

Indigenous Alternative Practices in Criminal Justice

How are Indigenous legal practices implemented in the context of Canadian criminal justice?

Lydia Risi, B.A., M.A. Candidate

Department of Political Science, Concordia University

1 BACKGROUND

The very source of the relationship between settlers and Indigenous peoples is based on the imposition of the Western legal tradition and the disregard for Indigenous legal traditions. The interaction between the justice system and Indigenous peoples is marked by systemic discrimination and racism. Colonialism, through judicial institutions such as courts, policing and prisons, create cultural and political discontinuity for Indigenous Peoples.¹ Indigenous leadership encourages people to engage and coordinate action.² In this context, this means to find alternatives to the settler state institutions. The loss of legitimacy creates “reservoirs of support” for “extra-institutional action”.³ Indigenous leadership produces local revitalization of traditional justice models. Judicial political resurgence is concerned by matters of dispossession and providing Indigenous alternatives to dominant settler institutions.⁴



Justice Facility, credits Cree Department of Justice and Correctional Services

2 RESEARCH PROBLEM

GAP IN THE LITERATURE

Recently, theorists have discussed the role of legal pluralism with regards to Indigenous legal systems in the Canadian context. Although in theory there is an increased assertion of Canada as a multi-juridical state, there is no evaluation of the ways in which Indigenous legal systems are implemented.

GOAL OF RESEARCH

The goal of this research is to examine the implementation of Indigenous legal systems in criminal justice. Specifically, the Northern James Bay Cree Nation Justice Department and the Kativik Regional Government’s Justice Department will be studied.

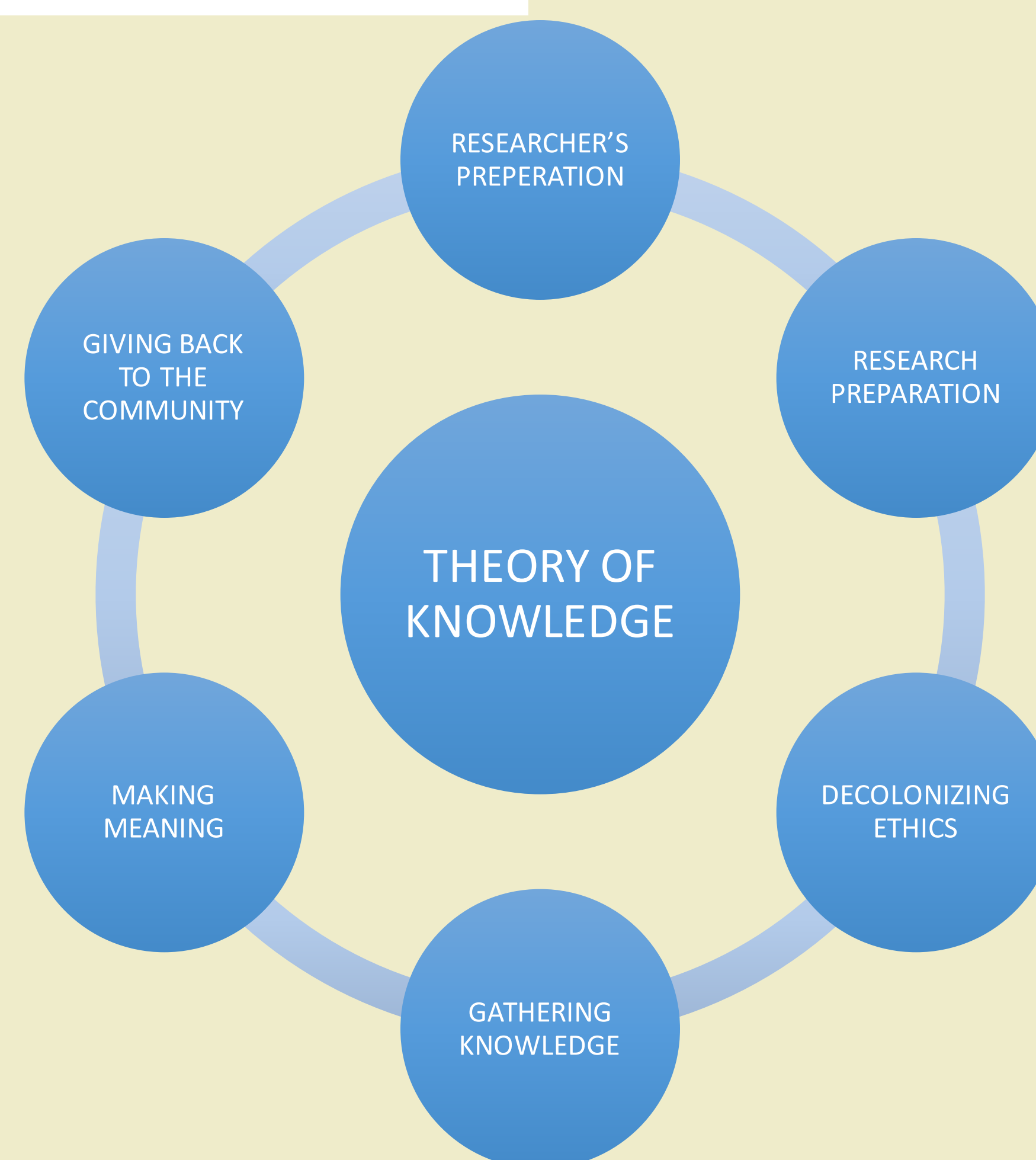
HYPOTHESES

- The implementation of alternative justice practices will be limited as they remain subjected to Canadian legal traditions.
- Indigenous community-based initiatives for alternative justice systems bring forth a profound transformation of society by creating strong foundations for individual and collective Indigenous identity.

