Splitting Rock At Laughing Falls

Drawing Creative Consciousness into Social Justice Mediation

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Submitted to OCAD University in partial fulfillment of the requirements for
the degree of Master of Design in Strategic Foresight and Innovation
Toronto, Ontario, Canada, 2020

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Abstract

In this research I look at creative techniques to open new sense-making pathways in the practice of mediation for both practitioners and participants seeking social justice. To challenge the Western European hegemony is to look beyond spoken and written word to achieve relational transformation. My interpretivist methodology is informed in part by Leanne Betasamosake Simpson's, *As We Have Always Done*, as she invokes the specific knowledge of Indigenous Peoples. Chela Sandoval's, *Methodology of the Oppressed*, charts a path beyond oppression to differential consciousness through semiotics connecting to my exploration of the creative. Bell & Desai's *Imagining Otherwise: Connecting the Arts & Social Justice to Envision and Act for Change*, demonstrates the efficacy of creative techniques in achieving both awareness and action on social justice. Ken Cloke's *Mediating Dangerously* invites a close examination of techniques to engage with the most challenging and conflicted situations. Interviews with eight mediation and social justice advocates reveal the effective integration of creative methods. Throughout the text, I insert sketches and poems as part of my own reflective and creative praxis - part memoir and part critique.

Acknowledgements

The amazing cohort 2018 on Slack.

Faculty who dared enter the space of Cohort 2018.

Advisors who took me under their wings; ardent intersectional feminists and theoretical thinkers – Drs. Suzanne Stein and Maria-Belén Ordoñez.

The circle of wise women who gave generously of their time to engage with me in this work.

My friend of many years, conversations, glasses of wine, and editor, Sally McLean.

My friend, colleague, and graphic designer, Lauren Connell-Whitney.

Dedication

To my muse and beloved, Jacqui Gingras.
Thank you for your strength, inspiration,
insight, and for suggesting in that
way you have, that OCAD might
be the place for me!

To my Dad, Gerald Porter,
who taught me to think critically
and love with gay abandon.
May the winds of the cosmos
keep you gentle on my mind.

Table of Contents

List of Figures

"It's said in the [T]eachings that if you hold

on to your belief there will be conflict.

There's a wonderful story about this."

Pema Chödrön

Preface

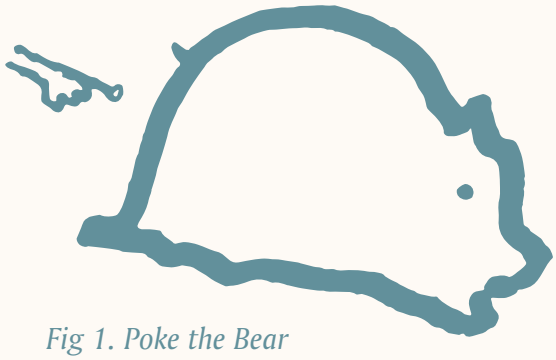

Fig 1. Poke the Bear

Social movement activists continue to take their demands into the streets and onto social media. There is a strength in the collective as groups with similar demands come together for a common cause to create alternative futures. One demand – that White allies educate themselves – is in part the reason I have undertaken this project. COVID-19 and movements such as Black & Indigenous Lives Matter have exposed ever more clearly the deep divisiveness in communities around the world. Every day, COVID-19 statistics thread their way through the lives of Indigenous Peoples, the elderly, LGBTQ2, womxn, transgendered, Latina women, and black and brown bodies, each unique in their own way. Lives are shattered and lost through the dehumanizing effect of those who are deemed to live outside a hegemonic neoliberal view. Individuals are erased. The reports of police brutality, the Wet'suwet'en struggle for rights and title, the explosion of Black Lives Matter protests in response to the murder of George Floyd in the United States – the list is hundreds of lives and years long. I want to open a doorway, to look at other practices and sources of information outside of mediation

including feminisms and indigenous world views and creative techniques that stand in opposition to settler colonialism.

Mediators have long been sought out by groups of people in conflict to assist with negotiation. Over the course of my career as a professional facilitator and mediator, I have observed the high value placed on the cognitive, the spoken word and written expression that supports expert opinion. While intended to provide information, words and language can also represent a position which can serve to overwhelm or overpower. It is out of the real need to respond to and work with social movements in alternate and yet meaningful ways that I ask: How might creative techniques open new pathways in the practice of mediation for both practitioners and participants seeking social justice?

As a mediator, my desire to draw on both cognitive and creative expression became clear as I reflected on my recent experience as a student in the Strategic Foresight and Innovation program at the Ontario College of Art and Design. There, the discovery of other tools and ways to support people through conflict emerged. To embody social justice is to draw on the transcendent and transformative and to be informed through other senses in a way that recognizes the agency and humanity of everyone in the space.

Although I have trained in facilitation and mediation methods intended to enable a meaningful exchange of experiences and ideas, at times a reliance on spoken and written words alone felt insufficient. In part, my questioning has been informed by my early work experience in education. Through teaching games and sports, I understood the ability of the body to communicate meaning through movement, the ability to sense and correct a body position for improved performance. My creative endeavours have given expression to emotion and ideas I

could not express in words. Small sketches and poems are interspersed through the text; a further invitation to engage.

For me, mediation is about relationship, the capacity to support others to change the way they see each other. As a mediator, my work has brought me into the middle of wicked problems, requiring me to be comfortable with the wrath of those who are convinced that theirs is the only right way. For those who are most entrenched the grasp on their 'status quo' can be intense. Change is not easy. I have thought about the angry exchanges – somehow those memories stick more than the successes – to learn about what happened and to consider what I might do differently the next time. I have learned to be comfortable with high emotion and ambiguity. My role is to hold the space for others and offer questions out of genuine regard for all interests represented. I feel a responsibility both ethically and morally to engage to the full extent of my ability with those who come to negotiate transformed relationships and alternative futures. I offer skills and techniques that will support their often-long-and-steep climb towards mutual understanding and into collaborative effort. What other techniques will support these climbers in their quest?

