

WSÁNEĆ EN SKÁU

Revitalizing WSÁNEĆ Law through Stories

Discussion of Legal Synthesis

Tsawout First Nation RELAW Project

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Introduction

W̱SÁNEĆ laws and legal principles of the, developed since time immemorial, reflect an understanding of the intricate interdependence of humans, other beings, and the natural world. These laws and principles have allowed us as W̱SÁNEĆ people to successfully govern ourselves, ensuring our survival and the long-term health of the ecosystems within our territories and beyond.

- How can traditional W̱SÁNEĆ laws be used today to ensure the ongoing health and vitality of the environment and contribute to W̱SÁNEĆ political and cultural revitalization? How can these laws be used in litigation and negotiation involving W̱SÁNEĆ people, lands, air and waters? In order to help answer these questions, Tsawout First Nation has partnered with West Coast Environmental Law (WCEL) and the University of Victoria's Indigenous Law Research Unit (ILRU) to investigate and articulate the laws and legal principles expressed in collected W̱SÁNEĆ stories.

For this project, researchers and writers have used WCEL's RELAW (Revitalizing Indigenous Law for Land, Air and Water) analysis framework, which has been adapted from an analytical method developed by Val Napoleon and Hadley Friedland for ILRU. The ILRU method applies the common law case analysis method to published Indigenous stories, drawing out facts, issues, laws, reasoning, and decisions to investigate how Indigenous peoples use their own laws to address intra- and inter-group harms. WCEL has adapted this framework for RELAW to focus on 1) laws and legal principles concerning humans' relationships with other beings and the natural world; and 2) the application of these laws to contemporary environmental problems faced by Indigenous communities today.

The discussion of the stories in this draft report is based as much as possible in W̱SÁNEĆ worldviews and perspectives. In addition to reflecting the WCEL framework, the material is organized so that the teachings about laws and legal principles build on each other throughout the document.

The stories analyzed here¹ represent only a fraction of W̱SÁNEĆ stories; much more work is needed to collect and reflect on the stories and to revitalize the community processes that have been used for millennia to articulate and live W̱SÁNEĆ laws. Also needed is a more in-depth community process that can provide us with opportunities to meaningfully dialogue about and engage with our own laws. To begin this process, the next phase of this project will be to consult with community members about the conclusions in this draft report. We hope that this project will help, in the words of W̱SÁNEĆ legal scholar Robert YELKÁTFE Clifford, to “build and revitalize the practices and conceptual structures that allow for the healthy functioning of the legal tradition.”²

Sources

- The W̱SÁNEĆ stories analyzed in this report come from a variety of sources – written and oral, past and present:
- The earliest published stories (16-36A, 37-39, 45) were told by Edward Jim (Patricia Bay), David Latess³ and his wife, Louis Pelkey (Tsawout), Johnny Claxton, Tom Paul, and some anonymous storytellers. These stories were collected by Diamond Jenness in his *Coast Salish Mythology* (1934-35).⁴

¹Please see the stories collected by Tsawout community members Shauna Johnson and Joshua James for this project: *W̱SÁNEĆ EK,ŚÁN SÁU: Revitalizing W̱SÁNEĆ Law through Stories — Collected Stories* (2019). Stories are referred to in this report by their numbers as given in the *Collected Stories*. The stories have been analyzed by Shauna Johnson and Metis legal scholar Kerry Sloan, authors of this draft report.

² Robert YELKÁTFE Clifford, “W̱SÁNEĆ Legal Theory and the Fuel Spill at SELEKTEŁ (Goldstream River)”, (2016) 61:4 McGill Law Journal/Revue de droit de McGill 755 at 759.

³ According to Neil Vallance, a scholar of the Douglas Treaties, there were four spellings of this family name. See Vallance, *Sharing the Land: The Formation of the Vancouver Island (or ‘Douglas’) Treaties of 1850-1854 in Historical, Legal and Comparative Context* (PhD Dissertation, University of Victoria, 2015) [unpublished], online: <<https://dspace.library.uvic.ca/handle/1828/7089>> p. 75. We use the spelling that has been reproduced in Diamond Jenness, *Coast Salish Mythology* (Hull, QC: Canadian Museum of Civilization, 1934-35).

⁴ Jenness’ work has been re-published in Barnett Richling, ed, *The W̱SÁNEĆ and Their Neighbours: Diamond Jenness and the Coast Salish of Vancouver Island, 1935* (Oakville, ON: Rock’s Mills Press, 2016).

- Forty years later, Adelynn Claxton collected stories told by Chris Paul (Tsartlip), Violet Williams (Pauquachin), Elsie Claxton (Tsawout), Catherine Jones (Patricia Bay), and Dr Bill (5-16). These stories were published in *Saanich Medical Practices* (1975) and accessed at the Saanich Cultural Education Centre (6-15)

More recently collected stories are taken from:

- Saanich Native Heritage Society, *SENĆOŦEN: W̱SÁNEĆ Legends and Stories* (Victoria: Trafford, 2007) (1B, 2-3, 52)
- *Reef Net Technology of the Saltwater People* (1994) – stories told by Tsawout members Earl Claxton Sr, John Elliott Sr (36B) and Dave Elliott Sr (51)
- a collection by Eric Pelkey told during the 2014 Trailmark interviews for the *Tsawout Marine Use Study* carried out as part of the environmental assessment regulatory process for the TransMountain pipeline twinning proposal⁵ (41)
- two works (2016) by W̱SÁNEĆ legal scholar Robert Clifford (4, 40, 43)
- John (“JB”) Williams (Tsawout) in 2016 (1A, 42, 44, 48-50)
- Earl Claxton Sr, as told to him by Ray Sam (Tsawout) (recorded 2016) (46-47)

Some of the stories (46-47 – Earl Claxton Sr; 1A, 42, 44, 46 – 50 – John Williams) were collected orally and recorded by researchers Shauna Johnson and Joshua James.

- Some of the stories are SYESES (oral histories) and illustrate ŚXENÁNS (our way of life). Other stories also teach S,OXHELI (sacred teachings of life).

⁵ Tsawout First Nation & Trailmark Systems and Consulting, *Tsawout Marine Use Study* (2014). Prepared for Tsawout First Nation’s review of the proposed Kinder Morgan TransMountain expansion, marine shipping component. Online: <<https://ceaa-acee.gc.ca/050/documents/p80054/130289E.pdf>> [partial copy].

- Although this project focuses on W̱SÁNEĆ law in stories, other relevant sources have also been referred to, including works by W̱SÁNEĆ scholars and by those who study W̱SÁNEĆ ecology and treaties.

Discussion of Legal Synthesis

1. Foundational Principles

- a. What are the fundamental relationships between humans, other beings, and the natural world and how are they established and maintained over time?

- i. Fundamental relationships

WSÁNEĆ people have sacred obligations to take care of all beings in the natural and spiritual worlds; as our relatives, these beings continuously teach us our ĊELANEN (ethics and morals we live by to take care of each other for all time)⁶ so that we can live in harmonious, respectful relationships with all spiritual and natural beings of the water, land, and air. These relationships are reciprocal (e.g. 29 The Salmon Girl), and mutually agreed upon.

- The WSÁNEĆ concept of EQÁ,TEL (our relationships to all) describes these fundamental relationships and how we have come to establish them with other animals, spiritual beings, and the natural world. XÁLS transformed our ancestors into natural and spiritual beings so that we would remember their stories and life lessons, their names in the SENĆOŦEN language, and the landmarks they left behind (e.g. stones, bays, mountains). It is because of this rich oral history and stories passed down that we understand our relationships and agree to take care of each other as relatives.

Many stories illustrate the depths and intricacies of these interdependent connections. For instance, XÁLS transformed people from both earth (35 XELÁTŦE and TÁYAKEMOLTŦ) and rain (41 SĚMEW); islands and rocks were once people (e.g. 4 ŁEL,TOS/James Island; 23 XWAXTIS/Bear Island and XWALTAS/Spieden Island; 24 Woman Lying Down Transformation Story); animals and plants were once people (e.g. 17 Origin of SMÍEŦ/Deer; 27 Origin of Eagle; 28 Origin of Clams; 50 Creation of Cedar); wolves can transform into people (6 Wolf Story), as

⁶ Ray Sam & Earl Claxton Sr, *Everything with a Prayer: SĚi,NONET — Received Songs of our Beliefs; NIL SYESES ŁTE — This is Our History* (2010) [unpublished]. Copy in possession of author, provided by Tsawout First Nation for personal research only.

can dogs (34 The Son of KINEŽES); stars can also transform into people (53 Legend of the Star Men); and animals can transform into one another (45 Origin of the Killer Whale).

According to the story “XELÁTŦE and TÁYAKEMOLTŦ” (35), XÁLS used parts of the earth to make different human beings that were the first people of the earth, such as XELÁTŦE (Duncan), TÁYAKEMOLTŦ (Sooke), and HWANAM (Malahat). The Creator purposely placed each person in a different location to allow for diversity while still maintaining strong familial connections among the people:

From their children sprang the groups of Indians around Duncan, while the SOOKE Indians are descendants of TÁYAKEMOLTŦ’s other children. Later, XALS created at MALAHAT a man named HWANAM and his wife, and from this last couple came the MALAHAT and SAANICH Indians. From their children sprang the groups of Indians around Duncan while the SOOKE Indians are descendants of TÁYAKEMOLTŦ’s other children. Later, XALS created at MALAHAT a man named HWANAM and his wife, and from this last couple came the MALAHAT and SAANICH Indians (*Collected Stories*, p. 62).

The transformation of these beings from earth to humans represents how significant the relationships are between humans, earth and the Creator. This story illustrates the close kinship ties and intercommunity relations that developed from the original peoples because it established land-based lineages that can be traced back through time, with ancestral names given to each family member.

An ancestral name is passed down through a family from generation to generation; no other family can use that name unless given permission. Knowledge keepers in each community keep track of names by witnessing naming ceremonies, a protocol that continues to be practised today. According to ancient WŚÁNEĆ customs and practices, an ancestral name comes with a history that is tied to a specific location or village and to a genealogy and a set of rights to hold specific knowledge, known in SENĆOŦEN as NEHIMET. With these rights comes the responsibility to ensure that this knowledge gets carried and passed down, to guide future

generations as they take care of their communities, their families, and the environment.⁷

Inherent in ancestral names is thus the history of us as W̱SÁNEĆ people enacting, through our ĊELANEN, our rights, responsibilities and relationships with other beings and the land.

