Exploring Indigenous-led justice and Restorative Justice in British Columbia and Saskatchewan: A Comparative Action Research Project

Final Report

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Table of Contents

List of Tables

List of Figures

The Crime Reduction Research Program

The Crime Reduction Research Program (CRRP) is the joint-research model in British Columbia between academics, the provincial government, and police agencies operated by the Office of Crime Reduction – Gang Outreach. The CRRP is supported and informed by a Crime Reduction Research Working Group which includes representation from the Ministry of Public Safety Solicitor General (represented by Community Safety and Crime Prevention Branch and Police Services Branch), the Combined Forces Special Enforcement Unit of British Columbia, and the Royal Canadian Mounted Police "E" Division.

The CRRP focuses on investing in research that can be applied to support policing operations and informing evidence-based decisions on policies and programs related to public safety in British Columbia. Each year, the CRRP reviews submissions of research proposals in support of this mandate. The CRRP Working Group supports successful proposals by working with researchers to refine the study design as necessary, provide or acquire necessary data for projects, and advise on the validity of data interpretation and the practicality of recommendations.

The CRRP operates a $1M annual funding allocation in the form of grants that are dedicated to support university-led research at Canadian institutions. This project was supported through the 2019 CRRP funding allotment.

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Executive Summary

There is a plethora of literature conflating the terms restorative justice (RJ) and Indigenous-led justice (IJ). This collaborative action research project examined the relationship between IJ and RJ in British Columbia (BC) and Saskatchewan (SK), Canada. This qualitative study employed a decolonizing research method. As a result, the research was overseen by a community advisory committee, composed of justice stakeholders and knowledge keepers in BC and SK. Data were collected through 26 key-informant interviews—17 from BC and nine from SK—and 29 Focus Group Discussion (FGDs) in eight communities in BC and SK. Our findings are divided into two major categories—general and emergent. General findings are the direct answers to our research questions whereas emergent findings are the results of dialogues between the researchers and research participants. General findings included the definitions of RJ and IJ, and where they converge and diverge. Emergent findings on the other hand were found to be a need for relationship building among justice stakeholders, increased awareness and understanding among the public and the justice system—particularly the police—of RJ and IJ, as well as funding challenges. Emergent findings also included the impact of colonization on the justice system and the need for decolonizing justice practices. This study unearthed a wide range of distinctions between IJ and RJ. According to some participants "there's absolutely no similarities" between RJ and IJ whereas to others, RJ and IJ are like the "difference between chocolate and vanilla ice cream." This study demonstrates the importance of dialogue between justice stakeholders and Indigenous Elders, knowledge keepers, and communities to reveal the unique and important distinctions between IJ and RJ. Additionally, this study offers a way of employing decolonizing research methodology and an insightful discussion on the concept of decolonization and restorative justice.

1. Introduction

The term restorative justice was first coined by Albert English in 1977, and further refined by prominent restorative justice scholar, Howard Zehr. The RJ movement grew significantly since the first documented case in Waterloo, Kitchener in 1974. Following this, in 1982, the Fraser Region Community Justice Initiatives Association in BC expanded the concept of Victim-Offender Reconciliation Program (VORP) from the Kitchener-Waterloo program to include services provided to individuals who committed serious offences. (Chatterjee & Elliot, 2003). Another notable development for the use of restorative justice initiatives in Canada occurred when Justice Barry Stuart of Yukon Canada, implemented the use of

sentencing circles in 1998 (Tomporowski, 2014). In 1997, the Royal Canadian Mounted Police (RCMP) also added approaches called Community Justice Forums as a discretionary alternative available to non-violent offenders that were intended to be restorative (Asadullah & Tomporowski, 2021; Chatterjee & Elliott, 2003).

Currently, more than a hundred countries around the world use some form of restorative justice in responding to justice related issues. RJ in Canada, British Columbia (BC) and Saskatchewan (SK) in particular, has experienced significant growth and development since the 1970s. BC is home to over 80 police and/or community-based restorative and/or Indigenous-led justice programs (Asadullah & Morrison, 2021; Chatterjee & Elliott, 2003; PSSG, 2018). Saskatchewan has had alternative measures in place since 1985. Currently, there are approximately 80 agencies and organizations that provide some kind of restorative justice service in SK. Of these groups, the Ministry of Justice provides funding to 20 community organizations, 33 mediators, and four school restorative programs as well as Circles of Support and Accountability. This statistic demonstrates that the implementation of restorative practices has grown considerably throughout Saskatchewan. Since 1997, Saskatchewan has seen approximately 100,000 criminal matters referred to restorative justice initiatives. This translates to an approximate number of 3,500 restorative justice referrals per year in the province. (Asadullah, & Tomporowski, 2021; Tomporowski, 2014).

Over the years, legislation, policy, court decisions, and government reports have highlighted the need to address the over-criminalization of Indigenous people and provide restorative justice options for all Canadians. However, most victims and offenders experience the legal system, not restorative or Indigenous-led justice. Morrison et al. (2019) note that although Canada has made significant contributions to the restorative justice movement, these programs and practices currently remain at the margins of the system compared to other countries. There is no question that interest in both Indigenous-led justice and restorative justice approaches has been on the rise for decades in Canada. However, the promise of such initiatives must be understood in the context of their challenges and limits. For example, while the growth of restorative justice programs partially explains the decrease of youth on probation and in prison (Department of Justice, 2016), the number of Indigenous youth in custody continues to grow (Malakieh, 2019). In fact, despite Indigenous-led justice programs being in place since the early 1990s, the crisis of overrepresentation of both Indigenous adults and youth as victims and accused/offenders at every stage of the justice system continues to get worse (Malakieh, 2019). Programs alone are not enough

to address the complexities of achieving justice within the colonial structure. Strang and Sherman (2015) also shared similar findings from Australia where RJ was found to be harmful, in particular to Aboriginal peoples. According to them, "The [RJ] experiment tells us that more victims were harmed, and offenders descended further and faster into crime, when RJ conferences were used with Aboriginals instead of prosecution in court" (Strang & Sherman, 2015, p. 10).

In both provinces, BC and SK, there are programs operating as both Indigenous-led justice and restorative justice programs and organizations that offer one of these services. In addition, in both BC and SK, examples of both Indigenous and restorative justice approaches can be found in some probation and parole practice and within Indigenous/Gladue courts.

This community action research aims to bring together decision makers/staff from restorative justice programs, Indigenous-led justice programs, victims services, and referral sources (law enforcement, Crown, and others) to build and enhance working relationships, and to learn from one another. The primary research question is: *How are Indigenous-led justice and restorative justice defined? What are the similarities and differences?* The overall aim is to explore the relationships between IJ and RJ. In-depth qualitative interviews and focused group discussions were the tools employed in this study. The following section offers a brief summary of literature on the idea of justice, Indigenous-led justice, and restorative justice.

2. Literature Review

The concept of justice is complex and therefore understood, experienced, and operationalized differently by individuals, communities, regions, and states. Various factors, such as race, gender, culture, faith, ethnicity, worldview, and personal and professional experience contribute to this diverse conceptualization of the notion of justice; as such, the meaning of justice can vary from the perspective of victims of crime to alleged offenders, to defence lawyers and community members. In both normative terms and in relation to crime, justice can mean "an eye for an eye, a tooth for a tooth" or "being treated fairly" or "due process" (Robinson, 2003, p. 329) to some while connoting healing for others (Ross, 2014; Sawatsky, 2009; Yazzie, 2005). Other scholars focus on relationships as part of justice (Elliott, 2011; Llewellyn, 2011; Zehr, 1990). Three threads in the tapestry of justice—justice as healing, justice as fairness, and justice as relational—are the conceptual themes outlined in this section. These varied concepts of justice have different origins. A state-based understanding of justice identifies justice as fairness and

equality (Rawls, 1971; Sen, 2009), albeit with significant differences in what these concepts mean and how they might be ensured in society. Indigenous worldviews understand justice as a healing process (Ross, 2014; Sawatsky, 2009; Yazzie, 2005). The core theme for Indigenous-led justice is a focus on a relational worldview and wholistic well-being, whereas state-based justice primarily concentrates on deterrence and procedural fairness (Monchalin, 2016). RJ scholars are influenced by both state-based and Indigenous perspectives and extend the notion of justice to just relationships at all levels—individual, community, and institution (Llewellyn, 2011; Llewellyn & Morrison, 2018). Indigenous worldviews primarily focus on the concept of healing and interconnectedness, whereas a state-centric understanding of justice focuses on fairness, rights, and equality. RJ as relational theory of justice combines both healing and fairness and aspires towards just relationships (Monchalin, 2016; Yazzie, 2005).