Over the years, people I have worked with have told me they would rather avoid conflict and yet find themselves in mediation. I have noted a similar reluctance to engage in creative activities such as drawing or role play. Personal comfort with conflict and creativity occurs across a spectrum. There are those who intuitively know how best to engage in conflict with others. Both assertive and cooperative these individuals understand the collaborative effort required to resolve difference. Likewise, there are those who follow their intuition, express emotion and meaning through the creative arts whether in a poem, a watercolour, or theatrical performance. This paper explores other methods and techniques

for people to exchange ideas and create meaning in the often complex, highly emotional, and challenging issues that are brought into mediated settings.

As a mediator, it is incumbent upon me to listen to opposing perspectives. In this paper, I do this through the literature review, personal reflection, and with those I interview. In the literature, I explore the history and practice of mediation, social justice, and creative sense-making techniques. Chela Sandoval's, *Methodology of the Oppressed*, and Leanne Betasamosake Simpson's, *As We Have Always Done* offer me insights to a world I do not inhabit. Simpson draws on her Anishnaabeg ways of knowing to stand in radical resistance to pervasive colonialism. Creative techniques are woven into Indigenous knowledge transfer through the use of story to pass on cultural traditions (Kimmerer, 2013; Maracle, 2017). Images and ceremony carry meaning that may not be easily communicated in words. It is these methods that I refer to as 'creative' and that infuse Indigenous culture that must be attended to in addressing social justice. I am aware that when I, as a white settler women describe cultural practices as 'creative' I am looking from the outside in. My intention is to acknowledge important ways Indigenous cultures infuse information exchange through creative arts and creative techniques.

In a solution-focussed world the 'one fix' perspective is prevalent within the practice of mediation steeped in Western legal tradition. Within the last century, the practice of mediation was adopted by the legal profession as an alternative to litigation and to offer some relief to an overcrowded justice system. To engage in mediation is to recognize the dynamic tensions in play. Ken Cloke's, *t* describes these tensions between the parties to mediation and the tension that can arise between the parties and the mediator. Through the literature and through reflection on my own experience, I explore how these tensions continue to play out. Justice and fairness are important values in mediation as in jurisprudence and yet through

my reading of feminist and Indigenous theorists, I am aware of a level of tension that demands the most careful and critical attention from mediators. Longstanding tensions between Indigenous and feminist decision-making and settler colonial decision-making have been revealed, perhaps more clearly and more broadly over the past year than ever before. Social movement demands to address racism, poverty, genocide, climate change, housing, and terrorist police actions are not unprecedented only the attention from traditional and online media platforms is. Colonization continues to dominate with dehumanizing actions and a firm grasp on the 'status quo'.

Chela Sandoval's (2000) methodologies and her exploration of the differential mode of consciousness offer a layer of clarity and a flexible, multi-modal approach to confront a dominant hegemony. She offers techniques for practitioners to "read the current situation of power" and to choose a counter ideology (Sandoval, 2000, p. 59). In social justice mediation, the perception of power, who has it and how it is wielded is important to the potential outcome (Wing, 2000). Sandoval (2000) uses a number of terms in different ways throughout her text, sometimes making it difficult to follow: differential consciousness, differential oppositional consciousness, differential movement, figures, poses, categories, topologies, strategies, and technologies are some of her examples. Eventually I realize I am reading her text as I would a poem. Some ideas speak to me and some elude me. I reference some of her terms in this paper. I have chosen to interpret her often-complex writing loosely as an expression of differential consciousness as a dancer; flexible, mutable, ever changing, in a subtle movement from one pose to another. I apply this thinking in my research, considering the differential mode as way to read and respond to 'power over' with 'power within'.

For the most part I carry Sandoval forward into the analysis of my personal

reflections and literature review. I shift to a narrative approach focussed on key themes for the analysis of the online interviews with eight professional mediators and facilitators. My inquiry included the approach of these experienced professionals in navigating the pursuit of social justice. I wanted to hear their views on neutrality, often posited as the mediator's primary area of responsibility. I wondered about the traditional mindset where the mediator is the process expert, in contrast to a participatory and collective creativity. What techniques were they using outside of the bounds of words to connect, engage, and ultimately transform conflict? I looked for signs and signals of approaches to mediation that reveal a differential consciousness in praxis. I engage with the emerging themes as though we were a circle of women in dialogue rather than individual conversations. I listen closely for the tone and cadence of an evolution in mediation praxis.

At the conclusion of this paper, I consider both my past experience and my future as a reflexive practitioner and advocate for social justice. My intention has been to demonstrate how creative techniques embrace and enact differential consciousness to illuminate a path where social justice and mediation come together as in a slow dance. Change is happening all around us, as bell hooks invites, let us "imagine possible futures".

I am inspired by artivists – artists who engage in activism through their art. Spoken word poetry[1], graffiti[2], performance theater[3] to name but a few have a long history in social movements. I am inspired by my colleagues as I draw on their work to infuse my research with the creative muse within. Creative techniques

[1] A Mind With Wings. Retrieved from https://www.youtube.com/watch?v=nJMT1zXNv68

[2] Chief Lady Bird. Retrieved from https://www.instagram.com/chiefladybird/?hl=en

[3] Sandra Laronde, Red Sky performance. Retrieved from http://www.redskyperformance.com/index.php/about-sandra-laronde/

offer alternative methods of meaning-making along with insights into world views beyond the predominant settler colonial perspective, world views critical to social justice mediation.