Inter-being relationships are established by XÁLS, often with mutual agreement and participation⁸ of humans, spirit beings and animals. This is the case in stories dealing with the origins of landforms. For instance, in “Raven and Mink Help XÁLS Change the Earth” (20), the landscape is created by XÁLS in collaboration with animals, and in “SŁEMEW” (“Rain Man”) (40), it is created in collaboration with the first human being, who appeared as rain, carving out valleys and other geographic features. Similarly, in “KINEŽES, the Pender Islands and Devilfish” (25), XÁLS joins with Mink and KINEŽES, a man, to create the channel between the Pender Islands. The presence of certain species in an area can also be a result of collaboration, as in “XOXDES and XELTOS” (22), in which a woman convinces XÁLS to populate Bear Island and Speiden Island with clover roots and big owls, and the surrounding waters with cod and “red fish” (likely snapper). The woman asks XÁLS to provide these species knowing she and her daughter are soon to be transformed into the islands that will host them.

The salmon stories illustrate the participation of salmon spirits in creating inter-being relationships. For instance, the salmon spirit saved the people by providing them with all the knowledge and skills needed to make reef nets and harvest salmon. The salmon spirit showed himself in human form to ask for the hand in marriage of a W̱SÁNEĆ woman, establishing familial relationships and obligations between people and salmon (36A Origin of the Willow Fish Net; 36B Origin of the Reef Net). A similar story is told in “The Salmon Girl” (29), although in that story the salmon spirit is in human female form and marries a man. In these stories, the idea of marriage between salmon and humans shows the deep interrelatedness of these two

⁷ Nicholas XEMFOLTW Claxton, *To Fish as Formerly: A Resurgent Journey Back to the Saanich Reef Net Fishery* (PhD Dissertation, University of Victoria, 2015) [unpublished], pp. 5-8, online: <<https://dspace.library.uvic.ca/handle/1828/6614>>.

⁸ ENŚW IST – where you travel to for your survival. W̱SÁNEĆ people would travel to specific places to establish relations with spiritual/natural beings to learn from them on how to survive.

groups of natural beings. Looking at these stories together illustrates that salmon are connected to both female and male human lines.

Some stories about inter-being connections illustrate the complexities of having healthy relationships, including respecting the agency and rights of others. For instance, in “Origin of the Killer Whale” (44), an old wolf who can no longer hunt for himself changes into an orca to avoid having to be completely dependent on his friend Eagle to hunt for him. While it is important to help others who may not be able to harvest for themselves (8 The Two Brothers), it is also important to try to look after yourself to the best of your ability (3 Thunderbird Story). The wolf exercises his agency; life in the sea as an orca allows him to become independent. While Eagle is sad at first and tries to prevent his friend from transforming, he eventually comes to terms with the change, and continues to watch over his friend from high tree branches on the shore. This story reveals the balance between independence and interconnection, and the tension between continuity and change.⁹

Some inter-being relationships have arisen as a result of improper human behaviour, but the results are not necessarily negative. This is seen in a number of stories in which XÁLS transforms humans into other beings. When humans hear stories of these transformations, they are reminded to behave properly; transformations can also create new reciprocal relationships. In “The Origin of SMÍET” (16) (humans becoming deer) and in “XI,YEU,EN ” (17) (humans becoming rocks in Patricia Bay), transformations result from people resisting the changes they know XÁLS is planning (see also “The Transformer” (5)). Sometimes transformations result from human greed (26 Origin of Eagle), disrespect (50 Titans – The Origin of Trees), or even from incest (43 QOLEW/Chum Salmon). In other stories, change can result from beings resisting and trying to change difficult situations, but in ways that are not appropriate. When Mink and Raven take SOTEC’s/the north wind’s daughter ransom and injure

⁹ This interpretation is based on an oral version of this story told by John Williams to Kerry Sloan and other Metis guests at Tsawout (2015).

her, in order to convince her father to help control the weather, they are transformed into animals (21 Mink and SOTEC).

Sometimes animals or other beings also behave improperly, but the results can be positive in the long term. When a huge “devilfish” (octopus) prevents people from gathering fresh water, XÁLS tries to help, and is nearly drowned. He asks Mink to help him in turn, and together they cut up the octopus, scattering its body and arms to Sooke, Clallam, the Pender Islands, and other places. From these body parts grow more octopuses (the thickness of each body part thrown determined the size of the local octopus species in that region, so in WŚÁNEĆ, they are smaller), who thrive throughout the area, except in the Fraser River delta, because this would interfere with fish habitat. The largest octopuses live near Clallam, where the body was thrown (25 KINEŽES, the Pender Islands and Devilfish). In “James Island Giant” (47), people drown a troublesome giant by weighting him down with rocks. When purple crabs living nearby eat the giant’s body, they themselves become giant-sized.¹⁰ Both these stories suggest that transformation and the proliferation of life can flow even from violent or questionable behaviour.

However, perhaps the most profound and all-encompassing example of positive change and interconnection resulting from improper behaviour can be found in the Great Flood stories (1A, 1B). While these stories state that the flood occurred as a result of many people ignoring the laws of interconnection and therefore mistreating beings, and the lands, air and waters, it is clear that those people who still followed the correct way were helped by representatives of different orders of the natural world: WŚÁNEĆ people, Floodwaters or SŁEMEW, Raven, XÁLS, Arbutus, Cedar, and the mountain ŁÁU,WEL,NEW (“place of refuge”, known in English as Mount Newton). The survivors of the flood are the WŚÁNEĆ (“emerging”) people, whose survival (and the necessity for it) is made possible by XÁLS. The floodwaters represent water generally but are also the natural consequences of humans not looking after the environment. As humans

¹⁰ It is possible this story refers to Á,CEX/Dungeness crab, which used to be abundant in the area. See Nicholas XEMFOLTW Claxton, *The Douglas Treaty and WŚÁNEĆ Traditional Fisheries: A Model for Saanich Peoples Governance* (MA Thesis, University of Victoria. 2003) [unpublished], online: <<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.531.3534&rep=rep1&type=pdf>> at p. 11.

are descended from SĽEMEW/Rain, the water itself is linked to human agency (40 SĽEMEW). Raven, who guided the people in the direction of ŁÁU,WEL,NEW, the tallest mountain in WŚÁNEĆ territory, represents the connection to animal beings. ŁÁU,WEL,NEW itself, representing Earth, provided a place of refuge for the people. The arbutus tree on top of ŁÁU,WEL,NEW allowed people to anchor their canoes to itself, and the cedar allowed itself to be used to make the rope that anchored the canoes to Arbutus.¹¹ Cedar also represents spiritual beings. Thus, this story makes clear that the sacred connections to natural and spiritual beings are foundational to the existence of WŚÁNEĆ people (1A, 1B The Flood Story; 40 SĽEMEW). The flood stories also illustrate how people worked together to survive the flood, coordinating their efforts at the family and community levels. Unlike their ancestors, the majority of whom were not living a good way of life, WŚÁNEĆ people emerged from the flood connected to each other, to natural and spiritual beings, and to the lands, air and waters. WŚÁNEĆ people are “re-emerging” and are now in a new phase of revitalization and renewal.

The theme of re-emergence of life despite difficulty and even violence permeates many of the stories, illustrating the complexity of the WŚÁNEĆ moral landscape as well as the resilience of WŚÁNEĆ people and the environment.

ii. How are these fundamental relationships established and maintained?

The WŚÁNEĆ people have made sacred agreements with other peoples to help resolve conflict. One example is the Douglas Treaty, an agreement made between the WŚÁNEĆ people and Sir James Douglas and other newcomers to ensure that WŚÁNEĆ people could carry on¹² their harvesting and traditional land and marine use practices throughout their territory “...as

¹¹ Note that a cedar rope is used by the women in “Legend of the Star Men” (53) to return to their own world after they decide to leave their star men husbands. This suggests that cedar in this form can function as of a kind of spiritual umbilical cord, protecting people and tying them to their true homes.

¹² Agreement was to not make war with Douglas’s men. WŚÁNEĆ men put on war paint and warned them to leave that place. Douglas Treaty came about because they were afraid of us because they had small numbers. They protected our place at PKOLS because they were cutting them down and taking them away. It was considered peace treaty because there was a threat of war. Douglas and his people considered it to be a cessation of land, but that’s not our understanding. It’s impossible to give up land when our beliefs are connected to it. So if they want to live in our territory then they have to respect and live in harmony with our land.

formerly”. The treaty was also meant to ensure peaceful relations between the parties. From the W̱SÁNEĆ legal perspective, this treaty is sacred and eternal because it was witnessed by the Creator XÁLS. This means that, through the treaty, Douglas and his people agreed to take care of the lands in the same way the W̱SÁNEĆ are obliged to do (41 Douglas Treaty Story). Thus, non-W̱SÁNEĆ people residing in the territory have these obligations in perpetuity.

In addition to the mechanism of treaties, relationships between W̱SÁNEĆ and other human groups have been established and maintained through:

- dialogue (all stories involving humans);
- political alliances (37 W̱SÁNEĆ and Sechelt Quarrel; #38 ŁELOWENƧET);
- trade relationships (10 Eulachon Trail);
- land and marine use agreements (9 The Black Fish; 36A Origin of the Willow Fish Net; 36B Origin of the Reef Net; 37 W̱SÁNEĆ and Sechelt Quarrel; 38 ŁELOWENƧET);
- potlatches (6 The Raven Story; 11 SXÍXI; 33 The Son of KINEŁES);
- intermarriage (6 The Raven Story; 33 The Son of KINEŁES; 37 W̱SÁNEĆ and Sechelt QuarrelQuarrel); and, where necessary,
- where unavoidable, warfare (38 ŁELOWENƧET; 51 Origin of W̱JOŁŁLP/Tsartlip)

Humans have also entered into agreements with other beings. The equal exchange of gifts with the salmon spirit represents a sacred agreement between the salmon spirit and the W̱SÁNEĆ people. Both the reef net and the W̱SÁNEĆ woman can give life, and both hold a tremendous amount of knowledge that can be passed down. Thus, the parties were satisfied with the terms of the exchange (36A Origin of the Willow Fish Net; 36B Origin of the Reef Net). Agreements between humans and salmon also create family relationships and obligations (31 Origin of Salmon). Such obligations are observed by Thunder when he marries a W̱SÁNEĆ woman: he gifts her family with hunted whales, and eventually with whale hunting gear and canoes, so that the people can provide for themselves (30 Origin of Whale (Hunting)).