Indigenous

There are over 470 million Indigenous people globally. Indigenous peoples have organized and structured their societies since time immemorial. In Canada, the federal government uses the words Indigenous peoples to refer to First Nations, Inuit, and Metis peoples within the geographic boundary of Canada. In each of those three categories, there exists a great deal of diversity. There are over 50 Indigenous nations in Canada and over 600 federally recognized First Nations.

In Canada, there are at least 70 Indigenous languages. In BC, there are at least 30 distinct Indigenous languages, and about 60 dialects (Gov. of BC, n.d.).

justice

Although definitions of justice exist, it can be argued that in the English language, justice evades universal definition. Justice can be perceived as a noun, a verb, and an adjective. Justice, like the English language, embeds a diversity of normative worldviews, even as it changes overtime.

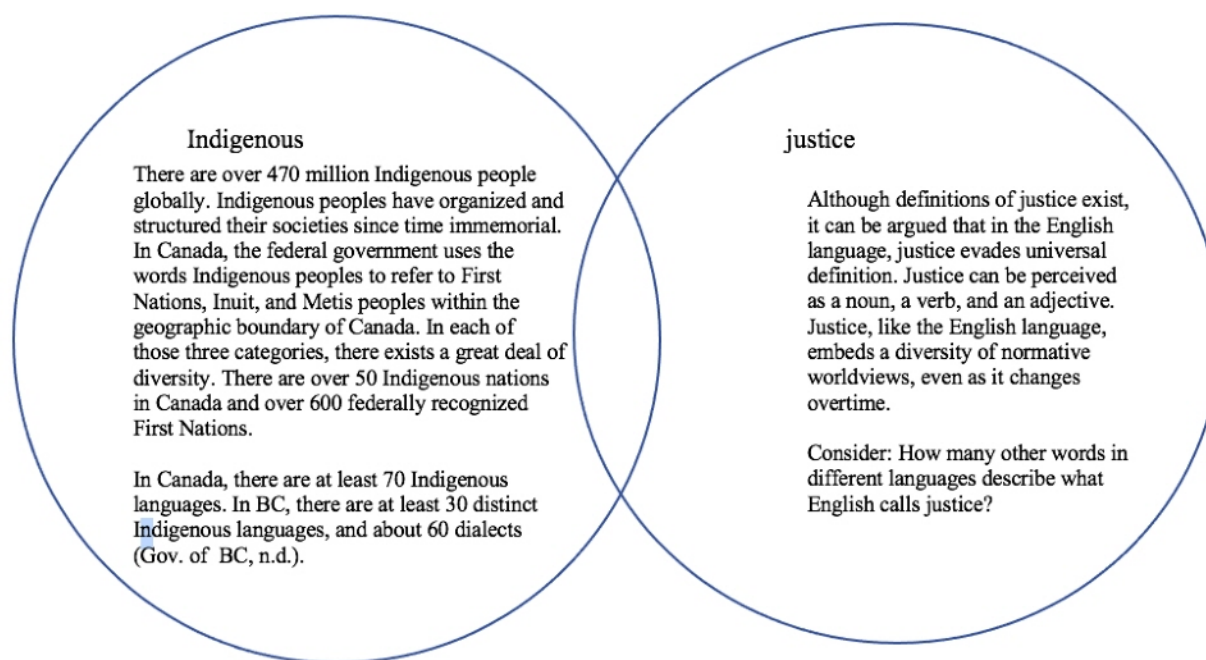Consider: How many other words in different languages describe what English calls justice?

Figure 1: Unpacking the words 'Indigenous-led justice'

While there are similarities between Indigenous worldview of justice and restorative justice, it is not appropriate to use these terms interchangeably. Chartrand and Horn (2016) have noted "there are important features that make Indigenous legal traditions quite different from restorative justice processes, including how Indigenous legal traditions often use proactive/preventative strategies mediated through kinship networks" (p. 3). These authors continue by suggesting that while restorative and Indigenous approaches to justice are unique, "there are opportunities for cross-cultural dialogue between

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advocates for restorative justice and Indigenous legal traditions, as well as opportunities to learn from each other's experiences and journeys" (Chartrand & Horn, 2016, p. 3).

Comparative study and peer reviewed scholarly work on the relationships between IJ and RJ are scant. This study addressed this gap by exploring how IJ and RJ are defined. This study also examined the relationships between IJ and RJ in detail.

3. Methodology

The entire research employed qualitative research methodology. Clarke and Braun (2013) define qualitative methods as exhibiting both techniques and frameworks of data collection. They also describe it as a "paradigm" that has specific belief, assumption, and practice (Clarke & Braun, 2013, p. 4). Denzin and Lincoln (2013, pp. 6-7) view qualitative methods as an "interpretive" and "naturalistic" mode of inquiry. According to them, in qualitative methods, researchers "study things in their natural settings, attempting to make sense of or interpret phenomenon in terms of the meanings people bring to them" (Denzin & Lincoln, 2013, p. 7). The following section discusses research questions, research paradigm, and research procedures in detail.

3.1 Research Questions

The questions guiding this research are:

- *How are Indigenous-led justice and restorative justice defined? What are the similarities and differences?*
- *What is the nature of the relationship between IJ and RJ, referral sources, and victim services?*
- *What needs to happen in the future to provide better justice services to victims, offenders, and communities?*
- *How can all justice partners and stakeholders work better together to enhance accessibility and the quality of restorative and Indigenous-led justice in their communities?*

3.2 Research Team

The Principal Investigators were Dr. Alana Abramson, Criminology Instructor at Kwantlen Polytechnic University (KPU), and Dr. Muhammad Asadullah, Assistant Professor of Justice Studies at the University of Regina (UofR). Three students—Xilonen Hanson Pastran, Jori Fulks, & Michael Baumgartner—were employed as Research Assistants (RAs). RAs were responsible for conducting and transcribing the interviews, note taking during Focus Group Discussions, and aiding in synthesis of results.

3.3 Ethical Paradigm

A transformative inquiry paradigm was employed throughout the research process as it is reflective of the phenomenon studied (restorative justice) and mirrors much of what is considered qualitative research in the social sciences. The transformative inquiry paradigm seeks to "respect and empower stakeholders while reducing othering[1]" (Toews & Zehr, 2003, p. 263). This approach is based on the principles of listening with respect and recognizing the meaning assigned to life experiences as subjective, constructed, and inter-relational. The transformative inquiry paradigm employs mindfulness to create safety and acknowledge power dynamics throughout the data collection process. Participants are co-investigators working with researchers who facilitate, collaborate, and learn. Action research dates to the early twentieth century and has been used in diverse fields. The core features of this approach are: the recognition of the capacity of people living and working in particular settings to participate actively in all aspects of the research process; the research conducted by the participants is oriented to making improvements in their practices and their setting by the participants themselves (Kemmis, McTaggart & Nixon, 2014, p. 4). Both in-depth qualitative interviews and Focused Group Discussions were employed following snowball and purposive sampling techniques that were used to recruit participants.

3.4 Ethical Consideration

The entire research was conducted under the guidance and approval of Kwantlen Polytechnic University's Office of Research Ethics. Moreover, the PIs consulted with the Indigenous Office of UofR and the Indigenization and Decolonization Committee of KPU. Additionally, PIs and RAs completed training on The First Nations Principles of OCAP™ (ownership, control, access, and possession).

3.5 Research Procedures

The research process was conducted as follows:

Step 1 - PIs formed an advisory committee. This committee was composed of key justice stakeholders, knowledge keepers, and community members. These five people—three from BC and two from Saskatchewan—assisted and guided the PIs with respect to site selection and reviewing the research instruments. The committee met with the PIs approximately once per month for the duration of the project.

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[1] Zehr defines this concept of "othering" as the act of creating social distance between individuals and/or groups by stereotyping or labelling as "outsiders" or "enemies."

Step 2 - PIs, on the advice of the Advisory Committee, reached out to eight to ten potential participants in eight different communities (five in BC and three in SK). These communities included situations where Indigenous-led justice programs and restorative justice programs are either working well together, not working together, or not working well together. PIs provided Invitation to Participate to potential participants.

Step 3 - PIs connected potential participants (staff/volunteers of Indigenous-led justice, restorative justice, and other justice stakeholders like police, Crown, and victim's services) with RAs who emailed Consent Forms and arranged a time for a phone/video call interview, approximately one to two hours in length.

Step 4 - RAs reviewed the Consent Form and obtained verbal consent, conducted interviews, and transcribed the data.

Step 5 - PIs analyzed the interview data and designed a series of virtual dialogue sessions (focus groups) that aimed to promote dialogue between justice stakeholders that addressed their hopes, needs, interests, and the research questions. The interviewees, often RJ and Indigenous-led justice program coordinators, were invited to an agenda-building meeting to ensure that the Focus Group Discussions (FGD) were designed to respect cultural protocols and address the needs of the local restorative and Indigenous-led justice programs.