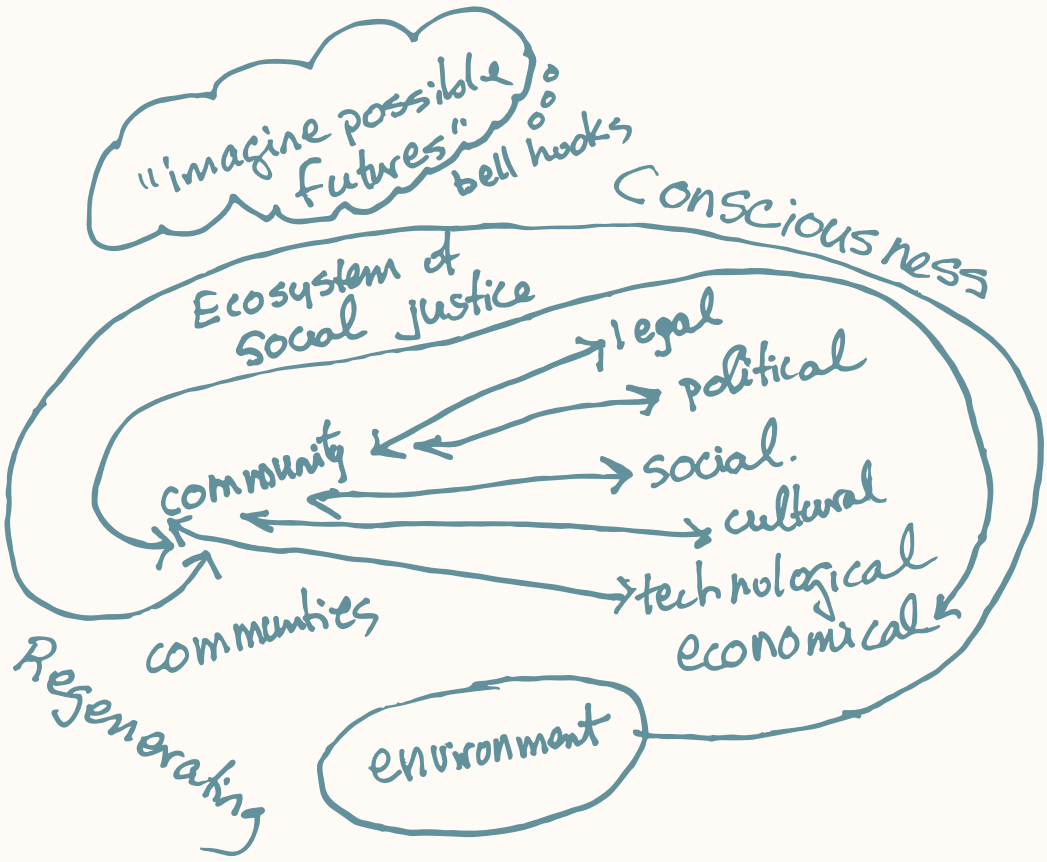

Fig 2. Imagining Possible Futures

Chapter 1

Do Not Relent

Gentle, do not relent
My love.
Out of warm conversation
I reach my hand into my
Breast and reveal for
A moment my
Quivering heart.

Gently, I relent.
My love,
Goes quietly on shaking
Knees upstairs and into
Dark pathways and caverns of
My curious mind.

Fig 3. Hand written poem, Do Not Relent

The Journey Begins

Fig 4. Contemplating Privilege

In this first chapter I reflect on the life experiences that led me to mediation and the context within which I embark on this research project. I contemplate the white, settler colonial privilege that enabled my family to slip out of harm. I laugh at myself and the way I draw some personal experience into the conversation; the challenge for me in mediation is to listen to the other stories; it is not my stage. My journey as a mediator has required serious internal reflection as I continue to learn how, at times, sharing my stories detracts from the other's story. Vipassana meditation, walking in the forest, writing poetry, and woodwork along with intimate conversation have gifted me with insight along the way. Traumatic divorce, an abusive relationship, death; these most difficult experiences make me human, empathic. I have experienced many ways to build or break trust. The lessons continue as I slowly learn to become attuned to myself foremost and then to others. In this context, my story offers a backdrop or an example of critical self-reflection as a mediator as I explore the future of mediation to preserve social justice.

This first chapter is a reference point, the context out of which I conduct myself as researcher and as mediator. I use the word mediator to describe all those practitioners who work with groups of people, whether in conflict or not, to resolve, manage, or transform long-standing differences.

Given the influence of Sandoval (2000) on my thought process, I describe some of the terms she uses here as a guide to read my work to discover how differential consciousness and the arts might add value to mediation praxis. I understand there is a long history of feminist theory and writings that underpin Sandoval's work; however, my focus here is to play with and explore these ideas in relation to mediation praxis.

Within the *Methodology of the Oppressed*, Sandoval draws on Barthes' rhetorical figures (p.118) to describe how cultures influence behaviours to maintain their dominant role in society. She then offers a set of differential or oppositional figures to counter this dominant ideology. The language of the rhetorical figures describes the behaviours through which the colonial mind becomes the dominant paradigm in society. In the research I also look to the method of emancipation (Sandoval, 2000) through the use of counter-ideologies, those techniques designed to recognize and dismantle the dominant discourse.

The rhetorical figures described in this paper include inoculation, privation of history, identification, and statement of fact. The remaining three: tautology, neither-norism, and the quantification of quality complete Barthes' critique of "white consciousness" (Sandoval, 2000, pp. 125-6). As I read through Sandoval's interpretation, I made notes in the margins, "I do this, yes, I recognize this". I am constantly astounded to see myself reflected here as she moves between three and seven rhetorical figures, which she also refers to as poses, I struggle to follow.

This exposes the depth to which I and others like me have been so thoroughly inculcated into the dominant world view. Referencing these figures in mediation offers a constant reminder of the need to pay attention and not be drawn in by the nominal sense alone. Poems and stories infuse words with feelings and visual images. I speculate that in some ways this is training for differential consciousness. It feels very similar to my Vipassana style meditation practice as I attempt to bring attention back to my breath while thoughts and feelings wander through my consciousness and unfold in my body.