Relationships between humans and other beings, including the Creator, are maintained through:

- ceremony and purification, including: ritual bathing (2 Thunder; 3 Thunderbird Story; 30 Origin of Whale (Hunting); 39 Received Songs; 40 SŁEMEW), QĆÁSET, a form of sacrifice, purification through fasting (3 Thunderbird Story), refraining from eating meat (30 Origin of Whale (Hunting)), and brushing one's body with yew branches (39 Received Songs) or cedar bark (3 Thunderbird Story);
- receptiveness to receiving spiritual gifts (3 Thunderbird Story; 39 Received Songs);
- respect for advice of knowledgeable people (9 The Black Fish; 42 Origin of the Robin) and respect for agency of others (44 Origin of the Killer Whale);
- knowledge transmission (1A, 1B The Flood Story; 30 Origin of Whale (Hunting); 36A Origin of the Willow Fish Net; 36B Origin of the Reef Net), including sharing of sacred teachings (2 Thunder; 3 Thunderbird Story), and speaking the SENĆOŦEN language (Claxton, 2015), also implied in many stories;
- stewardship practices, including spiritual practices that help salmon in their migrations (31 Origin of Salmon) and reef-netting (36A Origin of the Willow Fish Net; 36B Origin of the Reef Net); and
- being on the land/waters (3 Thunderbird Story; Claxton, 2015; anonymous, personal communication with Shauna Johnson, 2017).

Hard work may be necessary to maintain these relationships; spiritual practices alone may not be sufficient (2 Thunder).

Direct communication is another way relationships can be maintained. It can occur, for instance, when a person wants to harvest a plant. In this case, the plant should not simply be taken, but must be asked and treated properly (1A, 1B The Flood Story).¹³

In the “Wolf Story” (15), direct communication occurs when a boy who loses his father and becomes troubled is sent out in a storm by his mother to receive gifts and knowledge for survival. The boy is taken in by a wolf family and taught to become an effective hunter. He and his brother, who becomes a fisherman, share their catch/kill with their mother, so that she will never be hungry or lack anything.

It is clear from some of the stories that animals understand the SENĆOŦEN language, as when the deer understands a man speaking SENĆOŦEN when he asks his wife for his skinning knife. Because the deer understands the man’s request, he runs and is able to escape (28 Raven and Deer; 45 Raven). Orcas can also understand SENĆOŦEN, which some fishermen discover when they start to insult the orcas (9 The Black Fish). Realizing the orcas understand them, the fishermen change their behaviour, and decide to follow the teaching of their Elders not to be disrespectful to orcas. Stories in which animals understand human speech remind the W̱SÁNEĆ that they are our relatives who existed as humans in earlier times.

Many stories illustrate humans changing to (e.g. 16 Origin of SMÍĚŦ) or from (e.g. 40 SĚMEW) other natural beings. Transformation from human to animal and back again (15 Wolf Story; 31 Origin of Salmon) suggests the interconnectedness of humans and other beings; it also suggests that form is changeable and is less important than underlying relationships (42 Origin of the Robin; 44 Origin of the Killer Whale). This understanding encourages people to imagine the experiences of other beings.

The totality of these stories, along with personal communications provided to researchers, suggests that humans and other beings are not just connected, not just interdependent, but are

¹³ See also Nancy J Turner & Richard J Hebda, *Saanich Ethnobotany: Culturally Important Plants of the W̱SÁNEĆ People* (Victoria: Royal British Columbia Museum, 2012). This knowledge is based on interviews and field research with W̱SÁNEĆ people.

in a state of inter-beingness. The law embedded in these stories reinforces this understanding. Inter-beingness is also expressed through the SENĆOŦEN language. As Nick Claxton says, "... our W̱SÁNEĆ language and the land are inseparable, and together it comprises the W̱SÁNEĆ identity, laws, and worldview. Through the SENĆOŦEN language, the W̱SÁNEĆ worldview refers to lands and animals as relatives. This is a core W̱SÁNEĆ value." (2015, pp. 14-15)

b What are the sources of human rights and responsibilities in relation to the natural world?

Our relationships to all (EQÁ,TEL) are the source of human rights and responsibilities, whether these relationships have been created by XÁLS, through agreements between humans and other beings, or through inter-human agreements. Another way of looking at this is that sources of law include all beings: XÁLS, spirit beings, and natural beings, including humans.

Our relationships to all are reciprocal, and this reciprocity creates specific human rights and responsibilities. For instance, W̱SÁNEĆ people have an obligation to protect the Gulf Islands because they are "our relatives of the deep" created by XÁLS through transformation of human beings (4 ŁEL,TOS). XÁLS created the bond and the reciprocal relationship to help the W̱SÁNEĆ people learn how to live in a good way with the earth: the islands provide for the W̱SÁNEĆ, and the W̱SÁNEĆ protect the islands. Similarly, because the salmon are our relatives, we as human beings have a responsibility to protect salmon and salmon habitat (29 The Salmon Girl; 31 Origin of Salmon; 36A Origin of the Willow Fish Net; 36B Origin of the Reef Net; 43 QOLEW).

According to the Flood Story (1A, 1B), XÁLS, in flooding the lands and waters, gave the W̱SÁNEĆ survivors rights and responsibilities in relation to each of the categories of beings represented (waters/humans, the land/ŁÁU,WEL,NEW, plants/Arbutus, animals/Raven, and spiritual beings/sacred Cedar rope). These categories represent the sacred agreements and obligations that bind the beings of the natural and spiritual worlds.

Spiritual beings can appear to those who are of pure heart, mind, body and spirit, and may choose to provide W̱SÁNEĆ people with gifts (2 Thunder; 3 Thunderbird Story; 39 Received Songs).. For instance, in “Origin of Whale (Hunting)” (30), Thunder provided the W̱SÁNEĆ with the tools to hunt, gather, and fish for themselves, which improved their ability to be self-sustaining. Salmon spirits taught people how to treat all other beings as our relatives and how to help life to flourish. They taught the W̱SÁNEĆ people how to follow the salmon migration routes for effective harvesting, and about the reef net system that helps sustainably provide food for the community (36A Origin of the Willow Fish Net; 36B Origin of the Reef Net). The reef net system is a highly efficient technology – requiring expert knowledge of salmon, plants, tides and currents – that was foundational to W̱SÁNEĆ governance and society (Claxton, 2003, 2015; Claxton interview, 2017). It is currently being revitalized.

Another source of rights and responsibilities is inter-human agreement. For example, W̱SÁNEĆ people have an obligation to uphold the Douglas Treaty, which means that all people living in the territory have the same obligations as W̱SÁNEĆ people to look after the natural beings, lands, air and waters (41 Douglas Treaty Story). Rights of the W̱SÁNEĆ people to govern themselves and harvest throughout their territories are protected by inherent W̱SÁNEĆ rights passed down through the generations and the Douglas Treaty.¹⁴ W̱SÁNEĆ territories include the Saanich Peninsula, the southern Gulf Islands, the San Juan Islands, “and the waters that join these regions” (Claxton, 2003, p. 24).

Some of the stories imply the existence of other agreements that relate to harvesting or to carrying out ceremonies in territories shared with other Indigenous peoples. For instance, the “Eulachon Trail” story (10) states that various Indigenous groups harvested sheep and goat wool together, and traded eulachon together along the trade route. The “S̱X̱Í̱I” (11) and “Ł̱ELOW̱ENṮET” (38) stories imply that people agreed to share the waters for harvesting various species and for carrying out specific ceremonies. These stories describe how different

¹⁴ These rights have been recognized and upheld in *R v White and Bob* (1965), 52 DLR (2d) 481 (SCC); *R v Bartleman* (1984), 55 BCLR 78 (BCCA); *Claxton v Saanichton Marina* (1989), 36 BCLR (2d) 79 (BCCA); and *R v Morris*, [2006] 2 SCR 915.

groups came to shared territories from up Vancouver Island and as far away as Sechelt, and perhaps from other areas such as the mouth of the Fraser River, and Port Angeles. While many of the peoples in these areas are Coast Salish, and therefore interrelated, the negotiation of different groups' rights had taken place over time. Various alliances are referred to in the stories. For instance, in the "ŁELOWENFET" story (38), Cowichan people assisted the W̱SÁNEĆ in war during their battle with other Indigenous groups in Port Angeles. Other stories mention connections with people in the Blaine (36A Origin of the Willow Fish Net) and describe W̱SÁNEĆ people fishing near Nanaimo (Smuneymuxw territory) (32 Origin of Salmon).

As well, through various agreements over time, particular individuals or families acquired rights/responsibilities, such as access to fishing areas (Claxton 2003, 2015; Claxton interview, 2017), or knowledge about plants (Turner & Hebda, 2012). These rights/responsibilities are passed down through family connections and can be seen as agreements to which other natural beings may be parties.

W̱SÁNEĆ people are a source of law in that they embed the law in stories, and in other cultural expressions and practices, such as naming ceremonies (1A, 1B The Flood Story), potlatches (6 The Raven Story; 11 SXIXI; 33 The Son of KINEŁES), songs (39 Received Songs), dance (11 SXIXI), masks (11 SXIXI), totem poles (12 Porpoise-Hunter and Thunderbird), canoes (46 Origin of Cedar), and the sustainable methods they developed, such as reef-netting, that ensure the health and welfare of salmon (29 The Salmon Girl; 31 Origin of Salmon; 36A Origin of the Willow Fish Net; 36B Origin of the Reef Net; 43 QOLEW). W̱SÁNEĆ people pass on their laws through these practices, including re-telling stories that teach law.

2. Legal Process and Decision-Making

a. What are the decision-making roles and responsibilities?

Decision-makers include hereditary chiefs¹⁵ or inherited line of family leaders. The line goes by the last generation and the relations at that level;¹⁶ SIYEU,E/spiritual advisors (medicine people, prophets); individuals, couples and families; and the nation as a whole; and STOMEŚ or war leader/soldier. Harvesters as decision-makers are featured in many stories. Natural and spiritual beings also have agency and make decisions, since they were once humans who were transformed by XÁLS. The agency and decision-making role of women is stressed in many of the stories (6 The Raven Story; 16 Wolf Story; 23 XOĶDES and ŶELTOS; 30 The Salmon Girl; 34 The Son of KINEŶES; 36 XELÁTŶE & TÁYAŶEMOLTŶ; 37A Origin of the Willow Fish Net; 37B Origin of the Reef Net; 39 ŶELOŶENTET; 49 Raven; 52 Origin of ŶJOŁELP; 53 Legend of the Star Men). Women were given a voice in decision making when elders were asked for their input and when issues pertained to raising of their children and passing down of family teachings.

XÁLS is a decision-maker, but the decisions of XÁLS are not within human control, although XÁLS may make decisions in consultation with humans or other beings (e.g. 20 Raven and Mink Help XÁLS Change the Earth; 24 XÁLS and Raven Create Death).

Leaders are responsible to be in regular communication with the heads of families, and to deliberate and decide about how to deal with matters that concern the whole nation, such as environmental disasters (1A, 1B The Flood Story) and violence against nation members (41 Douglas Treaty Story). For their part, family leaders are responsible for deliberating within their own families and then bringing the results of these deliberations to the hereditary chiefs. Each family head (or the next in line, the next oldest sibling, or that person can be appointed) would

¹⁵ Heredity chiefs typically the elder of the family. Inherited line of leaders. HIWEĶ Leader and was also a LOTĶ (eldest of the eldest in family line). Eldest goes by the last generation and the relations at the level. Family protocol/family relationships.