2 METHODOLOGY

Considering the marginalization of Indigenous knowledges in the Western research process, it is necessary to adopt a decolonizing lens.⁵ With this in mind, the methodology will consist of an Indigenous research framework, which is non-linear in nature.

Nêhiyaw Kiskêyihamowtin⁶



This project will be a comparative case study of two justice departments created through the James Bay Northern Quebec Agreement. Specific programs from both departments of justice will be examined to assess to what extent are Indigenous legal practices implemented in criminal justice.

2 DATA COLLECTION

DEFINING CREE AND INUIT LAW SYSTEMS

- Identification with elders of law systems in stories, ceremonies and other memory devices

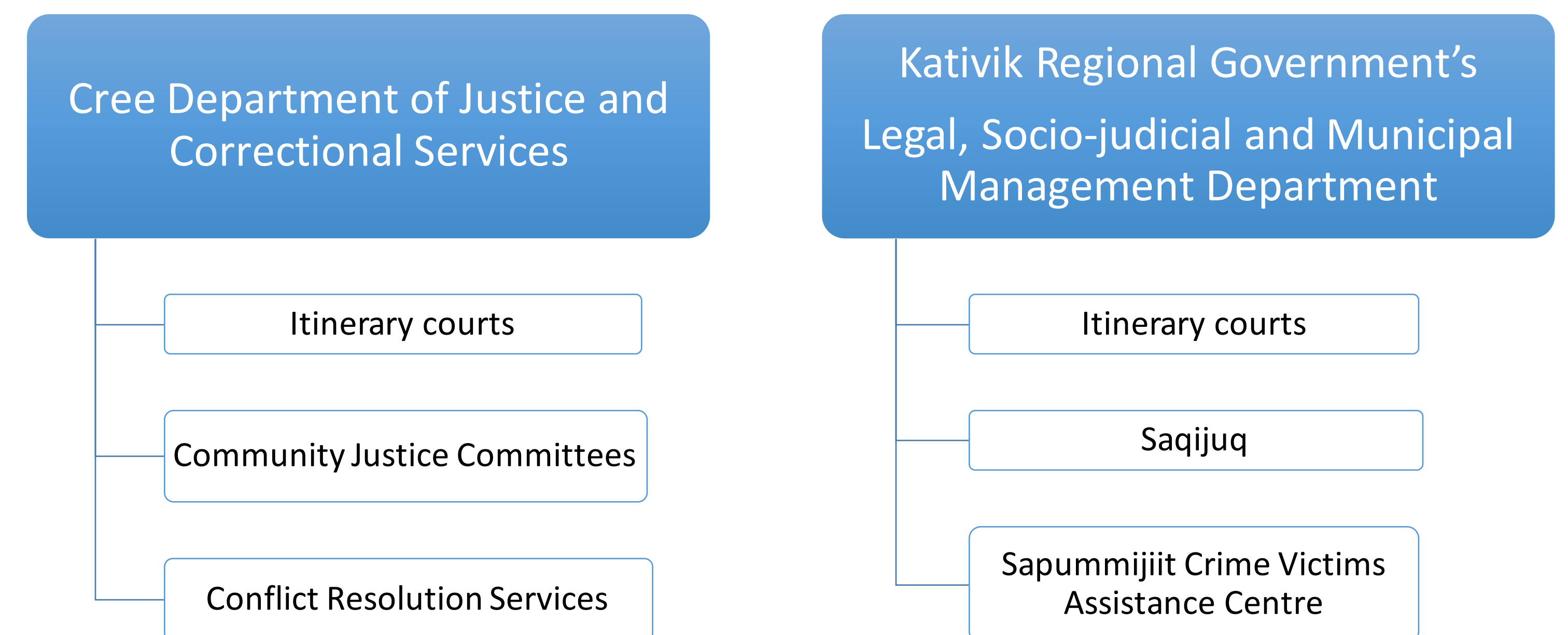
INTEGRATION OF INDIGENOUS LEGAL PRACTICES

- Semi-directed interviews with stakeholders and elders
- Importance of Indigenous legal practices
- Co-assessment of their implementation in the selected services
- Impact of those initiatives on social ties and on social organization

SELECTION OF SERVICES WITHIN DEPARTMENTS OF JUSTICE

The services that will be assessed within both departments will be discussed with the communities with the interest of being relevant with their plan of actions.

Below is an example of services that could be potentially relevant.



5 ETHICAL CONSIDERATIONS

- Develop knowledge specific to local indigenous law systems
- Considering Indigenous law system not as past, but intertwine to changing circumstances
- Allow space for ambiguity in interpretation of legal systems
- Implication of community knowledge holders (elders and stakeholders)
- Community consultation on services that will be assessed
- Reporting to the community during and after the project

6 CONTRIBUTION

The goal of this research project is to inform alternative justice practices in Indigenous contexts. It will deepen knowledge acquired in the field by creating an analytical framework for contemporary Indigenous community-building.

7 REFERENCES

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- ⁶ Kovach, M. (2009). *Indigenous Methodologies: Characteristics, Conversations, and Contexts*. Toronto: University of Toronto Press.

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