterns are structured in segmentally organized society in relation to criminal definitions, and within this context persons engage in actions that have relative probabilities of being defined as criminal; 5/ Conceptions of crime are constructed and diffused in the segments of society by various means of communication; and 6/

The social reality of crime is constructed by the formulation and application of criminal definitions, the development of behavior patterns related to criminal definitions, and the construction of criminal conceptions (Quinney, 1970: 15-25). In a 1971 interview with Issues in Criminology, Quinney was asked to discuss what led to his breaking away from viewing the law as an absolute entity or as the embodiment of the norms and values of society. His response was

it was more in terms of what was happening outside than what was happening in criminology or sociology. It was more my own relation to the world. It was the time when I began to see many of the injustices around us and rather than assuming that the law was the instrument of justice I began to question the law. I think that this is one reason that criminologists up until the early 60's did not consider criminal law. I think that they assumed that the law was good in itself. This is a concern of mine right now, which I plan to continue: How our intellectual tradition has opted for social order rather than for individual freedom and radical change (Goldwyn, 1971: 43).

In the same interview, Quinney discusses his thoughts on The Social Reality of Crime (1970) at another level by offering that definitions of crime are created by an elite group rather than by merely a dominant one. Quinney notes that such a view developed through his reading of revisionist histories, his rethinking of the Cold War ideology in which he grew up and the war in Southeast Asia. His analysis of criminal law paralleled his analysis of the Cold War. He saw both as ideological tools with which the dominance of the United States could be preserved at home and abroad.

I am arguing that criminal law is being used by the ruling class to maintain the status quo and to prevent any kind of liberation among those who would liberate themselves within the United States...Rather than law representing the will of the people, I view law as the will of those who have something to protect, and the law is then used as a weapon by

those who rule. And I see that power now as a capitalist corporate power (Goldwyn, 1971: 47).

This Marxist formulation of criminal law was manifested in Quinney's 1974 work Critique of Legal Order: Crime Control in Capitalist Society. This work, deepening the level of critique which The Social Reality of Crime (1970) had contained, proposed that the most appropriate method of understanding the formulation of criminal law by elites was the utilization of "a critical Marxian philosophy" (1974: v) which underscored the relationship between the ruling class and those who are ruled.

In his search for a new understanding of social theory, Quinney noted the problem of transcendence and of getting past that which is already known in a search for alternatives (Goldwyn, 1971). He described the state of modern times as a dream which is "fast fading" and one in which the belief that "scientific methodology will solve our contemporary social and political problems is coming to rest as a myth that was perpetrated by a liberal intelligence. We have only to look around us to find excesses of our rational arrogance—the nuclear threat, the assaults on our environment, the quality of our lives" (Quinney, 1973: 268). In his own life, he attributes his ability to transcend the positivistic training of his education to a personal realization in the early sixties that social reality was not certain and therefore no one could speak in terms of absolutes. But, as Quinney relates, this formulation of the ancient philosophical problem of "the one and the many" bothered him as well because "if there's no reality you could argue, then any reality is legitimate" (Goldwyn, 1971: 46). As he noted,

Under positivism we were to discover the truth, the discoverer was out there—external. If you take a multiple social reality standpoint, then one has to construct a meaning that is important for him and for those around him. This becomes a moral act because meanings have consequences. So I think I have to move from the relativism of social reality to a more moralistic standpoint where I regard it as important to construct

meanings and realities (Goldwyn, 1971: 46).

Quinney's concern with the construction of meanings and realities along moralistic lines led him to investigate personal spirituality as an alternative to existing rational thought in social science and as a way of approaching the hidden mysteries of existence. In a 1973 article called "A Transcendental Way of Knowing", he writes

There must be something more—a spiritual quality—that allows us to develop the potential of our lives. With such longings we are beginning to look beyond the excesses of rationality. The result is that current patterns and processes are being infused with the romantic. What is happening is the emergence of a new level of consciousness and existence. Not that rationality is being supplanted, but it is being vitalized by that which expresses the other side of our desire (1973: 168).

Transcendental knowledge is only possible, Quinney offers, if the sociologist is "willing to give up some of the pedestrian ways that we have followed as scientists. Mundane lives can produce little more than mundane thoughts. Transcendental knowledge requires that life be lived with an element of the romantic impulse. We must be immersed in our experiences, not letting life escape us" (1973: 174). In conclusion, Quinney contends that morality "is not an absolute, imposed on man, it is man's responsibility to create a morality out of his experiences—and according to my conception of transcendental knowing, to construct that morality by going beyond our temporal experiences" (1973: 177).

In 1977 Quinney wrote Class, State and Crime, a work which used a structural Marxist interpretation to analyze the legal order. Crime is understood in terms of the development of capitalism and its contradictory material and spiritual conditions. Quinney proposes that

Those who own and control the means of production, the capitalist class, attempt to secure the existing order through various forms of domination, especially crime control by the capitalist state. Those who do not own and control the means of production, especially the working class, accommodate to and resist the capitalist domination in

various ways (1977: 67).

The current criminal justice system is an extension of the domination of the capitalist class and imposes definitions of crime which fit in with the late stage of capitalism at which it is functioning. Criminology too has been "a body of thought and practice that seeks to control anything that threatens the capitalist system of production and its social relations" (1977: 176). As Quinney submits, freedom from crime will occur with the transformation from capitalism to socialism where there will be an absence of the crime-producing mechanism of domination and resistance.

To reduce crime and thereby reduce the economic costs of crime would be to change beyond recognition the capitalist system. Crime in all its aspects, with all its economic costs, is the price paid for capitalism. Unfortunately it is a price we all pay. The economic costs of crime become an issue—but go beyond conventional calls for more criminal justice—in the struggle for a socialist society (1977: 145).

In the conclusion of the work Class, State and Crime (1977), Quinney writes that the transformation to a socialist society requires the union of both Marxist analysis and the transcendental spiritual perspective of his 1973 work. Marxism, with its understanding that all human thought, whether it is political, intellectual or spiritual, springs out of an individual understanding of material relations, contains the assumption that thought or understanding can never transcend the material plane. For Quinney, this was problematic in his search for a transcendent perspective. The understanding that thought could never be free from the material relations which produce oppression and alienation in the human condition limits any search for understanding by asserting that transcendence of the material is not possible. In addition, the Marxist assumption that religion is the "opiate of the masses" or a capitalist control mechanism to placate people with the oppression of daily living through the promise of glory and peace in the afterlife, ignores the human tendency to investigate the mysteries of existence and to develop a spiritual understanding which has personal meaning and usefulness. For Quinney, it is the search for personal meaning which offers the greatest hope in overcoming the negative aspects

of capitalism, of which crime is but one. This is best accomplished through the union of Marxist and the transcendent perspective. He writes,

The socialist struggle in our age is a search for God at the same time that it is a struggle for justice in human society. In overcoming human alienation and oppression we come closer to knowing our true being. And in our true being we come truly to know our God. Capitalism—in its oppression and alienating forms—has dulled the human spirit and all but killed the transcendent being. Our sin is the separation and the estrangement of our essential being. In the struggle for religious socialism we hope to recover our wholeness, to heal our estrangement from the source of our being (1977: 204).

As Martin, Mutchnik and Austin (1990) contend, it was in 1984 when Quinney received the Edwin H. Sutherland award for theoretical contributions to criminology that a new direction seemed to emerge in his research. After his acceptance speech, it appeared to those present that Quinney was leaving criminology to follow a religious and prophetic path of study, "His interests appeared to have shifted to other areas, and he believed that until society was ready to alter the existing capitalist system he needed to focus his energy elsewhere" (Martin, Mutchnik and Austin, 1990:398). Such a movement was already indicated by Quinney's 1980 work Providence: The Reconstruction of Social and Moral Order, which acknowledged the need for spiritual concerns in the construction of a moral order. Quinney's final chapter, "Socialist Culture: Theological Considerations", contains sections such as "The Religious Basis of Morality" and "A Religious Socialist Order" which seek to describe the religious and prophetic foundations of the socialist alternative to capitalist society. Quinney concludes the work with the following thoughts,

The events of this world are part of the larger design; truth is revealed in the reality of history. Our days are lived in the matter of this world and in the spirit of the eternal. Prophecy allows us to make the connection. Our historical struggle is thus for the

creation of a social and moral order that prepares us for the ultimate of divine grace--the kingdom of God fulfilled... Let us begin again to hear the word, to see the vision granted unto us, Eternal God, we can neither measure your height nor sketch your face, and yet we know that you are Creator (1980: 114).

Perhaps those present at the 1984 award ceremony were correct for after that year, Quinney's writings moved further into religious and spiritual avenues. In 1984, he published "Journey To A Far Place: The Way of Autobiographical Reflection" (1984a) and "A Place Called Home" (1984b), two introspective articles which serve as almost farewells to the critical and Marxist Quinney and welcome the spiritual peacemaker. For Quinney, autobiographical reflection is a path which leads to the end of wandering and wondering about oneself and the outer world. He himself embarked upon this path when after much success in his career, he found that many questions remained and that these were questions which "did not fit into the confines of a conventional academic career" (Quinney, 1984b: 165). The issues which he struggled with after writing Providence, questions such as "Where did we come from? Why are we here? Where is my home in this world?" (1984b: 165) required a return to his childhood and his early experiences. Revisiting his childhood home and the memories of his growing up in rural Wisconsin, represent for Quinney a progression towards self-consciousness and self-awareness, key issues in a criminology of peacemaking which requires that the criminologist be introspective and 'aware'. Through his autobiography, Quinney seeks to present his life as a historically-placed myth which is "filled with prophetic intent" so as to place it within the context of the greater metaphysical mysteries of existence (Quinney, 1984a: 186) and thus transcend the confines of the material existence. It is also a journey homeward in search of understanding. He writes, "My own autobiographical reflection is not a story about the past but is a consideration of what is yet to be. It is the next step in my life" (1984a: 187). The idea of a 'home' which is so central in these works is more than just as it was experienced in childhood or through other life experiences. For Quinney, the journey home is symbolic for a

journey towards self-realization and the acknowledgement that it is crucial to know where one came from in order to know where one is going.

The return journey home is a forward movement in time. We are not nomads as long as we are on the journey towards home. We have ceased to be wanderers once we have started the journey home. Forever—as long as we remain centered in consciousness—we long to return home. The farm in Wisconsin forever furnishes me with an image of what is home. It is that visible place, that deeply loved place that draws me home, that allows me to be on the journey toward home (Quinney, 1984a: 195).

At the end of the journey, what awaits is home, the "Creator of all things" (1984a: 195).

With the publication of "Crime, Suffering and Service: Toward a Criminology of Peacemaking" in 1988, Quinney clearly established his position as both a criminologist and a pilgrim on the road to enlightenment. Peacemaking criminology proposes that since crime is characterized by suffering, it "can be ended only with the ending of suffering, only when there is peace—through the love and compassion found in awareness" (Quinney, 1991: 4). This awareness upon which actions to end suffering are based comes as the result of the realization that

We cannot end our suffering without ending the suffering of all others. In being witnesses to the concrete reality, and in attempting to heal the separation between ourselves and true being (the ground of all existence), we necessarily suffer with all others. But now we are fully aware of the suffering and realize how it can be eliminated. With awareness and compassion, we are ready to act (Quinney, 1991: 10).

The action taken to end suffering is like

Mahatma Gandhi's philosophy of Satyagraha, truth force, social action comes out of the informed heart, out of the clear and enlightened mind. The source of social action is within the human heart that has come to understand fully its own suffering and therefore the suffering of others. If human actions are not rooted in compassion, these actions will



not contribute to a peaceful and compassionate world (Quinney, 1991: 10).

Therefore, peacemaking in criminology must be compassionate, understanding and non-violent if it is to create those qualities within the realm of criminal justice and social life in general. As Quinney notes, any efforts to understand crime must first be free of the notion of duality or distinction between the observed and the observer. Criminologists "have to become one with all who suffer from lives of crime and from the sources that produce crime. Only then can we really understand. And only then can we love. Loving the world as we come to understand it" (Quinney, 1993: 7).

Richard Quinney's theoretical journey in criminology, from his positivist origins, his interest in social theory and the sociology of religion, through to his critical and Marxist writings and finally to his current peacemaking works is the reflection of a seemingly radical evolution. This evolution is both personal and political, characteristics which underlie the peacemaking perspective. What remains constant throughout Richard Quinney's professional work in criminology is his belief in the Truth and his search for absolutes, whether it is positivist, marxist or religious. His writings parallel his own personal journey towards this Truth. For Richard Quinney, peacemaking is both a personal statement of non-violence, compassion, interconnection and love and a political reaction to the injustice of the current criminal justice system and the theoretical orientations within criminology that perpetuate it. As he noted early in his career,

I would argue that a theory is as good as its politics. So, it has to do with the way we go about knowing and I'm arguing for a transcendental mode of knowing. And it has to do with acting and being political. And also it is personal. The model that we were trained in taught us to be detached and universalistic. I think now what we are saying and what we are developing is the belief that one can only know through his own eyes (Goldwyn, 1971: 45).

### **Understandings of Crime, Suffering and Service**

Within the modern context of criminal justice, it is generally agreed (at least by critical criminologists) that conservative crime control ideology is ill-equipped to deal with the issues of crime. Relegating crime to the status of an event and ignoring the historical, economic, political, and social context in which crime or troublesome behaviour occurs is to ignore the "big picture" in criminology. Peacemaking criminology takes a holistic orientation which seeks the healing of all individuals who are affected by crime. It relies on a transcendent perspective based on heightened awareness and spiritual practice to determine how best healing and peace may occur. To engage in peacemaking is to be critical of the divisiveness between administrative criminology and critical criminology and to be dissatisfied with what may surely be called a void in both mainstream and critical arguments and writings: the void of spirituality and the sacred. Martin Luther King eloquently expressed the value of bringing together all forms of knowledge when he wrote that even religion and science are not incompatible. He contends that,

Science investigates; religion interprets. Science gives man knowledge which is power; religion gives man wisdom which is control. Science deals mainly with facts; religion deals mainly with values. The two are not rivals, they are complementary. Science keeps religion from sinking into the valley of crippling irrationalism and paralyzing obscurantism. Religion prevents science from falling into the marsh of obsolete materialism and moral nihilism (King, 1963: 3).

Quinney (1977; 1980) has argued that religion, spirituality and the ability to transcend the material world play a valuable part in overcoming the contradictions of contemporary capitalist societies which make high levels of crime a likelihood. Religion is not simply an "opiate" for the peacemaker as some Marxists would contend, but a tool with which to approach the sacred and mysterious dimensions of human existence. As Pepinsky (1991a: 303) submits, Richard Quinney "broke the ice" and freed many criminologists from the negative implications of being religious by defending the assertion that we are "seekers rather than purveyors of religious

truth". Regardless of perspective, stance, or theoretical orientation, the common threads of divisiveness and a distaste for the sacred weave their way through the criminological discourse. In an attempt dissolve the division which characterizes contemporary criminology and makes it a discipline which actually does more to perpetuate crime than to eliminate it, peacemaking enters into the criminological discourse. Peacemaking in criminology may be what Quinney wanted to create in his earlier years, "a theory that will liberate us as human beings rather than oppress us" (Goldwyn, 1971: 43).

The location of Peacemaking Criminology within the theoretical discourse of crime and criminology is debatable. Given Quinney's own orientation, it may be squarely placed among those strands of thought which run counter to or in criticism of prevailing theoretical and material policies in criminal justice. The confusion over the further narrowing or typecasting of Peacemaking as a school of thought is caused by its own similarity to other critical stances and the fact that it represents a supple form of theoretical assimilation of a good many of them. The Peacemaking criminologist is an alchemist of sorts, melding together the assertions of a variety of schools on the basis of their common outrage with violence and oppression. The result is a prescription of peace, an assertion that if there truly were peace there would be no crime. Peacemaking has been offered as a "replacement discourse" for conventional theoretical dialogues in criminology because of its tendency to draw from other intellectual schools and incorporate their concerns into its own (Einstadter and Henry, 1995). In keeping with the anti-enlightenment angst of the Postmodernists and the view that all modes of knowledge have merit in arriving at what may be termed "truth" or reality, Peacemaking seeks to challenge prevailing or conventional modes of thought. Advocates of Peacemaking seek to establish an alternative frame of reference for crime and criminal justice, one which seeks to escape from the separation and dehumanization caused by the application of putatively rational and objective thought to social life. As Appleyard (1993) contends in his controversial work, Science and The Soul of Modern Man, a scathing critique of the effect of science upon human consciousness,

meaning and the search for self, science, "has already stripped us of any number of versions of ourselves, leaving us with little more than a continuous state of uncertainty. In doing so it has reduced the human self morally and cosmically" (1993: 212). On the one hand, the role of scientism in criminological discourse has therefore not gone unchecked by the Peacemaking criminologists, on the other hand, it is science itself which serves as the springboard for many Peacemaking critiques. As Pepinsky (1991c: 107) notes, one of the effects of science in criminology has been the creation of a continuing "struggle to establish who is chosen and who ought to be subdued". In contrast to the "objective mind" of scientific neutrality which tends to produce conflict and violence by encouraging a separation between the research object and the researcher, the goal of the Peacemaking criminologist is a "healing mind" or a compassionate mind which views the knowledge gained through self-reflection and awareness as vital in an understanding of the issue of crime (Quinney, 1991).

Peacemaking criminology maintains a clear and uncompromised stance against all degrees of culturally-defined violence as manifested both physically within all aspects of society or symbolically in the form of punishing and retributive rhetoric. Friedrichs (1991) summarized it well when he said, "Perhaps the single most provocative claim of peacemaking criminology is this: there can be no meaningful separation between our responses to the crime and violence we confront in this world and our objective of creating a less violent, more peaceful, and more just world" (1991: 104). In this way, peacemaking is aligned with religious humanist traditions, feminism, anarchism, and postmodern analysis on the basis of their distaste for oppression and social injustice. The emphasis on compassion and consideration which is characteristic of peacemaking criminology is naturally extended to include left realist concerns for the well-being and experiences of victims of crime. Like left realism, peacemaking strives for an appreciation of the interplay between the offender and the victim within the context of an active social world. As Friedrichs (1991) has suggested, the essential requirement of peacemaking is that it makes no differentiation between reducing crime, reducing violence, ending injustice and creating peace.

To achieve the objective of peace and hence relief from violence, it is necessary to empower "democratic responses" instead of the more conventional "authoritarian responses" within criminal justice (Pepinsky, 1991c: 109). Quinney (1991) contends that once democratic responses such as these are introduced into the prevailing social, economic and political structure the outcome will be a "human transformation" towards peaceful ends. This results in the emergence of a dialectic of peace between individuals and social institutions, each shaping and being shaped in the direction of peace. However, this is not to imply that peacemaking is a "quick fix" for the problems of the world. As Pepinsky (1995: 10) notes, the transition of Norwegian culture from the Viking empire to the post Napoleonic milieu of democratic pacifism took "twenty-odd generations of twenty-odd years apiece" (Pepinsky, 1995: 10). The transformation of the prevailing criminal justice culture from punitiveness to peacemaking could prove just as lengthy.

The challenge which a criminology of peacemaking issues to conventional criminological theory and practice involves no less than an inspection of the current structure and prevailing theories. Aside from this, peacemaking issues an invitation to criminologists to be introspective. As Quinney (1991: 10) has proposed, the task of improving society and improving oneself must be carried out simultaneously, "The inner and the outer are the same". The two are securely intertwined. It is this entanglement which is present when Pepinsky's call for increased democracy in society requires an increased concern between individuals (Pepinsky, 1991b), or where nonviolence training is provided to inmates to facilitate their work as youth counsellors (Rucker, 1991). In this way, peacemaking criminology has important implications for thought, theory and practice. Friedrichs (1991: 105) has observed that peacemaking requires that we "engage in an extraordinary historical experiment: abandon repression quite uniformly and embrace fully cooperative and compassionate responses". It counsels other criminologists to consider their own work under the rubrics of violence and peace and asks both theorists and practitioners to introspect, to be self-aware about what they do and do not know. Peacemaking

criminology offers the outlet of humility in a rationalistic world where error or miscalculation is seen as incompetence. Underlying this perspective, is a quiet encouragement for the criminologist to move past existing solutions and to be open to new and alternative modes of understanding.

**2****THE SPIRITUAL FOUNDATIONS OF PEACEMAKING  
CRIMINOLOGY**

***We can only love what we know, and we can never know completely  
what we do not love***

***Aldous Huxley***

The analysis of peacemaking criminology in the first chapter focused on the historical and political milieu in which peacemaking first rose as an alternative to prevailing theoretical and practical considerations in criminology and criminal justice. Peacemaking was also linked to the theoretical evolution of Richard Quinney in order to further clarify its origins as an attempt to transcend materialistic strategies for approaching crime and its control through the introduction of spiritual understanding and practice. In this chapter, peacemaking is located in a fourth context, a spiritual context, in which the specific religious ideas which have informed peacemaking may be presented. As before, the writings of Richard Quinney are used to guide the discussion. As the originator and strongest proponent of peacemaking criminology, his writings are important to examine for their spiritual content. In presenting the body of works which have shaped the development of Quinney's own spiritual understanding, insight is gained into the spiritual understanding that peacemaking embodies as well.

As Pepinsky (1991) has noted, Richard Quinney is a practicing Buddhist. It is perhaps for this reason that Buddhist understanding is widely represented in his work. Quinney (1994a, 1994b, 1993, 1991, 1988) draws from: The Dhammapada, a collection of sayings by the Buddha; the Chinese Ch'an sect, or Zen Buddhism; Japanese Zen; Tibetan Buddhism and the Dalai Lama; and the Sutras or sacred writings of Buddhism. Within these writings, he also quotes from the early wisdom literature of Hinduism, The Upanishads and The Bhagavad Gita,

and from The Old Testament and Christian monks and mystics. As the basis of peacemaking criminology is to create and promote a change to a more peaceful existence, it is also important to examine the spiritual basis of such a demand for social change. For this form of peace activism, Quinney (1991; Quinney and Wildeman, 1991) looks to Mahatma Gandhi's concept of *Satyagraha* or truth-force which is based in the Hindu principle of *Ahimsa* or non-violence. The result of Quinney's interweaving of the assertions of such seemingly diverse religious traditions is a cross-cultural integration of spiritual understanding which, like peacemaking, seems to transcend any materialistic or religious distinctions. This chapter will present the above understandings as they are offered in Quinney's writings. We begin with the early Hindu literature, moving from there to Buddhist thought and then finally to Christianity. Having discussed these, a shift is made to Gandhi's implementation of *Ahimsa* and his concept of *Satyagraha* which was used as a political strategy in South Africa and India to secure freedom from oppression for the Indian people. Such a move from the religious to the political is intended as an extension of Quinney's thoughts on Gandhi and is used to underscore the spiritual basis of the activist element in peacemaking criminology.

### **Hinduism, Transcending The Senses, The Mind, Form and Ego**

Defining Hinduism and outlining its fundamental premises is a difficult task. As Lord Krishna, the Hindu *avatar* or embodiment of the divine, said to his disciple Arjuna, "Behold, O Partha, forms of Me, by hundreds and thousands, of different sorts Divine, of various colours and shapes (Chinmayananda, 1977: 84). He continues, "But you are not able to behold Me with these your own eyes; I give You the divine-eye; behold My Lordly Yoga [power]" (Chinmayananda, 1977: 87). In the same way that Krishna revealed that he was immeasurable and impossible to understand with worldly eyes, Hinduism defies any simple understanding unless through the "divine-eye". Religious truth is considered to surpass any material or verbal expression and is thus only available to those for whom transcendence of these is possible.



Such individuals are the enlightened ones who, by relinquishing all ties to the material, the emotions and the sensory attachments, have realized the bliss that is the divine. For the great majority of Hindus who see themselves as pilgrims on this road to enlightenment, Hinduism represents the vehicle into which they were born in this life. Within traditional Hinduism, even the social caste into which a Hindu is born is believed to be an important indication of special spiritual needs or the accumulation of past *karma* or the balance of good and bad deeds in previous lives. These castes represent a social order into which a soul takes birth on earth in order to best advance itself along the lines of consciousness and self-realization. The evils experienced by an individual in the course of a lifetime are seen as enactments of justice for past injustice done by the individual or as trials intended to produce spiritual evolution, with birth into a lower caste being seen as one of these <sup>1</sup>.