ŶELOŁEMŶEN - eldest son of ŶELOŶENTET (The ŶELOŁEMŶEN was the war chief stationed at the entrance of the bay at ŶSÍŶEM.

Village site was all of ŶSÁNEĶ used to be the entire Saanich peninsula connected via trails. Need to map this out. Warrior leader/soldier – STOMEŚ warrior that organized war parties.

SDOLEŶEL - warrior clan. (U DOT) Left as original. Be very careful with this, do not get in trouble.

Women were given a voice on decision making when elders were asked to provide input.

¹⁶ Nick Claxton (2003) states that the fundamental unit of ŶSÁNEĶ governance was the extended family. Roles included the LOTĶ, or leader/spokesperson, the HIWEĶ, or leader/organizer/supervisor, and the S,EL,WÁN, or Elder/advisor/storyteller (pp. 29-31).

have an opportunity to speak on behalf of the family before a decision would be made (1A, 1B The Flood Story). In this way, all views of various parties would be canvassed and considered.

Appointed Leaders are responsible to represent the family/nation during treaty processes (42 Douglas Treaty Story) or other negotiations.

Appointed leaders are also responsible for making laws that establish rights for natural beings (e.g. arbutus trees),¹⁷ and for commemorating people who act heroically or have overcome extraordinary circumstances (1A, 1B The Flood Story, including John Williams comments).

It is the responsibility of appointed leaders to listen to SIYEU,E/spiritual advisors and to take their advice seriously, since they are the experts in their spheres of knowledge. Chiefs are responsible for not letting pride get in the way of their decisions (42 Origin of the Robin).

Conversely, it is the responsibility of WŚÁNEĆ SIYEU,E/spiritual advisors to warn people of potential harms (42 Origin of the Robin). SIYEU,E/spiritual advisors also have a responsibility to use their powers for good (17 XI,YEU,EN), and to not get distracted by mysterious and mystical matters to the extent that they neglect their responsibilities to the community (7 The Wondrous Pit).

Families hold specific knowledge that is passed down from generation to generation, which can. Each family plays a role that they must fulfill based on the gifts provided to them by XÁLS or spiritual beings. These gifts ensure that families have survival skills and knowledge and are prepared for major events such as floods (1B, 1B The Flood Story). Gifts can also help people to understand how to live in reciprocal relationships with the beings around them, especially with salmon. For instance, WŚÁNEĆ people were taught to burn KEXMIN/Indian consumption

¹⁷ Not used for burning, but still used for bark and leaves, and tools etc.

plant¹⁸ as gift offerings to feed the salmon spirits and ensure that they continued to feed the people in return (32 Origin of Salmon).

Discipline of individuals starts at the family level, especially with mothers (15 Wolf Story; 38 ŁELOWENƧET), and may extend to the community level when serious harm occurs (6 The Raven Story; 33 The Son of KINEŁES; 37 WŚÁNEĆ and Sechelt Quarrel).

b. Who else needs to be involved in the decision-making process?

Each instance of addressing harm to the environment or natural beings requires the involvement of different people at different times. Who gets involved and when in the decision-making process depends on the nature, context and scale of the problem. It is the responsibility of parents and Elders, with the advice of knowledge holders, to decide whom to involve and the best approach to deal with the problem.

Individuals, including children in some cases, have agency to make their own decisions in life (2 Thunder; 3 Thunderbird Story; 44 Origin of the Killer Whale) while taking into consideration the advice of their parents (2 Thunder; 36A Origin of the Willow Fish Net; 36B Origin of the Reef Net); grandparents (3 Thunderbird Story); or knowledge holders/Elders (38 ŁELOWENƧET; 39 Received Songs). In fact, parents only intervene in cases in which an individual is not on the right path to living a good life (15 Wolf Story). It is understood that people must learn about the world in their own ways (48 Raven). They must take care of and be responsible for themselves, but also learn when to accept help (3 Thunderbird Story; 44 Origin of the Killer Whale).

¹⁸ Known in Latin as “*Iomatium nudicaule*”; another English name is “Indian celery”. These plants generally grow near the ocean. See the KEXMIN Field Station website, online: <<http://gordonbrentingram.ca/KEXMINfieldstation/2019/08/18/kexmin-field-station-mission/>>.



In decisions at the family level, family members may choose to punish other family members, or may choose to rescind this punishment. For instance, in “The Raven Story” (6), the father was causing harm to his own family by being greedy and keeping his catch of fish for himself, thereby making his family go hungry. He tried to prevent his son – who had seen this behaviour – from telling other family members about it. He set his son adrift on a log and left him to die. Eventually, the son escaped with the help of XÁLS and returned to his community after marrying two women. One of his wives, who was a SIYEU,E/spiritual advisor, turned the father into a rock, but only for a short time. Then the other wife turned him back again. Afterwards, the community gathered, which implies that they collectively decided to reintegrate the father into the community after his public punishment.¹⁹ Cases of harms or potential harms would be discussed by families, brought to family heads, and then – if the issue could not be resolved at that level – to the community as a whole.

¹⁹ In “The Son of KINEŽES” version of this narrative (34), the father was transformed into stone and remained in that state, a fate that his son decided on. The father/stone remained in the centre of the house.

Those with specific knowledge, such as SIYEU,E/spiritual advisors, Elders and harvesters, should be consulted as appropriate by individuals, families, community decision makers, or by anyone who needs specialized advice. Decision-makers should consult with holders of spiritual or technical knowledge. In “Origin of the Robin” (42), the chief sent his son to the mountain to obtain his song, even though spiritual advisors told him the child was not yet ready. Consequently, XÁLS transformed the boy into a robin.

Elders should be consulted and listened to, especially when there are signs of potential harm (3 Thunderbird Story). In the “Wolf Story” (15), the grandfather advised his grandson to be careful not to fool around with other women or there would be consequences. The young man did not listen; he cheated on his wife and returned home to find she had died. In contrast, in “The Black Fish” (9), orcas decided not to harm people who chose to listen to Elders’ teachings about them; people realized they needed to speak about orcas respectfully. In general, positive outcomes are achieved by listening to Elders and knowledgeable people. “Received Songs” (39) tells how a grandfather advised his grandson to bathe in a specific area with cedar and stones. The grandson followed these directions and was gifted with three songs for prayer and winter dance ceremonies.

Where a decision can have an impact upon the entire well-being of the community, leaders initiate the decision-making process, but the entire nation is consulted. This happens in “The Flood Story” (1A, 1B) when the flood threatens the safety of the entire community. In other cases, community-wide consultation by leaders is not recorded. However, the leader ŁELOWENƧET consulted his uncle before aiding the Cowichan in war with people from Port Angeles (38 ŁELOWENƧET). (The story “WJOLƧLP” (51) describes ŁELOWENƧET as a leader; “ŁELOWENƧET” (38) describes him as a warrior without indicating if this meant he had independent decision-making power). It is not clear from this story whether ŁELOWENƧET was consulting his uncle as a family member, or as someone with wider authority. In the “Douglas Treaty Story” (41), a young WŚÁNEĆ boy was unjustly killed by a settler and the chiefs decided that the entire community would go to war against James Douglas and the Fort Victoria settlement because of it. It has been understood by elders in the community that there was

meeting with the entire community prior to the meeting with James Douglas because they were gathering warriors and putting on warpaint (personal communications, SENĆOŦEN language committee, 2022). After eventually being persuaded by a SENĆOŦEN-speaking priest to make peace with the settlers rather than war, the chiefs decided – again on behalf of the community, including the warriors who were already amassed – that they should negotiate with James Douglas. Given the gravity of this situation, it is likely that consultation occurred in advance of the meeting; it would be interesting to research other versions of this story to see if community-wide consultation was recorded.²⁰

Leaders of other (Indigenous and non-Indigenous) nations need to be engaged when talking about matters of mutual concern and/or conflict (37 W̱SÁNEĆ and Sechelt Quarrel; 41 Douglas Treaty Story), or when matters spill over into their jurisdiction, such as when the W̱SÁNEĆ helped a mother from another nation to find her lost child (22 XOŶDES and ŶELTOS).

In “W̱SÁNEĆ and Sechelt Quarrel” (37), feuding nations decided collectively to end their hostilities when a marriage between respective members took place.

²⁰ In his work on the historical accounts of the Douglas Treaties, Neil Vallance (2015) has compiled various Indigenous and non-Indigenous stories about how the W̱SÁNEĆ Treaty came to be made. These include accounts by Chief David Latess, Gabriel Bartleman, Dave Elliott Sr, and John Elliott (pp. 106-12, 115-18). These stories also mention a dispute over lumber. See W̱SÁNEĆ scholar Jack Horne’s discussion of the different versions of this history: “W̱SÁNEĆ: Emerging Land or Emerging People” (2012) 3:2 *The Arbutus Review* 6. Vallance cites Dave Elliott Sr’s account of the dispute about the murdered boy (see *Saltwater People*, 1990 at pp. 69-73) suggesting that the chiefs of the nation were alone (or possibly with warriors) with James Douglas and his men, and would not have been able to consult with the community as a whole in light of immediately unfolding events. They consulted with each other, making a decision in that moment to avert war. Nick Claxton (2015), citing Knighton (2004), says that the chiefs ordered warriors to accompany them to a previous meeting with Douglas in Cordova Bay: Janice Knighton, *The Oral History of the Saanich Douglas Treaties: A Treaty for Peace* (Master’s Thesis, University of Victoria, 2004), online: <<http://web.uvic.ca/igov/index.php/igov-598-community-governance-project>>. However, it is hard to imagine community consultation did not take place prior to these planned meetings, or about W̱SÁNEĆ-settler conflict more generally. On W̱SÁNEĆ Treaty history see also Harriet Van Wart, *A Bibliography and Discussion of Douglas Treaty Materials: Phase One of Research on the Tsawout First Nation's Douglas Treaty* (Master’s Thesis, University of Victoria, 2001), online: <<http://web.uvic.ca/igov/index.php/igov-598-community-governance-project>>; Hamar Foster, “The Saanichton Bay Marina Case: Imperial Law, Colonial History and Competing Theories of Aboriginal Title,” (1989) 23:2 *UBC Law Review* 632; *Claxton v Saanichton Marina* (1989), 36 BCLR (2d) 79 (BCCA).

Harvesters would plan harvests together, considering the needs of animals, and of the lands, waters and air. In “Origin of the Willow Fish Net” (36A) and “Origin of the Reef Net” (36B), the entire community harvested plants and brought them to the fish spirit, who then used all the plant materials to build the first reef net.

A decision to host a potlatch is generally made by a family, but can have an impact upon the entire community, as members help prepare for the feast and giveaways (6 The Raven Story; 33 The Son of KINEZES).