Step 6 - Thirty FGDs were conducted over the course of several weeks with approximately 10 to 15 participants from each community. For the most part, the same participants attended all the sessions. These virtual FGDs were facilitated by the PIs and resulted in a document called a "Community Action Plan." The plan, co-authored by the participants, detailed short term action items about how to work better together and provide improved Indigenous and restorative justice services in their community. Frequency and length of time of the meetings were determined by the needs of the participants, but total commitment did not exceed 10 hours total.

Step 7 – A copy of the Community Action Plan was provided to each participant. This document contained clear next steps and protocols between participants.

Step 8 - Between one and three months later, follow-up calls/meetings were conducted with the participants to assess how helpful the document was with respect to working together and improving restorative and Indigenous-led justice programs.

Step 9 - Data collected from interviews and FGDs were analyzed by the PIs and RAs.

Step 10 - A final report generalizing the findings and providing recommendations based on data from all eight communities was written by the PIs and RAs, and submitted to funders, participants, and the advisory committee.

3.6 Decolonizing Methodology

This research project employed decolonial methodology in five ways.

1. All research team members including PIs, RAs, and community advisors maintained non-hierarchical relationships during the entire research project. Research meetings were held with opening and closing circles and relationship building was central to building and maintaining non-hierarchy. The research participants played a vital role in planning the agenda for FGDs and took a lead role in offering ideas regarding the needs of their community as well as potential solutions to be implemented. Cultural protocols including prayers, land acknowledgments, and the inclusion of elders were observed through all stages of the research process.

2. All research team members successfully completed the First Nations Principles of OCAP™ (ownership, control, access, and possession) training prior to any engagement with research participants/collaborators. OCAP™ training is well regarded as an important element of decolonizing research practices.

3. Throughout the research process, the research team actively engaged and consulted with Elders, knowledge keepers, and community-based experts. This consultation resulted in the formation of a community advisory committee (see Table 1). The Advisory Committee assisted and guided the PIs in a number of ways including site selection and reviewing the research instruments. Additionally, the Advisory Committee provided instrumental advice to maintain relationships with communities.

Table 1: List of the Advisory Committee

Pseudonym	Designation/Occupation	Sites
Community Advisor-1	Civil Servant & academic	SK
Community Advisor-2	Elder and community organizer	SK
Community Advisor-3	Community organizer and academic	BC
Community Advisor-4	Community organizer and counselor	BC
Community Advisor-5	Community organizer and academic	BC

4. A substantial amount for honoraria for Elders and research participants was allocated in the research budget. Those who were not eligible to receive honoraria had an option to donate their honoraria to a charitable organization of their choice.

5. The research allowed for flexibility. Time is a colonial construct; thus, spaciousness was offered to research team members and participants with respect to deadlines, meetings, and pace. For example, there were three FGDs originally scheduled in Moose Jaw, Saskatchewan, however a fourth session was added as participants felt that additional time would be beneficial to properly coordinate their efforts into a community action plan.

3.7 Research Instruments

1. **In-depth qualitative interviews**: In-depth, semi-structured interview is one of the most effective instruments for qualitative research. They are conducted to understand the perception, experience, and feedback of the key stakeholders in an RJ process. In-person or face-to-face interviews help to dig into deeper issues of complex phenomena (Palys & Atchison, 2014). As in-person interviews could not be conducted due to COVID-19 protocols and restrictions, virtual video call and phone interviews were undertaken. A total of 26 interviews—17 from BC and nine from SK—were conducted for this study (see Table 2).

Table 2: Interviewees

	Pseudonyms	Designation[2]	Sites
1	SK-1	Community organizer	Saskatoon, SK
2	SK-2	Community organizer	Saskatoon, SK
3	SK-3	Community organizer	Saskatoon, SK
4	SK-5	Community organizer	FHQ, SK
5	SK-6	Community organizer	FHQ, SK
6	SK-21	Community organizer	Moose Jaw, SK
7	SK-22	Community organizer	Moose Jaw, SK
8	SK-23	Community organizer	Moose Jaw, SK
9	SK-24	Community organizer	Moose Jaw, SK

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[2] The designations of "Community organizer" and "RJ/IJ advocate" have been selected over more specific terms in order to protect the identity of the interviewees.

10	BC-1	Community organizer	South Vancouver Island, BC
11	BC-2	Community organizer	South Vancouver Island, BC
12	BC-3	Community organizer	South Vancouver Island, BC
13	BC-4	Community organizer	South Vancouver Island, BC
14	BC-5	Community organizer	South Vancouver Island, BC
15	BC-10	Community organizer	Nicola Valley, BC
16	BC-11	Community organizer	Nicola Valley, BC
17	BC-12	Community organizer	Nicola Valley, BC
18	BC-13	Community organizer	Nicola Valley, BC
19	BC-29	RJ advocate	South Okanagan
20	BC-30	IJ advocate	South Okanagan
21	BC-40	RJ advocate	Prince George
22	BC-41	IJ advocate	Prince George
23	BC-42	IJ advocate	Prince George
24	BC-43	IJ advocate	Prince George
25	BC-52	IJ advocate	Kamloops
26	BC-53	RJ advocate	Kamloops

2. **Focus Group Discussion (FGD)** is a form of discussion platform where selected groups of people interact with one another under the guidance of a moderator or researcher and uncover commonalities and differences (Fern, 2001). Kamberelis and Dimitriadis (2008) describe it as "collective conversations" (p. 275), whereas Liamputtong (2011) describes FGDs as informal discussion groups that help to unearth complex topics within a short period of time. Methodologically, there are two types of FGDs—the structured type and the more flexible, less rigidly structured type. In the structured approach, the researcher adheres to a set question pattern and expects specific answers. Participants are more likely to interact with the moderator than among themselves in this approach. In the less structured approach though, participants are encouraged to talk to each other and the researcher facilitates the conversation instead of directing them to any specific topic (Morgan, 2002). Fern (2001) identifies that group cohesion, setting, moderators, gender, age, social status, cultural values, race and ethnicity, and

confidentiality all play important roles in FGDs. Liamputtong (2011) adds that cultural sensitivity and appropriate translations are significant to the success of FGDs.

A less structured approach was employed to meet the objectives of this research which included creating opportunities for participants to:

- Explore of how Indigenous-led justice and restorative justice were understood including the similarities and differences.
- Articulate the challenges and opportunities to enhancing restorative and Indigenous-led justice for victims, offenders and communities.
- Foster relationship and collaboration and work towards a Community Action Plan.

A total of 29 FGDs in eight communities were conducted virtually and were well-attended by justice stakeholders and community members. Both purposive and snowball sampling methods were used to recruit FGD participants (see Table 3).

Table 3: FDGs

Site	Number of virtual FGDs	Average attendance
Moose Jaw, SK	4	7
Saskatoon, SK	4	12
File Hills Qu'Applelle (FHQ), SK	4	14
South Okanagan, BC	4	8
South Island, BC	4	10
Prince George, BC	3	9
Merritt, BC	4	8
Kamloops, BC[3]	2	10
Total/Average:	29	10

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[3] In May, 2021 Chief Rosanne Casimir of Tk'emlúps te Secwépemc announced that the remains of 215 children who were students of the Kamloops Indian Residential School were confirmed found on the grounds of the School that had operated from 1890-1978. Given the impact of this announcement, participants agreed that time should be taken before continuing with the focus groups. The final two gatherings have been scheduled for September and October, 2021.

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4. Findings and Analysis

Findings are divided into two major categories—general and emergent. General findings are the direct answers to our research question whereas emergent findings are the results of dialogue between the researchers and research participants. This section also included some critical analysis on the notion of colonization and decolonization as related to the restorative and Indigenous-led justice initiatives.

4.1 General Findings

How are Indigenous-led justice and restorative justice defined? What are the similarities and differences?

4.1.1   Definitional understanding of IJ and RJ

Indigenous-led justice:

Both interviewees and FGD participants described and explained Indigenous-led justice in several ways. Some participants discussed the homogeneity implicated in the term "Indigenous-led justice." Participant BC-30 explained,

> *There are similarities in regards to the belief systems that we carry and the connections to our land and our water and our place of origin. But that's where the similarities really stop. And I think for too long, the governments of BC, as well as Canada, have taken that stance that every individual of Indigenous ancestry in this country are all the same. So there has to be a recognition of the very marked differences that exist between the Nations. And we are Nations.*

Similarly, BC-3 stated that "my understanding is that each Nation might want to do something very differently." A few participants discussed how their program services urban and rural Indigenous communities and peoples with diverse cultural contexts. Many participants discussed the process of their program connecting individuals to cultural activities, which shift depending on the client. As put by BC-52, "it's not just one set culture, so you're dealing with a whole bunch. And then if you don't know that one, you've just gotta learn."