Within Hinduism, there are many different methods and objects of worship. Such diversity often results in the common misunderstanding that Hinduism is a polytheistic religion. In contrast, the choice of an object of worship, a particular deity or a ritual is an individual matter and has much to do with the comfort, solace and peace which is found within that particular path for the individual. For the Hindu, comfort, solace and peace are extremely important to find within a spiritual path for they are what serve as the inspiration and motivation for release from the suffering found in worldly life and hasten the transcendence of material existence. Thus within Hinduism, a dislike or disbelief of any other religion or spiritual path is illogical as it too is understood as a vehicle towards transcendence best tailored to the one who was born within it. In this way, a Hindu may worship through Christ, the Buddha, Mohammed and any other sacred

<sup>1</sup> The qualities of division and segregation which characterize the traditional Hindu caste system is an issue which cannot be reconciled with peacemaking in social life. Like other religious doctrines which have served a political, historical or spiritual purpose at a certain time and place and which are no longer useful in terms of the modern agenda, the caste system too must be discarded in order to progress towards peace and justice. For an intensive discussion of the origins and evolution of the Hindu caste system, see Saraf (1986).

personage, object of nature or personal understanding, without ceasing to be a Hindu. The overarching understanding of Hinduism is that there is no single path to the ultimate goal of enlightenment.

Richard Quinney (1988a: 104) has noted that the sacred texts of Hinduism, The Bhagavad Gita and The Upanishads, have provided him with insight into the understanding that truth can only be known through union with the Brahman through that which is beyond the ego-self and its attempts at rational thought. Brahman, the truth of the universe, is immanent and transcendent, in everything, within each of us, and outside everything. In contemplation and meditation, the essence of all things can be seen as they rise and pass away. This is the message of these sacred texts, and all our intellectual, spiritual, scientific and artistic efforts are only a variation of this message.

The Bhagavad Gita, or "The Divine Song", was composed by the poet and seer Vyassa 2500 years ago. Hailed by sages and saints throughout India as perhaps the most important work in Hinduism, The Bhagavad Gita succeeds in bringing the sacred understandings of the Vedas, the ancient Hindu philosophical scriptures, to bear upon everyday life. The Bhagavad Gita, or the *Gita* as it is often called, is a part of the Hindu epic The Mahabharata, which is the story of the triumph of the Pandavas, five virtuous brothers, over their spiteful cousins, the Kauravas, who had cheated them of their kingdom and sentenced them to exile. The *Gita* takes place on the battlefield as the two armies prepare to wage war against each other. It takes the form of a discourse between Arjuna, one of the Pandava brothers who has lost the courage to fight against members of his family, and Krishna, his charioteer, friend and, unknown to Arjuna at the beginning, the incarnation of divine reality. As the battle cry is sounded and the two sides are poised to fight, Arjuna tells Krishna that he is unable to fight his kinsmen and that only evil and disaster would follow for the entire family. He lays down his weapon. To this Krishna responds, "You have grieved for those that should not be grieved for; yet, you speak words of wisdom. The

wise grieve neither for the living nor for the dead" (Chinmayananda, 1982a: 24). Here Krishna alludes to the notion of transcending the material which is central to approaching what may be called "ultimate truth" or "Reality". As Swami Chinmayananda (1982a: 24-25) notes in his commentary on this stanza,

The ego rises when the Pure Self is not recognized, and this deep seated ignorance in man not only veils his divine nature from himself, but also projects on the Reality a positive misconception. The 'egocentric' idea that he is conditioned by his own body, mind and intellect, is the true seed of Arjuna's delusory attachments with his own relations and the consequent deep compassion that has reached his bosom to make him so impotent and helpless. Grief and dejection are the prizes that delusion demands from its victim, man. So, to rediscover ourselves to be really something higher than our own ego is to end all the fancy sorrows that have come to us through false identifications.

In order to cure Arjuna of his mistaken identification with the material and to instruct him in the attainment of 'Reality', Krishna delivers the wisdom of The Upanishads, the sacred Hindu scriptures. The Sanskrit word *Upanishad* is created by adding *upa* which means 'near', *ni* which means 'with certainty', and *sad* meaning to 'destroy, reach, attain, or loosen' (Sankaracarya, 1972: 93), thus describing the belief that The Upanishads hold the secrets to liberation from mortality and the attainment of Reality. As Krishna reveals to Arjuna, "Just as in this body, the embodied (soul) passes into childhood, youth and old age, so also does he pass into another body; the firm man does not grieve at it" (Chinmayananda, 1982a: 31). He further notes that "This (Self) is said to be unmanifested, unthinkable and unchangeable. Therefore, knowing This to be such, you should not grieve" (Chinmayananda, 1982a: 53). Chinmayananda contends that this particular stanza contains the essential wisdom of the *Katha Upanishad*, the most popularly read of the ten Upanishads, in which the three steps to liberation from mortality are written. The first is in the word 'unmanifested'. Krishna is revealing that the Self is unable to be

perceived or made manifest by the senses of the body. To understand the true nature of the Self, one must first abandon any attempts to understand it through the senses. The five senses of sight, hearing, taste, smell and touch must first be transcended. Krishna proposes that, "The contacts of senses with objects, O son of Kunti, which cause heat and cold, pleasure and pain, have a beginning and an end; they are impermanent; endure them bravely, O Descendant of Bharata" (Chinmayananda, 1982a: 33). The second object of transcendence is the intellect. The Self is "unthinkable" and as such is unable to be comprehended by using the intellect's reasoning powers. Chinmayananda describes this concept by using the example of a telescope gazer who "cannot see himself with the telescope: he cannot be at once the seer and the seen" (1982a: 54) and who is thus possessed of an intellect which is too limited to understand that which is limitless. The third area which must be overcome is the understanding that the Self or Reality is the sum of all things in the universe which have form and thus must have form itself. As Chinmayananda notes, when something has form it is implied that it is changeable and therefore finite. When Krishna says that the Self is unchangeable, he is telling Arjuna that it is immeasurable, immutable and is impossible to objectify.

The central understanding of the *Gita* is that spiritual 'death' (being stuck in the bonds of *reincarnation*) and human suffering is a consequence of being attached to the material world. Krishna revealed to Arjuna that his desire not to fight his kinsmen was an ignorant attempt to preserve the unreal bonds of human existence which would deny the liberation of his soul. Arjuna is encouraged by Krishna to realize the divine Reality through the transcendence of the senses and the intellect, faculties which obscure the path to *self-realization* by promoting the ego. In this way, Arjuna's refusal to carry on the war was both a sign of his material attachment and an indication of the ego which allowed him to feel as if he alone was the warrior and the deliverer of justice and therefore could stop the war and the suffering of his kinsmen. The fundamental message of the *Gita* is that one should cling to duty in human existence and perform what is required of one in this life so that the next life should bring an evolution of the

soul to a higher awareness. These duties should be done as selfless actions which promote harmony without any thoughts of personal effort and return. Such acts should be transcendent in themselves. As Krishna told Arjuna, "As the ignorant man acts from attachment to action, O Bharata, so should the wise act without attachment, wishing the welfare of the world" (Chinmayananda, 1975: 35). With the transcendence of the senses, the mind, the intellect, the form, and the ego, Hinduism offers that Reality and the Self may be realized. In this state of enlightenment, one may come to understand the unity of life. Quinney presents this understanding within a work which he closed with a stanza from the *Taittiriya Upanishad*, the fourth of the ten *Upanishads*, which declares,

When one realizes the Self, in whom  
 All life is one, changeless, nameless, formless,  
 Then one fears no more.  
 Until we all realize  
 The unity of life, we live in fear (Quinney, 1993: 72).

Such an understanding of oneness and unity is inherent within peacemaking and serves as the motivation to create and maintain peace within social life. It is in this idea of connection and unity of all existence that Hinduism and Buddhism merge together in common understanding. In the following section, a move is made from the scriptures of Hinduism to the teachings of the Buddha.

### **Buddhism, The Cessation of Suffering**

Buddhism traces its origins to *The Buddha*, or the 'Enlightened One'. Born about 2500 years ago, the Buddha succeeded in self-realization and liberation from mortality. Rather than remaining in the state of *Nirvana* or bliss and communion that he had achieved, the Buddha chose to return and teach others how to strive for enlightenment. Before his self-realization, the

Buddha was a Hindu prince named Siddhartha who, so moved by the suffering which he observed within worldly existence, sought to secure a path by which liberation from the endless cycle of birth and death could be achieved. Siddhartha renounced his throne and left his father's kingdom near what is present day Nepal. After seven years of practicing austere disciplines meant to separate the Self from the senses, and the intellect as described previously in The Upanishads, Siddhartha opted for *the middle path* or the path of balance and moderation and thus achieved enlightenment.

Central to Buddhist belief is the understanding of impermanence, that change is an unavoidable consequence of the cycle of karma, or birth and death and that human existence is characterized by suffering. Buddhist doctrine does not necessarily support or deny the existence of God for it does not presume to know the answer to that which is incomprehensible to human existence. For the Buddhist, all understanding is impermanent and subject to the limitations of human existence and is therefore ill-equipped to answer such questions.

Like the middle path of religious discipline which the Buddha used to achieve self-realization, Buddhism stresses the universality of ethical norms and acceptable modes of conduct. Evil actions are to be avoided because they increase one's own suffering and the sufferings of others. The karmic debt which this accumulates further obscures the path to enlightenment. As The Dhammapada, the statement of principles by the Buddha, states: "The evil done by oneself, born of oneself, produced by oneself, crushes the unintelligent like a diamond does a gemstone" (Cleary, 1995: 55); and "One whose perpetual bad conduct spreads over him as a parasitical vine does a tree makes himself as his enemy wishes him to be" (Cleary, 1995: 55). Despite these sacred admonitions against causing suffering to oneself or others, the fundamental understanding of Buddhism is that suffering is a persistent characteristic of human existence. The total cessation of suffering is only possible through a personal understanding and application of the *Four Noble Truths*: 1) The noble truth of suffering, birth, decay, disease, death, union with the unpleasant, separation from the pleasant, and not

obtaining what one wishes; 2) The noble truth of the origins of suffering: it is the craving thirst that causes rebirth, accompanied by sensual delights, this thirst seeks satisfaction for a craving for lust, for existence, or for nonexistence; 3) The noble truth of the cessation of suffering; suffering ceases with the complete cessation of that craving; with the giving up, the getting rid of, the release from, and the detachment from this craving thirst; and 4) The noble truth of the way that leads to the cessation of suffering: the noble *Eightfold Path* consists of right views, right intention, right speech, right conduct, right livelihood, right effort, right mindfulness and right concentration (Kalupahana, 1991). In addition to following the Eightfold path, The Dhammapada demands that the aspirant for enlightenment "Cut off five, abandon five, rise above five; a mendicant who has surmounted the five letters is said to have crossed over the torrent" (Cleary, 1995: 119). As Thomas Cleary notes in this translation of The Dhammapada, The phrase 'cut off five' refers to what is known of in Buddhism as the five higher bonds; greed in the realm of form (or the material), greed in the realm of the formless (or the spiritual), excitement, conceit, and ignorance in the realm of the formless. To 'abandon five' is to abandon passion, hatred, folly conceit, and opinionation, while to 'rise above five' is to transcend the five senses (Cleary, 1995: 120). The Dhammapada further advises, "Be free of the past, be free of the future, be free of the meantime, be transcendent. When your mind is completely liberated, you no longer undergo birth and death (Cleary, 1995: 111). If adherence to these requirements is not possible, then the unrealized continues on through human existence after human existence and experiences the unavoidable suffering associated with each. Within Buddhism, suffering on the human level is not a static condition but varies according to the presence of 'right' conduct and behaviour. The *Eightfold path* of the fourth noble truth reveals that the best strategy for reducing suffering in human existence is through 'right' notions of human conduct. In this way, by adhering to 'right' views, intention, speech, conduct, livelihood, effort, mindfulness and concentration, suffering may be reduced and human existence may be made more peaceful and the building of additional karmic debt may be avoided.

The understanding of what constitutes the 'right' conduct is based upon Buddhist ethics, the foremost of which is compassion. Just as the Buddha renounced the worldly riches of his father's kingdom to seek a path by which suffering may be ended for all humans, Buddhism teaches that compassion for all of existence is the greatest virtue. Through compassion, a kinship is developed between oneself and all of existence. The realization one may achieve is the interconnectedness between oneself and all of creation, "not just people, but animals too, and stones, clouds and trees" (Aitken, 1984: 10 in Quinney, 1991a: 8 ). In this way, the ego which prevents one from self-realization may be destroyed and enlightenment attained. Compassion and love are both achieved and manifested by loving service with which human existence may be relieved of suffering, both for the performer of the action and for the receiver. The Dhammapada proposes that "The avaricious do not go to heaven, the foolish do not extol charity. The wise one, however, rejoicing in charity, becomes thereby happy in the beyond" (Cleary, 1995: 61), and cautions the aspirant for enlightenment "Do not underestimate good, thinking it will not affect you. Dripping water can even fill pitcher, drop by drop, one who is wise is filled with good, even if one accumulates it little by little" (Cleary, 1995: 44). As the *Dalai Lama* of Tibet states, "What is required is a kind heart and a sense of community, which I call universal responsibility" (Quinney, 1993: 8).

Buddhist teachings hold that human existence is incapable of knowing that which is unknowable and therefore any answers to the questions which individuals may ask about truth and reality are impossible to answer. It is appropriate that a question be posed, but one should not presume to know the answer. As Richard Quinney wrote,

We stand before the mystery of existence. Our understanding is in the recognition of our common inability to know for certain. Our fate, and our saving grace, is to be compassionate beings, in all humility. Whatever may be known is love. Not in manipulation and control, not in the advancement of a separate self and a career, but in the care for one another. That is reality enough (1994a: 1).



### **Christianity: An Inner Conversion**

Hinduism and Buddhism both view human existence as a training ground of sorts, as a time of testing, change, and evolution which, if lived in a positive fashion, will result in release from the bondage of human existence and the endless cycle of birth and death which assure continued suffering. Within Christianity, Quinney proposes, the transformation of the self turns inward and is directed into a religious and spiritual preparation with "a new age coming in both cases only when we have made ourselves ready" (Quinney, 1991: 11). Christianity promotes a view of peace which, as Catholic peace commentator Ronald Musto noted, is "not so much political revolution as personal conversion; it is not individual human ego and power at stake, but God's will to peace that only humans can accomplish on earth, as they are the recipients of God's gift and challenge to peace" (Musto, 1986: 8-9 in Quinney, 1991: 11). In this way, it is up to individual human beings who are equipped with this gift to create peace within both themselves and the external world. The understanding of how best to create peace and thus live life in a sacred and fulfilling way comes as the result of contemplation and introspection. Quinney draws on Thomas Merton, the Trappist Monk, who wrote,

If the salvation of society depends, in the long run, on the moral and spiritual health of individuals, the subject of contemplation becomes a vastly important one, since contemplation is one of the indications of spiritual maturity. It is closely allied to sanctity. You cannot save the world merely with a system. You cannot have peace without charity (Merton, 1979: 8 in Quinney, 1991: 8).

Just as contemplation is closely aligned with the sacred, so are meekness, righteousness, charity, purity closely aligned with peace in the Christian tradition in the Sermon on the Mount which says,

Blessed are the poor in spirit,  
For theirs is the kingdom of heaven.

Blessed are those who mourn,  
For they shall be comforted

Blessed are the meek,  
For they shall inherit the earth.

Blessed are those who hunger and thirst for righteousness  
For they shall be filled.

Blessed are the merciful,  
For they shall obtain mercy.

Blessed are the pure in heart  
For they shall see God.

Blessed are the peacemakers,  
For they shall be called sons of God.

Blessed are those who are persecuted for righteousness' sake  
For theirs is the kingdom of heaven (Testament of Matthew 5:3-10)

In his own understanding of what constitutes a peaceful existence, Quinney notes that a move towards a good social life which promotes equality and seeks to lessen poverty, racism, sexism and violence will contribute to a peaceful existence and, as offered in the Old Testament of Isaiah (32:17), "Justice will bring about peace, right will produce calm and security" (Quinney, 1991: 11).

### **Mahatma Gandhi and Satyagraha, Actions for Justice and Peace**

The understanding which emerges from the previous discussion of Hindu, Buddhist and Christian religious traditions is the conviction that freedom, peace and eternal bliss are only

possible through a course of 'right' thought and action. Such actions are deeply rooted in the sacred and the religious. Quinney has proposed that this sort of action "comes out of the informed heart, out of the clear and enlightened mind" (1991: 10). It is best exemplified by *Satyagraha*, or truth-force, a program of non-violent direct non-cooperation which was conceived of by Mahatma Gandhi and used to achieve political and social transformation in South Africa and India during the early part of this century. The foundation of *Satyagraha* is total adherence to *Ahimsa*, the Hindu principle of non-violence, and to a pursuit of *Truth* as an ideal. As Gandhi submitted, "Its root meaning is holding on to truth, hence Truth-force. I have also called it Love-force or Soul-force" (Narayan, 1968: V6, 179). To further clarify the understanding of *Satyagraha*, the discussion first turns to an examination of the relationship between Truth and *Ahimsa*, in order to provide a clearer picture of the spiritual cornerstone of Gandhi's non-violent program of social action.

### ***Truth and Ahimsa***

The principle of *Ahimsa* forms the basis for a Gandhian spiritual understanding of actions designed to achieve peace. This principle is not an exclusive Hindu idea, but is found in the teachings of many spiritual paths. In The Dhammapada, we are counselled to "Overcome anger by nonanger, overcome evil by good. Overcome the miser by giving, overcome the liar by truth" (Cleary, 1995: 77). It is written in the New Testament to "love your enemies, bless those who curse you, do good to those who hate you, and pray for those who spitefully use you and persecute you" (Matthew 5:44) and advised in the Tao-Te-King, the sacred scripture of Taoism, to "Return love for great hatred; Otherwise, when a great hatred is reconciled, some of it will surely remain" (Estey and Hunter, 1971: xiii).

Gandhi has related that his conception of *Satyagraha* emerged from his reading of The Bhagavad Gita .

It is certainly the *Bhagawadgita's* [sic] intention that one should go on working without

attachment to the fruits of work. I deduce the principle of Satyagraha from this. He who is free from such attachment will not kill the enemy but rather sacrifice himself. Killing an enemy proceeds from impatience and impatience proceeds from attachment (Narayan, 1968: V5, 393).

Indeed as the Gita states, every individual should strive to be "Content with what comes to him without effort, free from the pairs of opposites and envy, evenminded in success and failure" (Chinmayananda, 1975: 98). Chinmayananda proposes that this is the state of 'egolessness' which rises out of the detachment from the opposites (heat and cold, joy and sorrow, success and failure) and from the material and thus leaves an individual unaffected by anything. In this state, there can be no fear for it also belongs to the realm of the material. The *Taittiriya Upanishad*, the fourth of the ten Upanishads, describes an enlightened person in this way, "He knew Bliss as Brahman [Reality]; for from Bliss indeed, all these beings originate; having been born, they are sustained by Bliss; they move towards and merge in Bliss...He who knows thus becomes firmly established" (Sankaracarya, 1972: 378). Ahimsa, or non-violence, is the understanding which arises out of this individual detachment from the body, the mind, the intellect and the ego and which strips one of material pretention and distinction. At this level, no differentiation is possible between oneself and other life forms. A respect for the sanctity of all life is automatically present in the recognition of the common origins of all existence.

Gandhi has defined Ahimsa as "a positive state of love, of doing good even to the evil-doer" and as the "largest love" or "the greatest charity" (Narayan, 1968: V 6 , 154). It is the understanding which occurs naturally from following *Truth* or the ultimate reality, the concept which the discourses of the *Gita* seek to reveal. For Gandhi, Truth is the most important name of God for where there is Truth there is knowledge and where there is absolute knowledge there is absolute Truth. Absolute Truth is Reality and in Reality there is Bliss with no room for sorrow since Reality is perfection. There should therefore be "Truth in thought, Truth in speech and

Truth in action" (Narayan, 1968: V4, 214). Within the material world, Gandhi notes that it may be impossible to distinguish what Truth is because what may be Truth to one person will not be Truth to another. However as he proposes, "Where there is honest effort, it will be realized that what appear to be different truths are like the countless and apparently different leaves of the same tree" and thus "there is nothing wrong in every man following truth according to his lights. Indeed it is his duty to do so" (Narayan, 1968: V5, 214 - 215). The pursuit of Truth involves self-suffering and even death for as the *Gita* proposes, without the transcendence of the senses, the body and the mind, it will never be known. If an individual clings to material attachments then anxiety and fear result if such things are threatened. The pursuit of Truth therefore becomes secondary to such material things and is thus laced with self-interest and half-heartedness. The pursuit of Truth requires the courage that is created by the detachment to material concerns and with a steady faith in a belief or a course of action. With courage and faith that one is indeed on the path of Truth, great effort and personal suffering may be taken on to encourage the path forward toward the goal of Reality or absolute Truth. However, the realization of absolute Truth is ultimately unknowable as long as body and thought are present in human beings. Just as Chinmayananda asserts that humans cannot be both the 'seer' and the 'seen' at the same time, Gandhi proposes that we are limited by our human form and intellectual processes. In this case, with the impossibility of absolute knowledge, the principle of Ahimsa or non-violence must be strictly adhered to. Like the tree with the many leaves, versions of Truth must also coexist on the material plane. Such coexistence must be characterized by tolerance, respect and nonviolence because of the bonds of our humanity and our common ignorance of Reality. As the *Gita* states, the Brahman or Ultimate Reality is present in all that exists in the material plane, in all forms (Chinmayananda, 1975: 102). Because of this, Gandhi proposes that a seeker of truth would prefer self-suffering to the infliction of suffering on others. This was his message to each of his followers who had to individually cultivate that inner readiness to suffer for the sake of Truth. For Gandhi and those who followed him, violence could not be an option

as it magnifies fear and thus further obscures Truth.

Violence does not mean emancipation from fear, but discovering the means of combating the cause of fear. Non-violence on the other hand, has no cause for fear. The votary of non-violence has to cultivate the capacity for sacrifice of the highest type in order to be free from fear. He reckons not if he should lose his land, his wealth, his life. He who has not overcome all fear cannot practice Ahimsa to perfection (Gandhi, 1971: 83).

In this way, Ahimsa and Truth are related by Gandhi as "the two sides of a coin, or rather of a smooth unstamped metallic disc. Who can say, which is the obverse and which is the reverse? Nevertheless *ahimsa* is the means; Truth is the end" (Narayan, 1968: V4, 219).

### ***Satyagraha, The Force of Truth***

From his understanding of the Bhagavad Gita, Truth, Ahimsa, and the writings of Henry David Thoreau, an American pacifist and writer, Gandhi developed *Satyagraha* or truth-force as a method of direct action to combat the oppression of East Indians by the British Government in the early part of the present century. Gandhi traces the beginning of *Satyagraha* to a 1906 meeting of members of the Indian community in the Transvaal in South Africa in response to a new government ordinance which required the registration and identification (fingerprints, and other identifying marks) of all Indians. Failure to comply with the ordinance, which also required that Indians carry identification at all times and which allowed police to enter dwellings to check identification, meant expulsion from the Transvaal, a fine or prison time. At that meeting, with the solemn declaration of Sheth Haji Habib, an elder member of the community, that submission to the ordinance must never be done in the name of God, Gandhi notes that he became "startled" with the realization of the great power and strength which lay underneath such a declaration. He writes, "I warmly approved of the Sheth's suggestion. But

at the same time it seemed to me that the people should be told of all the consequences and should have explained to them clearly the meaning of the pledge" (Narayan, 1968: V3, 143).

During his speech, Gandhi warned the crowd that,

[w]e may have to go to jail, where we may be insulted. We may have to go hungry and suffer extreme heat or cold. Hard labour may be imposed upon us. We may be flogged by rude warders. We may be fined heavily and our property may be attached and held up to auction if there are only a few resisters left. Opulent today we may be reduced to abject poverty tomorrow. We may be deported. Suffering from starvation and similar hardships in jail, some of us may fall ill and even die. In short, therefore, it is not at all impossible that we may have to endure every hardship that we can imagine, and wisdom lies in pleading ourselves to the understanding that we shall have to suffer all that and worse (Narayan, 1968: V3, 146).

At the conclusion of the meeting, with other speakers having given their thoughts on the situation and the pledge, all in attendance stood and took an oath before God that they would not submit to the ordinance. Gandhi notes, "I can never forget the scene which is present in my mind's eye as I write" (Narayan, 1968: V3, 148).