In general, it is important to consider the needs of others before making decisions, as your decisions will impact them. To the extent possible, it is also important to consider what the consequences of your actions will be, as it may not be possible to reverse them (24 Raven and XÁLS Create Death).

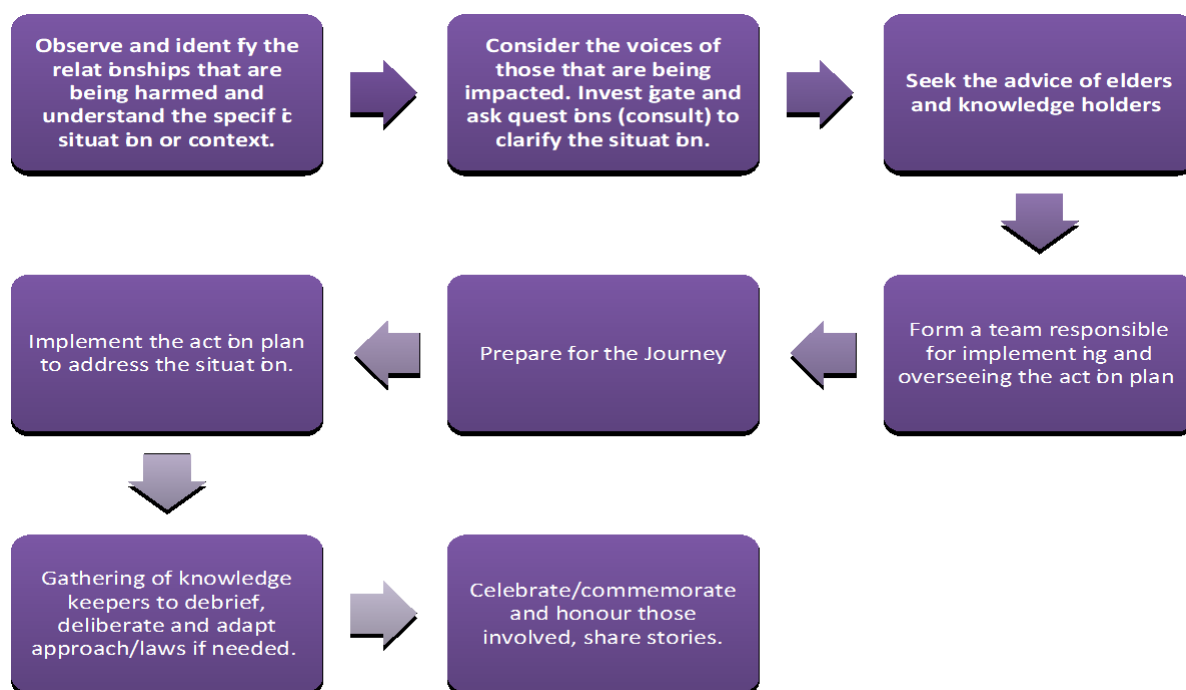
c. [What are the processes for decision-making in relation to the natural world?](#)

Below are some general restatements of law that should be used to guide decision-making:

Prepare personally to ensure that you are ready spiritually, emotionally, physically and mentally for any challenges you may face. This is vital. Carrying out regular cleansing and ceremonial practices such as praying and making offerings opens up your heart to receive gifts from spiritual beings (or guardian spirits) that will help you survive and provide for your family and community. In “Origin of Whale (Hunting)” (30), a girl and her two brothers regularly practised bathing and QĆÁSET, forms of sacrifice and fasting, preparing to make themselves pure in order to obtain spiritual powers or gifts, which can often take years. The girl was doing this to become a ŚNÁ,EM/medicine person, but the two brothers were doing it to find Thunder, a spiritual being whom they thought had stolen their sister away. The importance of spiritual and personal preparation is also stressed in “Thunder” (2), “Thunderbird Story” (3), “Wolf Story” (15), “The Salmon Girl” (29), “Origin of Whale (Hunting)” (30), “Origin of Salmon” (31), and “The Blackfish Spirit” (34).

Know when to intervene. When the sacred laws are broken, it is important to confront the situation and enforce the laws through a process of deliberation and consultation, on either an individual or community level. However, while it is usually appropriate to intervene, it is important to consider whether intervention is the best response in the circumstances. Intervention for its own sake, or for an inappropriate reason, may have unintended consequences. In “Raven and XÁLS Create Death” (24), Raven observes that there is too much smoke from all the campfires, and it is bothering him, so asks XÁLS to intervene and create death to help control the population. However, when Raven’s daughter dies as a result of his refusal to provide XÁLS with some elk fat, he asks XÁLS to undo the creation of death, but XÁLS says he cannot reverse this process. Other stories in which human actions have unintended consequences include “The Flood Story” (1A, 1B), “Wolf Story” (15), “Origin of SMÍET” (16), and “KINEŽES, the Pender Islands and Devilfish”. However, not all these consequences are negative.

It is important to remember that, in making decisions, we may regret getting what we think we want. You have to be careful what you ask for because it could be a huge responsibility, one that you take on for a lifetime (52 Legend of the Star Men), or we may be prone to being tricked by our own minds (48 Raven). Thus, we should be cautious when coming to conclusions and passing judgment.



Observe and identify the relationships that exist, where they are being harmed and understand the specific situations and contexts (1A, 1B The Flood Story). It is important to understand the contexts of specific harms and disputes before trying to address them. In “Origin of Salmon” (31), a village was hardly able to catch food from the ocean, so the people went on a journey looking for salmon. A salmon spirit showed them how to burn KEXMIN to feed the spirits of the salmon, thereby ensuring that they would have salmon in abundance. Once the youth started carrying out this practice, the *relationship* with salmon was repaired and they were able to catch so many salmon they were able to take a three-and-a-half-month break. (See also 1A, 1B The Flood Story; 2 Thunder; 3 Thunderbird Story; 9 The Black Fish; 13 Raven and Willow Grouse Go Hunting; 16 Origin of SMÍEF; 18 XI,YEU,EN ; 21 Mink and SOTEC; 22 XOXDES and XELTOS; 24 Raven and XÁLS Create Death; 25 KINEŽES, the Pender Islands and Devilfish; 26 Origin of Eagle; 27 Origin of Clams; 28 Raven and Deer; 29 The Salmon Girl; 31 Origin of Salmon; 33 The Son of KINEŽES; 32 The Whale and the Thunderbird; 34 The Blackfish Spirit; 37A Origin of the Willow Fish Net; 37B Origin of the Reef Net; 41 The Douglas Treaty; 42 Origin of the Robin.)

Consider the voices of those who are being impacted. To do this, investigate and ask questions to gain an understanding of everyone's perspectives. It is important to investigate and seek answers to your questions to gain a better understanding of particular situations. People are entitled to their own perspectives and reasoning for their decisions. Investigate through direct observation or ask questions of those directly involved in the situation. In "The Transformer" (5), XÁLS observes a man creating spears for the purpose of harming him. So XÁLS decides to approach the man and ask him what he is doing, to clarify whether his suspicions are correct. The man admits he is planning to kill XÁLS, whereupon XÁLS turns the man into a deer and turns his wife, child, and dog into stones. (See also 2 Thunder; 7 The Wondrous Pit; 15 The Raven Story; 16 Origin of SMÍET; 17 XEYOW'EN; 18 Raven and Partridge Go Hunting; 20 Raven, Mink and XÁLS Change the Earth; 24 Raven and XÁLS Create Death; 25 KINEŽES, the Pender Islands and Devilfish; 28 Raven and Deer; 29 The Salmon Girl; 37A Origin of the Willow Fish Net; 37B Origin of the Reef Net; 44 Origin of the Killer Whale; 45 Raven; 48 Raven).

Seek the advice of elders, family, spiritual beings or XÁLS. Sometimes you may be gifted with knowledge or skills to help you prepare for your journey²¹. It is appropriate to ask for guidance about: whom to consult for specific expertise or knowledge; what ceremonies are needed; or the best way to address a situation when you are not sure what to do. (See also 2 Thunder; 3 Thunderbird; 15 Wolf Story; 11 SXIXI; 29 The Salmon Girl; 30 Origin of Whale (Hunting); 31 Origin of Salmon; 33 The Son of KINEŽES; 34 The Blackfish Spirit; 36A Origin of the Willow Fish Net; 36B Origin of the Reef Net; 38 ŽELOWENTET; 39 Received Songs; 40 SŁEMEW.)

Form a team responsible for addressing the root cause of the situation. If you observe others causing harm or there is a dispute, put together a team of key people with specific skills and knowledge who can create and oversee an action plan that addresses the root cause of the situation, specifically the relationships that have been damaged or caused harm to. (See also 1A, 1B The Flood Story; 6 The Raven Story; 24 Raven and XÁLS Create Death; 25 KINEŽES, the

²¹ KĒLNEUEL - speaking to one another

Pender Islands and Devilfish; 30 Origin of Whale (Hunting); 31 Origin of Salmon; 33 The Son of KINEZES; 36A Origin of the Willow Fish Net; 36B Origin of the Reef Net; 37 WSÁNEĆ and Sechelt Quarrel; 38 ĆELOWENTET; 42 Origin of the Robin; 47 James Island Giant.)

Prepare for the journey by planning and carrying out activities or ceremonies that will help guide the process in a good way. Depending on the situation, prayer, offerings or specific ceremonies may be required in order to ask the ancestors or spiritual guardians for assistance in learning sacred teachings. The advice of Elders and other knowledgeable people should be taken seriously when it is given. (See 1A, 1B The Flood Story; 2 Thunder; 3 Thunderbird Story; 9 The Black Fish; 11 SXIXI; 12 The Porpoise-Hunter and the Thunderbird; 13 Raven and Willow Grouse Go Hunting; 18 Raven and Partridge Go Hunting; 25 KINEZES, the Pender Islands and Devilfish; 31 Origin of Salmon; 32 The Whale and the Thunderbird; 36A Origin of the Willow Fish Net; 36B Origin of the Reef Net; 41 Douglas Treaty; 42 Origin of the Robin.)

Implement an action plan to address the situation. In “The Flood Story” (1A, 1B), families are warned by a raven of the impending flood. It is implied that the families who were preparing ahead of time were the ones who were listening to the teachings, so it was easier for them to implement their action plan in time to pack their canoes and be ready when the flood arrived. In the “Douglas Treaty Story” (41), the chiefs gathered to develop a plan or response to the murder of a young WSÁNEĆ boy and decided to trick James Douglas into meeting with them but planned instead to kill him and his army on PKOLS (Mount Douglas) as well as the people below in Fort Victoria. However, this story also highlights how an action plan can be adjusted because the chiefs ended up being persuaded not to make war and the result of the meeting was the creation of the sacred agreement of peace and protection of the territory and the WSÁNEĆ way of life. (See also 21 Mink and SOTEC; 29 The Salmon Girl; 30 Origin of Whale (Hunting); 38 ĆELOWENTET; 51 Origin of WJOŁŁP.)