Fig 5. Differential Consciousness

'Inoculation', like the COVID vaccine, injects a recognition of difference, at the same time ignoring the perceived 'evil' lurking in the background and against which the dominant culture must protect itself. 'Privation of history' denies the lived history of those who do not fit into the definition of whiteness and serves to remove any responsibility from colonizing actions. 'Identification' ignores difference as the colonizer sees others only in terms of the ultimate goal of assimilation. 'Tautology' asserts that all meaning is determined only by the dominant view and serves to justify that assertion. 'Neither-norism' is akin to sitting on the fence. The lack of commitment to one view or another only serves to maintain a high moral ground. 'Quantification of quality', for example is the focus on monetary gain as result of slave labour and denial of any valuing of the human being. And 'statement of fact' is the delivery of a truth as singular and exposes the intent to maintain supremacy (Sandoval, 2000, pp. 118-124)

In response to the rhetorical figures' efforts to reign supreme, a set of seven counter ideologies are set out as a method of emancipation (Sandoval, p. 105). Zero degrees is a way to peruse for signs of power and speak as though each rhetorical figure is a mere veneer. Revolution weaves a new image, an alternate vision of reality. Semiotic mythology is to read the signs of power and then draw on self-conscious awareness to deconstruct the dominant form. Silence as resistance, is exactly that, a refusal to engage in the dominant ideology. Contemporary poetry effectively uses zero degrees and the other forms to diffuse meaning such as that which is created by the rhetorical figure, 'statement of fact'. Meta-ideologizing is to speak in ways that take back a word used as a racial slur for example, 'queer' to take away dominant power. Differential consciousness recognizes how the counter ideologies and topologies may be drawn on as needed. It is this flexibility to craft a response in the moment that supports the ongoing effort to dismantle the dominant mindset of the other four topologies.

This research project is also a traverse across Indigenous and feminist theoretical framings. Indigenous and feminist researchers have given those of us who inhabit the dominant paradigm a gift of insight, to see into the effect of one world view on another. Mediation is tasked with creating space for these differing world views to interact, and for new ideas to be born out of thinking together. Creative techniques that are so much a part of social movements add significantly to socially-just mediation praxis.

In Chapter 2 I review the literature relevant to my research question. I explore three main areas: 1) Indigenous and feminist theories, 2) the role of creative techniques, and 3) mediation and social justice. In the literature I looked for meaning embedded in the text that either represented or countered the rhetorical figures. I am looking for an indication of an agility and self-awareness or

in Sandoval's words, that "practitioners enact any position only insofar as they are ultimately hopeful to transform both the position they hold and the reality it acts upon." (p. 110).

Chapter 3 describes the focus on narrative and an interpretivist methodology. I describe Sandoval's methodology of the oppressed and introduce my interview method and narrative analysis.

The intent of Chapter 4 is to fully engage with the interviews and look for shared meaning through the myriad ways in which these practitioners have worked through conflict to transform experiences into new ways of being in relationship. The delight and commitment to their work shines throughout. I draw in elements from the literature review; the ways in which they understand social justice, how they each approach their work, and the role of creative techniques.

The final reflections in Chapter 5 interrogate my research questions once again. My intention to open a dialogue on mediation praxis remains ongoing. Within the frames of feminist and Indigenous theoretical and philosophical perspective I continue to find a renewed commitment to change with a deep-seated recognition of the power of the arts. I hear a vital spirit speaking – voices so diverse – yet collectively both human and non-human knowing emerges.

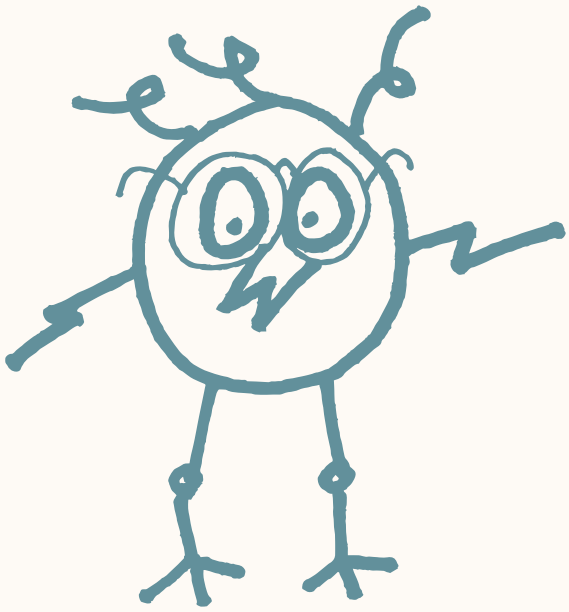

Fig 6. Bird Reflects

Now, with the map laid out before you, I return to the beginning. In research, as in mediation, the context is relevant, as this exposes the potential

for bias or the degree to which I am unable to see beyond my world view, in spite of extensive travel and immersion in other cultures. I can't recall when I began to seriously reflect on who I am in relation to the work I do. I can recall experiences where my over-confidence led me to fall on my face or when my words or actions caused harm. I also remember times when an act of humility opened the door to deep listening and appreciation of new ways of knowing. It is from this place that I embark on an exploration of differential consciousness as the opportunity to engage deeply with all the technologies of emancipation that are made available through this deep way of knowing. To call in rather than to call out. For the practitioner and the participant to gain new skills and to invite in new thinking. A moment-by-moment reminder to see ourselves in the Other.

The sketches and poems are not intended to interpret or impose on the written work; they are simply creative expression included as a way to embody my own learning as this project unfolded. I offer my own thoughts to encourage mediators and parties to mediation to reflect on the outward- and inward-looking tales that every person brings to the table; to consider not only one's self but rather the collective whole; to both contemplate similarities and respect differences.

This brings me to a question asked years ago by a friend who taught workshops on intercultural communication, "When was the first time you realized you were different?" An experience immediately came to mind. To my surprise my friend could not think of a time where she saw herself as different. She was so identified with her cultural framework that she had not recognized there were others for whom that question would release a litany of examples. What makes me think I am so different from her and how different am I really from those others who I may think are different?

I discover a difference, an experience that separates rather than includes. I still recall the sound of the teacher's voice. "Kathleen is the only one who can't count to one hundred…" Oh, she meant in English. Silently, I count; ciento seis, cientosiete...