The movement which was started on that night with the pledge of the community in South Africa was subsequently called *Satyagraha* in order to distinguish it from passive resistance, which implied that resisters harass the opposing party, and to clarify its roots in Indian culture and its devotion to Truth (*Satya*) through firmness (*graha*) (Narayan, 1968: V3, 150-151). The movement spread to India where it focused upon the plight of the Indian subcontinent which had been subsumed under British colonialism. Gandhi has observed that in its earliest applications, *Satyagraha*

did not admit of violence being inflicted on one's opponent but that he must be weaned from error by patience and sympathy. For, what appears to be truth to the one may

appear to be error to another. And patience means self-suffering . So the doctrine came to mean vindication of truth, not by infliction of suffering on the opponent, but on one's self (Gandhi, 1971: 85).

Satyagraha often required *satyagrahi's* (its practitioners) to endure violence and personal danger within the context of political demonstrations. As Gandhi proposed, "Just as one must learn the art of killing in the training of violence, so one must learn the art of dying in the training of non-violence" (1971: 83). The requirement that individuals sacrifice their own safety in the practice of non-retaliation was indeed the strongest message of the movement. An illustration of the courage, self-sacrifice and freedom from fear which Gandhi has proposed as being fundamental to any program of social change, Justice and Truth is found in the 1930 demonstration of *satyagrahi's* at the salt deposits near Dharasana, India. Webb Miller, a reporter who observed the march, wrote,

They marched slowly toward the police. Although every one knew that within a few minutes he would be beaten down, perhaps killed, I could detect no signs of wavering or fear. They marched steadily with heads up, without the encouragement of music or cheering or any possibility that they might escape serious injury or death. The police rushed out and mechanically beat down the second column. There was no fight, no struggle; the marchers simply walked forward until they were struck down. There were no outcries, only groans after they fell (Miller, 1936: 97).

Having discussed peacemaking criminology's spiritual foundations of personal development and direct action, the next chapter will address the historical and social conditions which have created the need for Native justice initiatives within the context of modern Canadian criminal justice. The injustice which Native peoples have experienced may only be countered with an infusion of culturally relevant alternatives for those who have come into conflict with Canadian criminal law.



### 3

## NATIVE JUSTICE INITIATIVES, A REVITALIZATION OF JUSTICE

***Attack and kill every male Indian over twelve years of age***

***General Patrick E. Connor  
United States Army, 1865***

***The keeping of good order and discipline in these boarding schools is a much greater problem than in a non-reservation school, for often the parent, as well as the child, must be dealt with, and when a parent must be disciplined the task is more difficult. Experience teaches that visits of boarding school pupils to their homes should be as brief and as infrequent as possible.***

***Thomas Ferrier, Canadian Methodist Missionary 1905***

***After a year spent learning to see and hear only what the priests and brothers wanted you to see and hear, even the people we loved came to look ugly.***

***George Manuel***

***Most of us were raised in residential places like prisons and the judges convict us for that. I believe we are victims being victimized. We get federal sentences for running away from jail and yet that's all we have ever done...They think it's nice in there, why in the hell would we run away in the first place?***

***Native inmate P4W***

***MacIntyre [the Sergeant of Detectives] discounted Marshall's version of events partly because he considered Marshall a troublemaker and partly because, in our view, he shared what was a general sense in Sydney's White community at the time that Indians were not "worth" as much as Whites.***

***Royal Commission on the Donald Marshall Jr.  
Prosecution, Halifax, Nova Scotia, 1989***

In its rejection of the demarcation, division, separation and violence which characterizes modern criminology and criminal justice, peacemaking criminology is aligned with

any group, school of thought or political understanding which upholds non-violence and peace as primary inspirations in the pursuit of true justice within criminal justice. In this respect, peacemaking criminology has a close affinity to Native justice initiatives and their role in providing a more meaningful process to Native people in conflict with the criminal law in Canada. As stated in the introduction, the term *justice initiative* as used within the context of this work refers to any program, procedure or alternative within the current structure of criminal justice which, in a spirit of innovation and creativity, seeks to create social justice. Justice initiatives based in certain Native traditions such as the sentencing circle and healing programs represent a possible solution to the failure of the modern criminal justice system to provide a meaningful process for Native people touched by it. The need for and presence of the Native justice initiative in Canada runs parallel to First Nations' aspirations for sovereignty and self-government in this country. Like the United States which has a system of tribal circuit courts operating in jurisdictions throughout the country, the Canadian acceptance of justice initiatives which are based in Native tradition may evolve into a well-established system of self-determination within criminal justice for Native people. However, the acceptance of the Native justice initiative may also further an accommodation between Native people and the Canadian criminal justice system and may thus represent an appeasement of Native concerns and thereby frustrate any future movements towards self-government. The limitations of this thesis precludes any discussion of the social and political effects which Native justice initiatives may have upon the Canadian landscape. It is sufficient to note that any consideration of implementing such justice initiatives must surely be done along side any considerations for self-government and self-determination among the First Nations.

This chapter will illustrate how Native justice initiatives, which are founded in principles of *Native spirituality* and the *Native way of life* from a variety of traditions, represent attempts to infuse equality into the dominant social structure which has subjected the Native

people to a history of violence, racism, oppression and the suppression of their traditional way of life. The Native justice initiative is the blending of certain traditional Native ways of living and the conventional Canadian criminal justice system in an attempt to heal the injustice which the contemporary criminal process perpetrates upon the Native people. Such initiatives exemplify an attempt to create peace between the conventional structure of criminal justice and Native people in conflict with the law and are therefore presented as an illustration of peacemaking criminology in Chapter 6. The subject of Native justice initiatives will be approached in the manner similar to peacemaking criminology in the first chapter. By creating a sketch of the history and the contemporary social reality of the Native people, Native justice initiatives will be presented as a clear response to racism, oppression and social injustice. The remainder of this chapter is therefore devoted to two concerns, an exploration of the historical treatment of the Native people by the dominant cultures of North America and a discussion of the contemporary socio-economic reality of Native people both within and outside of the realm of criminal justice.

### **Attempts to Eradicate Spirituality and Disintegrate Nations**

In approaching Native justice initiatives, it is important to mention that which has had the most influence and control over the Native way of life in recent centuries, namely the impact of conquest by European cultures. The challenge which the conquest of what the Lakota Sioux people have traditionally called *Turtle Island* (now called North America) posed for the continuation of the Native way of life has been a great one. With the cloak of violence and oppression which has draped the Native people with the arrival of the Europeans, the transmission of Native way of life from the Elder (the traditional guardian of Native spirituality) to community and from family to child has been difficult due to those social policies of the newly forming American countries which relied upon genocide, religious suppression, the removal of Native children from their homes, structurally-induced poverty and degradation to manage what

was commonly referred to as "The Indian Problem", or the presence and status of Native people as the First Nations in North America. In contrast to the western written tradition which preserves an indelible cultural record for future generations, the native way is one that holds listening, observing and meditating on the words and actions of *Elders* or *Pure People* as the most effective way to communicate an understanding. Such a tradition relies upon the ability of the community, and particularly the Elder and family, to continue the culture. The Native way of life and traditions observe an intimate relationship with the sacred. The understanding of Native spirituality is to live in a sacred way. During the time of conquest, Native people and their spirituality became both the target of the Christian missionary zeal of the newcomers to Turtle Island and American and Canadian law. The eradication of Native approaches to spirituality contributed to the eradication of Native traditions, the disintegration of nations and the freeing of land for settlers.

### ***Dissolving the Native Way of Life and Spirituality***

Such governmental concern for the spirituality of Native people is seen in a 1958 Report of the Special Commission to Investigate Indian Affairs in Canada. The report utilized a questionnaire which the Commission circulated to non-natives who had frequent interactions with Native people. Of the sixteen questions, five related specifically to the spiritual practices of the Native people. These were: 1/ What progress have they made in Christianity ?; 2/ Since their conversion to Christianity, have their moral habits improved and what effect has it had on their social habits ?; 3/ What number are still pagans ?; 4/ What in your opinion is the best mode of promoting their religious improvement ?; and 5/ What number of baptisms have taken place, or do take place at an average yearly, and into what church ? (Bowles, Hanley, Hodgins & Rawlyk, 1972: 125).

In the United States in 1890, such a moral concern with the spiritual practices of the

Native peoples was transformed into a security concern for the American Government when 30 tribes of the Plains peoples began dancing the Ghost Dance. The Ghost Dance was a spiritual dance taught to the Native people by the Messiah Wovoka, whose message of prayer and spiritual communion through dance served to bring Native spirituality to the forefront at a time when the Native way of life was in danger of being eradicated. Wovoka taught that dancing the Ghost Dance would rejuvenate the earth,

with a new soil which would bury all of the white men, and the new land would be covered with sweet grass and running water and trees. Great herds of buffalo and wild horses would come back. The Indians who danced the Ghost dance would be taken up in the air and suspended there while a wave of new earth was passing, and then they would be set down among the ghosts of their ancestors on the new earth, where only Indians would live. (Brown, 1971: 407)

The similarity of the teachings of the Ghost Dance and Christianity (specifically Jesus Christ and the Book of Revelations) in terms of the Messiah and his teachings of prayer and communion, the rejuvenation of the earth through catastrophe and the preservation of a specific peoples, did not deter the American government from interpreting the sudden rise of the Native spiritual practice as a threat to the peace which was created by confining Native people to reservations. The attitude of American officials toward the Ghost Dance at the time is illustrated by the words of James McLaughlin, the Indian Agent at Standing Rock Reservation, who said that "a more pernicious system of religion could not have been offered to a people who stood on the threshold of civilization" (Brown, 1971: 408). As Brown notes, "[a]gitated Indian Bureau inspectors and army officers from Dakota to Arizona, from Indian Territory to Nevada, were trying to fathom the meaning of it. By early autumn the official word was: Stop the Ghost Dancing (1971, 408). The Indian Bureau in Washington had compiled a list of "fomenters of disturbances" which was gathered from Indian agents on many reservations. Among the names

listed was Sitting Bull, the renowned Sioux chief, and Big Foot, the chief of a band of Minneconjou Sioux made up mostly of the widows of warriors and their children. Sitting Bull was deemed a disturber because of his influential position with the Sioux and because he condoned the Ghost Dance. Big Foot was targeted because the Ghost Dance was performed with intensity, hope and fervour by the women and children of his band in the belief that with the dancing their dead warriors would return to the earth. On December 15 in 1890, Indian police came to arrest Sitting Bull at his home in Standing Rock. In the ensuing struggle which occurred when Sitting Bull's people refused to let the police arrest him, Sitting Bull was shot and killed by two Indian police agents. Sitting Bull's people, fearing for their lives, left Standing Rock and sought refuge in the Ghost Dance camps and with Red Cloud, the last of the great Chiefs at Pine Ridge reservation. As Brown notes, about one hundred of the fleeing Sioux found sanctuary with Big Foot and his band. As Big Foot was also being hunted, he decided to take his band to Pine Ridge and secure the protection of Red Cloud. However on the way there, Big Foot and his band were intercepted by the Calvary and ordered to move under arrest to a calvary camp at Wounded Knee. The number in the band upon arrival at Wounded Knee was 350, 120 men and 230 women and children.

On the following morning of December 29th, 1890, Calvary officers disarmed the Minneconjou people of guns, knives, axes and tent stakes. When the soldiers ordered them to be physically searched, Yellow Bird, a medicine man, began to protest by chanting a few of the Ghost Dance songs which assured the band that even bullets would not penetrate the sacred Ghost garments which they wore. Black Coyote, a deaf warrior, protested when the calvary soldiers tried to remove his gun raising it over his head saying how much he had paid for it. Black Coyote, who has been described as "a crazy young man of very bad influence" by others of his band (Brown, 1971: 417), fired his gun. The soldiers immediately returned fire, killing anyone in their sights. Men, women and children turned to run but they were wounded or killed.

In the words of Hakiktawin, a young woman who was wounded at Wounded Knee, "My grandfather and grandmother and brother were killed as we crossed the ravine, and then I was shot on the right hip clear through and on my right wrist where I did not go any further as I was not able to walk, and after the soldier picked me up where a little girl came to me and crawled into the blanket." (Brown, 1971: 417). The soldiers did not stop shooting until Big Foot and 153 men, women and children lay dead. A great number were wounded and crawled away to die afterward bringing one estimate of the death count to 300 of the original 350 (Brown, 1971).

Moving into the present century in Canada, the pervasiveness of racism and ethnocentrism against the Native people and their way of life is illustrated by a 1926 poem written by Duncan Campbell Scott, who later became the Canadian Deputy Minister of Indian Affairs. Calling the poem "The Onondaga Madonna", Scott wrote:

She stands full-throated and with careless pose,  
This woman of a weird and waning race,  
The tragic savage lurking in her face,  
Where all her pagan passion burns and glows;  
Her blood is mingled with the ancient foes,  
And thrills with war and wildness in her veins;  
Her rebel lips are dabbled with the stains  
of feuds and forays and her father's woes.  
And closer in the shawl about her breast,  
The latest promise of her nations doom,  
Paler than she her baby clings and lies,  
The primal warrior gleaming from his eyes;  
He sulks, and burdened with his infant gloom,  
He draws his heavy brows and will not rest.

(Bowles, Hanley, Hodgins & Rawlyk, 1972: 110)

In his role as Deputy Minister, Campbell Scott openly acknowledged that Canadian government policy sought to suppress Native spirituality. In an article submitted to the Fourth Conference of the Institute of Pacific Affairs in 1931, he pointed out the necessity of doing so.

Like all people living close to nature, the Indians perform rites at the time of the summer solstice; notable among these ancient native customs is the Sun Dance of the Plains. The Indian Act prohibits the appearance of Indians in native costume without the consent of the Superintendent General at pageants, and also dances or ceremonies involving mutilation of the body. It may seem arbitrary on our part to interfere with the native culture. The position of the department, however, can readily be understood, and it is pointed out that Indians will spend a fortnight preparing for a sun-dance, another fortnight engaging in it, and another fortnight to get over it. Obviously this plays havoc with summer ploughing (Bowles, Hanley, Hodgins & Rawlyk, 1973: 111).

In reference to the Canadian government's banning of the *Potlatch*, a ceremonial giving away of wealth and gifts between the tribes of the west coast, Campbell Scott wrote that "with the introduction of the new money system of economics, the engagement of Indians as wage earners in industry, the effects of the potlatch, if the practice were unchecked, would be disastrous" (Bowles, Hanley, Hodgins & Rawlyk, 1973: 111). The practice of curbing the Native way of life was not merely confined to political rhetoric and legislation but also occurred openly in Native communities. In an attempt to hasten the demise of Native traditions, Native children were routinely taken from their families and communities and placed in residential, boarding or mission schools. The intention of these schools to transform the Native child from "heathen" to "Christian" is powerfully illustrated by the following mission school song taken from the 1894 Anglican missionary bulletin, Aurora.



In days of old, our fathers bold  
 In arts of war must chase.  
 To bend a bow, or scalp a foe  
 Gave strength the highest place.

Chorus

Then let us praise the peaceful days  
 Of that Queen Mother's rule,  
 Whose kindly laws must give us cause  
 To love our Indian school

A lawless life, unrest and strife,  
 Lone graves among the trees;  
 But heart and brain find higher gain  
 In nobler crafts than these.

Then let us praise the peaceful days, etc.

'Tis our to learn the thoughts that burn  
 In Christian hearts, to train  
 Both head and hands in heathen lands  
 From work true strength to gain.

Then let us praise the peaceful days, etc.

(Bowles, Hanley, Hodgins & Rawlyk, 1972: 133)

The students were not normally permitted to visit with family at the schools for reasons which the Reverend Thomas Ferrier, in a 1905 article entitled "Our Indians: Their Training for Citizenship" offered as being in line with the "good order and discipline" of the school (Bowles, Hanley, Hodgins & Rawlyk, 1972: 132). Life at the schools was often in sharp contrast to the peace and

love of Christ which missionaries sought to instill in Native children. As George Manuel, past chief of the Nesconlith band of Chase, British Columbia and past president of both the North American Indian Brotherhood and the National Indian Brotherhood, related in his own experience at a residential school, "Hunger is both the first and the last thing I can remember about that school. I went hungry from the day I went to the school until they took me to the hospital two and a half years later. Not just me. Every Indian student smelled of hunger (Manuel and Posluns, 1974: 65). Training at the school included a demanding and exhausting schedule of physical labour, inadequate food, and an education in Christianity. Students were prohibited from speaking their traditional language and from engaging in traditional spirituality. However, Manuel further notes that leaving the school was often as difficult as entering it for the student. He writes,

The priests had taught us to respect them by whipping us until we did what we were told. Now we would not move unless we were threatened by a whip. We came home to relatives who had never struck a child in their lives. These people, our mothers and fathers, aunts and uncles and grandparents, failed to represent themselves as a threat, when that was the only thing we had been taught to understand. Worse than that, they spoke an uncivilized and savage language and were filled with superstitions. After a year spent learning to see and hear only what the priests and brothers wanted you to see and hear, even the people we loved came to look ugly (Manuel and Posluns, 1974: 67).

The generation of Native people who had experienced these schools away from their families and communities returned home with a sense of confusion and a mistrust of traditional ways. Harold Cardinal, Native rights activist and author, contends that an individual who had gone through the residential school system (as he did) emerged as a stranger to family and community, entering as "an indian" and coming out as "a nothing" (1969: 87). The suffering of

the children who were placed in the residential schools fuelled a strong scepticism of religion and spirituality, both of Christianity and Native Spirituality, a quality which they were often unable to reconcile with the traditional Native way of life when they returned home. Manuel states that his generation brought the concept of a "generation gap" home with them from school. Within more recent times, the loss of Native language (which is traditionally used to transmit culture from one generation to the next) is indicated by the Aboriginal Peoples Survey which noted that 65 percent of off-reserve Native people reported that they have never spoken an aboriginal language and 62 percent of on-reserve reported that they cannot speak well enough to carry on a conversation (Minister of Industry, Science and Technology, 1993a ).

#### ***Weakening Nations With Poverty and Discrimination***

In Canada, in 1988, the Task Force on Aboriginal People in Federal Corrections began an examination of the reality of Native people within both criminal justice and greater society. Aboriginal people are highly over represented among federal inmates and the rate of growth had exceeded the rate of growth within the non-native inmate population for every year from 1982 until the writing of the report in 1988. The report also acknowledged the relationship between crime and the socio-economic status of individuals and explored the socio-economic condition of Native people in general. The Task Force reported,

Aboriginal Canadians have a lower average level of education, fewer marketable skills and a higher rate of unemployment. The infant mortality rate for Indian children is twice the national average, while the life expectancy for those children who live past one year is more than ten years less than for children of the Canadian population as a whole. The rate of violent death among Indian people is more than three times the national average. The overall suicide rate is nearly three times that of the total population. In the 15-25 range, the suicide is more than six times that of the total population (Solicitor General,

1988: 12).

In the years following the report, from 1988-1990, Native people accounted for a staggering 19 percent of all cases of tuberculosis in Canada (Minister of Industry, Science and Technology, 1992: 277-292). Given that Native people comprise roughly two percent of the total population in Canada and that tuberculosis is closely linked to poverty, such a high incidence of tuberculosis may be related to impoverished and unsanitary living conditions. Figures provided by the Canadian Aboriginal Peoples Survey (Minister of Industry, Science and Technology, 1994: xvi) indicate that 58 percent of on-reserve houses have water that is unsuitable for drinking and that 18 percent of the houses have been without water at some point in the year prior to the survey. Also, about one half of Native houses are overcrowded and ill-equipped to accommodate those with disabilities (Minister of Industry, Science and Technology, 1994). The Survey also notes that 31 percent of self-identified North American Indians have been diagnosed with a chronic health problem by a health professional. In 1990, eight percent have reported that they have not had enough food (Minister of Industry, Science, and Technology, 1993a), and roughly 54 percent report earning less than the average low income cut-off of 12 661 for one person (Minister of Industry, Science and Technology, 1995).

Such social injustice continues within the realm of criminal justice. Morris (1995) draws from a series of 1983 studies by Stan Jolly of the Ontario Native Council on Justice which found that Ontario between the years of 1981 and 1982, Native men between the ages of 16 to 26 had three times the risk of going to prison than non-natives. As the ages increased, the risk also increased: the range of 26 to 35 saw an increase to four times as likely; 36 to 50 was five times; and 51 to 70 was six times as likely. In the case of Native women, the statistics were even more shocking: the 16 to 26 range had six times the likelihood of going to prison; 26 to 35 had eight times; 36 to 50 had 13 times; and the 51 to 70 range were 15 times more likely to be incarcerated (Morris, 1995: 10). Morris notes that although these statistics were taken in 1981

and 1982, the following 1991 Canadian Centre for Justice Statistics show that the over representation of Native people in the criminal justice system can be linked to the socio-cultural and economic condition of Native people and the criminal justice response to them. During 1991 in Calgary, Native people were 4.5 times more likely to be charged with a criminal code offence and are three times more likely to be the victim of violent crime. In Regina, Native people were 8.5 times more often charged and are six times more likely to be the victim of violent crime. In Saskatoon, they were charged with criminal code violations six times more often than non-natives (Morris, 1995: 11).

Evidence of discrimination against Native people is also found in the Manitoba Aboriginal Justice Inquiry (1991), an Inquiry commissioned to report on the administration of justice for Aboriginal people in Manitoba and to investigate the deaths of Helen Betty Osbourne and John Joseph Harper, two cases which the Inquiry found to be motivated and mishandled because of both societal and police racism against Native people. In addition to social inequities and the over-charging of Native people, the Inquiry found that once charged, accused Aboriginal people are more likely to be remanded in pre-trial detention and are likely to stay longer than non-aboriginal accused (Manitoba, 1991, Volume 1: 102). This may at least be partially explained by the finding of the Inquiry that Aboriginal people spend much less time consulting with a lawyer than non-aboriginals and are more likely to appear in court without a lawyer (Manitoba, 1991, Volume 1: 102). On the issue of sentencing, the Inquiry found from previous court studies that within Manitoba's provincial court system, roughly 25 percent of Aboriginal people received a prison sentence as compared to 10.9 percent of non-aboriginal Canadians. For Aboriginal persons between the ages of 18 and 34, this rises to 29.5 percent as compared to 10.9 percent for non-Aboriginal Canadians. For Native women between the ages of 18 and 34, the percentage sentenced to prison is 19.2 while for non-Aboriginal women it is 3.7 percent. As the Inquiry further observed, 79 percent of Aboriginal people received a "full

sentence" with no charge or time reduction as compared to 65 percent of non-Aboriginal offenders, while 42 percent of Aboriginal people received a "minimum sentence" as compared to 58 percent of non-Aboriginal Canadians. The Inquiry noted that the data analyzed revealed no differences between the number of previous convictions by Aboriginal and non-Aboriginal accused appearing before the court. Statistics such as these may help explain why Aboriginal people are so heavily represented in prison. In 1994, 18 percent of the inmate population in Canadian prisons was Aboriginal. Within prisons in the prairie provinces, the rate rises to 37.4 percent for men and 50.8 for women (Solicitor General, 1994a: 18-20). Given that the number of Native people in Canada is roughly two percent of the total population, such high figures indicate over-incarceration. Once in prison, Native people are also five times more likely to be charged for an offence while incarcerated than non-natives (Morris, 1995: 11).

### ***Spiritual Freedom Denied in Prison***

Within prison, Native people may be routinely denied the freedom to engage in Native spirituality or the traditional Native way of life. In the United States and Canada, Native inmates have experienced difficulty in getting access to Elders, ceremonies or sacred objects. In the U.S., such prohibitions by prison administration are in clear violation of the Religious Freedom Restoration Act of 1993 which observes that governments and prisons should not limit religious rights unless the government is serving a compelling interest by the least restrictive means (Religious Freedom Home Page, 1996), however they continue. As Nash Azaria, a Southern Paiute Spiritual advisor to the Oregon Department of Corrections, relates, in February of 1995 he was denied access to Lorretta Hill, a Paiute woman being held in segregation at the Oregon Women's Correctional Center. After much legal effort, it was not until August that Loretta was allowed to receive the sacred feather sent to her by family and was able, with hands and feet shackled, to participate in the sacred pipe ceremony (Azaria, 1995). Such violation of

religious freedom is not only present in the case of individual inmates but is also carried out on a grander and more pervasive scale as the following memo from the Arkansas Valley Correctional Facility illustrates. Written to the Superintendent and Security Manager from the Case Manager on November 28, 1995, it reads, "Effective immediately, I will no longer receive any sacred items which have been ordered for personal use. The only items I will receive will be those used in Sweat Lodge Ceremonies. Any items mailed in must be from an authorized vendor and be processed through receiving" (PeaceNet Prison Issues Desk, 1995).