For BC-5, Indigenous-led justice means "the community taking it into their own hands instead of the police and the justice system." Others describe IJ as "always planning with what looking forward looks like and what needs to get done" (BC-3). Many of the participant descriptions about the development of IJ programs in communities within British Columbia exemplified those definitions. Some participants

described that when the needs of individuals and families emerge in IJ processes, the programs work to connect and offer support to individuals in accessing diverse resources to meet their needs (BC-41). Several participants discussed community-involvement in describing IJ. Several participants identified harm-doer understanding, both in why harms occurred and their impact, as a central feature in IJP processes (BC-41; BC-52). Understanding was also identified as important for participants in an IJ process beyond a harm-doer. As put by BC-41, "we also get to hear their story, too, understand that they are people, they have a story, and we know things are going on in their life, but we're going to help them get those tools so that they don't have to do that again, right?" BC-12 explained, "being able to educate while sanctioning, that's what Indigenous processes are really about." For SK-5,

> I think that Indigenous-led justice approaches are very much about our culture, our customs, our ancestral justice laws that we already had hundreds of years ago that were really dismantled and destroyed by colonialism. I feel that the culture is strong and I feel it's really been emphasized in the teachings that are coming along. We talk about mediation for example. It's not just about people sitting down and having dialogue, although that's a big component. It's also about looking at things that are much deeper. To me, quite often when there is conflict, there is usually some type of trauma which means that we need to get to the root of the problem, you know, what is causing all these issues and I feel like with Indigenous-led approaches, I think it needs to be respected, honoured, and accepted by society and Canada as a whole.

Another element of IJ described by participants was the role of Elders in IJ processes. BC-41 explained the role of Elders as "Not only is it support, but also just as knowledge keepers to be able to share, and a lot of the time, too, with Indigenous people with Elders, and probably more so with everybody, period, but there's that respect that we have for our Elders and so if an Elder is present, that person is more likely not going to have an outburst." As put by BC-43, "you can't always measure it to see the relation that an Elder can have with a client."

Additionally, SK-25 shared a unique perspective by drawing attention to the issues with using IJ as an umbrella term when referring to Indigenous practices and traditions. They expressed that there are many different Indigenous cultures with unique traditions and justice practices. "It should be referred to as Nakota justice, Cree justice, et cetera" (SK-25). SK-25 further explained that grouping these cultures' traditions under the term IJ parallels colonial government policies that have sought to generalize Indigenous cultures.

Restorative Justice

Both key interviewees and FGD participants described, defined, and explained restorative justice in various ways. As stated by BC-10, "restorative justice doesn't have one main definition. It's a broad definition, everyone kind of has their own, everyone puts in different things." Several participants described restorative justice as a process/approach to dealing with harm. Within this process, participants identified restorative justice practices such as empowering those who have been harmed (victims) as well as a focus on dialogue, reparation, and accountability. Participant BC-40 described restorative justice as:

> the ability to dig deep and listen and understand the story behind the story, whether it's the victim or the offender. Oftentimes we find, the person that has caused harm, there's some sort of trauma in their background that has caused them to behave in the way they did. It's almost always the story. The beauty of restorative justice versus the Criminal Justice System, we have the opportunity to take a look at the reason why a person is acting that way and to try to help them develop better coping skills so that we don't see them under these circumstances again.

Participants described several views on the relationship between colonialism and restorative justice. Some participants described RJ as a "colonial system based on traditional methods" (BC-13). Others stated, "it's not a colonized process, it came to be from Indigenous processes before" (BC-10). SK-6 defined restorative justice as:

> the restoration of a person's balance spiritually, physically, emotionally, and mentally. And it emphasises repairing the harm that has been caused and it also allows for the offender and victim to meet while holding the offender responsible for their actions. It allows the victim to have a voice and lets them voice how they have been impacted by the harm caused by an offender.

4.1.2   Convergence between IJ and RJ

Research participants' opinions varied widely in reference to the similarities between Indigenous-led justice and restorative justice. Some participants felt IJ and RJ are "pretty much the same" (BC-41). Others felt that the similarities between IJ and RJ were that both are community-based, involve collaboration, and strive to meet the needs of individuals involved in justice processes. SK-23 explained,

> They both address the harm done to the individual and the community, they both acknowledge that accountability is important. They're both voluntary. They both recognize that prisons don't

work. And then I also said that they both kind of recognize that not only the victim centered thing
but community also needs to be involved when determining solutions.

A few participants mentioned, with nuance, that both IJ and RJ have similar goals in their processes. As stated by BC-40, "We want to help that individual move forward in their life in a positive manner and we want to set them up for success. And for everyone, that looks a little bit different." Several participants described that RJ is based on IJ. Participant BC-30 stated, "when you look at RJ practice across the board, RJ practice is based on Indigenous-led information and knowledge, for the most part." Similarly, BC-43 stated, "restorative justice fits so well with Indigenous communities because this is something they've done, like I've said, for hundreds, maybe thousands of years." On a similar sentiment, SK-5 stated,

> *The similarities are that I think they are rooted in Indigenous philosophy or thought and process.*
> *So I think that is the similarity, that they were driven by the Mauri people with the sentencing*
> *circles and how we have adapted sentencing circles as each community has been a part of a*
> *sentencing circles and they developed to the needs of a specific community. I think that is why RJ*
> *has been so easily accepted into our communities so easily because we can adapt it to our own*
> *processes and ways of thinking.*

Some felt that the similarities between RJ and IJ was akin to asking "what's the difference between chocolate and vanilla ice cream. They're both ice cream. It's just a matter of flavour, so at the end, ice cream is ice cream." (BC-30). Furthermore, a number of participants interchangeably used the terms RJ and IJ themselves, demonstrating the continued conflation between the two terms. For example, when asked about their understanding of Indigenous-led practices in their community, BC-43, an IJ advocate, explicitly used the term "restorative justice" when discussing their perspective.

Several participants discussed Indigenous Courts when explaining either RJ or IJ. BC-10 explained:

> *For the Indigenous Court, the client has to plead guilty, has to take responsibility for their actions.*
> *It uses a much more spiritual and cultural connected version to the justice system and the whole*
> *process. And provides a deeper holistic and restorative approach to the court and for the*
> *sentencing.*

Many research participants believe that IJ and RJ are complementary. SK-5 believed that "Restorative justice is the bridge between legal adjudication to traditional and Indigenous processes." Other participants distinguished restorative justice from Indigenous Courts. BC-43 expressed:

I think the Indigenous Courts are very important and it's way different from the normal Criminal
Justice System, in itself. And I would argue it's far different from even the normal restorative justice
because they have Elders involved, working on specific healing plans, healing plans that are linked
into culture where they'd be making a dream catcher or making a drum or having one-to-one
chats, a talk with an Elder and maybe share some of the cultures and teachings.

4.1.3   Divergence between IJ and RJ

Several participants felt that there were significant differences between IJ and RJ. BC-12 emphasized that
IJ processes employ a "different methodology completely of gathering information to assist these
[clients], and to be willing to go out and assist them." A few participants felt that the differences were
related to processes employed by different justice programs. Some participants expressed that scripts
used in RJ processes are a difference from IJ processes (BC-12; BC-40). Other participants, such as BC-12
noted that IJ processes work so that "everybody can gather the information completely. Even if it takes a
little bit of time. It's not a time-driven process either. It's not time-driven. It's acknowledging spirit."

Several participants noted a difference between IJ and RJ being the identities of folks working in IJ and RJ.
For BC-43, "if there's an Elder involved in an Indigenous community, you already have a grain of trust that
you wouldn't have in a normal mainstream restorative justice because you're dealing with typically non-
Indigenous staff. That's what I see is the significant difference." For SK-23, "Having Indigenous
representation, that would always be a different thing." SK-2 explained, "I think you see in RJ in some
areas, it's more a faith-based approach and you have people motivated by faith as to why you do this and
I think the idea of forgiveness is tossed around more in RJ than in IJ." SK-28 shared that "RJ is more like an
academic thing whereas IJ talks about natural laws, Creator's laws and laws from the land."

BC-12 felt that a significant difference between IJ and RJ was the latter's emphasis on rehabilitation. BC-
12 explained that:

rehabilitating is different for a mainstream white person, for example. A white guy, non-Native
guy, gets in trouble in an assault-- say he was fighting with the Native guy. So, he gets
"rehabilitated" by not fighting anymore because his sanctions were he's not allowed to fight
anymore, so he stops fighting. He understands a little bit maybe about what led up to alcoholism
or drugs or something like that. They can identify that. And they are used to being in a classroom
that they believe is for them. Learning how to conduct themselves as a Canadian individual. Well,

privilege is not what Native people have. We don't have that on our side as we're trying to gather

this knowledge. And in fact, we were prohibited from gathering this knowledge.