Different? My grandfather thought that as white Anglo-American, knowing about other cultures was important. In my class, we were sons and daughters of predominantly white university professors and business owners. Into that category, I fit.

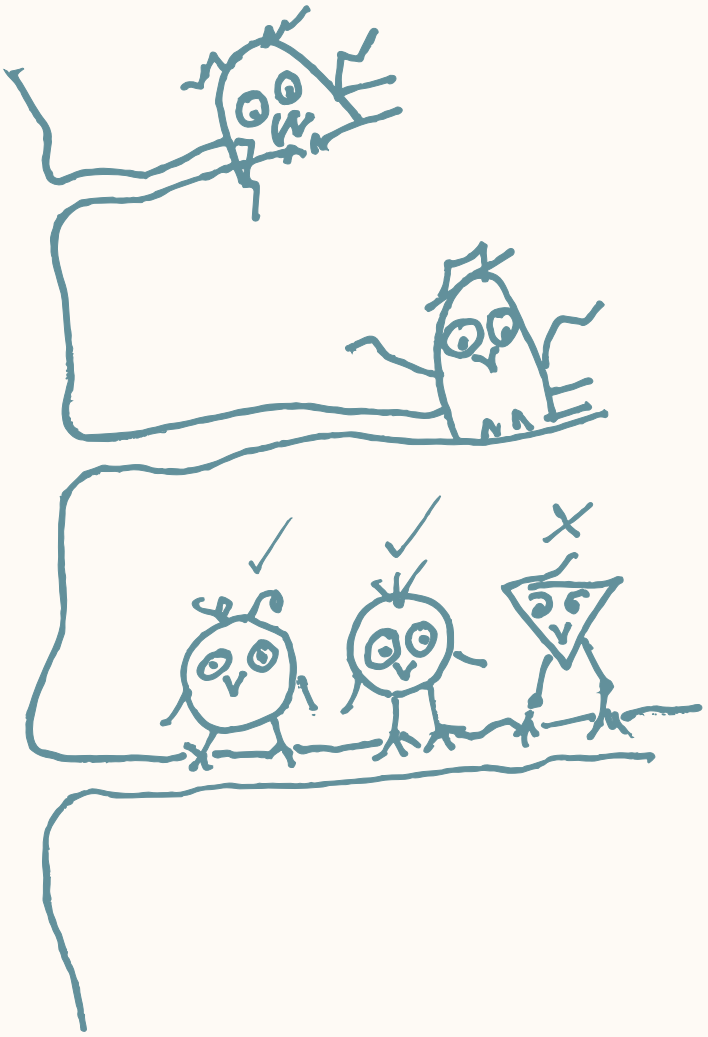

Fig 7. Identifying Birds

I grew up with my great-grandfather telling me stories of his homestead in New Mexico. He loved to tell how he outsmarted the local Indian Chief who had offered him two pinto ponies in exchange for his wife. I listened enthralled. My great-grandfather clearly believed himself to be the superior negotiator. I didn't question my total acceptance, my 'inoculation' into this colonizing consciousness (p. 118). I was completely unaware of how my great-grandfather's stories deprived the Chief of his history as an equally intelligent and skillful negotiator.

My inoculation continued. I was privileged to see the world from an early age. In Panama City, children my age tug at my sleeve. Why do they want my

money? My family was in Berlin shortly after the Wall went up. I saw desperate people trying to trade cigarettes for news of their families from the young Russian soldiers. The Wall ran through the middle of the campground, only shoulder height at that time. We drove through Check Point Charlie the day before a family crashed through the train-style barrier in a daring escape. Why is there a wall going down the middle of a city street? On an empty highway in Hungary, my father stops the car. Why is that Russian General pointing a gun at my father's head? We leave Hungary and the questions persist. These vignettes explore how power is enacted through the rhetorical pose 'statement of fact' (Sandoval, p. 122). The border guards and soldiers adopted their authority with the certainty of the revolutionary form to challenge those who previously held dominion.

In the mid-70s I found myself with a newly minted Bachelor of Physical Education at the International Institute for Applied Systems Analysis (IIASA) in Austria. Set up to initiate détente between the USA and the USSR, social scientists, ecologists, and economists from all over the world came to work collaboratively on many of the world's most pressing issues including natural resource management, human settlements, and energy. I didn't really fit into this renowned institution, but a position was created for me to provide recreational activities as a break from the heavy cognitive lifting.

During my time at IIASA I was introduced to Fisher & Ury's now classic negotiation manual, *Getting to Yes*, which led me to a career in mediation. Collaboration took on meaning beyond playing games and drew me back to my childhood questions of power and social justice.

Immediately, I wanted to know more. Would this help me understand or resolve some of the injustices I had seen as a child? Was storytelling part of the

process? *Getting to Yes* seemed to be telling a story about negotiations between the USA and the USSR and I had a front row seat. Stories of spying and intrigue were shared over coffee or beer. What were the Russians doing? Who were the American spies? Gossip and stories aside, negotiation seemed to be about fairness-finding. The role of the mediator intrigued; to draw out the understory, to discover the various causes of a disagreement, and then to transform the conflicted relations among the parties.

These early experiences taught me to pay attention to the ways in which people and cultures express their needs, maintain their culture, and interact across political and social belief systems. If mediation is one of several practices tasked with seeking social justice (Bush & Folger, 2012) then the ways in which mediators understand and address power and interpret social justice will be illuminating. If mediation is about establishing a sense of fairness, then on what standard or perhaps more accurately, whose? Ken Cloke's *Mediating Dangerously* offers the concept of "omnipartiality", which he describes as bias in favour of all parties. Does mediation offer social movement activists ways to address the juggernaut that is labelled Western colonialism, traditional patriarchy, and other words that symbolize 'power over'. I draw attention to these labels that reflect a human history where one group dominates another to the benefit of some and the limit of others.