In Canada, the discharge of a Commissioners Directive from Correctional Service of Canada in 1987 represented an official recognition of Native Spirituality. This directive sought to "ensure that the needs and constructive interests of native offenders are identified and that programs (including native spiritual practices) and services are developed and maintained to satisfy them" (Solicitor General, 1988: 100). Prior to this directive, the recognition of Native Spirituality and the Native way of life varied from institution to institution. Irwin (1995) relates the experience of John, a former prisoner during the 1970's, who was allowed minimal access to Native ceremonies and Elders during his remand at Edmonton Maximum. John was later transferred to Prince Albert Penitentiary in Saskatchewan where he was denied access to Elders, sacred ceremonies and objects. This continued as he was transferred to Quebec where the Native Brotherhood, an association of Native inmates, did not exist at all. John describes his attempts to bring his medicine bundle, a collection of sacred objects, into the prison in Quebec,

At first the administration hesitated, but the liason [sic] workers threatened to start a demonstration outside the pen gates protesting the denial of my freedom to worship, so they caved in. I was allowed to keep my bundle in my cell, burn sweetgrass to smudge and to wear my protection pouch around my neck. Twice the guards desecrated my bundle during searches and once for my protection. They were totally convinced I was

using the bundle and the sweetgrass to "cover" my "drug use". They would not believe for a second that any real spiritual belief was valid because their history books said all of it was dead a long time ago. Even the chaplain (RC) said nothing to support my contention, hoping I'd give up this "superstitious nonsense." When I'd take my bundle out to a quiet corner of the yard to do Pipe, the guards used to gather at the wall closest to me and shout mocking things and aim their AR's at me & laugh. (Irwin, 1995: 16)

In an open letter to "All Concerned Peoples" on December 19, 1984, the Native Sisterhood of Kington's Prison for Women outlined specific instances of the suppression of Native Spirituality in the prison (Irwin, 1995: Appendix II). Among these were instances of the "frisking and handling of sacred articles in cells", a practice which results in desecration; the prohibition against burning the purifying sweetgrass while in segregation, ostensibly because of fire regulations, even though cigarettes and matches are allowed; the limiting of and placing conditions upon a spiritual fast (i.e. must drink a glass of water everyday or must shorten the length of time on the fast); and the denial of spiritual ceremonies. Such incidents as these are not merely reflections of past interactions between native inmates and the correctional structure. Despite the efforts of the Native Brotherhoods and the Native Sisterhoods, active associations of Native inmates, and Elders such as Art Solomon who have taken up the cause and struggles of inmates, instances of injustice persist. As Karlene Faith has noted,

Despite their Charter protections, First Nations groups still fight for the right to have sweat lodges, medicine bundles, and powwows, and to consult with Elders and advisors. For example, First Nations women commonly complain of having their medicine bundles desecrated by prison staff, or of being denied the right to see an Elder, which is as serious culturally as being denied the right to see a lawyer, a doctor, or a priest. First Nations women at Canada's Prison for Women have fasted in protest against unconstitutional violations of their religious rights. As punishment they have been



placed in segregation 'holes' (Faith, 1995: 81).

### **The Need For Culturally Relevant Alternatives**

The need for culturally meaningful forms of legal procedure, correctional programming or rehabilitation strategies for Native offenders is illustrated by their socio-economic and spiritual reality and by the fact that they are vastly over represented in the statistics on the criminal justice system. As the Royal Commission on Aboriginal Peoples (1996) submitted, the disproportionate numbers of Aboriginal inmates in jails and prisons and the fact that they are more likely to end up there than non-Aboriginal people, hasten the need to recognize that Aboriginal people have a right to self-government and to the development of their own criminal justice structures. As Bertha Wilson, former Justice of the Supreme Court and member of the Commission, noted, the status of Aboriginal people within the current criminal justice structure "is discrimination and it casts a long shadow over Canada's claim to be a just society" (Cox, 1996: D20).

In a report to the Commission, Dumont (1993: 42-85) submitted that, a zone of conflict exists between Aboriginal and Euro-Canadian values and behaviours. Dumont notes that while there are common Aboriginal and Euro-Canadian values such as kindness, honesty, sharing and strength, differences exist in the meaning of each value in a cultural context. As Dumont notes, kindness in a Native understanding is harmony in interpersonal relations and the capacity for caring. In Euro-based understanding, kindness is responding to the unfortunate and the helpless through charity. Honesty is truthfulness and integrity and is conditioned by respect in the Native way, while in the Euro-based way it is truthfulness and respectability and the ability to observe defined laws in an upright and credible manner. This issue was noted in the work of Ross (1991) who observed that this particular value conflict could lead to the conviction of an

innocent for a crime. The Native way of tempering honesty with respect can cause individuals to plead guilty in a court of law because of the Crown's insistence that the individual is guilty. Respect for the Crown could be shown by not wanting to offer contradiction in public. The individual would thus plead guilty. The third value of sharing is interpreted in the Euro-based context as an obligation to distribute wealth rather than unconditional generosity, while in Native tradition it is generosity and cooperation with a desire to produce harmony and prosperity in social relations. Within the Native context, the fourth value of strength is regarded as self-mastery and fortitude for achieving peace within oneself and within others, as control, confidence and mastery over a situation in the context of Euro-based culture (Dumont, 1993).

The zone of conflict arises when one value is not exhibited by one group in the way in which it is exhibited by another. For example, Ross (1991) describes the case of an Ojibway-Cree defendant in court whose actions of avoiding eye contact and speaking softly are interpreted as manifestations of guilt. Traditional Native values are not appreciative of confrontation and a public display of emotion. Clare Brant (1986) has referred to this reaction as a 'conservation of energy' when confronted with crisis. He proposes that during times of external crisis, the Native person turns inward to analyze and reflect on the situation in order to determine the best course of action. Brant relates this to the traditional way of life in which the Native people enjoyed a close relationship to the natural world. In a time of crisis in the bush, if one was injured or encountered severe weather, energy conservation was a matter of survival. In his experience as a psychiatrist, Brant notes that he has seen this state of conservation interpreted as a catatonic state. As Ross (1991) observed in a court of law, it may be interpreted as guilt.

Within the context of correctional programming, Little Rock Reed (1990) proposes that prison programs such as Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) have philosophies and principles which are incompatible with the Native understanding of life and

spirituality. He contends that such programs are not universal in their application as therapeutic programs and that forcing a Native prisoner (or a non-native prisoner who does not subscribe to their philosophy) to attend them as a condition of their release is "morally, ethically and legally wrong" (Reed, 1990: 5)<sup>1</sup>. As an illustration of the conflicting philosophies, Reed notes that in step two of the AA twelve step program, the belief is that "We come to believe that a Power greater than ourselves can restore us to sanity." Reed argues that it is difficult for Native people to believe that they are insane when Native tradition provides the understanding that there is no individual sickness which cannot be cured by returning to a state of balance not just within the psychological realm but between mainstream culture and the Native way of life. In discussing this issue, Reed asks the question,

How can a prison official or administrator know what rehabilitation process will be effective for *any* prisoner when the values and beliefs held within the cultural context of the prisoner are contrary to those of the culture to which the prisoner belongs? It is impossible unless the official is willing to sit down with the prisoner in an attempt to bridge that cultural gap (1990: 19).

As proposed by Justice Stuart, who allowed the Native-based sentencing circle to be used in the 1992 case of a member of the Na-Cho Ny'ak Dun First Nation of the Yukon, the rehabilitation process must be meaningful for an individual if it is to have an impact. He submits that the standard measures of what offenders are supposed to do to further their rehabilitation is grounded in middle-class western values which have little or no relevance to the offender. The

<sup>1</sup> Although not all Native people would support the view that Alcoholics Anonymous is incompatible with a traditional Native understanding and indeed some may find it useful, Reed emphasizes that his argument against programs such as AA or NA is that forcing an individual (who does not subscribe to their philosophies) to participate in programming defeats the mechanism of self-directed healing which is at their foundation and thus cannot result in a meaningful restoration to wellness.

failure of the current justice system to account for the cultural and personal life circumstances of each offender has a definite impact on the creation of recidivists. Without alternatives which are sensitive to the needs of the offender, the justice system will fail in its attempt to rehabilitate offenders and reduce crime (Stuart, 1992).

Within the current structure of criminal justice, selected programs and additions exist which consider the historical and social reality of Native people and seek their consideration in criminal justice. In this sense they may be called culturally-relevant Native justice initiatives. In contrast to what Nielsen (1995) has called a Euro-based structure of justice, Native Justice Initiatives are modeled after aspects of a traditional Native way of life and its interweaving of social life and the sacred. As a form of justice, Native Justice Initiatives take sacred spiritual understandings of harmony, balance and holistic healing and seek to bring them into the context of modern justice. Just as the Medicine Wheel, the sacred Mik' maq symbol of existence, illustrates the interconnection of the mind, body, heart, spirit and creation, Native Justice Initiatives are restorative or healing forms of justice which recognize crime and problem behaviour as a symptom of the disconnection between these aspects within an individual or between the individual, the family, the community and the rest of creation, community or family.

As Native Justice Initiatives represent culturally meaningful alternatives to conventional criminal justice for Native people, it is important to understand some of the traditional ways of living of Native people. In the Natural way, the sacred underlies all of existence and to live in a Native or Natural way is to appreciate this belief. The difficulties associated with reconstructing and presenting the world view which is at the basis of Native justice initiatives must be openly acknowledged by the thesis and may be handled in much the same way that McDonnell (1992) has suggested that ethnographers have reconciled differences between cultures. As he writes, the goal should be to

indicate the range and extent of prevailing difficulties and to create conceptual bridges

by seeking out and often developing through analogy, the most apposite contrasts and similarities of form, function, symbol and idiom that render such differences comprehensible (1992:302).

There is much diversity among Native nations in regard to philosophy, spirituality and tradition and specifically outlining these differences far exceeds the scope of the thesis. The references used to illustrate specific spiritual ideas or understandings of Native tradition as displayed by existing justice initiatives are drawn mainly from the Algonkian tradition and do not apply to the traditions of the Iroquois, the Northwest Coast, Arctic or circumpolar peoples. Common to all of the justice initiatives presented is the philosophy and spirituality of connectedness. As Rupert Ross has written in the work "Returning to the teachings: exploring aboriginal justice",

The more I spend time exploring traditional approaches to healing, the more this seems to be the one question that lies at the heart of all other questions asked and all of the healing steps suggested. Everything the healers explore seem to boil down to one issue: connection or disconnection. It's as if some state of disconnection (or unhealthy connection leading to a desire to be disconnected) is assumed to be the cause of the problem, following which there will be lengthy investigation into how that state came to be and how all processes that created it can be turned towards reconnection instead. Healing is by turns subtle and dramatic, but underlying the entire process is this movement towards reconnection (1996: 135).

By underscoring the aspect of connection which Ross has found to characterize many traditional approaches to healing and by acknowledging the vastly different philosophies and beliefs of Native people, the discussion of Native justice initiatives may be more clearly focused on presenting the world view within which Native justice initiatives operate. It is therefore to complete the understanding of Native Justice Initiatives that the following chapter presents specific aspects of the Native way of life and spirituality.

4**THE SACRED UNDERSTANDINGS OF THE NATURAL WAY**

***Everything the Power of the World does is done in a circle. The sky is round, and I have heard the earth is round like a ball, and so are the stars. The wind, in its greatest power, whirls. Birds make their nests in circles, for theirs is the same religion as ours. The sun comes forth and goes down again in a circle. The moon does the same, and both are round. Even the seasons form a great circle in their changing, and always come back again to where they were. The life of a man is a circle from childhood to childhood, and so it is in everything where power moves.***

***Nicholas Black Elk***

The *Natural Way* is a way of life in which sacredness and communion with all of the creatures of the earth, nature and the environment is cultivated in order to hasten the realization that all of existence stems from the same perfect and natural source, the *Creator*. It is a way of life which is based upon the principles of Native Spirituality from the Algonkian tradition and world view. This religious understanding, although containing highly structured rituals and ceremonies, is based upon the idea that individuals must construct a personal understanding of spiritual meaning which will help to promote individual, social and global health and happiness. The understandings of the natural way are not only for Native people. They are for all people, all creatures, and all things which make Mother Earth their home. They are called understandings and not knowledge for the only perfect knowledge that exists belongs to the Creator. According to Native tradition, it is only with infinite grace that we are sometimes allowed to catch glimpses of that total and perfect knowledge from which understanding is developed. As human beings, we are therefore only able to claim an understanding or an opinion and not total knowledge and truth. This is the *Natural Way* of approaching the mysteries of existence.

The phrases *Natural way*, the *Native way of life*, and *Native spirituality* describe the same understanding and will be used interchangeably throughout this chapter to mean living in

a spiritual and sacred union and harmony with all of creation: Mother Earth, people, animals, plants, trees, rocks, the elements as well as those spiritual beings who visit earthly creation. Living in a sacred and spiritual way requires that one purify the mind, body, heart and spirit so that one may develop an understanding of the world that is free from the negative influences and ideas which occur when these four aspects are not strong within oneself or within others. Living naturally means to live in a state of health by using good *medicine* for keeping it. The term *medicine* in the native way describes anything which contributes to health in the mind, body, heart and spirit and is therefore a more holistic understanding than the western-European use of the term which emphasizes just physical and mental health. Medicine for the heart could mean reuniting with a loved one after a separation or caring for a sick person, while medicine for the spirit could be meditation or ridding oneself of bad feelings or wishes for another. Physical health is maintained by the medicine provided by the sacred plants and herbs, and mental health is fostered by traditional ways which seek not to attribute blame, guilt, stigmatization or punishment to an individual who is suffering, but approach it with this holistic attitude of health and healing.

The following chapter represents my understanding of the Natural Way as gained through personal interactions with a *Pipe Carrier* of the Mik'maq First Nation in Nova Scotia. His wish to remain anonymous during the presentation of Mik'maq spiritual understanding is respected in this chapter. Through our discussions, the Natural Way unfolded and allowed me to develop the understandings which I present here. In addition, the poetry and writings of Art Solomon, a Nishnawbe Elder who has devoted much of his life to the cause of Native people, and Chief Dan George, whose simple and practical messages of harmony carry the strength of many spiritual concepts in one sentence, have proved to be invaluable to my learning process. While there are many nations of Native people and interpretations of the Natural Way vary widely in terms of ritual and specific relationships in creation, the Algonkian understanding presented in this chapter stresses the principles of harmony, peace, the interconnection of all of

creation in the sacred circle of life, and the understanding that the sacred underlies the material. This chapter will discuss traditional Native social relations as articulated by Dr. Clare Brant (1986) the late Mohawk psychiatrist who has done research into making psychiatry culturally sensitive towards Native people, the Mik' maq *Sacred Medicine Wheel*, and seven sacred teachings of the seven clans. It will conclude with a discussion of the *Sacred Pipe* and the *Sweatlodge*, as their ceremonies symbolize what may be called the essential message of the Natural way, the healing of the mind, body, heart and soul.

### **The Role of Elders, Medicine People and Pure People**

Native spirituality is not an organized religion in a strict sense as it lacks the hierarchical infrastructure which characterizes most religions. In contrast, it is a way of life which is based on the voluntary acceptance of traditional beliefs and values. Such beliefs and values are not understood through teaching and instruction or by reading a sacred text. Native people have an oral tradition which requires that an individual interested in developing an understanding maintain close contact with those individuals who live in Native tradition and with spiritual communion. Such individuals have proven their dedication to the Native way of life by enduring hardship, sacrifice and discipline through fasting, in the *Sweat Lodge*, while seeking a vision and in their personal lives. In the face of those laws or attitudes which sought to suppress Native spirituality, such people were often ostracized from their communities for practicing what was seen as 'uncivilized' behaviour. They are the *Medicine Men and Women* and the *Pure People*, who have the understanding that illness, conflict and a lack of peace within an individual or a community are the result of an imbalance within the four aspects of the mind, body, heart and spirit. Their role is to promote the restoration of health in each through medicine and words of wisdom. With age, growing wisdom and earned respect, the title of *Elder* is given to these



people and they assume the important tasks of mediating between modern culture and the traditional way of life while retaining the spiritual understandings for future generations.

### **Nine Native Ethics and Principles of Living**

In a seminar at Dalhousie University in 1986, Dr. Clare Brant articulated many of the traditional ways of Native people in the form of nine ethics and principles for living and proposes that they are the basis of the Native way of life. The ethics and principles are described by Dr. Brant as being a series of frequently occurring behaviours among Native people and are based on his observations and interactions with the Cree and Iroquoian groups. However, he contends that they may be found within most North American Native communities with some local variations. The nine ethics and principles of the Native way are; 1/ The ethic of non-interference, 2/ The ethic that anger not be shown, 3/ The principle of timelessness, 4/ The ethic that everything is shared, 5/ The ethic that gratitude not be shown, 6/ The principle that protocol must be observed, 7/ The ethic of modelling behaviour instead of shaping it, 8/ The principle of conservation and withdrawal, and 9/ The principle of autonomy. Because sacredness penetrates every aspect of life in the traditional way, an individual's conduct, social relations and spirituality are indivisible. Therefore discussing Dr. Brant's articulation of nine ethics and principles adds additional clarity and richness to the understandings of the Natural Way.

### **The Ethic of Non-Interference**

The Native ethic of non-interference regards the instructing, advising, persuading and judging of any individual to be extremely rude behaviour. This ethic is traditionally extended to all members of the community regardless of age or experience. In his discussion, Dr. Brant relates the choice of a father to not take his children to the dentist when the children do not want to go. Homework, school attendance and other activities, which within the western context of

childrearing are necessary activities for children, are not imposed on Native children living a traditional way. To do so is a denial of the child's freedom to make his or her own decisions and would therefore be interpreted as the imposition of the will of the parent rather than a necessary activity for the child.

### **The Ethic That Anger Not Be Shown**

The ethic against the display of anger is related by Brant to the traditional Native belief that anger is negative and should be repressed. Dr. Brant traces this ethic to traditional times when the identity of Medicine people was not freely known. Showing one's anger was dangerous because it could secure a bad wish or spell from a Medicine person. In contrast to showing anger, traditional Native methods for expressing hostility include gossip, ridicule or teasing. In this way, the more potent expressions of anger are diluted into softer forms of aggression.

### **The Principle of Timelessness**

In the traditional Native way, time is something to be valued and enjoyed. As Dr. Brant notes, only when the conditions, the *Manitou* or the spirit are right should any actions be undertaken. Because perfection is accepted as a normal condition of any activity (this is elaborated on in the ethic that gratitude not be shown), it is important that one finish what one is doing before moving on to something else. This often results in conflict with mainstream society in places such as the school or the workplace. Brant states that this may lead to a mainstream conception that Native people operating from the traditional notion of timelessness are lazy or inactive. Such inactivity is often more of a reflection of the perceived inappropriateness of the time for an action rather than a symptom of laziness. In contrast, action is often swift and decisive when the time is perceived to be right and other needs will often be sacrificed in the completion of a project. As Chief Dan George writes, "when a man does what needs to be

done, he does not know the meaning of time" (George and Hirschall, 1974: 50).

### **The Ethic That Everything is Shared**

The ethic of sharing is referred to by Brant as a universal Native ethic because of its vital role in the survival of Native people living in a traditional way. According to Chief Dan George "nothing belongs to you of what there is, of what you take, you must share" (George and Hirschall, 1974: 25). The understanding here is that the survival of the group takes precedence over the survival of any one individual and that a social structure which encourages homogeneity is valued over one which encourages differential power. The creation and maintenance of harmony in all relations is the central value in traditional life. The traditional Native community therefore embraces sharing as a guiding rule for its social relations. Individuals are expected to take only their share of community resources by limiting themselves to only what they need to survive. Of their share, they are also expected to give freely to others.

### **The Ethic That Gratitude Not be Shown**

The concept of gratitude or the expression of thankfulness for exchanges between individuals, is not to be shown. The Native tradition is one that expects perfection in an individual. Helping or caring for someone else is therefore not seen as anything out of the ordinary. It represents only that one is fulfilling one's humanity which is created in perfection. Showing gratitude may be interpreted as thankfulness and implies that the help or care that was given is out of character for the one that offered it. The acknowledgement that an individual is not living up to the standard of perfection is a humiliation.

### **The Principle That Protocol Must Be Observed**

Native tradition, while encouraging non-interference and freedom within

interpersonal relations, maintains very strict regulations governing social behaviour and manners. As Dr. Brant relates, each tribe, nation and village has its own rules governing propriety. Such rules remain unarticulated in order to avoid violating the ethic of non-interference and are therefore known only to those who have experienced the way of life of each particular community for extended periods. Newcomers must accept that they will violate protocol and offend people. Dr. Brant has suggested that the best way to approach such a situation is to be prepared to make a fool of yourself and to do so in a spirit of innocence and humility. An effective illustration of the need to observe protocol was noted by Brant in the case of a feast being prepared by a Mohawk community for some Cree visitors. The Mohawk people, being great agriculturalists, prepared five or six times more food than was necessary as both a show of prosperity and to honour their guests. The Cree, whose tradition required them to show respect and appreciation to a host by consuming all that was offered to them, ate as much of the banquet feast as they could before many of them fell ill from overeating. The Mohawks were horrified at the behaviour of their guests and the Cree were angry with their hosts for making them sick by offering so much food. In this case, with each group following its own protocol and being unaware of the other's protocol, what ought to have been a pleasant evening turned otherwise.

### **The Ethic of Modelling Behaviour Instead of Shaping It**

The traditional native way of imparting understanding is strongly influenced by the ethic of non-interference. Brant refers to the traditional Native way of teaching as a "modelling" of behaviour. Such a method of instruction is in contrast to the "shaping" of behaviour which is akin to B.F. Skinner's model of operant conditioning with reward or punishment as the motivation for learning. In the traditional Native way, such methods represent interference and as such are not valued. Instead, modelling, or a performing of that which is to be learned, is used to impart important knowledge. This requires observation, patience and time which in a western

educational context are not freely available given the requirement for diplomas and degrees in a limited amount of time. With the understanding that learning something perfectly takes time and that it cannot be rushed and imposed on an individual if it is to have any lasting meaning, adherence to the ethic of non-interference, timelessness and perfection are important components of modelling.

### **The Principle Of Conservation and Withdrawal**

Conservation and withdrawal are interpreted by Dr. Brant as traditional Native responses to external stress. During times of conflict and stress in the external environment, the Native person conserves physical and emotional energy by withdrawing into themselves. This reaction represents a move inward where an individual may better assess and understand a stressful situation. This may be related to the expectation of perfection which is placed upon individuals. Instead of jumping into a situation which is not understood, careful consideration is given to all possibilities for action in order to assure that the most effective course may be chosen. Chief Dan George also cautions against sudden action by encouraging youth to use "the heritage of silence to observe others" and to recognize yourself in others so that "you will learn to understand and preserve yourself" (George and Hirschall, 1974: 19).

### **The Principle of Autonomy**

Each of the eight previous ethics or principles makes a contribution toward encouraging independence and autonomy within the traditional Native way of life. Native people are encouraged to be introspective when seeking counsel on an issue. The opinions of others are not to have a great influence on one's decision, however it is important to listen to what others say and incorporate their knowledge into one's own.