Not all participants felt that IJ and RJ were significantly different. Participants such as BC-41 felt that "the difference is only the ceremony part." Majority of the key informant and FGD participants in BC and SK explained IJ and RJ as "complementary" and "interrelated."

4.1.4   Future of IJ and RJ in BC and SK

When asked about their hopes and future for RJ and IJ in their community, the participants provided a wide range of responses, from wanting RJ and IJ to be more prevalent in the justice system to an autonomous justice system for Indigenous peoples. Many participants overall wanted RJ and IJ to be used more and to be more accessible. BC-53 poignantly said, "I would like [RJ] to be the first choice, not the last choice." BC-2 echoed this sentiment in wanting RJ and IJ to be "the first response to any kind of conflict in the community," whereas BC-40 expanded on these sentiments with a desire for RJ to become "common practice across Canada, not just within [their] community."

Others focused on a desire for an increase in use of RJ and IJ practices by justice stakeholders in their community. BC-29 wanted "the RJ process to be available at all steps" of the Criminal Justice System, from "early investigations or pre-sentence or post-sentence," and BC-1 had a similar hope, but wanted RJ and IJ to be "practiced more at all levels: individual, team, community, police, Crown, everybody." Beyond the justice system, SK-24 wants RJ and IJ to be "used way more often than it is, in lots of different situations" by looking at what can be done in the community. SK-5 also hoped for RJ to be the way things were done all the time in the community, with mediators and facilitators being used when there is conflict.

Some simply dreamed of improvements to their programs. For example, BC-52 wanted a more robust program that was "more well-rounded and wholistic" and SK-2 who wanted to see more community involvement for improved use and understanding of RJ and IJ. BC-41 and BC-4 wanted more referrals from the RCMP and other programs in the community. Further, SK-1 and BC-5 want more resources and funding to be able to transform their programs and reduce the number of Indigenous peoples going through the system and SK-23 desired more training and more case workers. BC-13 wanted their own process set up in the community that's run and owned by themselves, and eventually being able to handle more serious offences on their own.

Others like BC-11 looked towards more Indigenous-specific responses such as addressing fundamental issues and "the things that aren't talked about [...] and really start addressing the trauma from colonization and healing" or "having an Indigenous Court for every community" (BC-42). SK-3 would also "like to see more of the Indigenous groups take control of the Criminal Justice System in that sense" where there's more focus on Indigenous traditions. Some participants looked beyond fitting into the settler-colonial justice system and dreamed of a completely decolonized process where Indigenous peoples have their own justice system (SK-6; SK-25). BC-30 said,

> *I would like to see the day when there's an actual Indigenous Court. Not following the existing Criminal Justice System or the justice codes of Canada, but following Indigenous law and process. We had our own processes. They haven't been forgotten. They're not so very far away and there's no good reason why we shouldn't engage in those processes first and foremost. [...] So, not a First Nations Court. First Nations are pleading courts. They're part of the existing system. But an actual court that recognizes Indigenous law and processes.*

Even though scholarly work on comparative discussion between IJ and RJ is limited. Similar to research participants, academics are also divided in defining IJ and RJ.

Table 4: Comparative Analysis of IJ and RJ

Theme	Indigenous-led justice	Restorative Justice
Origin	Since the time immemorial	Elmira Case of 1974
Justice Focus	Healing	Repair of harms to people and relationships
Legal Foundation	Indigenous customary laws; oral traditions	Section 718 of *Criminal Code*, YCJA 2013
Key Stakeholders	Elders, relatives and people affected by the harms	Victim, offender and community
Examples	Chakma Justice System (Asadullah, 2013); Māori Justice System (Tauri & Morris, 1997); Haida Justice System (McGuire, 2019)	Regina Alternative Measure Program in Saskatchewan; North Shore Restorative Justice Society in BC

4.2 Emergent Findings

Five major themes emerged from the data in relation to the following research questions:

- *What is the nature of the relationship between IJ and RJ, referral sources, and victim services?*
- *What needs to happen in the future to provide better justice services to victims, offenders, and communities?*
- *How can all justice partners and stakeholders work better together to enhance accessibility and the quality of restorative and Indigenous-led justice in their communities?*

These themes included 1) building relationships and breaking silos; 2) funding challenges; 3) need for increased awareness and understanding; 4) impact of colonization; 5) decolonizing the justice system.

4.2.1 Building relationships and breaking silos

One of the major emergent findings in this study is the realization that many agencies are working in silos. In response to questions regarding how justice stakeholders could work better together, many were focused on communication, networking, and breaking silos. As BC-40 put it, "even just across our province, there are so many different groups doing so many different things and wonderful things around restorative practices. Half the time, we don't know who they are or who's doing what." BC-40 focused on the importance of "collaborating, communicating, sharing." BC-4 and BC-5 felt a need for more collaboration and communication as often RJ and IJ, and other justice stakeholders, don't know what services either programs are providing and a lack of efficiency was a concern. BC-53 and BC-1 wanted increased communication to allow for the sharing of stories and tools to establish what worked and what didn't to be able to provide improved services to their clients and community. While BC participants managed to identify this gap in the programs, they didn't have any suggestions. SK on the other hand, like the idea of creating a justice hub centered around IJ and RJ programs. For example, SK-1 shared: "I know that [this community] has a [justice] hub that involves a lot of people where they can talk about specific people and decide the best ways to help the person in the community without them going to jail. All those kinds of opportunities to work together is what we need." SK-22 considers this type of working group as an "inter-agency hub" where all justice stakeholders and relevant agencies can meet a few times in a month. This key function of this justice hub includes relationship building with each other, sharing ideas and resources, and learning from each other (SK-22; SK-26; SK-27).

BC-1, BC-52, and BC-41 found that the frequent turnover of staff, particularly within the RCMP, led to a breakdown in communication among the stakeholders and perpetuated silos. BC-52 and BC-41 even had suggestions on ways to improve this situation. As BC-52 had to say,

> *I think that's difficult because [justice stakeholders] have a lot of turnover of staff and I guess that [a solution] would be one database or something where you put in who is all working for you and what their jobs and stuff is 'cause after the turnover, you'd be able to look. 'Cause we have RCMP turnover, we have probation turnover, Crown Counsel turnover all the time.*

Many were grateful for the introduction and inception of the meetings brought forth by this study because as BC-2, BC-10, and BC-42 noted, the bigger part of working better together is communicating and having regular meetings.

4.2.2   Funding challenges

In discussing the challenges and limitations facing RJ and IJ, several participants mentioned issues with funding. As explained by BC-43,

> *I read once before that "empowerment without resources is impossible." And I don't believe that our Provincial government, although they place a value on it, have put a lot of money into advocating or promoting and supporting it. I think that's a limitation. At the end of the day, court systems are run with money. Programs are run with money and if you don't get the financial support, it makes it very hard to hire the staff.*

In the final stages of this project, one Indigenous-led program in a community that was participating in this research discontinued their restorative justice program due to a lack of funding. Insufficient funding and strict funding criteria were identified as challenges facing IJ and RJ programs. As put by BC-30,

> *In the almost 30 years of providing services to the justice system of Canada, we've never received increases in funding. So, the funding is static, basically. So, looking at it, and saying on a year-to-year basis, we are, as Aboriginal people, we are subject to funding situations that don't exist anywhere else. There is no certainty. So, funding, initially, when we came onboard was on a year-to-year basis, so every year, we were subject to getting an ROE and a notice of lay-off and a lot of programs couldn't function that way and they lost a lot of staff initially when they were, they even lost programs in that uncertainty. So currently, there are 26 programs in the province, but as you may or may not be aware, there's almost 300 different communities in the province of BC, 168/169*

Nations in the province. So, if you only have 26 programs, we have a real shortage of service availability to Indigenous populations throughout BC."

BC-43 had further issues with the availability in funding, mainly that there is competition among RJ and IJ programs for the same funding, which further creates silos. BC-43 explains,

whether it's by design or just the way it is, so much funding is not accessible. You know, everybody's going after the same funding, right? So, by its nature itself, it doesn't build cooperation, it builds silos because you want to make sure that you do the best you can in order to promote your restorative justice and get your face out there in order to make sure that if there are ability to influence, you can. So, it makes it very hard when that funding and everybody's pursuing it.