I have now been a practicing mediator for over twenty years and a facilitator and educator for another twenty-plus on top of that. Over the years I have witnessed the constant struggle for balance and for recognition. I have worked with all manner of groups looking for ways to be seen and heard; people living with the stigma of schizophrenia, HIV/AIDS, kidney disease, and disability, all who want to have their lived experience valued. I have worked with immigrants and refugee claimants, people with different gender expressions and sexual orientation,

people of colour, and people of all ages who want to be seen and heard. Many of the Indigenous Peoples I have worked with throughout western North America are working hard to move beyond the destructive settler colonial practices that have denied them their rights and title to their stolen lands. The impact: missing and murdered women, traditional lands eviscerated, or violent sexual abuse are harsh realities that are hard to ignore. Working in Indigenous communities brought this impact in to stark view. Should decisions be made using Robert's Rules of Order just because that is what the federal negotiators use, or should decisions be made through traditional practices like blanket dances, sweat lodges, or talking circles? I learned of the extent of abuse passed on through the residential school experience; eighty-four percent[4] of the young girls in this remote First Nation's community had been raped by the time they were twelve years old. In contrast, the entire village participated in a log blessing ceremony with Elders in full regalia the day I arrived. Years later I returned to the magnificent lodge built with those logs to facilitate a consensus agreement to enter into the next level of negotiation with the federal government. I am humbled to have been invited into ceremony to observe and receive the principles and richness of values extant in this other world. Is there more I could have done? Did I do right by these people? I wondered who would benefit from the millions of dollars released into the community to fuel the next phase of negotiation? These questions of social justice and the role of mediator linger. The work to decolonize must ensure that Indigenous practices are illuminated, not appropriated.

I spent five years facilitating and mediating an environmental management

[4] Personal Communication

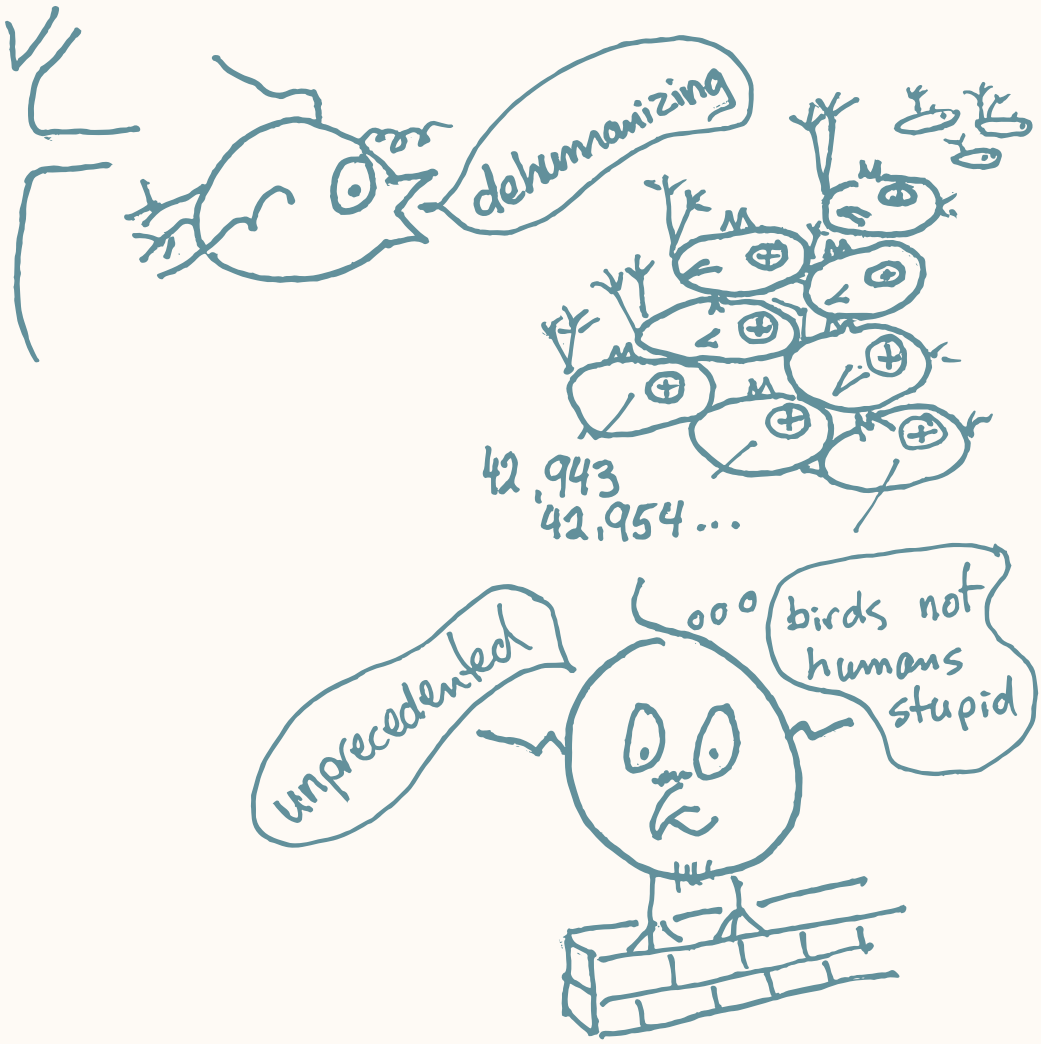

Fig 8. Unprecedented Dehumanizing

framework for the oilsands with First Nations and Métis Elders, all levels of government, senior industry leaders, and community organizations. There were times when my experience with collaborative games helped move through an impasse. The consulting team generated huge wall maps to explore future scenarios. Visual and kinesthetic techniques expanded the understanding of the complex issues.