Gather knowledge keepers to debrief, deliberate and adapt approach/laws if needed. In “The Raven Story” (6), a boy who survived being left for dead floating on a log returned to his community after being gifted with the ability to transform others. Community members

decided to host a potlatch in his honour. It is implied that people gathered at the potlatch to debrief, deliberate, and adjust the laws as needed, based on recent events. This is implied because afterwards the father worked towards repairing his relationship with his son and was eventually forgiven and reintegrated back into the community (see also 33 The Son of KINEŽES). In “The Flood Story” (1A, 1B), a gathering was held around the coiled rope at the top of the mountain where the people discussed what had happened and decided to create a new law to never use KÉKELĆ/arbutus trees for fires. See also “Thunder” (2).

Celebrate, commemorate and honour those involved in making a decision, or resolving a conflict (6 The Raven Story; 11 SXIXI; 33 The Son of KINEŽES). Sharing stories is one way to do this.

3. Responsibilities

- a. What are people’s responsibilities to the natural world and to each other in relation to the natural world?

“ŁEL,TOS” (4) instructs humans how to be in relationship with the natural world. In this story, XÁLS transforms some WŚÁNEĆ people into islands, particularly “ŁEL,TOS /James Island:

After throwing the WŚÁNEĆ people into the ocean, XÁLS turned to speak to the islands and said: “look after your relatives, the WŚÁNEĆ people.” XÁLS then turned to the WŚÁNEĆ people and said: “you will also look after your ‘Relatives of the Deep’.” This is what XÁLS asked of us in return for the care our ‘Relatives of the Deep’ provide for us (*Collected Stories*, p.14).

This story illustrates the basis for the responsibilities humans have towards other beings and the environment; because the earth and natural beings look after us, we must also look after them. Human responsibilities include:

- treating animals and plants with respect and gratitude, including protecting their habitats or homes (13 Raven and Willow Grouse Go Hunting);
- not interfering unnecessarily with their activities (11 The Black Fish);

- not tricking animals (28 Raven and Deer), or speaking disrespectfully of/to them (9 The Black Fish), or quarrelling near them (23 Woman Lying Down Transformation Story);
- sharing the fat (24 Raven and XÁLS Create Death) or heart (13 Raven and Willow Grouse Go Hunting; 18 Raven and Partridge Go Hunting) of a killed animal with the Creator (feeding the Creator) to show gratitude for the life the animal has given;
- feeding animals (physically and spiritually) (31 Origin of Salmon); and
- helping fish return to the ocean or spawning grounds (*ibid*).

Harvesters hold many responsibilities when they go out on the land or waters:

- they should prepare themselves spiritually by bathing (11 SXIXI; 31 Origin of the Salmon) and praying (Claxton interview, 2017; Turner & Hebda, 2012);
- they should go out and be alone on the land – and to learn from the natural world – before they are ready to receive gifts from their SÍYLE, spiritual guide/helper/companion once they receive their gifts, they are to bring these gifts home for the betterment of their community (3 Thunderbird Story; 15 Wolf Story; 29 The Salmon Girl);
- they should listen to others who have greater knowledge of the natural world and should put their advice into practice (9 The Black Fish; 12 The Porpoise-Hunter and Thunderbird; 31 Origin of Salmon; 32 The Whale and the Thunderbird);
- they should be grateful for the animals or fish that come to them, even if they do not look perfect (14 Mink Goes Fishing; 28 Raven and Deer; 45 Raven);
- they should not be greedy – they should not harvest (or eat) more than they need and should be willing to share (6 The Raven Story; 8 The Two Brothers; 15 Wolf Story; 24 Raven and XÁLS Create Death; 26 Origin of Eagle; 33 The Son of KINEŽES);
- harvesters should offer to share their harvest with visitors from other communities if these visitors are behaving peacefully (37 WŚÁNEĆ and Sechelt Quarrel); and
- harvesters should make sure their parents are fed (15 Wolf Story)

In a similar vein, people should not steal from other harvesters (32 The Whale and the Thunderbird), and should not take harvested meat unless they have permission²² (34 The Blackfish Spirit).

Leaders should consult with those they represent when determining how to deal with an environmental crisis (1A, 1B The Flood Story).

Arbutus trees should be protected – never cut down, not carved, and not stripped of their bark, except for the pieces that have already flaked off (1A, 1B The Flood Story, John Williams comments).

People should share knowledge about proper ways of harvesting and caring for fish and their habitat (31 Origin of Salmon). More broadly, people should share with each other the laws of the W̱SÁNEĆ people pertaining to the natural world. People should also make decisions taking account the consequences of their actions on others, including the natural world – now and into the future.

4. Rights

a. What are the individual and collective rights to access, manage and/or use the natural world?

The rights of individuals and the W̱SÁNEĆ people collectively originate from the time when the Creator XÁLS created humans and the natural world (Claxton, 2015). The concept of Á,LEÑENEŁ, or “homeland”, describes this relationship in its definition: “where one comes from”²³. As discussed in Section 1, W̱SÁNEĆ creation stories speak to the interdependence of people and land; without each other, neither would be able to survive. Individual and collective

²² Respect other people’s harvest. Stealing in general is not good. You have to ask permission, or you will get punished. It will most likely be given if you ask. When you steal something, it never becomes yours, it just makes you a thief.

²³ Timothy Montler, *SENĆOŦEN: A Dictionary of the Saanich Language* (Seattle: University of Washington Press, 2018).

rights to harvest come from this interdependent relationship because both people and the natural world have rights to be healthy and to continue life.

Even those who were transformed because they were doing wrong were transformed into other animals to serve a purpose, such as in the stories “Origin of SMÍET” (16), “Origin of Clams” (27), and “Raven²⁴ and Deer” (28), which imply that people were transformed into these creatures so that they could learn humility by giving themselves up to the WSÁNEĆ people as a food source. The stories also imply that humans have the right to harvest other animals for food, necessities and ceremonial purposes.

Balancing both interdependence and the rights to survival and health, it becomes clear that the rights of individuals to manage, use and access the natural world must be based upon the principle of only taking what you need to survive and provide for your family (6 The Raven Story; 15 Wolf Story; 33 The Son of KINEZES). The WSÁNEĆ people were often taught by spiritual beings how to manage specific resources according to this principle; for example, in “The Salmon Girl” (31), the salmon spirit taught them how to take care of streams that provide a home to salmon. They taught the boys how to burn KUXMIN to feed the salmon spirits.

This principle also extends to the entire community, which is implied when the villages can no longer catch fish and are starving (31 Origin of Salmon; 36A Origin of the Willow Fish Net; 36B Origin of the Reef Net).

Children, especially vulnerable children such as orphans, have a right to be guided by the community (3 Thunderbird Story) and taught the skills needed to harvest respectfully and to survive (8 The Two Brothers; 15 Wolf Story).

One of the ways in which people accessed and used the natural world, exercising the rights and responsibilities described above, was through reef-netting. The reef net, as WSÁNEĆ scholar Nicolas Claxton states, has, “.... implicit in its practice a well-established system of management

²⁴ Ravens were also considered to be messengers, to warn people when someone is approaching or before someone passes away.

and governance of the fisheries and land, and thus formed the core of Saanich society” (2003, p. 22). Reef net technology not only provides a governance model for the W̱SÁNEĆ peoples, it contains inherent laws and jurisdiction relating to stewardship of lands and waters.²⁵ When a new reef net is being made, a small model is to be made, and the blessing ways were practiced by honouring the reef net model with SX̱IX̱ masks that represent the seven sacred fish (Personal communications, WLC Language Committee, 2022).

Families had the right to use specific reef net locations, and other families were not allowed to use their locations unless they were given permission to do so. The QENÁLYEN, or reef net captain²⁶ was responsible for governing all activities related to the management and use of the reef nets. There were captains with locations throughout W̱SÁNEĆ traditional territory (Claxton, 2003). Each reef net family shared the catch among themselves and distributed the rest after they had taken what they needed (Claxton interview, 2017).

The W̱SÁNEĆ have the right to continue to live their lifestyle in their territories in conjunction with their traditional harvesting practices (41 The Douglas Treaty Story).

W̱SÁNEĆ people had a right, along with other nations, to gather sheep and goat wool that was left along the trail of the eulachon trade route. The wool was traded, and was used to make clothes, regalia, and other items (10 Eulachon Trail).

W̱SÁNEĆ people have shared use rights in the territories of other Indigenous nations, particularly marine shared use rights near the mouth of the Fraser River and at Port Angeles (38

²⁵ See the video “To Fish as Formerly: W̱SÁNEĆ Nation Brings Reef Net Fishing Back after 100 Years” (2014) UVic Community Mapping Collaboratory with Nicholas XEM̱OLTW Claxton, online: <<https://youtu.be/vTQk1R9ibc>>. According to Nick Claxton, “Reef net fishing locations, called SWÁLET in the Saanich language, were the birthright of the Saanich People and fishermen. They were passed down just as family names and history were passed down. Fishing locations were not owned; rather the families belonged to it. In traditional Saanich society, the extended family formed the unit, and this was how everything was passed on. The elder of the family was usually the captain of the fishing crew, and held the knowledge and history that connected the family to that fishing location, and it was their responsibility to transfer that knowledge on. This is in part, how the Saanich governed their fishery” (2003, p. 26).

²⁶ QENÁLYEN - reef net captain

WSÁNEĆ and Sechelt Quarrel). This is especially important because WSÁNEĆ territory does not include any large rivers, only coho and chum streams – hence the need for reef-netting to catch passing sockeye, for example (Claxton, 2003).

b. What are the rights of non-human beings? How do we know what non-human beings' rights are?

The rights of non-human beings such as the Thunderbird, SMÍET/deer, or the robin stem from the same concepts discussed in the previous section regarding homeland, the dependent relationship, and the need for each other (humans and the lands and waters) in order to survive. Animals and other natural beings have their own agency to make decisions, as many of them have been transformed by XÁLS into their current state.

The Gulf Islands have the right to be protected. We know this because they are our relatives, created by XÁLS from human beings (4 ŁEL,TOS; 22 XOXDES and XELTOS).

Salmon has the right to be fed and to have KEXMIN burned while they are being processed (31 Origin of Salmon). They have a right to be helped to get back to the ocean (31 Origin of Salmon) and to continue their lineage by returning to their places of origin to reproduce (36A Origin of the Willow Fish Net; 36B Origin of the Reef Net). Note salmon are considered to have family lineages, just like people. Thus, practice of the First Salmon Festival, during which people are not allowed to fish for 10 days after the first salmon is seen, means large numbers of salmon can migrate freely, thus preserving their lineages (Claxton, 2003). It is also a sign of respect shown to others who also feed on salmon (spiritual and natural beings). Salmon has a right to a healthy home/habitat (29 The Salmon Girl).