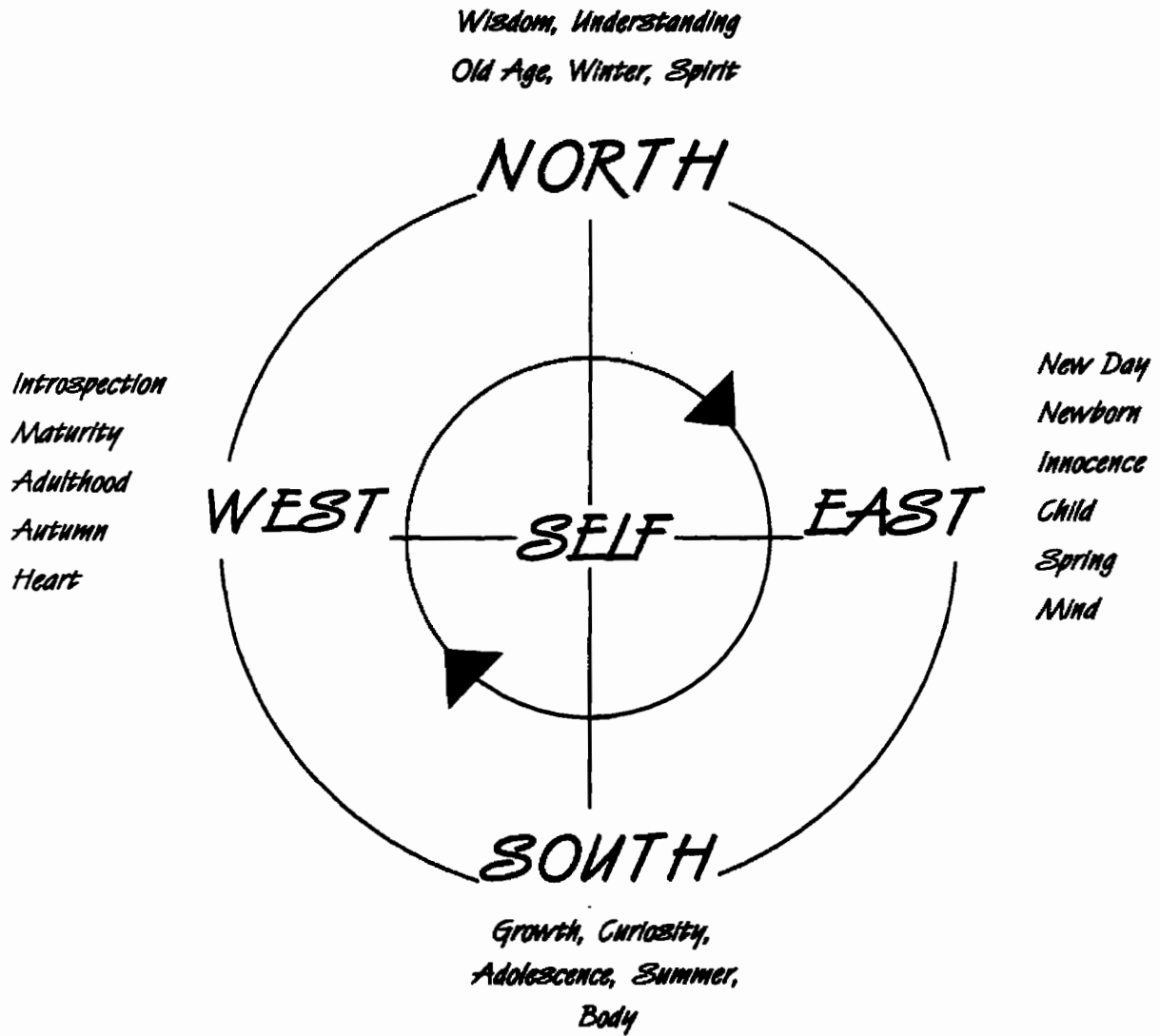
### **The Teachings Of The Mik' maq Medicine Wheel**

With the beginning of an understanding of the traditional Native way of life through Clare Brant's (1986) articulation of the nine Native ethics and principles, we shift from an examination of social relations to a specific discussion of spiritual relations and understandings of sacred principles. Perhaps the most appropriate departure point for such a discussion is to emphasize the importance of the circle in the Natural Way. The wisdom contained in the form of the circle is the foundation for all Native belief and principles of living (See Figure 1, The Medicine Wheel: 74). The Native use of the term 'medicine' refers to an action, a treatment or an experience which promotes the healing of the mental, physical, emotional or spiritual aspects of an individual, a community or a society. The Medicine Wheel, or the *Circle of Life* as it is also known, symbolizes the sacred understanding that all of creation is interconnected and is united in the vital role which each member plays in maintaining the harmony and health of the universe. Life is a circular journey from perfection to perfection in which the lessons to be learned at various stages in life play an important role in one's mental, physical, emotional and spiritual development. As Art Solomon, a Nishnawbe Elder, eloquently wrote,

We are given life for a purpose,  
And our purpose as I understand it is to live  
In peace and harmony and tranquility,  
To accomplish each our own individual destiny  
And return to the spirit from where we came (1990: 188)

The Medicine Wheel is divided into four distinct sections representing among other things the four cardinal directions: East, South, West and North. The East represents a time of beginnings, the season of Spring and the dawn of a new day. It is the time of the newborn who

**Figure 1**  
**The Mik' maq Medicine Wheel**



Four Elements

- Earth*
- Fire*
- Water*
- Air*

Four Inhabitants

- Human*
- Animal*
- Plant*
- Mineral*

is newly created and full of innocence. As the circle moves from East to South, the newborn matures into the adolescent. This is the Summer of life, a time of growth and curiosity where the body is strengthened and developed. With the West comes the fall season, a season of adulthood where maturity and introspection have softened or hardened the heart according to the experiences of one's life. As Fall welcomes Winter, the circle winds upward to the North. It is here that life's experiences and the culmination of spiritual understanding comes together as wisdom for the elder members of the community. It is from this time of life that elders provide guidance and inspiration to members of their communities. At the centre of the circular journey of the Medicine Wheel stands the Self, or the spirit, which gathers the understandings which each life experience provides.

The Medicine Wheel also acknowledges the four elements: air, earth, fire and water; and the four inhabitants human, animal, plant and mineral of the physical world. Depending on the Native tradition from which the Medicine Wheel is offered, differences will exist in the location of the above four elements and inhabitants on the physical representation of the wheel. It is for this reason that they are only listed below and not placed on the wheel.

Traditional interactions and social relations are also contained within the Medicine Wheel. Very young children are traditionally guided and cared for by the adults in a community, while teenagers seek the guidance and company of grandparents or the Elders. Within a structure like a circle which has a physical impossibility of hierarchy, a design favouring equality exists. All individuals are equal members in a structure where even those who follow behind you are also in front of you. Within the circle, the giving of counsel and advice takes place equally between all members of the community. Because wisdom can be found in anyone's words and no one, except the Creator, holds absolute and perfect knowledge, everyone in the community, in principle, has equal powers to advise each other if requested to do so.



### **Seven Sacred Teachings Of The Seven Clans**

In a structure like a circle, there can be no authority over individuals since there is no conception of superiority. In this structure of perpetual equality, the responsibility is placed upon the individual to adhere to the rules of conduct and notions of propriety as upheld by their nation or tribal group. As an illustration of these teachings, we examine the seven teachings of the seven clans of the First Nations peoples of the Six Nations or the Iroquoian Confederacy of the Mohawk, Oneida, Onondaga, Cayuga, and Seneca nations.

Each of the seven clans symbolizes and represents one of seven sacred teachings of the Native way of life. The first clan, the Loon Clan, is vested with the responsibility for upholding the principle of truth. The second clan, the Crane clan, maintains faith. The third clan, the Fish clan, represented the advisors, the seers and the spiritualists of the nation, and this maintained the principle of honour. The Bear clan, the fourth clan, served as peacekeepers, Medicine people and healers and thus represent the principle of generosity. The Marten Clan, the fifth Native clan, is represented by the warriors and the principle of justice. The sixth clan, the Bird Clan, is traditionally given the duties of the farmers, the diplomats and the ambassadors between nations and thus maintained the principle of humility. Finally, the Deer clan who also represented the peacekeepers and the orators and the artists, held the principle of fortitude.

Each Clan, the principle which it represents, and the social function which it fulfils, provides an indication of the social relations and prescriptions for desired interactions within traditional Native life. The first two clans, the Loon and the Crane, are not associated with any particular social function. As such, their principles of truth and faith may be understood as universal in their application. The teaching of the Fish Clan counsels that advisors, seers and spiritual leaders must have honour in order to keep pure the sacred teachings which are the foundations of the nation and to ensure that they are offered with homage and reverence to those that seek them. The Bear clan teaches that generosity is required within those fulfilling the role of healing others. The Medicine people and the peacemakers must offer their services

freely and with no thought of return. Their duties are based in the sacred understanding that healing and "good medicine" must be available to all who are in need. The Marten clan, representing the warriors, provides the teaching that even war which is the ultimate presence of conflict must be fought in order to maintain or create justice. All individuals must be warriors within their own circle so that justice will prevail and harmony may be maintained within all of creation. The Bird clan teaches that those seeking to nurture something and see it flourish for the betterment of creation, such as is done by the farmer and the diplomat or ambassador, must first have humility before creation. With humility in the heart and the recognition that one is only the instrument and not the creator, creation flourishes and provides that which it needs to create harmony. The final clan, the Deer clan, reveals that much strength and fortitude is required to keep the peace, to inspire others to action, and to innovate and foster new ideas, such as is done by those who strive for peace, the orator and the artist.

### **The Sacred Pipe of the People**

The sacred pipe is the most revered expression of spirituality within Native tradition. It is divided into two parts, the bowl and the stem. When these parts are joined together, the sacred energy which moves through the pipe calls out to the Creator seeking communion. In a pipe ceremony when a tobacco offering is placed within the pipe and burned, its smoke carries the prayers of the people upward to the Creator. As Art Solomon wrote,

The stone bowl represents all the female life in the Creation  
and the stem that is usually made of wood represents all the  
male life in the Creation;  
together they are complete.

When we pray with the sacred pipe we offer tobacco  
to the four sacred medicine powers,  
to the Mother Earth, to the spirit beings,

and we ask them to sit with us and smoke with us.

We recognize that we need their help and blessing  
and guidance to walk in balance (1990: 74).

Although there are variations in belief about the origins of the sacred pipe, many Native traditions hold that it was given to the people by a beautiful young woman in a white buckskin dress who approached two men while they were away from their village. As she walked towards them, one of the men had an impure thought about her and as she drew near to him, he reached out to touch her. She instantly reduced him to dust and bones with her great powers. To the other man, who stood in fear, she gave strength and the sacred pipe that she carried with her. She showed him how to perform the sacred pipe ceremony and told him that as long as the people continued to use the pipe and keep it sacred, harmony and peace would prevail. This young man became the first *pipe carrier*, the trusted keeper of the pipe. As the woman left him, she turned into a white buffalo calf. For this reason she is traditionally called the White Buffalo Calf Woman.

The pipe ceremony is a sacred ceremony which expresses thankfulness to the Creator and which offers prayers for the harmony and the continued nurturing of the universe which the Creator provides. It is also a healing ceremony which may be performed in a group or between the pipe carrier and one other person. Those involved in the pipe ceremony gather into a circle where the pipe carrier begins by purifying each person. Anyone who has recently had alcohol or any other intoxicant is prohibited from participating in the ceremony as its' exposure to the pipe would cause its' desecration. As well, women who are having their 'moon-time' or menstruation are also prohibited from participating because of the intense spiritual energy emitted by them during this time. Such a clash of the energy between the woman and the pipe would cause the pipe's desecration. The pipe carrier lights a braid of *sweetgrass*, a sweet-smelling herb similar to common grass. Its fragrant smoke is offered to

each person by fanning the lit end with the sacred eagle feather. The eagle feather is a symbol of the communication between the Creator and human beings. As the eagle flies the highest and therefore closest to the Creator than any other animal, it is the sacred messenger. *Smudging* or purification occurs by drawing the smoke close to the body with the hands. This both protects and cleanses the participant with a sweet smell which attracts good spirits. With the purification complete, the pipe is filled with natural and untreated tobacco and is lit by the pipe carrier who first prays with the pipe and offers it to the Creator and creation in a personal way (to the four directions, the four races, the plants, the animals and others). The pipe is then passed clockwise or counterclockwise in the circle depending on the tradition of the pipe carrier. As the pipe is received by each person, it is raised to the lips with the bowl in the left hand and the stem in the right and four puffs are taken. The smoke is not inhaled but is blown upwards as an offering to the Creator. If one is unable to smoke for health or age reasons, then the pipe is touched to the right and left shoulders and then passed on. The ceremony is complete with the smoking of the pipe by each participant and the offering of prayers for forgiveness to the Creator if the ceremony was not performed in perfection.

### **The Sweat Lodge**

The sweat lodge ceremony or sweat is a sacred ceremony which purifies the mind, the body, the heart, and the spirit in preparation for communion with the Creator and may be done in a group or between the medicine person and one individual. The medicine person and the participants in the sweat often construct the lodge together or there is a permanent structure used by the community already in place. Inside the lodge is a pit for the heated stones used to generate steam and benches upon which participants sit. The sweat lodge itself represents the womb of Mother earth, furnishing the ceremony with the strong symbolism of purification and rebirth for the participants. The sweat lodge is entered by crawling on the hands and knees through a small space in the side which is later closed during the ceremony. Upon entering, the

participant should say 'All my relations' to acknowledge the spirits of ancestors who will provide strength and guidance during the sweat. Tobacco should be offered to the Medicine person to show respect. One person is left outside to tend to the rocks which have been heated in a fire outside the lodge for hours. The rocks of the sweat lodge are an important symbol for Native people. As the oldest living creations on the earth, the rocks are a humbling reminder of human creation. When everyone is seated inside, the Elder or the medicine person signals for a number of the hot rocks to be brought inside and placed in the pit. Pieces of cedar are placed on the rocks to burn and smoke and thus purify the sweat lodge. The opening of the lodge is closed and prayers and chanting begin. Water is poured on the glowing rocks, steam rises and the heat of the sweat lodge becomes intense. If it becomes too much for participants, they are urged to lie on the floor and place their head close to Mother Earth where it is cooler. As a way of further intensifying the communication between the participants and the Creator, the sacred pipe may be filled with sweetgrass lit from the rocks and the pipe ceremony may be performed. When the last rocks lose their heat, prayers are offered to the Creator and the sweat lodge is ended. The participants emerge and with thanks to the Creator and Mother Earth for having been purified by the experience, they rinse themselves with cooling water.

Following this brief overview of the central themes within the Natural way, a discussion of selected Native Justice Initiatives within different stages of the Canadian criminal justice process will be presented. However before this may be attempted, certain questions about the relationship between these Native Justice Initiatives and traditional Native culture and spirituality must be addressed. Such questions revolve around the debate about whether or not such justice initiatives are "real" or "invented" in terms of their application of Native tradition to the modern criminal justice structure. As Dickson-Gilmore (1992) suggests, before the question of real versus invented may be answered, a definition of "tradition" must first be accepted. For this, she suggests Hobsbawm's (1983) definition which makes a clear distinction between tradition and custom. As Hobsbawm notes, "Custom is what judges do, 'tradition' is the wig, robe

and other formal paraphernalia and ritualized practices surrounding their substantial action" (1983:3). Under this definition, law can be defined as a custom and not as tradition. Viewing law in this manner represents a significant anthropological debate which cannot be resolved here, however Dickson-Gilmore suggests that if one accepts that custom is what judges do, then custom is at least a form of law. In her study of the traditional Longhouse justice system proposed at Kahnawake, Dickson-Gilmore (1992) argued that the Longhouse structure (the building, ritual, process etc.) should be viewed as tradition and that the philosophies surrounding the resolutions of feud and conflict (the law) should be viewed as the customs of the Mohawk people. The modern proposal for the Longhouse justice system seeks to include the resolution of individual disputes into an arena which was traditionally reserved for the resolution of clan or national issues and as such represents the adaptation of tradition rather than the invention of a new criminal justice structure. In the same way, this thesis argues that Native Justice Initiatives in Canada represent the adaptation of Native tradition without the alteration of the Native custom upon which such tradition is based. Dickson-Gilmore further suggests that Native justice initiatives may be popularly viewed as being invented because of their close association with the traditionalist or nationalist movement currently taking hold among many First Nations. This association may cause Native Justice Initiatives to be viewed as points of activism on the part of First Nations in the struggle for self-determination and nationalism. However, in keeping with Native tradition, there is nothing inconsistent about the role of activism in shaping or changing institutions. As the Hau de nau sau nee, the traditional six nations council at Onondaga gave in an address at Geneva in 1977, "spiritual consciousness is the highest form of political consciousness" (Akwesasne Notes, 1978: 3). Any activism which is evident in the development of Native Justice Initiatives may therefore indicate that Native tradition and custom is being followed and that the role of "invention" is minimized. Finally as Dickson-Gilmore proposes,

For Canadians to deny the legitimacy of indigenous traditions on the bases that they are products of invention or in some similar way not "really" traditional is, at best unfair, and

at worst, hypocritical....to use "untraditionalness" as a bar to First Nations self-determination does no more than doom us all to continue into the future the reprehensible and hypocritical practice of internal colonialism (1992: 499).

The following initiatives and applications of Native justice, as rooted within the Natural way, represent attempts to create a more meaningful process for the Native person in conflict with the law. In this way, they have the potential to instill peace and social justice within the Canadian criminal justice system.

**5****HEALING THE CIRCLE**

***It is our belief that non-Native society has much to learn from Native traditions and wisdom. It is our hope that the demonstration of tribal justice systems, would gradually move toward a restorative, community-based justice model in our country. In that way, all citizens affected by the injustices of current practices, be they Native or non-Native, male or female, would benefit from a more humane and sensible way of administering justice***

***Report of the Task Force on Federally Sentenced Women 1990***

***For Aboriginal people, the essential problem is that the Canadian system of justice is an imposed and foreign system. In order for a society to accept a justice system as part of its life and its community, it must see the system and experience it as being a positive influence working for that society. Aboriginal people do not.***

***Manitoba Aboriginal Justice Inquiry 1991***

***My name is Little Red Bear. My Clan is the Bear clan. I want to sing a song to honour the women in our Lodge tonight***

***Raymond Raven Jr., Seven years old  
Hollow Water, Manitoba***

***Failing to take properly into account the cultural or personal life circumstances of offenders may help explain why we repeatedly err, repeatedly increase the prospect that the very thing we so religiously strive to prevent will happen again***

***Yukon Territorial Court Justice Stuart***

***Goodness is an essential value in Native culture***

***Carola Cunningham, Director  
Stan Daniels Centre***

Native Justice Initiatives offer promise in achieving what the conventional criminal justice process cannot for Native people in conflict with the law. Such an understanding that



the current structure of criminal justice is incapable of effectively addressing the needs of Native people (or of Non-Natives) is evidenced by the condemnatory findings of many reports, among them the 1989 Royal Commission into the Prosecution of Donald Marshall in Nova Scotia, the 1990 Task Force on Federally Sentenced Women, the 1991 Manitoba Aboriginal Justice Inquiry, and the newly concluded 1996 Royal Commission on Aboriginal Justice.

Native Justice Initiatives are based in a traditional Native way of life either in their broad structure, through specific aspects or in the general philosophy under which they are operated. Just as the Medicine Wheel illustrates the interconnectedness of mind, body, heart, and spirit, Native Justice Initiatives are restorative or healing forms of justice which recognize problem behaviour as a symptom of disconnection between these four aspects within an individual or between individuals and their families and communities. As the Manitoba Aboriginal Justice Inquiry (1991) noted,

The underlying philosophy in Aboriginal societies in dealing with crime was the resolution of disputes, the healing of wounds, and the restoration of social harmony. It might mean an expression of regret for injury done by the offender or by members of the offenders clan. It might mean the presentation of gifts or payment of some kind. It might mean the forfeiture of the offender's life<sup>1</sup>. But the matter was finished once the offence was recognized and dealt with by both the offender and the offended. Atonement and

<sup>1</sup> The forfeiture of the offender's life in certain traditional Native cultures should not be understood in the sense of the modern notion of capital punishment. With a communal decision that an offender posed too much danger to live within the community, he or she could be banished or exiled. With banishment, social relations and kinship ties may also be destroyed, thus requiring the individual to seek out survival in the harsh environment on their own. In this situation, if the individual's death occurred, it was more a reflection of the individual's inability to survive without community rather than a calculated death penalty. For a more thorough discussion, see Chapter Two of the Manitoba Aboriginal Justice Inquiry (1991), Volume 1, "Aboriginal Concepts of Justice".

the restoration of harmony were the goals—not punishment (Manitoba, 1991: V1, 27).

This chapter is an exploration of selected Native Justice Initiatives which echo this traditional message of healing at various stages in the conventional criminal justice process. We begin by examining the Hollow Water Healing Program for Sex Offenders in Manitoba, a diversionary program which, rather than punish, seeks to heal offenders and the community. From there, the use of the sentencing circle as a method for determining sentences in criminal cases will be illustrated by specifically discussing its use in *R. vs. Moses* (1992). The Stan Daniels Centre in Edmonton, Alberta and the Okimaw Ohci Healing Lodge near Maple Creek, Saskatchewan provide two examples of how a correctional facility may use traditional methods of Aboriginal healing to heal those in custody.

### **The Hollow Water Healing Program For Sex Offenders**

During an informal 1986 survey of the Hollow Water First Nation in Manitoba conducted by local social workers, the Ojibway community was shocked to learn that approximately two thirds of its 650 members had either been the victim or perpetrator of sexual abuse. Prior to the revelations of sexual abuse, the community had successfully lowered its alcoholism rate from 80 percent to 20 percent with the help of both local Ojibway social workers and non-native resources which sought to place the alcohol abuse within the Native experience in mainstream Canadian culture. Peter Moon (1995: A1) has observed that, "as people sobered up, they began to face their darkest secret: Sexual abuse was a major part of why they had been drinking". The resource group, immediately began to implement the same strategy which they had used to combat alcoholism by placing it in the context of community experiences. In addition, they created a community and family healing program which is based in Ojibway traditional spirituality.

With an agreement by the Manitoba Criminal Justice authorities to not take into custody those in Hollow Water who admitted perpetrating sexual abuse (as long as they participated in traditional healing), the Hollow Water program became a diversionary program. Once a case of abuse has been detected, the perpetrator is confronted at home by an intervention team. Confrontation is not hostile but is rather based in honesty and understanding as the social workers offer their support to all family members. The perpetrator is taken to the local R.C.M. P. detachment where a formal confession may be signed and the charge is laid. After pleading guilty in court, the offender is given a term of probation and an order to participate in the program and the healing begins. Healing in the Hollow Water program does not occur without consideration for the experiences of those living on the reserve. As Moon notes, "For generations, people from the community were subjected to the indignities of the residential schools, in which they were told to forget their language, culture, and spiritual beliefs. Missionaries told them they were pagans. Sexual and physical abuse was common" (1995: A1). The situation of Hollow Water may be likened to the situation of many Native communities in which the continuation of traditional life and its more concrete aspects such as parenting and social skills were disrupted by the removal of a generation to the residential school system. Upon return to their homes, this generation, so conditioned to the degradation and abuse in the schools, passed on their suffering to those around them. The result of this "was a dispirited sense of community that had lost its sense of purpose and identity and turned to alcohol as an escape" (Moon, 1995: A1).

In appreciation for the experience of the community, the Hollow Water Healing Program reflects a return to Native spirituality and traditional techniques of healing. As Marcel Hardesty, a member of the Band Council, notes, "The Spiritual program is the key" (Moon, 1995: A1). By making sure that offenders are not sentenced to jail time for their offence, the program itself marks a shift from punishment to rehabilitation, a concept which is more in line with

traditional healing aspects of the Native way of life. This framework of rehabilitation is further enhanced by a traditional technique of healing and conflict resolution which the program has named "Community Holistic Circle Healing". This is a gathering together of the offender, family and community members and sometimes victims to share through discussions the problems and experiences which each has faced in relation to the issue of sexual abuse. In addition to activities such as the performing of community service or participation in prayer ceremonies, smudging and the Sweat Lodge, the program also offers anger management and human sexuality courses.

Rupert Ross (1996) has noted that the healing orientation promoted at Hollow Water is not exclusively for victims, offenders and the community but is also extended to staff and those responsible for the healing of others. Ross proposes that this is based in the observation that "unhealed people cannot bring healing to others" and that teams of healing individuals cannot be built by "simply locating a dozen interested people, adding money and stirring in a few ceremonies" (1996: 155). A healing team requires a high level of trust among all members and requires a commitment to a process of self-development through which such trust and healing will become stronger. As Ross writes,

As I see it now, part of the genius of Hollow Water- and of the traditional teachings that shaped it- is that each person who comes to them for help finds himself in a circle composed of people who have already built relationships of honesty and openness with each other and who consistently demonstrate their respect and care for each other in everything they do. In other words, they get to sit, perhaps for the first time in their lives, in a "safe" place, a "hope" place and a "learning" place (1996: 148-149).

Peter Moon notes that in the nine years that the Healing program has been in place, it has served 52 offenders, 94 victims and more than 260 relatives of either. Of the 52 offenders, only 2 have re-offended, giving the program a better rate of success than its conventional

counterpart. But perhaps the real success of the program lies in its ability to revive the traditional lifestyle not only for offenders but also for future generations in the community. As Raymond Raven Sr., a member of the community, offered, "When I was his age [his son], it was against the law for me to take part in a sweat. I never had my traditions. I grew up to have a problem with drink. I am determined my son will grow up proud of his people. And he will grow up to honour the women in our community" (Moon, 1995: A1).