Springing from multiple sensory modalities, (kinesthetic, visual and auditory), semiotist, creative techniques are prevalent in social movements and fit with Sandoval's focus on semiotics. For example, think of the "Pussyhats Project" (2016) launched by Krista Suh and Jayna Zweiman in response to derogatory remarks made by the newly elected president in the USA. The intention was to signal a reclaiming of the word 'pussy' and send a message that pink is a reflection of strength and the feminist values of care and compassion. This taking back of meaning is explored in Sandoval's counter ideologies which I explore later in this paper and have seen in the work of artivists like Arnell Tailfeathers[5] who are using memes to express ideas such as decolonization in Canada in a way that is visual and easily accessible on social media. Western ways of thinking *privilege* spoken and written word and focus on the analytic, logical and sequential means to an end. In my experience, creative techniques help to expose other ways of sense-making that can be so difficult to express in words.

As I listen to the voices of those who write from outside my settler, immigrant, colonial context I hear those desires, those statements, and collective actions. It is these experts who bring the lived experience of domination and marginalization, experiences that a mediator must be capable of hearing, that I explore in the next chapter. The call to heed other voices and to turn away from the dominant social political structure of Western societies is growing.

[5] Arnell Tailfeathers (n.d.). Retrieved from https://twitter.com/apihtawikosisan/status/1176156116452958208?lang=en

Chapter 2

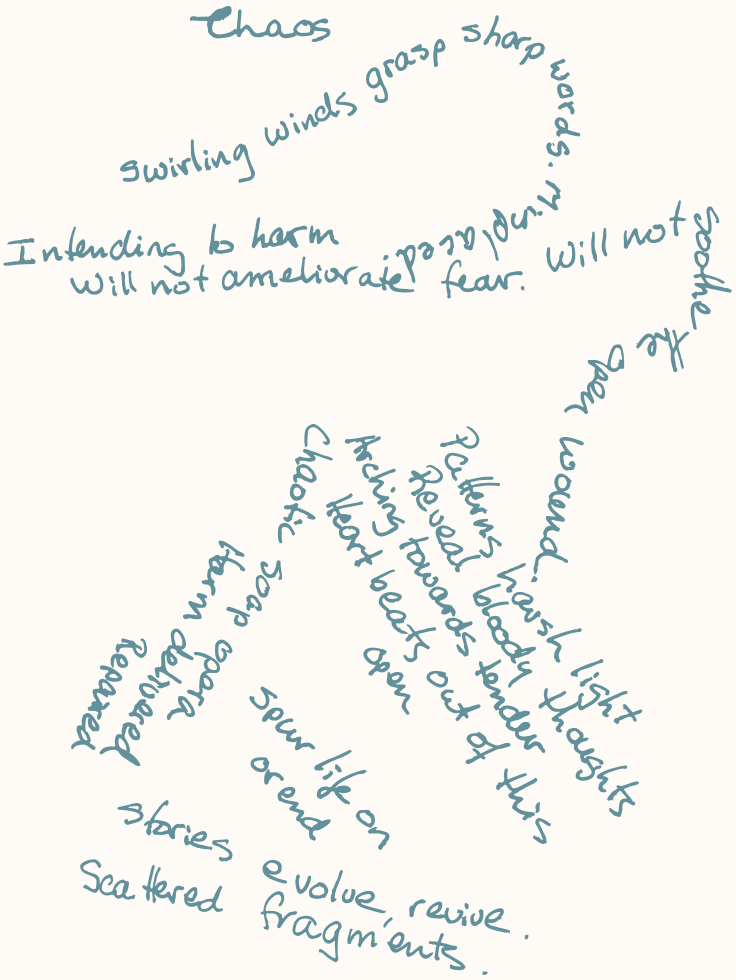

Fig 9. Hand written poem, Chaos

The Literature & Further Reflections

What I am seeking in the literature, as Meadows (1999) suggests, are ways to challenge the "mindset or paradigm out of which the system, - its goals, power structure, rules, its culture – arises." Are there theoretical frames that might help all actors in a mediation – participants and practitioners – to access collective power, to "transcend paradigms" (Meadows, 1999, p.2-4)? I am not seeking a systems solution; rather I explore mediation as one pathway towards calls for justice as an inherent human right. In doing so I look for other theoretical frameworks, the systems inhabited by feminist and indigenous thinkers who stand outside the dominant paradigm. Systems are nested within systems, influencing and being influenced.

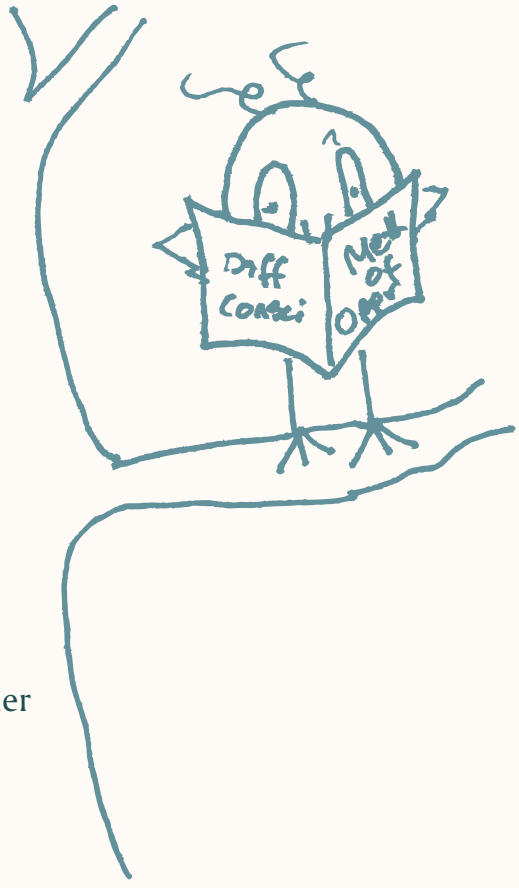

Fig 10. Bird Reads

I also look for an indication that mediators and parties to the mediation are co-evolving which occurs when organisms and systems have interacted over time and as a result their evolution has been impacted. In this case, have the mediators changed their practice over time as a result of their interactions with those who are either oppressed or are oppressors? Lewis Carroll has the Red Queen explain this in *Through the Looking Glass* "Now, here, you see, it takes all the running you can do, to keep in the same place. If you want to get somewhere else, you must run at least twice as fast as that!" (Carroll p. 161).