Orcas have the right not to be intimidated or harassed (9 The Black Fish). They also have the right to be able to hunt for themselves sufficiently to survive (44 Origin of the Killer Whale). Porpoises (13 The Porpoise-Hunter and Thunderbird), seals (33 The Son of KINEZES; 34 The Blackfish Spirit), and sea lions (34 The Blackfish Spirit) have a right to be harvested respectfully and sustainably.

Clams have a right to have their habitat preserved, as it was given to them by XÁLS (27 Origin of Clams). This is also true of perch and octopus (25 KINEŁES, the Pender Islands and Devilfish); giant crabs found near the South part of James Island which are foods for the giants (47 James Island Giant); cod and “red fish” (red snapper) (22 XOŁDES and ŲELTOS); ratfish²⁷ (Bottom fish, hangs around the shore, used the oil like a healing oil, in prayer)(34 The Son of KINEŁES); and eulachon (10 Eulachon Trail). WŚÁNEC people are revitalizing the traditional practice of tending clam beds to preserve and enhance clam habitat.²⁸

Mink has a right to access fish and clams at the beach below the tide for sustenance during certain times because these resources are not always available (20 Raven and Mink Help XÁLS Change the Earth).

Raven plays an important role in the ecosystem by cleaning up the food waste left behind by humans and other animals (20 Raven and Mink Help XÁLS Change the Earth; 21 Mink and SOTEĆ). Eagles have the right to hunt ducks (26 Origin of Eagle). Seagulls (6 The Raven Story), willow grouse (13 Raven and Willow Grouse Go Hunting), partridge (18 Raven and Partridge Go Hunting), and robin (42 Origin of Robin) also have a right to harvest and sustain themselves. Ducks (26 Origin of Eagle; 4 The Son of KINEŁES) have a right to be hunted sustainably. Owls have a right to their own territories (22 XOŁDES and ŲELTOS).

Deer has a right to live in a variety of habitats where they consume salal, blossoms, and berry bushes (28 Raven and Deer). They also have a right to choose whether they want to act as a food source for humans (45 Raven). In “Raven and Deer” (28), the deer decide to leave an area when they hear Raven speaking SENĆOFEN, asking for his knife so that he can cut them up for food. Deer (13 Raven and Willow Grouse Go Hunting) and elk (18 Raven and Partridge Go Hunting) have a right to be harvested respectfully: their hearts should be given to the Creator in thanks.

²⁷ Bottom fish, hangs around the shore, used the oil like a healing oil, in prayer

²⁸ See, for instance, Parks Canada “Clam Garden Restoration” (2018), online: <<https://www.pc.gc.ca/en/pn-np/bc/gulf/nature/restoration-restoration/parcs-a-myes-clam-gardens>>.

Arbutus trees have the right not to be cut, or to have their bark harvested (unless it is already flaking off or on the ground), or to be carved, in perpetuity. In return, by annually flaking off their bark around the middle of their trunks, they remind the W̱SÁNEĆ people to live according to the laws (1A, 1B The Flood Story, including John Williams comments). We know this through oral history, because of the role of Arbutus in saving the ancestors of the W̱SÁNEĆ people from the flood (*ibid*).

It is implied that the plants used to make S̱XOLE/reef nets, including S̱XOLE/Hooker's willow itself, should be used sustainably (36A Origin of the Willow Fish Net; 36B Origin of the Reef Net); thus, these plants have the rights to flourish and to have their habitat preserved.²⁹ Other plant species mentioned in the stories include cedar (1A, 1B The Flood Story; 46 Origin of Cedar; 49 Creation of Cedar; 52 Legend of the Star Men), other trees (50 The Titans: Origin of Trees), plums (48 Raven), salal (28 Raven and Deer), eelgrass (25 ḴINEŁES, the Pender Islands and Devilfish), kelp (33 The Son of ḴINEŁES), and clover (22 XOŁDES and ŁELTOS). Camas was an important food plant for W̱SÁNEĆ people, who enhanced its habitat (Turner & Hebda, 2012; Belinda Claxton, personal communication with Shauna Johnson, 2017).

Natural beings/animals have the agency to decide what their rights are and will confront those who are not respecting those rights (9 The Black Fish; 34 The Blackfish Spirit). These principles apply to natural forces/beings such as Thunder (2 Thunder) and the north wind (21 Mink and SOTEĆ), as well as to the earth and waters (1A, 1B The Flood Story; 40 S̱LEMEW).

5. Standards

a. What are the ecological conditions that need to be maintained in order for the nation to thrive?

i. General conditions

²⁹ Nick Claxton (2003) states that S̱XOLE is Hooker's willow, and that cedar was also used in constructing reef nets. Claxton also mentions Pacific willow in his dissertation (2015).

The laws of EQÁ,TEL, as exemplified through the flood stories and other stories (see Section 1), suggest that people must be continuously mindful of the welfare of other natural beings and their habitats. The rights of humans and other natural beings, as expressed in Section 4 above, must be upheld in order for the environment – including the WSÁNEĆ people and all people in their territory – to thrive. These laws and rights must thus also be maintained by non-WSÁNEĆ people in order for WSÁNEĆ people to be able to experience wellbeing in their territory³⁰.

Animals and fish thrive based on the health of their habitats (28 Raven and Deer; 31 Origin of Salmon; 36A Origin of the Willow Fish Net; 36B Origin of the Reef Net) and availability of food.

ii. Conditions pertinent to salmon³¹

Salmon lineages need to be able to continue. Enough salmon³² must be able to travel freely and return to their ancestral spawning grounds. Salmon streams and rivers must remain healthy and viable. Salmon must have sufficient food and energy for all their activities throughout their life cycles. Thus, salmon harvesters must collaborate with salmon to assure the flourishing of both people and salmon.

³⁰ Conditions related to soil erosion, land development and vicinity to streams – I think these lands are ALR??? Review Canadian laws related to this. WSANEC should be consulted on this. Eventually the mud leads down to clam beds. The consultation part is not good enough for lands in our territory, there should be a development fee to WSANEC people. Put reeds along the ditch to help clean the water before it goes into the waters. Mabers flats – WSANEC Lake – cranberry bog. Gathered all sort of plants, medicines, textiles, hunted there (ducks, deer, elk). Endless amount of things to harvest. Gathered willows for reef nets. Wetland near Royal oak, along colquitz creek, lake behind red barn (on west Saanich road), which runs down to SNIDCEL.

³¹ What about conditions pertinent to water? The Gulf islands or lands? What about to natural beings? Spiritual beings? This can be drawn out more here. Refer back to stories.

³² Clean water, clean ocean, provide education to people about how to take care of the earth and the land. Understanding of their way of life. Understand their teachings. Keeping whatever it might be, clam beds, streams, waterways, keep farmers more accountable of what they do and place into the waterways. Should not be allowed to privatize places important to use like WSANEC Lake. WE need access to these places to get what we need from those places. Perhaps a covenant in these areas so that its good for all WSANEC and other people. Certain places need to be left in natural state. Having wetlands to clean the water and air, capture carbon. Native plants like reed that clean water before they enter the water. Municipality cuts the reeds, Tetayut creek that drains out in Tsawout. Creeks should not be overgrown with grass. Beavers have blocked the stream upstream, these needs to be removed. Streams need to be shaded so that the stream does not overheat. Replant alders, reeds, cedars, native plants along stream. Any creek or stream, we should have some kind of say on the health of it, be in on the pre-planning stage. People that live near streams should have some responsibility to keep it healthy. Michells's farm. There should be more stringent laws for people to take better care of these places.

An example of salmon-human collaboration was when the salmon spirit in the guise of a young woman was provided with a home that met her standards, and in return she created more salmon streams and supplied the community with a continuous supply of coho (29 The Salmon Girl).

Note that octopus cannot be in areas where there are salmon, such as at the mouth of the Fraser River, or they will spoil the fishing (25 KINEŁES, the Pender Islands and Devilfish).

b. What are the management practices that maintain these conditions?

In general, all beings must live up to their agreements to take care of one another to help maintain ecological abundance and health. Following respectful harvesting protocols (see Section 3) ensures that the people will be provided with food in abundance (34 The Blackfish Spirit; 18 Raven and Partridge Go Hunting). It is important to only harvest, when necessary, to the extent necessary.

The Gulf Islands must be preserved and protected; as long as this relationship is upheld, both the land and the W̱SÁNEĆ people will sustain each other (4 ŁEL,TOS).

With respect to salmon in particular, reef net technology helped to ensure that salmon lineages continued on. In the bottom of each reef net is a small escapement hole (SHELIS = “life”) that allows some of the salmon to escape and continue their journeys to their home to reproduce (36A Origin of the Willow Fish Net; 36B Origin of the Reef Net; Claxton, 2003; Claxton interview, 2017). Further, once the first salmon was caught in the fishing season, all fishing ceased for 10 days to honour the salmon through the First Salmon Ceremony. Typically, this would take place over the peak of salmon run period, which means some of the best salmon were allowed to continue on their journeys. This also allowed the salmon to return home and reproduce (Claxton, 2003; Claxton interview, 2017).

It is important to show respect to the salmon by honouring them through ceremony and prayer all throughout the reef net fishing process. Salmon are also honoured by not wasting any of their meat or other parts: everything can be used for something and/or returned to the earth.

The practice of returning fish bones to the waters in the First Salmon Ceremony illustrates this teaching (Sam & Claxton, 2010; Claxton interview, 2017).

It is important to burn and feed KEXMIN to the salmon when they reach certain resting areas (31 Origin of the Salmon).

Clam beds are only accessible during certain tides, which requires people to acquire³³ knowledge and plan accordingly for their harvest (27 Origin of Clams). Clam beds were made by building rock pyramid enclosures to cultivate rich beds of clams for harvesting (Belinda Claxton, personal communication with Shauna Johnson, 2017).

Camas beds were cultivated and maintained by families. They were cultivated by digging up some of the bulbs to disturb them and by controlled burning (Belinda Claxton, personal communication with Shauna Johnson, 2017).

The results of clam and camas cultivation were the flourishing of these species in WSÁNEĆ and other Coast Salish territories.

c. How do we know these ecological conditions have been properly maintained? (indicators)

The health and abundance of species shows that ecosystems have been maintained, balanced, and sustained, and that humans are living harmoniously with other beings. For instance, in “Wolf Story” (15), the mother was never hungry again because the wolves (and perhaps also the fish) taught her sons how to provide her with all the food she needed, and she was able to give extra to the community. Similarly, if people treat salmon well, they will always be in³⁴ abundance (31 Origin of Salmon). WSÁNEĆ people know where the home streams of coho are and the conditions in which they thrive. If salmon streams are cared for and other necessary

³³ Clam beds need to be cleaned. Sewer pollutes the beds. Tsawout sewer also needs to be upgraded. Tsartlip goes through tsawout plant?