### **The Sentencing Circle**

As Justice Stuart wrote in the introduction of the criminal report of the sentencing trial of Regina versus Philip Moses, a member of the Na-cho Ny'ak Dun First Nation of the Yukon, the formality of the conventional sentencing procedure may "discourage participation, preclude disclosure of relevant information and inhibit [the] fashioning of [an] appropriate sentence" (Stuart, 1992: 357). Stuart submits that rising crime and recidivism rates make the search for alternatives in criminal justice a priority both in monetary and in human terms. He writes, "While the underlying problems of crime and the gross inadequacies of the justice system stem from much broader and deeper ills within society, significant immediate improvement within the court process can be achieved by changing the sentencing process" (1992: 360). In response to these problems and as an attempt to change the sentencing process within this case, Stuart utilized the circle sentencing method to arrive at an appropriate sentence for Moses. Such a method of sentencing is based in Native tradition which views the troublesome behaviour of an individual as the collective responsibility of a tribe, village or clan (Manitoba, 1991). Like the community and family conferences in New Zealand and Australia which encouraged the participation of the offender and the victim and their families and supporters (Braithwaite and Mugford, 1994), circle sentencing (or a healing circle as it may also be known) allows the

community to have a greater role in sentencing.

The offender in this case was Philip Moses, a member of the Na-cho Ny'ak Dun First Nation of the Yukon. He was convicted of carrying a weapon for the purposes of assaulting a police constable. Moses had a history of health problems related to substance abuse and had spent much of his early life in foster care, group homes and juvenile centres. With a previous record of 43 convictions, Moses had done time in jail with the most recent occasion being fifteen months on a previous conviction. All of his offenses were done while he was impaired or in order to support his addiction. Assessments of him described him as extremely sensitive, not trusting and as having dysfunctional coping skills. Throughout Moses' files there had been identified a need for personal counselling, but none had been provided.

Justice Stuart, the presiding judge in the case, recognized the need to pursue unconventional methods in the sentencing of Moses for this offence. In explaining why they were needed, the judge writes,

Jail is an undeniably important part of the numerous options required to competently address the infinite variety of offenders and offenses. In Philip's case, as with many others, jail sentences are unfortunately not simply the last resort, but the most expedient way of sweeping out of the community, off the court docket, a difficult problem. Crime will mysteriously disappear, society naively presumes, if criminals are sent to jail. Sweeping offenders into the hands of prison officials simply moves the problem from one incompetent process to another (Stuart, 1992: 382)

He further notes:

The tenaciously held belief against overwhelming evidence to the contrary that jail can be rehabilitative provides an illusory solace for the court and enables communities and courts to avoid confronting reality. The destructive impact on offenders and ultimately

future victims, and the squandering of scarce public resources is reason enough to exercise restraint in relying upon punishment and especially jail to protect the public (Stuart, 1992: 383).

In accordance with these views, Stuart allowed the sentencing of Philip Moses to be carried out in a sentencing circle. In the courtroom, a circle to seat 30 people was arranged. The defence attorney sat beside Moses and his family, while the Crown sat directly across from them and to the right of the judge. Others present in the circle included members of the Na-cho Ny'ak First Nation, R.C.M.P. and probation officers, and other members of the community who wished to take part.

Prior to the beginning of the sentencing process, Stuart noted that the circle structure dramatically changed the dynamics of the interactions between participants. The participants, because they were facing each other with little distance between them, had equal access and equal exposure to each other. The sentencing circle began as all participants were asked to introduce themselves. All participants remained seated while speaking. After a few brief remarks by the judge and the counsel, the atmosphere became very informal. However, the discussion intensified and centred on how best to both protect the community and help Moses overcome his alcohol problem. Throughout the discussion, the participants referred to each other by name instead of title and any potentially confrontational situations were quickly calmed by the close proximity of the participants.

Perhaps the most useful remarks were made by Moses himself, who spoke with an "eloquence, passion and pain" which "riveted everyone's attention" (Stuart, 1992: 371). As Justice Stuart later noted, until Moses found himself in the circle, he had believed that he had alienated his family and his community through his conduct. Moses had even remarked during a previous courtroom session, "I just want to go to jail, I don't want any of this treatment" (Stuart,

1992: 391). Such a statement is in definite contrast to the negative effects which Moses' previous periods of incarceration had on him. Previous psychiatric, medical and court reports on Philip Moses discussed the especially dangerous combination of Moses and prison in terms of suicide, substance abuse and recidivism. Stuart submitted that,

Substance abuse, criminal activities, and the chronic failure to cope with the demands and discipline of a self-reliant existence are symptoms of Philip struggle with the curse of fetal alcohol syndrome. Jail compounds the difficulties in successfully resolving his problems. To break the vicious cycle consisting of jail, substance abuse, crime and jail, that has repeatedly denied his prospects for a positive life and repeatedly threatened his community, something other than jail must be tried (Stuart, 1992: 386).

In the understanding that jail was not an appropriate response for Moses, his family and his community were given more responsibility in his rehabilitation. This his mother, brother and the Chief of the First Nation accepted freely, frequently expressing the need to reintegrate Moses with his family and community during the sentencing.

The participants collectively determined that Moses be given a suspended sentence and placed on two years probation. The sentence was divided into three distinct stages, the first of which involved the reintegration of Moses with his family and his community. Because his early life was characterized by foster homes, group home and detention centres, Moses had lost contact with his family and the traditional way of life. Therefore as a condition of his probation, the circle participants determined that he be required to reside with a member of his family on a rural trapline outside of the town of Mayo. The second part of the plan centred around healing Moses of his alcohol addiction by sending him to a two-month residential program for Native alcoholics in southern British Columbia (it was the preference of the circle to send Moses to a program in the Yukon but none existed). His brother was allowed to accompany and attend the



sessions with him while frequent contacts would be maintained by his family, his community and his probation officer. In the third and final stage of the sentence, Moses would return to Mayo and reside with his family in the alcohol-free home which they would provide for him. Members of the First Nation would thereby begin a program of educational, emotional, and substance abuse counselling, employment searches and continued support for Moses. The participants in the circle decided that they would meet between each stage of the sentence to further 'fine-tune' the plan and offer additional support. In using the sentencing circle, Stuart offers that the conventional structure of justice was able to provide a viable alternative to jail for Philip Moses by incorporating the values and concerns of The Na-cho Ny'ak First Nation to which he belonged. The exhaustive and encompassing sentence which was achieved by using circle sentencing over conventional methods may be attributed to the twelve specific benefits which Stuart observed during the process. The circle structure and format of the process does the following: 1/ challenges the monopoly of professionals in the criminal justice process to always know what is best for an offender; 2/ encourages lay participation and thus extends the perspective of the process in to the 'real' community ; 3/ enhances the information available to the court about the offender by placing him or her in a family and community context; 4/ allows a creative search for new options; 5/ promotes a sharing of responsibility for the offenders success and failures thus providing participants with a vested interest in the offender; 6/ encourages the offender's participation in order to further his or her own understanding of the offence and create an appreciation for past experiences which may have contributed to the offence; 7/ presents a structure by which the victim may be involved in sentencing; 8/ creates a constructive rather than punitive environment in the courtroom; 9/ promotes a greater understanding of criminal justice limitations and the need for progressive alternatives; 10/ extends the focus of the criminal justice process into an appreciation of the reality of the community; 11/ mobilizes community resources in a way which is effective for the offender; and

12/ merges the values of the First Nations and western government to achieve a more meaningful, effective, and appropriate justice for Native people (Stuart, 1992: 365-375).

The structure of the sentencing circle, by containing those positive attributes as outlined above, contributed to the creation of a sentence which represented an innovative alternative to incarceration and which, by being personally meaningful for Moses, may increase his chances of success. This case provides an illustration of how penetrating and 'healing' a sentence may potentially be in terms of actually accessing an offender's problems and offering a practical and effective solution. As Justice Stuart concluded,

Unless the system is changed, the community will be victimized by the very system charged with the responsibility of protecting it. We must find a way to change. We must find communities, First Nations, professional and lay people willing to work together to explore 'truly new ways'. We will: we have no choice. In making the circle work, the Na-cho Ny'ak Dun First nation took an important first step. Can we follow? (1992: 394).

Such a 'first step' has given Moses a better chance of achieving an independent and free life. It has also given the justice system a better chance of never dealing with him again and has given the community a greater level of responsibility for its own safety and freedom. In this way, the sentencing process and the sentence given to Moses may represent a profound healing.

### **The Stan Daniels Correctional Centre**

The Stan Daniels Centre in Edmonton Alberta was the first native-run correctional centre in North America. Managed by the Native Counselling Services of Alberta, the Stan Daniels Centre is a minimum security correctional centre designed specifically to address the needs of male Aboriginal offenders. The Centre functions under the objectives of the Native counselling Services of Alberta which are: 1/ to lower the Native incarceration rate: 2/ to gain

fair and equitable treatment for Native people involved in the criminal justice system; and 3/ to assist Native communities and individuals in developing their full potential (Solicitor General, 1994b: 18).

Within its own mission statement, the Stan Daniels Centre reiterates its duties and responsibilities to the offender, the community and to provincial and federal authorities from which offenders are allowed to enter the program. For the offender, the centre promises assistance in identifying individual needs through the use of a "holistic approach to assist the offender to look at their physical, mental, emotional and spiritual well-being" (Solicitor General, 1994b: 18). Such a holistic approach is found in programs such as *Os Ki Pi Matsiun*, a seven week family life improvement program in which residents are encouraged to confront issues of self-identity, relationships, anger, sexuality, violence, substance abuse and suicide. An Elder remains at the centre for three days of the week to provide counselling and to impart the understanding of the traditional way of life. Traditional spiritual practices and ceremonies such as the sweat lodge, fasting, the burning of sweetgrass, and dancing are an important component of this particular program in the understanding that such activities allow residents "to become culturally and spiritually aware of their ancestral heritage, thereby building pride and self-esteem" (Solicitor General, 1994b: 24). In addition to the family life improvement program, there is an art therapy program to help express, in a creative and positive way, the anger and the bitterness which developed in many residents through previous periods of incarceration or from the rejection and abandonment they experienced by their families and by society in general. The provision of work is also an important role of the centre. For those who are confined to the centre by sentence, work is available in maintenance, cleaning or in kitchen duties. For those who are allowed access to the community, the centre runs two programs, the *Learning Employment Enhancement Program (LEEP)* and the *Community Preparation and Integration Program (CPIP)*. Both programs are offered to provide residents with the work and educational

experience which will allow them to find and keep meaningful employment in the community.

In its promise of healing for the offender, the Stan Daniels Centre does not neglect its duties to the community and to the greater authorities of corrections who are ultimately responsible for the residents. In its mission statement, the centre seeks to "ensure that the community is safeguarded against any further criminal acts by offenders residing at the Centre" and further that "only residents displaying a willingness to change inappropriate behaviours shall remain residents of the Centre" (Solicitor General, 1994b: 19). Such an objective is supported by the following admission conditions of the Centre: no escape history and low escape risk; no outstanding charges or deportation orders; low risk to the community; no serious medical, emotional, or behavioral problems; no serious institutional charges and satisfactory work reports; a willingness and motivation to address past problem behaviours through treatment; nearing the end of a federal or provincial sentence (Solicitor General, 1994b: 21). The Centre also stresses its commitment to maintain appropriate levels of security and supervision service for its charges, as well as including the Federal and Provincial authorities' conditions of release and treatment recommendations in the personal development plan of each resident.

The underlying philosophy of the Stan Daniels Centre is reflected in the comment by its director, Carola Cunningham, that "Goodness is an essential value in native culture" (Faulder, 1993: C7). The 'goodness' of the resident is nurtured through traditional native spirituality and, as staff member Vicki Whalen noted, by not considering what the residents had done to get there. Staff members are also not discouraged when residents return to their old ways upon release. For them, "success is progress, however slow" (Faulder, 1993: C7) and their belief in the strength and purity of the human spirit provides the understanding that the residents are being positively affected by the Centre even if results are not immediate. The program represents a process of healing rather than the administration of a cure or the delivery of a sanction. In this way, the Stan Daniels Centre approaches a traditional Native model of

justice which is founded on the restoration of harmony.

### **The Okimaw Ohci Healing Lodge For Federally Sentenced Women**

In 1990, the Report of the Task Force on Federally Sentenced Women, Creating Choices, was accepted by the Federal Government as a document with which to guide the reform of the structure of incarceration for federally sentenced women. Within the plan outlined by the report was a specific recommendation to create a Healing Lodge for Aboriginal federally sentenced women. Such a recommendation was based in an awareness of the unique situation of Aboriginal women in prison, their over representation and their victimization before and during incarceration. As the report noted, "Aboriginal women have been subsumed within two worlds...the White and the male" (Canada, 1990: 67). The Okimaw Ohci Healing Lodge was opened in August of 1995 in Maple Creek, Saskatchewan in accordance with the Task Force desire to achieve the following: a safe place for Aboriginal women prisoners; a caring attitude towards self, family and community; a belief in individualized client-specific planning; an understanding of the transitory aspects of Aboriginal life; an appreciation of the healing role of children who are closer to the spirit world; and pride in surviving difficult backgrounds and personal experiences (Canada, 1990: 123). The phrase *Okimaw Ohci*, which in English means "Thunder Hills", was received by an Elder on a Vision Quest, or a search for spiritual communion, and is therefore felt to be a source of strength and guidance for the Lodge (Okimaw Ohci Healing Lodge, 1995).

The Healing Lodge has both a vision and a role statement, two declarations which indicate the Lodge's commitment to its dual role as a correctional institution and a healing program. The vision of the Healing Lodge is to "re-kindle the Spirit of Federally Sentenced Aboriginal Women" by providing the teachings of the Elders and traditional understanding in

order to provide a "spiritual base for life's challenges" (Okimaw Ochi Healing Lodge, Undated) The underlying philosophy of the Lodge is therefore based on Native spiritual understandings. As the vision statement outlines, the Lodge seeks to promote the traditional way of life in which Aboriginal people lived "by a principle that was based in the Power, the Beauty, the Sacredness and the Harmony of Creation" and held in sacredness the traditional teaching of "peace within ourselves, with our families, with our communities and within our nations" (Healing Lodge Vision Statement: 3). For federally sentenced Aboriginal women, the Healing Lodge seeks to represent a "safe place or power spot" and a "pathway on which a holistic approach to healing and human development will take place" (Okimaw Ochi Healing Lodge, Undated).

In the Lodge's Role statement, which serves as its Mission statement, are listed twelve objectives: 1/ to provide a correctional healing model based on Aboriginal teachings; 2/ to teach and practice various ceremonies related to Spiritual and Cultural well-being; 3/ to share oral teachings; 4/ to create a culturally responsive model based on the needs of Aboriginal women in order to assist in their successful return to society; 5/ to create an environment free from racism, sexism, and classism; 6/ to create an internal community committed in principle and practice to the promotion of wellness-mental, spiritual, physical and emotional; 7/ to promote respect and understanding of self and others; 8/ to create an environment in which Aboriginal women can assume/continue an active parental role with their children; 9/ to provide an opportunity for the harvesting and growing of herbs, plants, and organic produce; 10/ to facilitate conditional release at the earliest possible time by addressing those aspects which relate to why women are involved in crime; 11/ to create and maintain partnerships with the community and provide a setting for shared learning experiences; 12/ to develop the Healing Lodge as a model for other correctional facilities, and will, whenever possible, share their expertise in staff training models and unique programs with interested parties at both the National and International levels (Okimaw Ochi Healing Lodge, 1991: 2).

Although the Lodge is just newly operational (with the first residents having arrived in October of 1995), many of the previous objectives have been given form through initial planning and development. As Faith (1995: 100) notes, the Planning Circle began with the understanding that "current punitive measures will not and do not allow for rehabilitation" and that "rehabilitation, in the true sense of this word, means that the focus must begin to shift from punishment and incarceration to holistic healing. The Lodge was therefore placed on Nekaneet land in Saskatchewan because the community demonstrated a strong understanding and commitment to traditional Aboriginal spirituality and its role in healing the women. The buildings of the Lodge are arranged in the shape of an eagle on 20 acres of wooded land and are free from fences, iron bars, and other standard security measures found in conventional institutions. The bedrooms cannot be locked from the outside and the staff neither carry nor are trained in the use of weapons. The Lodge houses a maximum of thirty women, admitting only those who have "a commitment to the hard work of healing" (Faith, 1995: 100)<sup>2</sup>. They are provided with duplex-style row housing in which a maximum of two residents may live in each side. Half of the units have a third bedroom in which the children of residents may live. As Faith observes, even the term 'warden' has been replaced by the Cree word "Kikawinaw" which means 'Our Mother' and the position has gone to a female Elder who has no previous experience in corrections.

Programming at the Healing Lodge is intended to reflect Aboriginal techniques for producing health or wellness in the mind, body, heart and spirit. As Faith notes, core programming, such as anger management, parenting and life skills, will be conducted by using

<sup>2</sup> Since the writing of Faith's 1995 article on the Saskatchewan Healing Lodge for Women which also noted that women were admitted with no concern for their previous correctional 'risk' designation, the decision has been made by correctional officials to deny the admittance of women classified to be in need of "maximum" security. The lack of bars on the facility would seem to have been possible only at the cost of denying the women most in need of the Lodge's healing orientation.

traditional Aboriginal understandings and values and may be complemented by the occasional contractual arrangement between the Lodge and a non-aboriginal group or individual. Of the 26 staff, (19 are Aboriginal and 7 have had extensive experience working with Aboriginal communities) only four have had previous experience with corrections. As a part of their training, the staff had to first spend 28 days at a treatment centre in order to heal themselves and develop an understanding for the experiences of those in a healing process. An additional ten weeks was spent learning techniques of self-care, healing and spiritual purification based in traditional aboriginal methods (Faith, 1995).

Although the Okimaw Ohci Healing Lodge is a new addition to the conventional structure of corrections in Canada, there are already concerns with questions of success or failure. The vision of the Lodge is to promote the healing of federally sentenced aboriginal women and thus release them to a life of freedom and self-understanding. In terms of its conception, its planning and development and indeed the opening of its doors, the Healing Lodge may already be offered as a success. We are reminded of the understanding of the staff of the Stan Daniels Centre which sees 'success as progress'. For the Healing Lodge, such success is inherent in its very existence. As its Vision Statement submits, "Through the teachings of the Medicine Wheel all things are part of the Creation. We begin within the Centre of the Circle of life, the Creator and the Creation. The centre is also ourselves where we find Vision, our direction on the Spiritual Path in Life" (Okimaw Ohci Healing Lodge, Undated). Like the centre of the circle where the Self gains an understanding of itself and the rest of creation, the Healing Lodge seeks to provide a nurturing environment where traditional understandings may be related through the teachings of the Elders and where women may come to better appreciate themselves as Native women and as spiritual beings.

Such innovations and alternatives within the structure of criminal justice represent the beginnings of a criminal justice process which is more meaningful and thus effective for



Native people in conflict with the law. By interweaving traditional Native spirituality with the conventional criminal justice process, the Canadian legal and correctional structures are moving towards a more peaceful resolution of the issue of over-incarceration and discrimination against Native people within criminal justice. The healing or rehabilitation of Native offenders in their traditional ways is essential, for Native people have endured much at the hand of mainstream society. In a traditional understanding, the balance and harmony of the circle of life has been broken apart by suffering. This suffering, as created by dehumanization, oppression, segregation, paternalism, poverty, racism and the offshoots of alcohol, drug, physical and sexual abuse, is the essential reason why Native people are vastly over-represented in criminal justice. It seems illogical that suffering such as this should be countered with more suffering in the courtrooms and the prisons. Native Justice Initiatives (although currently on the terms set by the dominant criminal justice system) do represent a return to a Native understanding of justice which is "to restore the peace and equilibrium within the community, and to reconcile the accused with his or her own conscience and with the individual or family who has been wronged" (Manitoba, 1991: V1, 22). It is a healing and restorative form of justice which places the individual within the greater framework of family, community and humanity. In this way, Native justice initiatives join peacemaking criminology and its understanding that crime is characterized by suffering and that the only effective method of affecting crime is by affecting that suffering through non-violence, peace, and social justice.

**6****EXPLORING THE CONJUNCTURE OF PEACEMAKING  
CRIMINOLOGY AND NATIVE JUSTICE INITIATIVES**

***The Peacemaker came to the people with a message that beings should cease abusing one another. He stated that humans are capable of reason, that through that power of reason all men desire peace, and that it is necessary that the people organize to ensure that peace will be possible among the people who walk about on the earth. That was the original word about laws - laws were originally meant to prevent the abuse of humans by other humans.***

***The Hau de no sau nee Address to the Western World  
Geneva, Switzerland 1977***

Hal Pepinsky (1995) has noted that a significant source of inspiration within current works in peacemaking criminology comes from an examination of how indigenous traditions respond to crime and problematic behaviour. This link between peacemaking and indigenous justice practices has also been noted by Braithwaite and Mugford in their 1994 article entitled "Conditions of Successful Reintegration Ceremonies". In this work, two youth justice initiatives, the 'family group conference' of New Zealand and the 'community conferences' of Australia are described in terms of their potential to reintegrate the offender back into the community through a method which the authors call 'reintegrative shaming'. Such a method is based in the traditional Aboriginal way of life and represents an accommodation between Aboriginal tradition and the Euro-based criminal justice system. The conferences take the form of a meeting between the offender, the victim and interested parties such as family and friends from both sides. With the help of a mediator, the group discusses the offence and openly denounces the offence in an attempt to make the offender realize the consequences of the offence. Once deeply embarrassed and ashamed, the offender is 'reintegrated' into the community and family by a show of encouragement and support by all present. Discussion then focuses on producing a remedy for the problematic situation which is in the best interests of both

the offender and the victim.

The union of Aboriginal tradition and the conventional western structure of criminal justice is not limited to Australia and New Zealand but is, as discussed in Chapter 5, also found within Native justice initiatives in Canada. The Hollow Water program, the sentencing circle, the Stan Daniels Centre, and the Ohci Okimaw Healing Lodge each represent an accommodation between Native culture and the Canadian criminal justice system. These justice initiatives would seem to be founded on two basic understandings: 1/ that for justice to be satisfying, respected and therefore effective, it must be meaningful to those upon whom it is applied, and 2/ a justice system which is based only on what is meaningful for one group will fail in terms of effectiveness, usefulness and justice for others. Because of its origin in British common law, the Canadian justice and legal system may be called Euro-based (Nielsen, 1994) in terms of its conceptions of crime and justice. Such conceptions may be found in the Christian world view which has dominated much of the social and historical development of English culture. As Charlie Hill (1995), a Mohawk and member of the Assembly of First Nations in Ottawa, explained, in his understanding, Christianity may be conceptualized as a triangle in which certain hierarchical relationships may be observed <sup>1</sup>. At the top apex of the triangle is the Father or the supreme divine force, while at the two lower apexes are Jesus Christ and The Holy Ghost. For the ordinary person, the Father may only be approached through an intermediary such as Jesus or the Holy Spirit. This hierarchical structure is repeated in western institutions such as the church where the priest is the intermediary; the courtroom in which the judge holds absolute power and the defendant or the victim may only approach that power through legal representation; in the classroom where the teacher is the source of knowledge; in the

<sup>1</sup> Although what is presented here is based on Charlie Hill's vision, other conceptualizations of spiritual structure within Christianity (in particular Catholicism) may include a quadrangle in which Mary, or the Madonna, in addition to Jesus and the Holy Spirit plays an important role as an intermediary between humans and the Divine Father.

workplace which operates on the notion of supervisor and subordinate; and in the family where the status of parent is afforded more power than the status of child. In contrast to this conceptual structure, the Native way of life as presented in Chapter 4 is symbolized by a circle. Like the Mik' maq Medicine Wheel which envisions the cyclical connection between all of creation, traditional Native social life may also follow a circular pattern. The circle structure has a physical and conceptual impossibility of hierarchy since no individual may be above or below another. It is a structure of perpetual democracy for as is seen in the Medicine wheel which turns through the seasons and through the stages of life, those who follow also lead.

The four Native justice initiatives which have been previously discussed represent an accommodation between Native tradition and conventional Canadian criminal justice. They offer the beginnings of a union between the circle and the triangle of Charlie Hill's understanding. The traditional understandings of the Natural way are brought into the realm of criminal justice in order to promote a holistic restoration to health and harmony for Native people in conflict with the law. From structural features such as the lack of fences or bars on windows at the Healing Lodge, the layout of buildings in the form of an eagle, or the physical arrangement of the courtroom in *R. vs. Moses* which transformed discussion, to the actual spiritual content of correctional programs such as prayers to the Creator, the Sweat Lodge and the burning of sweetgrass, the presence of traditional Native spirituality is felt within criminal justice. In addition, these programs operate with an appreciation for the inequality of the historical and social experience for Native people. It may be openly stated as in the Hollow Water program's contextualization of alcohol and sexual abuse within the communal experience of residential schools or, like the Healing Lodge it may be implicit in the program's very existence. These initiatives, by focusing on healing rather than punishment, adhere to the understanding of the Medicine Wheel which indicates that punishing another is to punish all of creation for its effects are felt beyond the individual. The righteous anger and hate which is caused by punishment seep into the consciousness of the family, the community, and those who witness and administer

it. The circle is injected with a conflict which is detrimental to the creation of harmony in relations. To avoid this, traditional Native justice focused on reconciliation and the restoration of relations between an offender and those offended, in essence, peacemaking. In the most severe cases of offenses where an individual was a threat to the well-being of the community, an imperative for social action comes from the ethic of sharing (Brant, 1986). Contrary to the Western individualistic tradition, this ethic is based in the understanding that the survival of the group is more important than the survival of any one person. To preserve the community, traditional Native communities may have practiced banishment or exile as an alternative to incarceration or death (Manitoba, 1991: V1).