Unstable and insufficient funding create challenges in the work conducted by IJP. BC-41 explained,

I don't get a whole lot of funding for ceremonies or gifts and stuff like that. I'm lucky I have my other team members that I can kind of maybe use their funding for different supplies, but I would say, for the justice workers, there would be a lack of funding for that kind of things, being able to do that kind of, whether it's making a hand drum or a rattle or maybe learning how to do traditional ceremony ties or different cultural things, depending on where they're from.

Similarly, BC-5 expressed,

We need to employ other people here, we need to have more cultural programming and we don't have the funding to do that. They don't give us proper funding to rent office space and, just, they don't put anything behind this. That's my biggest beef. I've always talked to both the federal and provincial funders about this, and there's been times where I just say, 'it's not worth it, you don't give us enough money.' Like, I'm trying to keep this program going from my other programs and they don't put enough money behind it.

SK-26 also addressed the challenges created by insufficient and narrow funding for justice programs. "We do not have funding to do everything justice involved. We are not funded for community responses" (SK-26). SK-26 further explained that the funding available for justice services is too narrow and specific to the needs of certain clients, meaning that they are prohibited from providing all of the types of services they would like to.

4.2.3   Need for increased awareness and understanding of IJ and RJ practices

Another emergent finding, as similar to what was uncovered by the 2019 CRRP funded study, was the need for education on and increased awareness of IJ and RJ by police, justice stakeholders, the public, as well as victims and offenders. Particularly, the education of police officers and their increased awareness of restorative and Indigenous-led justice programs was mentioned numerous times. As many noted, the RCMP are the first point of contact for the victims and offenders, and thus the RJ and IJ programs, making the police's knowledge and understanding of IJ and RJ integral to the referral process and the use of the programs.

In response to questions concerning how justice services could be better provided or more accessible, some participants cited awareness of or education on RJ and IJ. BC-40 responded, "Number one, awareness. [...] if more community stakeholder groups are aware that the practice exists, then [victims and offenders] would have more accessibility." BC-3 said, "the biggest thing is that people don't know about [RJ]!" BC-4 and SK-21 agreed that education and awareness of RJ is a huge piece and SK-2 believed that "there needs to be more advocacy and there needs to be more campaigning on what RJ is." SK-23, SK-5, BC-10, BC-42, and BC-43 had similar sentiments, and SK-1 has found that one of the biggest challenges is getting the information "out there."

Many focused on police officer's lack of knowledge of RJ and IJ, which they felt led to a reduced number of referrals. BC-41 wanted the police to be more "informed of the services so that they can make referrals" to both RJ and IJ programs. BC-29 found that it was "the viewpoints that some folks have on restorative justice, that it's a copout" and has focused on educating the police on BC-29's perspective of RJ and IJ in an attempt to improve their perspectives and encourage more referrals. Per BC-3, "not all RCMP officers are pro RJ." BC-29 emphasized that, "Accessibility is based on knowledge and if there's no knowledge, then how do they get knowledge? Well, they should have knowledge from their first point of contact, which is generally a police officer." Beyond the police, BC-2 wanted to encourage the use of Indigenous-led justice within other stakeholders and BC-1 stated that "there needs to be an increase in awareness in this whole process from the top-down to all levels of the judicial system" in order to provide better justice services to victims and offenders. SK-2 also shared a similar belief.

Regarding education and awareness of RJ and IJ, overall, many participants found a need for an informed public, police, and criminal justice system to improve the access and use of restorative and Indigenous-led justice practices in their community.

4.2.4   Impact of colonization

A large number of key interviewees (BC-10, BC-11, BC-12, BC-30, BC-42, BC-43, SK-2, SK-3 SK-5, SK-21, SK-22) and many FGD participants shared the impact of colonization in so many ways.

Research participants shared how the Canadian court system, law enforcement agencies—particularly the RCMP—and prisons are influenced by colonial mindset. SK-22 shared that "our court system is so colonized and it really oppresses people and it's controlling with that hierarchy." One of the most consequential impacts of colonization is that many Indigenous peoples and communities lost their teachings, laws, and justice processes. SK-2 believed that "largely due to colonization there is a disconnect between traditional Indigenous teaching and how people are currently living because everything [law, teachings, ceremonies] has been destroyed." More specifically, according to BC-30, "colonization basically displaced a lot of Indigenous knowledge and Indigenous ways of dealing with wrongdoing or crime." Trauma healing is important to address colonization and historical harms, according to BC-11. To BC-11,

> I always go back to and look at all the ways colonization has impacted our people and our lives and livelihood. And if we can address those by bringing back all the things we lost like how to communicate, how to be in relationship, and how to work together. Deal with the trauma of our past and what's still going on. It's a big, big job. But that's kinda where I come to, we have to address what's happened and what was taken away and find ways to heal.

An essential understanding from research participants in this study is the realization that colonization affected Indigenous peoples significantly. Questioning the intention of the colonial state is important as BC-12 suggested "we're starting to ask better questions." It is also important that the general public, especially RJ volunteers, practitioners and advocates need to know the colonial history of Canada. BC-43 believed that it should be part of RJ training for volunteers and staff.

4.2.5   Decolonizing the justice system

A number of key interviewees and FGD participants shared the need for a decolonized justice system. Research participants shared numerous ways to decolonize justice systems.

One way to decolonize the justice system, especially the courtroom, is to have judges from Indigenous communities. BC-11 shared their opinion and mentioned that

Indigenous Court is a huge one. I think it could change though because they are still running it as a courtroom, and my mind is if we're decolonizing the justice system, restoring it to Aboriginal people, then how about we do it differently where the judge does not come in and impose their ways of doing? That's how I feel.

SK-17 and SK-2 offered similar visions for decolonized justice. SK-8 felt the need to bring the justice systems, especially courtrooms, to community as a way of decolonizing justice. According to SK-8, "It would be a great step to bring judges out to the community so that judges and lawyers could come to our communities. We can set up [a courtroom] there and do it in a more familiar environment because I know it is very intimidating to be in a courtroom. It can just shut you down."

Another way to decolonize justice, according to some participants, is bringing Indigenous laws, customs, ceremonies into existing RJ practices. According to SK-5, "Indigenous law and Indigenous ways of knowing and processes is what we need to blend into restorative processes for decolonization" (SK-5). They considered this as a "blended system." SK-17 also believed in this way of decolonization because, according to them, "the society we live in is blended with different people." According to BC-10, RJ can also be seen as "white colonized style of justice" and inclusion of ceremonies and rituals can mitigate this issue.

Finally, some participants articulated that having a full-fledged justice system rooted in Indigenous laws, traditions, cultures, and spirituality is needed to decolonize justice. Some key interviewees in BC mentioned Indigenous-led justice Centres as an example in this regard. BC-10 shared:

Indigenous-led Justice Centres are connected to community, it doesn't necessarily need Crown counsel involvement, it doesn't need RCMP involvement, it can be done strictly at a community level. And it needs the Band's involvement. It is quite transformational in how it considers what Indigenous-led justice should be.

BC-12 also shared similar sentiment on BC's Indigenous-led justice Centre.

There is a realization among research participants that it will take time to decolonize justice systems as "Colonization is tough, decolonization will be even tougher" (SK-25). The following section discusses the concept of decolonization and justice in detail.

5. Decolonization and Justice Discourse

The following discussion begins with a brief explanation of the term decolonization and then it moves to the idea of decolonizing restorative justice.

5.1 Colonization

Scholarly work on colonization is extensive (Daschuk, 2013; Monchalin, 2016; Nichols, 2018; Park, 2020). Canada is a settler-colonial state, meaning it is a place where "colonizers 'come to stay' and to establish new political orders for themselves,' while insisting on 'sovereignty over all things in their new domain. Most importantly, settler colonialism centres on settler control over the land" (Park, 2020, p. 262). Settler-colonial projects in Canada exist in a plethora of forms. Rushing to include all forms of colonial policies, mentalities, and projects in this paper would be inadequate without explaining the genesis, means, and ends that colonialism sought/seeks to accomplish. A number of scholars engaged in academic discussions on colonialism. A helpful note in Nichols' (2018) paper on dispossession is that colonialism "is not an *example* to which the concept applies, but a *context* out of which it [dispossession] arose" ([emphasis in original]; p. 21). This passage illustrates why colonialism is not simply a few nameable policies or practices, it is the context of Canada that assisted in creating and continues to uphold this state (Park, 2020). Dispossession was the focus of Nichols' (2018) paper, but they recognized an important fact pertinent to this discussion:

> *Colonization involved— and involves—a complex array of difference processes...including labour exploitation, enslavement and racial domination, gendered and sexual violence, cultural defilement, and the usurpation of self-governing powers, to name only a few.*

5.2 Decolonization

Discussions of decolonization require naming a basic and essential fact: colonialism is not a 'thing' of the past, it is not one event or one oppressive system. Colonialism is ongoing in Canada, it is far from a "dark chapter" of Canadian history (Coulthard, 2014). It is woven into the very fabric and machinery of Canadian institutions, systems, laws, and policies. Globally, decolonization is conceptualized differently, and there is no catch-all definition—nor should there be. Colonialism exists differently throughout the world and decolonization must be informed by local contexts. Just as colonialism exists in micro, meso, and macro forms, definitions of decolonization encapsulate micro and macro level action (Asadullah, 2021).