³⁴ Species are in abundance – from a science point of view what does abundance mean and has this been sufficient? What is our indicator or measure for salmon to be in abundance? There is a need here to collect our own data and apply our own measures of success and indicators.

conditions are maintained, the nation will never have a shortage of salmon (29 The Salmon Girl). If people feed salmon and ensure that they have the energy to get to the end of their journey home, the salmon will flourish (31 Origin of Salmon).

6. Inter-community and International Relations

a. What are the principles and processes that govern relations between communities and with other peoples?

i. Principles

Other communities also helped W̱SÁNEĆ people in “Origin of Salmon” (31). In that story, two brave youth set out to find salmon. They came to a strange country and greeted people when they approached the beach. The people of this country provided the W̱SÁNEĆ youth with food and shelter as they explored the village. Eventually, the people provided the youth with a stock of salmon that they could share with their community and told them that if they treated the salmon properly, the salmon would return annually and supply their community with a continuous stock of food.

XOXDES was looking for help to find her daughter and nobody would help her other than the W̱SÁNEĆ people. It is important for W̱SÁNEĆ people to help people from other nations (22 XOXDES and X̱ELTOS).

In “Eulachon Trail” (10), the process of gathering goat and sheep wool in different territories for community use and for trade suggests that there was a free trade agreement between neighbouring nations.

“The Whale and the Thunderbird” (32) suggests that W̱SÁNEĆ whale hunters shared the waters of the Juan de Fuca Strait with other nations, at least for the purposes of whale hunting.

The story of “S̱X̱IX̱I” (11) describes a dance that is performed at special occasions such as weddings, naming and coming-of-age ceremonies, funerals – and ceremonies welcoming people into the community, if there is agreement between communities.

ii. Processes

There would be a deliberation process before carrying out any course of action that involved other nations (38 ØELOWENTET; 41 Douglas Treaty Story).

7. Consequences, Enforcement and Teaching

a. Consequences: What are the natural, spiritual, and human consequences of not following proper legal principles and processes?

Generally speaking, there are negative consequences if you do not observe and take seriously messages from the natural world (1A, 1B The Flood Story), spirit beings (32 The Whale and the Thunderbird), and knowledgeable people (15 Wolf Story; 42 Origin of the Robin).

The great flood described in “The Flood Story” (1A, 1B) was a result of people not looking after other beings and the environment. It was only those WSÁNEĆ people/families who were prepared who survived the flood.

Mink was ungrateful while fishing and was punished by the sea serpent by being strangled, and by wolves who took his fish and shortened his tail. XÁLS objected to Mink’s lack of respect for fish, which was corrected (14 Mink Goes Fishing).

In “Woman Lying Down Transformation Story” (23), there was a group of men who began a quarrel as they went to set up their deer nets. This was not respectful towards the deer. XÁLS decided to teach the men a lesson and turned them into stone. Afterwards, he heard a woman singing on the beach. She was singing for the harvesters, so XÁLS turned her into stone as well. Deer should be harvested in a respectful manner. (See also “XI,YEU,EN ” (17).)

In “Raven and Partridge Go Hunting” (18), Partridge killed an elk. A man (or XÁLS in the guise of a man) approached and asked Partridge for the heart, so he gave it to him, and, in return, the man helped him to get his elk home. Raven then killed an elk. The same man (XÁLS) asked for the heart of Raven’s elk, but Raven refused. Raven carried his elk home and asked his children to bring it into their dwelling, but the children discovered that the elk carcass had been turned into a stump and that Raven’s bows and arrows had been changed into moss and snakes.

Raven's lack of generosity after hunting cost him his elk as well as his hunting gear. In "Raven and Willow Grouse Go Hunting" (13), the facts are similar, and so is the result: selfish Raven's elk is turned into a stump.

A similar moral can be found in "Origin of Eagle" (26). In that story, XÁLS asked a man who was duck hunting for one of his ducks and the man refused. XÁLS transformed the man into an eagle for not giving thanks to the Creator.

There was a man who planned to kill XÁLS upon his arrival, but the Creator approached him and punished him for his actions by transforming him into a deer. XÁLS decided that the deer/man will be hunted, just as he planned to hunt XÁLS (16 Origin of SMIEȚ). (See also "The Transformer" (5)).

People are punished for taking meat that does not belong to them (12 The Porpoise-Hunter and the Thunderbird; 32 The Whale and the Thunderbird). Conversely, a man was rewarded for refraining from taking meat when he was unsure about whose it was – in fact, he was afterwards able to catch anything, and to escape from danger while harvesting (34 The Blackfish Spirit).

b. Enforcement: What are consequences people have designed and implemented to³⁵ ensure others are following the legal principles related to the natural world?

It is important to hold those who have done wrong accountable for their actions at a family/community level when needed (6 The Raven Story; 33 The Son of KINEȚES). However, people could later be welcomed back into the community even after having committed serious wrongs, such as attempted murder (The 6 Raven Story; 33 The Son of KINEȚES). In these last two stories, a combination of public shaming, temporary banishment and transformation is used to deal with KINEȚES' wrong behaviour

³⁵ Banish to a reef that stuck out during low tide and then the water would rise and if they survived then they were ok. Severing of head of warriors. Banish on canoes but were not given a paddle, given a pole and no supplies and pushed out. HEȚITEN - banishment by launching off on a raft with just a pole/ no paddle. Incest was a banish able crime.

After ǂELOWENTET and his mother were left without their father/husband, the youth was caught stealing. As punishment, his mother thrashed him with a wool beater and exiled him temporarily from the community (38 ǂELOWENTET).

In the only example of capital punishment in the stories, a man is killed by his own brother for wounding and humiliating prisoners of war (38 ǂELOWENTET). It is not clear from this account whether ǂELOWENTET's actions in killing his brother would have been considered an internal family punishment or were carried out in his role as leader with the sanction of the community.

c. Teaching: What are effective ways people learn or teach others about the legal principles related to the natural world?

People can learn legal principles through being out on the land and observing the natural world (3 Thunderbird Story). They also learn by receiving direct instruction from other people or spiritual beings.

In the “Wolf Story” (15), the community helped two boys who were left without a father to provide for them or teach them how to provide. After community members taught the youth to become competent harvesters, they returned the favour by supplying those who could not harvest with food.

The salmon spirit provided the ǂSÁNEĆ with a reef net system, so that they could be self-sustaining (36A Origin of the Willow Fish Net; 36B Origin of the Reef Net). Knowledge of the reef net system would have been shared throughout the community. In “Origin of Whale (Hunting)” (30), Thunder provided his in-laws with whale hunting and fishing technology, which would have also been shared outside the family.

Telling stories about transformations of people into landforms or animals teaches people to learn from the mistakes of their ancestors. For instance, when ǂSÁNEĆ people see certain rocks (e.g. 17 XI,YEU,EN), islands (e.g. 22 XOǂDES and ǂELTOS), and animals (e.g. 16 Origin of SMÍET), they are reminded of the stories and the teachings of the Creator.

Law is taught within the family unit. It is the responsibility of the grandparents to pass on teachings and guidance to their grandchildren (3 Thunderbird Story). It is the grandfather's responsibility to teach his grandchildren to conduct themselves properly (39 Received Songs).

8. **General Underlying Principles: What underlying or recurrent themes emerge in the stories that might not be captured above?**³⁶

Within many of the stories is the idea of gift exchange, or reciprocity, which is a practice connected to the fact that all beings are our relatives. For instance, in "Origin of the Willow Fish Net" (36A), there was a gift exchange that occurred when a woman left her community. Because a woman holds a tremendous amount of family knowledge, which will be taken away from the community when she leaves, her parents would not let her leave with her husband until he gave them and their community the gift of the fish net that saved them from famine (see also 36B Origin of the Reef Net).

9. **Reflections and Questions**

An attempt has been made in this report to synthesize the *Collected Stories* in trying to answer questions that may be helpful in applying the law in W̱SÁNEĆ stories to litigation and negotiation on behalf of the W̱SÁNEĆ people and the environment. However, to go further and attempt to create a consistent narrative across these stories might be problematic, especially without getting input from people well-versed in W̱SÁNEĆ oral literature. Therefore, prior to getting feedback from the community, we have not attempted to reconcile stories that seem to

³⁶ This section can be flushed out more.

be inconsistent,³⁷ or that describe actions that seem to violate norms expressed in other stories.³⁸

The W̱SÁNEĆ stories discussed here present complex ideas in deceptively simple form. Non-duality is a feature of many Indigenous philosophies (Claxton, 2015); some things may not be knowable or resolvable (7 The Wondrous Pit), and it is easy to become confused by interpretation, as when Raven thinks he is seeing plums, but is merely seeing a reflection (48 Raven). Interpretation is doubly difficult when dealing only with English versions of these stories. Doubtless, there are concepts – and even jokes – that are “lost in translation”. For instance, is there a pun in the SENĆOŦEN version of “XI,YEU,EN ” (17) between “seer” and SIYEU,E and “all ... shall see you” (XI,YEU,EN), when a seer is turned into rocks for all to see? Not knowing the answer to this question illustrates the difficulty of trying to understand the law without using the language in which it lives.

Acknowledgement

³⁷ For instance, in “Creation of Cedar” (50), people who behave well are rewarded by being turned into trees, and in “The Titans – Origin of Trees” (51), people who behave badly and are punished by being turned into trees. Some behaviour that seems relatively mild gets serious punishment: in “Woman Lying Down Transformation Story” (24) a woman is transformed into an island after she tries to divine what has happened to her husband, who had just been turned to stone. In contrast, in another story, even the attempted murder of a child by his own father is forgiven (6 The Raven Story), and all is made right.

³⁸ In “Raven and XÁLS Create Death” (25), the daughter of Raven was killed but it was Raven who behaved badly. In “The Transformer” (5), the wife, son and dog of someone who behaved badly were turned into rocks, although they do not appear to have done anything wrong. Are these stories meant to be a lesson to family leaders about their responsibilities to others? Perhaps, but “The Transformer” (5) is still difficult to reconcile with the many stories that affirm the agency of women, children, and animals. In “Southeast Vancouver Islands” (20) some people were transformed who were merely travelling in an area where XÁLS wanted to create islands. Perhaps it is a mistake to see transformation as a punishment, or even as a reward. Perhaps these actions are merely part of XÁLS’ creative process – which is open to suggestion and modification by other beings.

The authors, researchers, and RELAW at WCEL are grateful to all those whose work and stories form part of this draft report, and we look forward to the community feedback phase of this project. HÍSWKE SIÁM! NI QENNET TĚE WŚÁNEĆ! (Look at what is emerging!)