This chapter explores the conjuncture of peacemaking criminology and Native Justice Initiatives by outlining two specific areas in which the two share common understanding. The first of these is that both peacemaking criminology and Native justice initiatives represent what Wallace (1956) has called a *revitalization movement*. Peacemaking criminology and Native justice initiatives share in what they seek to achieve through their respective movements, namely the growth of non-violence, peace and harmony within the realm of conventional criminal justice. The second area which the two share is the spiritual context of higher awareness, personal perfection, the interconnection of existence, and the necessity of actions to uphold the human values of peace, harmony, truth and love. The core teachings of Hinduism, Buddhism and Christianity, the spiritual foundations of peacemaking, mirror the fundamental understandings of Native Spirituality. The Gandhian concepts of Satyagraha and self-sacrifice for social justice are similar to the teachings of Native Elders who offer the principles of harmony, truth, caring and sharing and the survival of the community over the survival of any one individual. In this way both peacemaking criminology and Native justice initiatives represent active movements for Justice and Truth which are built on foundations of sacredness.

### **Revitalization Movements**

In an analysis of the Handsome Lake Code of the Seneca prophet of reservation Iroquois during the early 19th century, A. F. C. Wallace (1956) created the term *revitalization movement* to describe the generic process by which certain culture-change processes may transform an existing culture into a new and desired form. In anthropological literature, the conventional processes which succeed in transforming culture are those of evolution, diffusion (the spread of culture from place to place), or historical events. These processes however may be the result of infrequent and unintentional occurrences and are not specifically intended to change culture. Cultural change occurs as almost a by-product. In a revitalization movement, Wallace proposed that cultural change or transformation is a specific result and represents a "deliberate, organized, conscious effort by members of a society to construct a more satisfying culture" (Wallace, 1956: 265). The revitalization movement encompasses specific movements such as reform movements, social movements, nativistic movements or religious movements though the generic processes of cultural change or renewal which are present in each. According to Wallace, these processes occur at the five stages in the development of a revitalization movement which are: 1/ The steady state; 2/ The period of individual stress; 3/ The period of cultural distortion; 4/ The period of revitalization; and 5/ The new steady state (Wallace, 1956: 268). Wallace proposes that the very term 'revitalization' implies that society be viewed as an organism. He submits that, "this holistic view of society as an organism integrated from cell to nation depends on the assumption that society, as an organization of living matter, is definable as a network of intercommunication. Events on one subsystem level must affect other subsystems" (1956: 266). Given the intercommunication and integration which is present between the individual and the rest of society and the subsequent information which is passed between each through the resulting dialectic, Wallace contends that each

person in society constructs a *mazeway* or a mental image which is a view of "nature, society, culture, personality, and body image, as seen by one person" (1956: 266). The mazeway is continually readjusted by the individual to accommodate for the stress experienced when irregularities or contradictions are found within the social organism. As Wallace notes,

Whenever an individual who is under chronic, physiologically measurable stress, receives repeated information which indicates that his mazeway does not lead to action which reduces the level of stress, he must choose between maintaining his present mazeway and tolerating the stress, or changing the mazeway in an attempt to reduce the stress. Changing the mazeway involves changing the total *Gestalt* of his image of self, society and culture, of nature and body, and of ways of action. It may also be necessary to make changes in the "real" system in order to bring mazeway and "reality" into congruence. The effort to work a change in mazeway and "real" system together so as to permit more effective stress reduction is the effort at revitalization; and the collaboration of a number of persons in such an effort is called a revitalization movement (1956: 267).

Both peacemaking criminology and Native justice initiatives seek to revitalize society and culture and to reconstruct the mazeway of individual members of society. Given that collective action is required, such initiatives may appropriately be called revitalization movements.

### **Peacemaking as Revitalization in Criminology**

The revitalization that peacemaking represents in criminology can be examined through an analysis of Richard Quinney's personal and professional evolution. As Wallace would contend, the beginning of a revitalization movement is found in the reconstruction of the personal mazeway by a prophet or a leader of the movement. Although some individuals may take offence to the suggestion that Quinney represents a prophet in criminology (among them would certainly be Richard Quinney himself who regards himself as more of a seeker than an

expert), the fact remains that the five processual stages as outlined by Wallace can be detected in Quinney's writings, reflections and personal realizations over the course of his career. In exploring peacemaking as a revitalization movement, Quinney's writings and published statements can be analyzed for signs of revitalization. The movement followed the man instead of the man following the movement.

The first stage of a revitalization movement is a steady state. This state is marked by techniques by which individuals continually adapt their mazeway to allow for an accommodation of stress. This allows the stress to be tolerated as long as: 1/ the techniques for satisfying other needs are not seriously interfered with; and 2/ abandonment of a given technique for reducing one need in favour of a more efficient technique does not leave other needs, which the first technique was also instrumental in satisfying, without any prospect of satisfaction (Wallace, 1956: 269). The arrival of peacemaking in criminology represents an attempt to reconstruct the mazeway through which criminologists approach the subject matter of crime. As Quinney noted early in his career, "What I want to develop is a radical social theory, a theory which will liberate us as human beings rather than oppress us. Sociological theories have supported a society that oppresses. Ideas themselves have oppressed us" (Goldwyn, 1971: 43). For Quinney, existing social theories during the sixties supported an oppressive society. Quinney's early writings sought to move outside of conventional criminological wisdom by questioning the legitimacy of legal and accepted notions of crime and by breaking away from an acceptance of the law as an absolute (1970; 1971; 1974). Prior to his venture into what would later be known as critical criminology, Quinney's work, for example, his doctoral dissertation on prescription violation by retail pharmacists (1963), had a definite positivistic orientation.

The years preceding the sixties and Quinney's first radical works in criminology, may be described as a combination of two stages: the first, a steady state and the second, a period of increased individual stress. As Wallace describes it, the steady state is characterized by



adequate individual adaptation to stress in the mazeway. The individual is able to satisfy physical, intellectual and emotional needs within the current structure of society and culture. Within criminology, such a steady state was manifested by a historical adherence to positivistic inquiry and science as a way of framing the subject matter of crime (Galliher, 1991). The focus of positivistic concern is the criminal actor and those personal and environmental characteristics which are conducive to crime. It is a model of analysis which views the elimination or reduction of crime as taking place through intervention with "maladjusted" or "disorganized" groups and communities. The law is understood to be invariably 'right' or 'just' and thus is taken for granted. As Quinney proposed, the untouchability of the law as an item of inquiry prior to the sixties was due to criminologists who "assumed that the law was good in itself" (Goldwyn, 1971: 43).

With the sixties, the second stage of increased individual stress within contemporary criminology may be indicated by the questioning of this steady state of positivistic inquiry and its ability to meaningfully address crime and justice. At this stage, Wallace proposes that

a point is reached at which some alternative must be considered. Initial consideration of a substitute way is likely, however, to increase stress because it arouses anxiety over the possibility that the substitute way will even be less effective than the original, and that it may also actively interfere with the execution of other ways. In other words, it poses a threat of mazeway disintegration. Furthermore, admission that a major technique is worthless is extremely threatening because it implies that the whole mazeway system may be inadequate (1956: 269).

As Quinney notes, it was somewhere in the turbulent 1960's that his own perceptions of the world were significantly altered. He contends that his turn to a critical position in criminology, was more in terms of what was happening outside than what was happening in criminology or sociology. It was more my relation to the world. It was the time when I began to see many of the injustices around us and rather than assuming that the law

was the instrument of justice I began to question the law (Goldwyn, 1971: 43).

He further notes:

Some years ago, during that ontological shift of the 1960's, I sat in the cafes of Greenwich village, walked the streets of New York, and participated in the political events of the time. Daily without ceasing. This song was playing then, Les McCann's "Compared to What." (After thirty years, this song still speaks to me.) Singing of the events of the time, hoping to understand, McCann sang "Everybody now, try to make it real compared to what." He sang mournfully the lines: "The goddamn nation..." "The president he's got his war. Folks don't know what its for." "But I can't use it". "Where's my God, and where's my money?" "Goddamn it, try to make it real compared to what." In those days, I was trying to make my own song. One result was a book I called The Social Reality of Crime (1970) (1994: 1).

The work The Social Reality of Crime (1970) is a seminal text in critical criminology which viewed crime and the law as social creations and not as inherently good or evil. Quinney's "song", The Social Reality of Crime, represented the reconstruction of his own mazeway or his attempt to make sense of the world around him in response to the changing political climate and the questioning of conventional values in the 1960's.

The third stage of revitalization, the period of cultural distortion, is marked by a situation in which " the inadequacy of existing ways of acting to reduce stress becomes more and more evident, and as the internal incongruities of the mazeway are perceived, symptoms of anxiety over the loss of a meaningful way of life also become evident, disillusionment with the mazeway, and apathy toward problems of adaptation set in" (Wallace, 1956: 270). In pinpointing the emergence of critical criminology, Maclean (1986) suggests that shifting conceptions of crime as an event (as proposed by the dominating positivist school of the mid-fifties) to crime as a process marked the beginning of the intellectual move towards a critical

tradition. Despite the commitment of proponents of the critical tradition to create a progressive criminology, Maclean and Milovanovic (1991) point to periods of both agreement and disagreement within the critical stream as to how the concerns of a critical criminology should be directed. In response to the social turmoil and anti-war movement of the 1960's, a period of agreement occurred within critical criminology and precipitated the development of the Labelling school in the United States and the New Criminology in Britain. This solidarity among critical thinkers was soon shattered with the rise of a neo-conservative reaction in both the U.S and the U.K. during the 1970's. Maclean and Milovanovic (1991) point to the proliferation of criminologists fuelled by the belief that there is no cure for crime and that the only concern should be to manage or control it in order to reduce its negative impact on society and to protect the public. From the early seventies until the 1990's, this third state of cultural distortion, disillusionment with the maze, anxiety, and apathy has characterized contemporary criminology particularly in some of the more nihilistic streams of postmodern thought. Just as administrative criminologists have accepted that there is no cure for crime, so have many critical criminologists conceded their failure to construct a meaningful approach to crime and frequently subscribe to the notion that criminologists create crime. As Quinney described it, "No amount of thinking and no amount of public policy have brought us any closer to understanding and solving the problem of crime. The more we have reacted to crime, the farther we have removed ourselves from any understanding and any reduction of the problem" (1991: 3). He continues,

With such a realization, we return once again-as if starting anew-to the subject of crime, a subject that remains one of our most critical indicators of the state of our personal and collective being. If what is said seems outrageous and heretical, it is only because it is necessarily outside the conventional wisdom both of our understanding of the problem and of our attempt to solve it. Only by entering another world-yet one that is very simple and ultimately true-can we become aware of our own condition (1991: 3).

With this, Quinney called for a reorientation to the discourse and concerns of criminology, just as he had done twenty years earlier in The Social Reality of Crime (1970). The reorientation is to be a criminology of peacemaking.

Wallace's fourth stage of a revitalization movement is the actual period of revitalization. As he noted, many such movements are religious in nature and have six major tasks to achieve: 1/ mazeway reformulation by an individual or a prophet, and the restructuring of social elements and ideas in such a way as to create a new internally consistent mazeway ; 2/ communication of the new mazeway to others in order to 'convert' others or help them to resolve their own misgivings about the previous mazeway ; 3/ organization of those who subscribe to the new mazeway in order to facilitate social action and campaigning to further the goals of the movement; 4/ adaptation to the resistance which the movement will encounter, perhaps through modification of the mazeway; 5/ cultural transformation as more members of the social body accept the principles of the movement and put them into practice in social, political or economic reform; and 6/ the routinization of the movement, or its acceptance into everyday social and cultural practices through its efficacy in adapting to stress-generating situations (Wallace, 1956: 270-275). With the completion of this stage, the revitalization movement moves into the final stage, the new steady state, a new cultural system which differs from the old one and which has proven itself viable in social life.

Although peacemaking criminology is a relatively new arrival in criminology and cannot be followed through all of the six levels of the actual revitalization stage, its theoretical principles do *require* a revitalization of criminological theory and practice since they are premised upon views of humanity, society, and nature which are contrary to conventional views. Wallace argues that there is no need for a "requisite number of stages...as long as the original conception is a doctrine of revitalization...." (1956: 279). Peacemaking in criminology appears to have passed through the first three stages of mazeway reformulation, communication and organization. The first stage of mazeway reformulation is first evident in Quinney's writings

which sought to transcend conventional approaches to knowledge (1973; 1977; 1980) and which looked outside the realm of conventional wisdom in criminology (1986). By 1988, with the publication of the article "Crime Suffering and Service: Toward A Criminology of Peacemaking", Quinney's ideas about a religious and humanist approach which viewed crime as suffering had solidified into an internally consistent way. His presentation of criminology as peacemaking was the articulation of new way of approaching and understanding crime and criminology. With subsequent writings by Quinney (1989; 1990; 1991) and Pepinsky (1980; 1986; 1988; 1989; 1991b) , whom Quinney once wrote and told that he thought criminology should move in the direction of peacemaking (Pepinsky 1991a), and with the production of the first peacemaking text in criminology Criminology as Peacemaking (Quinney and Pepinsky, 1991) which contained articles by a number of distinguished criminologists in the areas of religious/humanist, feminist, and critical peacemaking, the second and third tasks of communication and organization were achieved. In 1986, Schwartz had distinguished peacemaking as a new school of thought in criminology. This view was also affirmed by the inclusion of peacemaking as one of four New Directions in Critical Criminology (Maclean and Milovanovic 1991).

Peacemaking criminology represents what Friedrichs (1991) has called "a heresy of the first order" which seeks to "turn the criminological enterprise on its head, to challenge fundamental premises of this enterprise" and promote "a world of less crime, violence, and oppression" (1991: 102 - 103). In this way, by its very objective, peacemaking criminology may be called a revitalization movement within criminology.

### **Native Spirituality in Criminal Justice as Revitalization**

Like peacemaking in criminology which seeks to revitalize peace, non-violence and spirituality, the Native justice initiative represents a revitalization of traditional Native understandings of sacredness, harmony and healing within conventional criminal justice. As in the previous discussion, the evolution of the Native justice initiative is explored through the

concept of revitalization and its associated stages. As Wallace observed, the description of revitalization may be extended to a movement in which only the intention of cultural revitalization is present and does not depend on how many of the processual stages have been passed through. Because the Native justice initiative is a relatively new addition to criminal justice in Canada, it has not experienced a full process of revitalization. Its intention to create a more culturally sensitive and meaningful process of justice for Native people in conflict with Canadian criminal law is therefore relied upon to establish it as revitalization.

For Native people in North America the first stage, the steady state, may be likened to the time preceding the arrival of Europeans to Great Turtle Island and when Native traditions solely guided social and cultural structures and institutions. Whether this was a true state of steadiness or instability is immaterial as the traditional Native way of life was present and intact upon contact, indicating that it was suitable for accommodating to situations of stress within traditional life. Native societies were not in disorganization upon contact. In contrast, they were highly functional and complex tribal societies (Paul, 1992). The second and third stages of the revitalization process, the periods of increased individual stress and cultural distortion, are attributed to various factors, among which are: "military defeat; political subordination; extreme pressure towards acculturation resulting in internal cultural conflict; economic distress; epidemics" (Wallace, 1956: 269).

Given that the initial basis for the notion of revitalization movements was an analysis of the Handsome Lake Code and its revitalization of Native culture during the early 19th century, the association between stress levels caused by the conquest of North America and the revitalization of the Native way of life is already indicated. The Native justice initiative which is based in the traditional Native way of life shares the same history of the Handsome Lake Code, which in turn shares the same legacy of domination and suppression within which Native people in North America continue to be central figures. Chapter three has already touched upon this issue and it need not be discussed further. It is sufficient to note here that the experience of

violence and suppression for Native people has increased the stress levels among individuals and nations and has led to the deterioration of their traditional way of life. Statistics from the 1991 Aboriginal People's Survey have captured the implications of such a deterioration noting that: 31 percent of self-identified Aboriginal people have a chronic health problem; 65 percent of Aboriginal people living off reserves have never spoken an Aboriginal language; and 62 percent of Aboriginal people living on reserves cannot speak an Aboriginal language well enough to carry on a conversation (Minister of Industry, Science and Technology, 1993). As Wallace proposed, this cultural deterioration can "lead to the death of the society" (1958: 270). The near-death of Native society may have been directly orchestrated through the seizure of lands, the outlawing of Aboriginal languages and spiritual practices and forced assimilation in residential schools, or indirectly through poverty, poor health care and over incarceration.

More specifically, the relationship between the Canadian criminal justice system and Native people must also be placed within the greater context of individual stress and cultural distortion since it is in these experiences that Native people in conflict with the law share. The previously mentioned overincarceration of Native people is an observable symptom of the mainstream discrimination, indifference, and apathy towards the traditional Native way of life. However within the realm of criminal justice, the Native justice initiative represents the beginnings of Wallace's fourth process stage, the period of revitalization with its six tasks of maze way reformulation, communication, organization, adaptation, cultural transformation and routinization. Through the various justice initiatives discussed in the previous chapter, the traditional Native way of life is upheld as an essential strategy to counter the ineffectiveness of the conventional structure of justice for Native people. Although the ultimate solution of self-government may not be at hand, such programs have revitalized the traditional spiritual path of Native people and show promise in demonstrating the potential, strength and healing power of such traditions for Native people within the context of criminal justice. Any concerns over the effectiveness of such programs must be borne with an appreciation for the Native understanding

that success is progress and that as long as progress is occurring, success is unavoidable. Whether this revitalization of Native Spirituality in the criminal justice system is occurring as a small part of a greater revitalization of Native tradition in society at large is uncertain. Regardless of its size, its origins, and its success in terms of conventional measures, Native justice initiatives represent a revitalization movement within Canadian criminal justice. Given their mission to make the experience of criminal justice more meaningful for Native people in conflict with the law, these initiatives are a clear response to dissatisfaction within the conventional structure of criminal justice and thus represent a "deliberate, organized, conscious effort by members of society to construct a more satisfying culture" (Wallace, 1956: 265).

### **Common Spiritual Understanding**

As Wallace has proposed, inherent in the concept of the revitalization movement is the view of the social world as an organism. This view conceptualizes society as the sum of interconnected and interdependent parts with each functioning in a manner which could contribute or endanger the overall efficiency, health and maintenance of the social body. Such an organic understanding of society may also be a spiritual understanding which holds that all of creation is interconnected and that each part must nurture and be nurtured in order to maintain peace and harmony. The health of the social body requires care and service which is carried out in loving compassion between all parts of creation. The spiritual foundations of both peacemaking criminology and Native justice initiatives share in this view of the closeness and interconnectedness of all of existence. The understanding that human beings are charged with certain duties towards each other and the rest of creation is found within the central teachings of Hinduism, Buddhism, and Christianity. Native Spiritual belief is also based on this organic view of all of existence. The sacred Mik' maq Medicine Wheel is an illustration of the interdependence between the forms of being, human, animal, plant and mineral, and their environment. To explore the common spiritual foundations of peacemaking criminology and



Native justice initiatives is to explore the belief that human life is a gift from the Creator which is to be used in a manner which benefits all of earthly existence. It is a responsibility which is based on our ability to reason, to feel, and to be inspired by the Creator. The communion of peacemaking criminology and Native justice initiatives within the realm of spirituality occurs through two understandings: first, that duality or multiplicity is a limited view while reality is understood as oneness; and second, that spirituality requires action. The remainder of this chapter is therefore devoted to an exploration of these two understandings.

**The view of Duality or Multiplicity Is Limiting and Reality is Oneness**

Krishna told Arjuna, "As the mighty wind, moving every where, rests always in space, even so, know you, all beings rest in me" (Chinmayananda ,1982b: 14). The Buddha stated, "When one sees by insight that all things are selfless, then one wearies of misery" (Cleary, 1995: 90), and Jesus told his disciplines "I am the vine, you are the branches" (Testament of John 15:5). The notion that all of existence stems from the same vital energy or divine force is a fundamental understanding of peacemaking criminology. In this source of Truth, all of existence is bound together in mystery. Such an idea dismisses the artificial distinctions and divisions between individuals which result in separation, duality and the potential for violence because of our common ignorance of the mystery. This notion of duality as limiting is an essential element in peacemaking for without it, segregation and alienation continue to exist between individuals and peace is not possible. As Quinney observed,

Were there complete perfection and unity, there would be no suffering. Suffering has risen out of disunity and separation from the embracing totality, and it can be ended only with the return of all sentient beings to a condition of wholeness. We have fallen from the grace of wholeness into a separation from one another and from the ground of all being, a separation that is assured by craving and grasping selves, by selves that are really an illusion (1991: 9).

The fall from the grace of wholeness is a sort of forgetfulness of the human spirit. According to the Dhammapada, the spirit is so preoccupied by the pains and the pleasures of material existence upon entry into the world through birth that its perfect reality is forgotten. This preoccupation with material existence is seen as a craving which ensures spiritual death. The advice to counter it is to "Uproot craving entirely, as the seeker of a fragrant root digs out the grass above" (Cleary, 1995: 108). Within peacemaking criminology, the need to awaken the sentient being from the illusion of imperfection and separation is a spiritual journey. It requires that the criminologist maintain a closeness to the concerns of crime and develop a "healing mind" which treads with the knowledge of self-reflection and awareness (Quinney, 1991), and which leads to the understanding that ultimately there is no difference between the criminologist and the criminal, the police and offender, and the guard and the inmate. With the cultivation of such an understanding, attitude, and professional foundation, the researcher becomes an agent of peace or a peacemaker within criminology. By being a peacemaker, the criminologist may contribute to the ending of suffering for those within the realm of criminal justice and thus embark on a personal journey towards freedom and self-realization.

The illusion of separation and distinction is also indicated by the understandings of the Native Spirituality which view all of existence as inextricably bound and connected within the mystery of creation. Just as peacemaking is premised upon the illusion of duality, the philosophical assertions of the Native Spirituality rest upon the spiritual alliance of creation through the Creator. The Medicine Wheel is a symbol of the understanding that all of creation, humans, animals, plants, minerals, and the natural world are conjoined in the cycle of birth, growth, and physical death. In creating the natural world, the Creator provided each creation with a perfect and indestructible spirit which contains the perfect wisdom by which peace and harmony may be created and maintained in the world and thus in the universe. With the birth of the human and growth in the Natural world, constant care must be given to prevent the spirit from

forgetting the Creator's great plan of peace and harmony for the Natural world. If the spirit is not nurtured and cared for in a natural way, it may be easily swayed by the degradation which has befallen the once perfect world and thus forsake its duty of creating happiness, health and peace for brothers and sisters in creation. When the spirit forgets, the mind, body and heart of the being are pained and fall ill. The being must be restored to health by taking the healing medicine provided by the Elders, the pure people, the community, the family, and the sacred animal, plant, and mineral beings through which the Creator may bestow the gift of health. In a state of health, the human being will become a healer and a source of nurturing for creation. In this way, human beings are able to fit into the Creator's great plan of peace by fulfilling their humanity. In Native Spirituality, duality as a concept gives way to the unifying understanding of perfect oneness, in which each spirit shares a responsibility for furthering health, harmony and peace.

When a sentient being understands the illusion of existence and calms those desires which fulfil materialism, egoism, self-interest, and obscure the truth of the spirit within, a sensitivity is cultivated for the suffering of others. This understanding is the pulling of the heart, an empathy, and a call to action which leads individuals to fulfil their humanity by taking an active role in ending the suffering of others. As Quinney explains, "In being witnesses to the concrete reality, and in attempting to heal the separation between ourselves and true being (the ground of all existence), we necessarily suffer with all others. But now we are fully aware of the suffering and realize how it can be eliminated. With awareness and compassion, we are ready to act" (1991, pg. 10).

The second spiritual conjuncture of Peacemaking criminology and Native Justice initiatives is that the creation of peace, harmony and love is a joyful obligation of human existence. It is at this conjuncture with "awareness and compassion" that Hinduism, Buddhism, Christianity and Native Spirituality emphasize the importance of action in the achievement of such human obligations.