Decolonization discourse exists in a number of forms. Some scholars describe decolonization on a micro level, as work that can be done within oneself, which differs depending on who you are. For instance, scholars such as Regan (2010) describe decolonization as "unsettling the settler within." Regan (2010) wrote a book with this title, detailing methods of unsettling, which include 'living in truth' (p. 218), as well as naming and dismantling colonial mentalities, harms, systems, and 'solutions' historically and today. Other scholars, such as Mohawk scholar Monture-Angus (1999), conceptualize decolonization as "a state of being free from responding to colonial forces" (p. 73). Haida scholar McGuire (2020), employs this definition of decolonization: "Gam yen asing k'aa.ngasgiidaay han hll guudang Gas ga which translates to, "*I will never again feel that I am less than*" (p. 18). On meso and macro levels, scholars assert that decolonization requires first recognizing the fact that all land in what is called Canada is Indigenous land (Coulthard, 2017). Moving from recognition, decolonization involves the transfer of power and decision making from settler-colonial governments to Indigenous Nations/peoples (McFarlane & Schabus, 2017).

As noted by Yellowknives Dene First Nation scholar Coulthard (2017), colonialism centers on the violent disruption in relationships between land and Indigenous peoples. For some scholars, decolonization requires land back to Indigenous Nations (Schabus, 2017; Tuck & Yang, 2012). The centrality of land, power, wealth, and control is a reason why decolonization is deemed to "never take place unnoticed" (Fanon, 1963, p. 36). It is also why decolonization for some is unsettling. It is important to recognize that decolonial work in Canada is not new. Ongoing and throughout history, Indigenous peoples resisted and rejected colonialism in a plethora of different ways (Steinman, 2016). Coulthard (2014) describes what is known to many, that there is a "substantive relationship forged between self-affirmative practices of cultural regeneration and decolonization by theorists and activists of Indigenous resurgence working in the settler-colonial context of Canada" (p. 133). Indeed, as Coulthard (2014) explains "Indigenous resurgence is at its core a prefigurative politics--the methods of decolonization prefigures its aims" (p. 159). For McGuire (2020), their "assertion of our inherent right to Haida justice, albeit within the confines of a colonial institution, is itself a decolonial act" (p. 18). Another important recognition in this discussion is that decolonization requires action. Observers of popular political rhetoric around decolonization and reconciliation note that simply acknowledging and recognizing colonial harms and violence, or forming critical consciousness, will not necessarily lead to decolonial work (Coulthart, 2014; McGuire, 2020, p. 16; Tuck & Yang, 2012). That is not to say acknowledgement is insignificant, it is important. Yet, decolonization

requires more than the naming of colonial violence (Tuck & Yang, 2012). At this juncture, we turn our attention to the relationship between decolonization and restorative justice.

5.3 Decolonization and restorative justice

The past fifty years included the expansion and promotion of RJ globally. Scholarly writings about RJ often describe the origins of RJ as rooted in 'Indigenous worldviews' and justice practices. When Indigenous justice practices are viewed as occurring in the past, and as providing an epistemological mine for restorative justice to extract from, naturally what this encourages is a romanticized gaze towards "Indigenous justice practices" as something homogenous, 'other,' and free to learn from and for the taking. Treating Indigenous-led justice practices as an outdated resource that can be 'adapted to a modern' context is not a good starting point for decolonizing restorative justice.

McGuire (2020) states that "The wholistic, romanticized version of co-opted indigeneity that is often exemplified within RJ may also perpetuate existing stereotypes disregarding the diversity in responses to wrongdoing that exist among Indigenous peoples" (p. 22). Justifications for the mythology embedded in explanations such as restorative justice being 'inspired,' 'rooted,' 'underpinned' by Indigenous justice practices do not assist decolonization either. The origin narratives of restorative justice as rooted in Indigenous-led justice practices and 'Indigenous worldviews' must be named for what they are: at best, they are mystifications (Tauri & Moyle, 2016). Looking closer, they promote colonial gaze as well as cultural, epistemological, and ontological appropriation. Myth is more than a narrative (Tauri & Moyle, 2016), it is far from neutral or harmless.

The origin stories of restorative justice as being akin or deriving from Indigenous justice practices lead to consequences affecting Indigenous peoples and Indigenous justice initiatives globally. These narratives promote the flawed assumption that "since restorative justice derived from Indigenous justice practices, restorative justice is culturally appropriate and culturally responsive for Indigenous peoples" (Tauri, 2018).

Discussions of colonialism and the coloniality of the criminal justice system are jarring omissions in the promotion of the idea that restorative justice is positioned to address the overrepresentation of Indigenous peoples (Tauri, 2018). In New Zealand, Tauri and Moyle (2016) compiled a number of outcomes from the use of family group conferences (FGC), a forum of restorative justice often (and erroneously) cited, as a Maori justice process.

Blagg (2017) investigated statistical outcomes from the "restorative 'turn'" in the 1994 Australian Young Offenders Act which created diversionary schemes for young offenders, including family conferencing, and was "loosely based on the New Zealand model established under the 1989 Children, Young Persons and their Families Act" (p. 70). Blagg (2017) notes that following these reforms, non-Indigenous children were significantly diverted from the Perth Children's Court, but the over-representation of Indigenous youth, in fact, increased.

The co-optation of restorative justice by the state poses specific problems for Indigenous-led justice initiatives internationally. Tauri's (2009) example is illuminative:

> In 2006 the Restorative Justice Centre was established at AUT University in Auckland. The Centre derived significant financial, advisory and policy support from the Ministry of Justice. The intention was to develop formalised, 'best practice based' training and accreditation in restorative practice. What is evident thus far is that the close relationship between the Centre and the Ministry has resulted in the focus of course design being wedded to the Ministry-driven standardisation process. Maori practitioners have expressed concern directly to the author at the apparent lack of Maori input into the design of the accreditation process, and well they might be as the future of their programme funding may depend on them and their colleagues securing certification that does not recognise their processes of dealing with social harm (p. 16).

5.4 Decolonizing framework for restorative justice

Whether RJ can be decolonized is debated. Blagg (2019) argues that restorative justice "may not survive a decolonising turn because, despite claims to the contrary, it is a modernist, Euro-north American concept concerned with reforming what remains an essentially Western paradigm of justice reform" (p. 133). That said, scholars warn about the consequences of restorative justice failing to engage in decolonization. Stó:lo academic Wenona Victor (2007) argues that if RJ fails to engage in decolonization processes, it will be "nothing more than colonial justice wearing a different colored hat making use of different enforcers" (p. 16). Similarly, Moore (2018) cautions that without critically questioning historically rooted and ongoing colonial logic and underpinnings of social systems and structures in Canada "restorative justice processes risk becoming a destructive tool to reify the settler colonialism and Christian dominance that were the seeds of assimilation and cultural genocide in Canada in the first instance" (p. 477).

Asadullah's (2021) research interviewed local justice stakeholders working for governmental, non-governmental, and International Non-governmental Organizations (INGO's) in Bangladesh. They asked participants for their thoughts about the introduction of restorative justice in Bangladesh and found "that as RJ was introduced in Bangladesh, there was limited consultation with local Bangladeshi stakeholders and poor resource sharing of texts written in Bengali. These challenges threw the cultural relevancy of the RJ into question" (p. 37). One participant from Asadullah's (2021) study suggested that introducing RJ was like "reinventing the wheel in Bangladesh"

> *Bangladesh has a long history of salish. Our ancestors practised this conflict resolution method for centuries. RJ is not relevant with our history. The reputation of Bangladesh's salish is well-known. People from our neighbouring countries come and get training from our salish. I wish RJ advocates in Bangladesh would have invested resources on salish instead of introducing RJ. Frankly speaking, I don't see much difference between RJ and NGO-led salish. If you ask any RJ coordinator in Bangladesh about their understating of RJ and salish, I am sure they will find it difficult to distinguish* (pp. 42-43).