### **Spirituality Requires Action**

With the understanding that duality is not reality and that the true nature of existence is oneness, it follows that steps to nurture, heal and advance oneself must also include steps to nurture, heal and advance all of creation. Such steps must necessarily be built upon the foundations of peace, harmony and love and are therefore targeted on the elimination or the reduction of suffering wherever it exists. Martin Luther King Jr. viewed actions taken to create peace as a combination of "the toughness of the serpent with the softness of the dove, the tough mind and the tender heart" (1963: 2). This is the teaching of Jesus who counsels, "love your enemies, bless those who curse you, do good to those who hate you and pray for those who spitefully use you and persecute you" (Testament of Matthew 5:44) and of the Buddha who offered, "Overcome anger by nonanger, overcome evil by good, Overcome the miser by giving, overcome the liar by truth" (Cleary, 1995: 77). Indeed the whole of the Bhagavad Gita is a statement on the importance of truth, justice, and right action even at the cost of one's worldly attachments. The beginning of the scripture finds Arjuna unable to fight the kinsmen who had wronged him. The divine lesson which Krishna imparts to Arjuna reveals the importance of actions done in favour of a greater purpose and moral ideal.

Mahatma Gandhi has noted that his conception of Satyagraha emerged from this conversation between Krishna and Arjuna and rested on the notion that actions in the favour of Truth and moral ideals are required of those who are spiritually inclined. As he has stated, "No man could be actively non-violent and not rise against social injustice no matter where it occurred" (Estey and Hunter, 1971: 85). For Gandhi, the method of Satyagraha epitomized the synthesis of non-violence and direct social action, two concepts which upon first assessment appear to be mutually exclusive. Actions in favour of social change are premised upon dissatisfaction with the current state of social life and with the overarching structure which

supports the status quo. Dissatisfaction and the feelings it promotes, mistrust, dislike and eventually hate, are subtle forms of violence which are directed toward an opposing party. In contrast to passive resistance which implies a certain level of harassment of the opponent, Satyagraha views dissatisfaction with the social structure as a spiritual hunger for Truth which is not being satisfied. The motivation of the satyagrahi is not to shame, violate or embarrass what may be called the opponent, but to see that Truth prevail and with it, social justice and satisfaction.

Gandhi proposed that the three requirements of a satyagrahi are that the satyagrahi should not have any hate for the opponent; that the issue for which Satyagraha is being used is true and substantial; and that the satyagrahi must be prepared to suffer until the end for the cause (Narayan, 1968: V4, 186). The emphasis which Gandhi has placed upon self-sacrifice in the pursuit of Truth and love is based on the spiritual understanding of oneness which precludes violence against other beings and which requires that human beings must take actions to end suffering and promote harmony if they are to fulfil their humanity.

In much the same way, the Hau de no sau nee, the traditional Six Nations Council at Onondaga, in their 1977 address to the Western world at Geneva, proposed that being a spiritual person requires action and that "spiritual consciousness is the highest form of political consciousness" (Akwesasne Notes, 1978: 3). Such a view, as the address indicates, is based in the understanding that the original instructions of the Creator contained a message of healing and nurturing for all of creation to follow.

In the beginning, we were told that human beings who walk about on the Earth have been provided with all the things necessary for life. We were instructed to carry a love for one another, and to show a great respect for all the beings of this Earth. We are shown that our life exists with the tree life, that our well being depends on the well-being of the Vegetable life, that we are close relatives of the four-legged beings. In our ways, spiritual consciousness is the highest form of politics (Akwesasne Notes, 1978: 3).

For Native people living in a traditional way, healing and nurturing the circle of life and all that it contains is a sacred duty for every being. This sacred duty is so central to spiritual understanding that living in the Natural Way requires that one care for everything in the natural world, land, water, the air, and all beings. Social and political issues are an extension of the Natural world and are therefore attended to with the reverence of a spiritual task. Within the modern context, such an understanding is illustrated by political groups and organizations such as The American Indian Movement (A.I.M) which is viewed by its members as "first, a spiritual movement, a religious re-birth, and then the re-birth of dignity and pride in a people" (American Indian Movement, 1993), or the Assembly of First Nations (AFN) in Canada whose mix of politics and spirituality encourages the peaceful resolution of the social issues concerning Native people in Canada. Ovide Mercredi, the National Chief of the Assembly received the 1993 Thakore Foundation Award from India for exemplifying the spirit of Gandhian non-violence in his work. Mercredi's personal life-long fascination with Gandhi began when he was a child and he discovered a Life magazine article about Gandhi's life and death. With the violent standoffs at Gustafsen Lake and Ipperwash in the summer of 1995, Mercredi was prompted to visit India in an attempt to understand Gandhi and the use of Satyagraha as a political strategy. As he stated, "Up until now, all Indian leaders, including myself, have not used civil disobedience to get government to pay attention to the needs of our people" (Campbell, 1996: D5). Mercredi's current undertaking is to hold a conference in Canada which will combine Gandhian methods for political resistance with the non-violent teachings of Native Elders to counter such instances of violent standoffs which occur between Native protesters and the Canadian government every summer (Aubry, 1996; Campbell, 1996).

The Native spiritual commitment to social action is illustrated by the life's work of Art Solomon, a Nishnawbe Elder whose tireless political activities in prisons, organizations and other spheres of social life embody the meaning of the Hau de nau sau nee message that

spiritual awareness confers political consciousness. A gifted artist and craftsman, Art Solomon began his journey to justice for Native people by helping to forge a market through which Native craftspeople could sell their pieces to Canadian buyers. With the rise of militant responses to the Native cause in the U.S. and Canada through groups such as the American Indian Movement in the 1960's, Solomon took an active role in seeking the revival of Native tradition and Spirituality. He started taking his message of cultural revival and regeneration into the university in 1969 with the creation of a Native studies department at Laurentian University and then into the prison through arrangements between the university and federal and provincial institutions. This arrangement in which Solomon regularly provided traditional spiritual counselling to Native inmates gradually evolved into a prison program specifically for the needs of Native people in prison. As his activism continued, Art Solomon struggled to bring traditional spiritual ceremonies to those who needed them inside prison. His personal commitment to prisoners hastened the creation and rise of the Native Brotherhoods and Native Sisterhoods, organizations of Native inmates in Canada, and promoted the revitalization of the Native way of life both inside and outside of criminal justice (Solomon, 1990).

Responding to the question of what the American Indian Movement (A.I.M) stands for, Art Solomon wrote,

A.I.M. is truth, it is the stark naked truth of young and old Native people who are willing to die for what they believe in, and what they believe in is the dignity and worth of all the living things that the Creator has made; they believe that one human life is worth more than all the money that can be piled together in one place on the earth.....A.I.M. is truth and *our only weapon is truth*, truth and the sacred pipe, the sacred ceremonies brought to our old ones from the spirit world (1990: 60).

For Elders such as Art Solomon and organizations like A.I.M. and the AFN, the simple goal is the uncovering of Truth. This journey towards Truth is a spiritual journey and a sacred duty. It is the

upholding of the simple spiritual understanding of oneness, not just through articulation but through action. Like Gandhi who struggled to make the British occupying India see the truth of their actions, so are Native leaders, Elders and organizations struggling to make Western governments see the painful reality of Native people in society. In this way, the beginning of the healing process for Native people and for society lies in the confrontation of truth.

This chapter sought to present Peacemaking criminology and Native justice initiatives as active movements for social change which are premised upon the failure of conventional criminological understandings and applications to adequately address social injustices wherever they exist. In contrast to conventional positivistic, rational, intellectual, and legal techniques for approaching social injustice or problem behaviours which threaten the social framework and in contrast to critical (marxist and feminist) approaches as well, both peacemaking criminology and Native justice initiatives have a spiritual understanding of the world which clearly sets them apart. Such understandings are essentially non-western and frequently clash with modern thought on the basis of their inadequacy in the realm of certainty and verifiability. As Quinney (1984) proposed, western concepts of crime and its control have been formulated by specific understandings, most notably materialistic science. These understandings "not only reflect a particular kind of existence but they promote and reinforce that existence" (Quinney, 1984c: 3). Therefore, any challenges to such fundamental understandings may be viewed as a threat to the existence which they uphold and are dismissed in favour of the more familiar or conventional. The challenge which peacemaking criminology and Native justice initiatives issue to modern thought in criminal justice is the spiritual understanding of oneness and the need for its identification and preservation to thus guard against division and the resulting social injustice, a concept which defies scientific analysis. With such an understanding, peace is possible and the role which each being has in its creation and maintenance is crucial. As Quinney wrote,

without *inner* peace in each of us, without peace of mind and heart, there can be no



social peace between people and no peace in societies, nations, and in the world. To be explicitly engaged in this process, of bringing about peace on all levels, of joining of ends and means, is to be engaged in *peacemaking* (1991: 10).

It is in this most simple aspect that peacemaking criminology and Native justice initiatives conjoin. Through peaceful understanding, thought, theory, and actions, both seek to replace the frenzied and seemingly escalating violence of the modern world with a downward spiral to calmness, Truth and reality. If the goal of humanity is peace, Peacemaking criminology and Native justice initiatives offer a true joining together of ends and means.

## **CONCLUSION**

### **THE PEACEMAKING POTENTIAL OF NATIVE JUSTICE INITIATIVES**

***What have sociology or the social sciences to do with the sciences of the spirit or the inquiry into the human spirit? No society can find its fulfilment, no social ideal can fructify, without the blossoming of the spirit of man.***

***Sri Satya Sai Baba***

This thesis has explored the origins and the spiritual foundations of peacemaking criminology and Native justice initiatives. Both are revitalization movements in response to what is perceived as social injustice within criminology as a discourse and criminal justice as an application. For peacemaking criminology, the violence, dehumanization and neglect which is may be afforded to the accused, the sentenced and the victims of crime are a cause for great concern. Despite harsher sentences, advances in correctional technology, and expanding criminal justice budgets, problems of crime and injustice remain unsolved and criminologists and criminal justice practitioners have done little to stem the fear and suffering that people may experience as a consequence of crime and its control. The peacemaking criminologist proposes that a solution to such a seemingly hopeless situation lies in a joining together of ends and means in which peace can only be achieved through peace. This reflects the simple wisdom of Gandhi and the core teachings of Hinduism, Buddhism and Christianity that reducing suffering will lead to the end of suffering. Like a raging fire whose source of fuel is cut off, it eventually burns itself out. However, the media, politicians, special interest groups and the general public continue to add fuel to the fire through expressions of anger and fear when it relates to issues of crime and criminals. The belief that punishment makes society safer is thus elevated to the status of reality and the disjuncture continues.

Native justice initiatives represent an attempt to bridge this disjuncture between ends

and means by reducing the suffering which Native people may experience within Canadian criminal justice. These programs and alternatives to contemporary justice do so through their healing correctional approach. In contrast to the often punitive nature of the criminal justice system which is heavily dependent upon the prison as a tool with which justice may be achieved, Native justice initiatives seek to heal or rehabilitate the offender within the context of community and spiritual awareness or as in the case of the Healing Lodge, to simply humanize long prison sentences. For Native people in conflict with the Canadian criminal law, such initiatives acknowledge that problem behaviour is related to the overall experience of the dynamic of the oppression of Native people through violence, racism, cultural suppression and distortion, and approaches to resist this oppression which are self-defeating. Conflict with the law, alcohol, drug, sexual or physical abuse and suicide are self-defeating forms of resistance to this oppression and the suffering of Native people within dominant culture. Such conflicts should therefore be addressed through acknowledgment, consideration, and healing. To this end, traditional Native spirituality, as it is present within these initiatives, offers both a philosophical and a practical strategy for dealing with such issues by encouraging healing approaches instead of punitive ones. By encouraging wellness and healing, traditional spirituality creates self-esteem and self-understanding within those in conflict with the law and thus allows the process of rehabilitation to be personally-directed and therefore meaningful.

In this way through a focus on healing rather than punishment, the Native justice initiative approaches what may be called peacemaking in criminology and criminal justice. This peacemaking is important to observe for two reasons: first, in the presentation of justice initiatives that are founded in healing, nonviolence, and the restoration of harmony, peacemaking in criminology is shown to be a viable criminal justice strategy and moves from the realm of the theoretical into the practical; second, that Native justice initiatives, which are increasingly appearing in the correctional scene, may be brought into the discourse of criminology with a clear indication of what they seek to do, namely create peace and social justice for both Native

people within criminal justice and for the greater society. As the wisdom of the Elders tells us, the healing of one small part of creation is the beginning of the healing of all creation. Such initiatives by striving for social justice and peace are therefore healing for all humanity.

The peacemaking potential of Native justice initiatives is closely linked with their ability to effectively administer meaningful justice for Native people. In such an endeavour, peacemaking is lost if such initiatives are taken to be the final solutions or answers for injustice. In contrast, they should be regarded only as a creative pause in the search for peaceful alternatives in criminal justice. Peacemaking criminology and Native Justice Initiatives do not represent a panacea for all that ails the criminal justice system in Canada. Indeed their vision of a criminal justice process which is more responsive to individual needs directly clashes with the notion of equal justice for all which underlies the current process. In addition to this, there are also a number of problems, implications and unanswered questions surrounding these additions and alternatives to the criminal process which future research into this area must address before the current criminal process may be expected to embrace peacemaking strategies. The greatest of these challenges may be the obvious difficulties in evaluating Peacemaking along the lines of conventional analysis. For both Peacemaking and Native Justice Initiatives, there is the understanding that we are dealing with issues of "goodness" which would seem to transcend any current form of criminological cost and benefit analysis. Perhaps what is needed in order to approach the theories and initiatives presented in this work is a new measurement or at the least a new understanding of what constitutes "success" within the realm of criminological inquiry.

This work does not pretend to be a concrete evaluation of the success, failure, peacemaking, or war-making potential of Native justice initiatives, but proposes that in origin, in philosophy and in practice such initiatives are a clear choice of peace over war, non-violence over violence, healing over punishment and service over suffering. In these aspects, Native justice initiatives converge with peacemaking criminology by sharing the understanding of

Richard Quinney who proposed that crime is characterized by suffering, and that crime can eventually be ended through loving and compassionate service which affects that suffering. This work is an observation of that relationship.

## GLOSSARY

<b>Ahimsa</b>	Non-violence; a positive state of love, of doing good even to the evil doer; the greatest charity, largest love, greatest charity (Gandhi in Narayan, 1968: V6, 154).
<b>Arjuna</b>	A hero of the <i>Mahabharata</i> ( a famous Hindu epic) and the friend of <i>Krishna</i> .
<b>Avatar</b>	An incarnation of God upon the earth to re-establish a spiritual way of life and to usher in a spiritual revolution.
<b>Buddha</b>	From the Sankrit word <i>buddhi</i> ; one who has achieved wisdom; the enlightened one; Name given to Siddhartha, the Hindu prince who left his father's kingdom to seek liberation from suffering for himself and all of existence through the transcending of the mind, body and ego.
<b>Buddhi</b>	The intellect, intelligence or discriminating faculty.
<b>Crime</b>	Political, social or economic injustice; an act which violates human rights and needs; a social construct which varies through culture and time.
<b>Creator</b>	The Great Spirit; The Divine Power which created the universe and all that it contains; The Supreme Being; The Great Energy from which all beings have origin; God.
<b>Circle of Life</b>	The <i>Medicine Wheel</i> .
<b>Dalai Lama</b>	The spiritual leader of Tibetan Buddhism.
<b>Elder</b>	The spiritual leader of a <i>Native</i> community; An individual who through self sacrifice, self-purification and commitment to the traditional Native way of life and spirituality, has demonstrated the qualities of caring, sharing, and honesty and has come to be known by the respected title of Elder from the people whom he or she serves.
<b>Eight Fold Path</b>	The Buddhist spiritual path which leads to the end of suffering; This path has eight points of conduct; right views, right intention, right mindfulness, right speech, right conduct, right livelihood, right effort, right mindfulness and right concentration.
<b>Four Noble Truths</b>	Four understandings upon which Buddhism is based: 1/ The truth of suffering, birth, decay, disease, death, union with the unpleasant, separation from the pleasant, and not obtaining what one wishes; 2/ The truth that suffering originates in a craving for sensual delights, lust, for existence or for non-existence; 3/ The truth that suffering ceases with the cessation of desire, with detachment; and 4/ The truth that the <i>Eight Fold Path</i> leads to the cessation of suffering.
<b>Great Spirit</b>	The <i>Creator of existence</i>

## GLOSSARY

<b>Healing</b>	A restoration of health and harmony in the mind, body and spirit.
<b>Justice Initiative</b>	Any addition, alternative or option within the conventional criminal justice system which in a spirit of creativity and innovation seeks to revitalize conventional notions of justice by the judicial process more meaningful for participants.
<b>Karma</b>	Action: the law that governs all action and its inevitable consequences for the individual performing it; cause and effect; a moral compensation for acts done in the past.
<b>Krishna</b>	An <i>Avatar</i> , Name meaning " He who draws you to him by means of the joy that he imparts".
<b>Mahatma</b>	A great soul.
<b>Mazeway</b>	A personal mental image which is a view of nature, society, culture, personality; A personal understanding or conceptualization of existence.
<b>Medicine</b>	Within a Native context, any object, action, behaviour or experience which is healing to the mind, body and spirit of an individual and which promotes health and wellness in a spiritual sense; That which purifies and cleanses
<b>Medicine Man or Woman</b>	An individual who has a sacred understanding of <i>Medicine</i> and selflessly uses it in a manner which is to the benefit of those that need it.
<b>Medicine Wheel</b>	A Native spiritual representation of the interconnectedness of earthly existence, humans, animals, plants and minerals, seasons of nature of human life; <i>The Circle of Life</i> .
<b>Middle Path</b>	The Buddhist belief that success in spiritual life, reaching <i>self-realization</i> or <i>nirvana</i> can only be achieved through a path of moderation or balance in thought, word or deed.
<b>Native</b>	Used to describe the original inhabitants of North America or the First Nations Peoples.
<b>Native Spirituality</b>	The sacredness of spiritual understandings of the Native people which encompass philosophical understanding, complex ritual and ceremony; A way of life which lives in a close and sacred communion with the earth and nature; <i>The Natural Way</i> .
<b>The Natural Way</b>	Living in a natural way, the way the Creator originally instructed humans to live; living in a close association with nature and <i>The Native Way of life</i> ; <i>Native spirituality</i> .
<b>Nirvana</b>	<i>Self-realization</i> ; bliss; union with the source of existence.

## GLOSSARY

<b>Oneness</b>	The identification of all that exists on the material plane as One, or as being pervaded with the same spiritual principle (the soul, consciousness, etc); the unity of existence; interconnectedness.
<b>Pipe Carrier</b>	One who cares for the <i>Sacred Pipe</i> and performs its ceremony for those who need it.
<b>Pure People</b>	Those individuals who possess a purity of character, an egolessness, selflessness and truthfulness which allows them to possess spiritual wisdom and thus serve as the Creator's instrument in order to benefit others.
<b>Revitalization Movement</b>	Term used by A.F.C. Wallace (1956: 265) to describe a generic culture change process; a deliberate, organized and conscious effort by members of society to construct a more satisfying culture; the term encompasses more specific movements such as social movements, reform movements, or religious movements.
<b>Reincarnation</b>	The transmigration of the soul upon physical death to a new body where the evolution of the soul to higher consciousness and <i>self-realization</i> may continue through additional lifetimes, experiences and opportunities for spiritual growth.
<b>Sacred Pipe</b>	A two-part pipe (bowl and stem) which was given to the Native people by the Creator to help create peace and harmony in relations. It serves as a sacred instrument through which prayers from people on the Earth may reach the Creator. When the pipe is lit with sacred tobacco and offered to the Creator, the rising smoke carries the prayers of those participating in ceremony to the Creator. The pipe is cared for by a pipe carrier who protects it from negativity and keeps it sacred in a <i>natural</i> way.
<b>Satyagraha</b>	Truth ( <i>satya</i> ) through firmness ( <i>graha</i> ); Holding on to truth; Truth force; Love force; Soul force (Gandhi in Narayan, 1968: V6, 169) Name given to Mahatma Gandhi's non-violent program for social justice which was used to advance the liberty of the Indian people from the British Empire during the early part of the present century; A program for social transformation which relies on non-violence and self-suffering to achieve justice.
<b>Self-realization</b>	The realization that the self or the individual soul is actually the One; Realization of the interconnectedness between existence where the self, in detached and peaceful bliss, makes no distinction between its physical, intellectual and spiritual form and that of others.
<b>SweatLodge</b>	Within Native spirituality, a sacred ceremony for purifying the body, mind and spirit by encouraging the transcendence of the physical aspects of existence through extreme heat, intense prayer and communion with the Earth whose womb the SweatLodge represents.



## GLOSSARY

<b>Sweetgrass</b>	A sweet-smelling herb similar to common grass and which is burned to purify and protect against negativity. The sugary smoke produced when it is burned is believed to dispel negative spirits. It is commonly braided and lit on one end to produce smoke in Native ceremony and ritual.
<b>Smudging</b>	To purify oneself, another individual, a place or an object through the burning of <i>sweetgrass</i> or <i>tobacco</i> ; Asking the <i>Creator</i> for blessing and protection.
<b>Suffering</b>	In Buddhist tradition, birth, death, decay, disease, union with the unpleasant, separation from the pleasant and not obtaining what one wishes; Tension, anxiety, physical or mental pain.
<b>Tobacco</b>	Untreated and natural tobacco which is not used for personal pleasure but is burned in ceremony as an offering to the <i>Creator</i> . It is also offered to honour the <i>Elders</i> for the wisdom and guidance which they provide through their words and actions. If seeking the help of an <i>Elder</i> or a <i>Medicine Man</i> or <i>Woman</i> , tobacco is to be offered in exchange for the wisdom and healing which they impart in the belief that with the offering, the health and knowledge which they may bestow will become engrained in one's understanding.
<b>Truth</b>	Reality; That which ends mystery; Knowing; Perfection; Bliss; The most important name of God (Gandhi in Narayan, 1968, V4: 214)
<b>Vedas</b>	The most sacred scriptures of the Hindu religion, regarded as revelations to four great seers; scriptures not of divine origin; There are four Vedas: The Rig Veda, The Yajur Veda, The Sama Veda, and the Athava Veda.

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## **APPENDIX 1**

Throughout this work, references will be made to concepts such as Truth, Justice, and Oneness, words which are written with capital letters to emphasize their use as singular ideals or non-dualistic understandings. In contrast to scientific approaches which attempt to analyze everyday representations of earthly matter and existence by measuring diverse and fluctuating variables in order to arrive at educated and logical predictions, the spiritual understandings of peacemaking criminology and Native justice initiatives take a certain stance of moral absolutism on social issues. This morality is well expressed by Gandhi who wrote that "True morality consists not in following the beaten track, but in finding out the true path for ourselves and in fearlessly following it" (Mahatma Gandhi Institute Nonviolence Home Page, 1996). The core teachings of Hinduism, Buddhism, Christianity, and Native Spirituality reflect this understanding by emphasizing the individual and personal nature of the human spiritual journey toward the source of life, Realization, Peace, the One or the Divine. An active and successful journey, which the above religious understandings view as simple progression in a lifetime, is achieved by constructing a sacred and personal meaning. Religious organization and doctrine aside, core values and fundamental spiritual absolutes must underlie any spiritual journey. Sri Satya Sai Baba, a contemporary East Indian spiritual teacher, proposes that the primary motivation for this spiritual journey is a human search for meaning. This search for meaning requires self-analysis, introspection, and an attempt to answer questions such as "Who am I?", "Where did I come from?" and "Where am I going?". Sai Baba contends that there are five core values which are natural to the human condition and which underlie this search for meaning: Truth, Love, Non-violence, Peace and Integrity. In our common inability to know Reality, such values as these serve as guiding principles for an earthly existence. As criminologists, such values strengthen and clarify professional efforts to contribute to a peaceful and crime-free

existence. Criminology is a discipline which is concerned with theory and practice relating to diverse and often negative fluctuations in human behaviour. In such a realm of inquiry, the need for absolutes is pressing. As Quinney once stated, "if there's no reality you could argue, then any reality is legitimate (Goldwyn, 1971: 46). Criminologists must avoid the tendency to add more fluctuations, more confusion, and more variables to the jumbled mass of human suffering and social inequality which produces crime. To this end, the pursuit of absolutes, ideals and goals such as Truth, Love, Non-violence, Peace and Integrity may represent the most effective strategy for approaching the discourse of crime, criminality and criminal justice.