It is essential to clarify that this critique leveled at restorative justice providing the impetus to decolonize, targets complexly two things: State endorsement of restorative justice as addressing the over-representation of Indigenous peoples in criminal justice systems, and the colonial gaze towards and appropriation of Indigenous ontologies and justice processes embedded in what is learned and taught about restorative justice. This discussion is necessarily complex and non-exhaustive. Justice initiatives led by Indigenous peoples in settler-colonial spaces such as Canada do, in several cases, employ restorative justice programs. Colonialism functions, *inter alia*, through non-Indigenous people deciding for Indigenous peoples what can/cannot be done in reference to decision making. What is problematized in this discussion is the promotion of the idea, largely by RJ academics, which finds its way into the pamphlets and workbooks of RJ models, of the equation that 'restorative justice = derived from 'Indigenous justice' = culturally appropriate/responsive = a solution to the over-representation of Indigenous peoples in the State legal system.' There is scant empirical support for this statement, as well as research exemplifying the exact opposite. This equation exists and is reproduced because it is very palpable to scholars, as well as settler-colonial governments that want to be seen as "doing something."

Decolonizing restorative justice in Canada will not take place through one single action, nor at one level. For Blagg and Anthony (2019), part of what decolonizing restorative justice means is that "Restorative

Justice must be content to follow rather than lead in order to prevent the continuous epistemic appropriation of Indigenous Laws and cultures to satisfy non-Indigenous aspirations" (p. 134). As the previous discussion made clear, there are significant and jarring issues with the ways in which restorative justice is spoken about and operationalized that have contributed to harm. If a fundamental principle of restorative justice is/should be "Do No Harm" (Asadullah, 2021; Elliott, 2011), to make that principle translate on the ground means that there is work to do. If restorative justice is here to stay in Canada, and elsewhere, it must be decolonized.

Along with 'do no harm' principle, this study also suggests the decolonizing framework of Asadullah (2021). Framed using a tree metaphor, Asadullah's (2021) decolonization model has four key components: 1) roots, 2) trunk, 3) branches, and 4) fruit. The roots convey the trauma-informed and anti-oppressive foundation of this framework. Key tasks for root development are active listening and consultation. The trunk embodies local knowledge and leadership, and relationship building is the key task of this phase. Branches represent culturally and socially relevant justice practices across similar settings. The key task in this phase is learning from community praxis across somewhat familiar cultural and social settings. The 'fruit' in this Decolonizing Framework are the by-products. In other words, Asadullah's (2021) framework assumes that the adoption of a trauma-informed approach and anti-oppressive framework that involves the leadership of local justice stakeholders coupled with lessons from best practices across somewhat similar cultural settings would result in socially and culturally conducive RJ practices.

6. Conclusion

This study captured key debates between Indigenous-led justice and restorative justice. More importantly, debates around the impact of colonization and the need to decolonize RJ were also present among key interviewees and FGD participants.

The findings are significant for several reasons. Firstly, this study added more clarity and depth to the discussion of IJ and RJ. Secondly, utilizing decolonized research methods was vital in this research. Team meetings, interviews, and FGDs were conducted in a non-hierarchical process wherein relationship building was a priority. The principal investigators and research assistants received formal training on the First Nations OCAP™ principles. The research also relied on consultations with Elders and other community-based experts. Additionally, the research permitted for flexibility in regard to pace and time

of meetings and FGDs, and also offered all participants an honorarium for their contributions to the research.

Thirdly, this study identified challenges for community based IJ and RJ programs that include interprovincial funding issues, the need for relationship building across justice stakeholders (this study directly assisted in building relationships through FGDs), and a need for increased awareness and understanding of RJ and IJ. The community-action approach to the study provided a temporary vehicle for relationship building and the Community Action Plans were written with the intention of working across silos now and into the future. The IJ and RJ programs and key stakeholders involved in this study committed to continuing to meet together and most action items identified in the Plans were completed in a timely way. The methodological approach employed was empowering to the communities and will hopefully have long-term, positive effects in enhancing justice services.

Finally, this study finds that most of the research participants in BC and SK view IJ and RJ as complementary worldviews and mechanisms rather than conflicting. This finding contradicts with the popular assumptions that distance between IJ and RJ are growing in Canada. Additionally, more research participants in SK believe in this complementariness. BC's research participants are more skeptical with the idea of a "blended" or "complementary" relationship between IJ and RJ. To them, a full-fledged sovereign nation-specific justice system can solve justice related problems. "Cree Nation needs to have their own Cree justice system, Squamish people should have their own Squamish justice system, Mi'kmaq people should have their own Mi'kmaq justice system" (SK-25).

7. Recommendations

Recommendations are divided into three categories, based on the broad findings suggested above: operationalizing a more integrated justice system; bringing more awareness for the general public and law enforcement agency through the inclusion of training, workshops, and outreach events on IJ and RJ and; decolonizing the justice system through promoting socially, culturally, and spiritually responsive justice practices.

7.1 Integrated justice system

1. Bringing healthcare, mental health support, and housing officials in the discussion on IJ and RJ: A number of IJ practitioners shared during FGDs that many of their justice involved children and

youth are in a dire situation with housing. According to them these children and youth are on "survival mode" and they need comprehensive support from healthcare and housing.

2. Creating justice hubs: This study suggests creating justice hubs centered around IJ and RJ programs. Many research participants in BC and SK felt that they have limited knowledge about each other's work even though they live and work in the same city. Relationship building, networking, and sharing ideas, knowledge, experience, and resources will be the primary goal of this justice hub.

7.2 More awareness

1. All departments of the government (municipal, provincial and federal) agencies need to include training and outreach events on IJ and RJ as there is a huge lack of awareness about the potential of IJ and RJ. Public in general are also largely unfamiliar with IJ and RJ practices.

2. IJ and RJ intervention need to be the first choice, not the last choice. A large number of key interviewees in BC and SK mentioned that law enforcement agencies need to make sure that they refer justice-involved youth and children to IJ or RJ as their first options. There is a growing concern that law enforcement agencies are reluctant to refer cases to IJ and RJ programs due to their unfamiliarity and punitive worldviews.

7.3 Decolonizing justice

1. Funding criteria need to change: A large number of research participants in BC and SK shared the need to change funding criteria of IJ and RJ. According to them, existing funding criteria does not allow them to follow a long-term "healing plan" with justice-involved youth. Revising Community Accountability Program's guidelines in BC and SK Provincial Government's funding criteria for IJ and RJ programs are strongly recommended. Consultations with IJ and RJ coordinators and justice directors will be instrumental in this regard.

2. Inclusion of Elders, rituals, and ceremonies in existing RJ practices: A number of IJ and RJ practices shared that presence of Elders and knowledge keepers are integral part of their practices. This study suggests that inclusion of Elders and culturally, socially, and spiritually grounded practices can be an important step to decolonize justice practices. Consultation with community-specific Elder and RJ advocates can offer guidance in this regard.

3. Promote Indigenous-led justice practices: This study suggests that promoting Indigenous-led, Indigenous-control justice practices will be a crucial step to decolonize justice practices. BC's Indigenous-led justice Centres is an example in this regard. Saskatchewan and other provinces and territories can take similar steps.

8. Limitations and Next Steps

With the significant findings with regards to IJ and RJ, this study also had a number of limitations. Following section discusses both limitations and possible next steps.

1. **Research participants:** This study intentionally included justice stakeholders and RJ and IJ advocates and practitioners as interviewees. Those who identify as victims or offenders were not included in this study. Future research can include research participants from all groups including victims and offenders.

2. **Budget for the follow-up:** The current study did not allocate a budget line for the follow-up meetings with focus group participants. While some communities participated in these follow up meetings despite not being offered an honorarium, this was not the case for all research sites. IJ and RJ coordinators and justice directors are already doing volunteer work in addition to their paid positions and asking them to do more volunteer work without honoraria is problematic. Future research projects need to allocate funds for follow-up to help support meetings to facilitate action that were to be completed after the formal ending of the project.

3. **International comparative study**: One of the limitations in this study is that it only explored what was happening with respect to IJ/RJ in select cities in two Canadian provinces. Future research needs to incorporate practices from other countries, especially New Zealand and Australia. Both Australia and New Zealand are facing similar situation where there is growing disconnections between IJ and RJ practitioners. Studying how these two countries, especially its government, are responding to this growing disconnect can offer guidelines and directions for the Canadian government (municipal, provincial, territorial, and federal).

4. **COVID-19 and lack of face-to-face gathering**: The major limitation of this study is the lack of face-to-face gatherings for in-depth qualitative interviews and FGDs. Our intention was to visit those eight communities in BC and SK and conduct in-person interviews and FGDs. However, due to COVID-19 related lockdown and safety guidelines, we had to cancel all in-person gatherings. Many

research participants had difficulties with accessing high speed internet connection. It automatically compromised the relational and experiential dimension of this research. Future research should be in-person focused so that research participants can wholeheartedly participate as IJ and RJ have so many experiential qualities.

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