I read to see how mediators engage in their work as dispute resolution providers and how history has influenced the diverse approaches in practice today. I read Indigenous scholars and researchers to learn about how governance and decision practices are different from Western European practice. At the same time my body wants to dance through the forest outside my window and listen to the whispering trees and other ways of knowing that infuses Indigenous Knowledge. Reading feminist theorists, the cry against settler colonialism rises throughout. Over and over, I read of the impact of the dominant culture's focus on its own needs over all Others. I have experienced the impact of the heteronormative culture and at the same time recognize that I do not live in fear for my or my family's well-being in and out of days. As I read through several works that describe creative techniques to "engage the imagination, reveal invisible operations of power and privilege" Bell & Desai, 2011, p. 293) my commitment to other seek out imaginative ways grows stronger. My intention is to embody differential consciousness as, "the most obedient and deserving citizen-subject, but also the most rebellious agent of social change." (Sandoval, 2000, p. 118).

In a life of reading, writing, and leaving a trail of scattered notes, books of poetry everywhere, logic did not take center stage. The literature review templates

offered by the Strategic Foresight & Innovation (SFI) program as tools to capture my reactions and enable critical thinking were often forgotten. Fascinating academic articles, popular fiction, and thought pieces drew me in. If the literature review were written as an autobiographical fiction, the musings of an eccentric, creative mystic, where my imagination and memory could intermingle with what I have read, this might have been an easier exercise. And so, there may be a weaving together of fact and fiction, leaving aside the necessity of citation in my musings, recollections of books I read, conversations I had. I do this specifically to question the cultural hegemony of the academy to require a specific citing. I will refer to the person or circumstances but it is entirely likely that not all my memories are accurate. Therefore, I acknowledge everyone from whom I have learned and weave you into my story. That said, I value the thoughts and ideas of Others and recognize these many contributions of those with whom I am in the world. I read through several domains looking for threads to create a tapestry of knowledge.

Throughout the literature review, I engage in 'a reflective conversation,' (Schon in Cross p. 23). I look for signs of the differential mode of consciousness and rhetorical figures (Sandoval, p. 59) to give insight into the social construction of dominance (p. 126) and oppositional consciousness.

Among the excellent works I read for this research project, I include the history and practice of mediation, thinking on social justice, feminist theories, indigenous theories, and creative techniques. I focused on works published within the last 20 years, although there were exceptions. Articles and books floated in from other sources (advisors, colleagues, friends, my library) inviting me into other areas of relevance: design, futures, economics, poetry, and game theory to name a few.

I continue to draw on Sandoval (2000) in her exploration of Barthes' "rhetorical figures" (p. 124) as part of my investigation into differential consciousness which I introduced in the preface and discuss further in the next chapter on methodology. I cast a critical eye towards mediation praxis in relation to feminist and Indigenous theories and practices. As a mediator and facilitator for over thirty years, my practice has been informed by Western models of justice and my own cultural bias. At the same time, I have a profound connection to Indigenous decision models and values, as well as Feminist principles. I have been gifted teachings through my work with Indigenous Peoples from many nations; Dene, Navajo, Cherokee, Wuikinuxv, Kwakiutl, Salish, Splatsin, Silyx, and Anishinaabe to name a few. In sweat lodges, circle dances, log blessings, and peyote ceremonies I experienced discernment and mysterious new ways to listen. Many voices call, trees, rocks, and rivers all waiting patiently to be heard.

I begin with feminist theoretical works to follow up on my earlier exploration of Sandoval. I follow this with my review of Indigenous research. The recurring theme in both Feminist and Indigenous theoretical works is the dismantling of settler colonialism. Decolonization continues as a theme throughout the use of creative techniques in the pursuit of social justice. I conclude with a brief history and description of approaches to mediation and definitions of social justice from Canadian, American, and European Union authors as I believe there is value for practitioners in other professions.

Feminist theoretical thinking opens doors that challenge the gender binary of the 60s and 70s. The feminist authors I grew up with were in search of equality to be counted as equal to men on the economic, political, and social playing fields. Third World US Feminism turned the conversation in an entirely different direction towards an intersectional feminism where differential consciousness (Sandoval,

2000) opened a whole new way of thinking and an overarching wisdom relevant to social justice.

Feminist theories have evolved and continue to evolve over the years. My first introduction to feminism in the 60s was through the writings of Gloria Steinem and Simone de Beauvoir. These views written by white women did not rock my world to any significant degree. I was oblivious to the hate inflicted on the only three young women of colour who accompanied me through my early education. Here is the rhetoric of 'identification' in action. From my perspective, we were all the same, their cultural traditions and ways of knowing essentially erased. It might have been useful to go and re-read some of those early works. I hope my own understanding has shifted significantly. Dhamoon's (2015) work explores three feminist theories: intersectionality, transnationalism, and settler colonialism. Social justice seeks to address inequity whereas feminism intends to address the source of these inequities. This is the entry point for Sandoval's work to counter White hegemonic feminist theory and for me by extension the settler colonial hegemony into which some practices of mediation fall.

I understand Third World Feminist theory as the ongoing challenge of seeking social justice, as articulated by women of colour, Indigenous, Queer, Black, and Latina women, sharing their lived experience. These voices bring forward the difference between those who live unconsciously in the dominant white patriarchal racist hegemony (Herr, 2014, p2) and those who look directly into the eye of the tyrant. Transnational feminists focus on feminism as a world-wide collective with the nation-state as detrimental to feminist causes (Herr p. 2). This coincides with the works of Indigenous scholars who see stolen lands and broken agreements as not just barriers to social justice but a flawed path forward.

Intersectionality (Crenshaw, 1990) describes the complexity that lies beyond the gender equality promulgated by white feminists, first among the upper classes in the 18th century (Popova, 2019) and then in the academy following the end of the Second World War. With the American justice system as a backdrop, Crenshaw draws a strong and also poignant image of how the experiences of women of colour and those living at the margins are discounted. Her definition of intersectionality draws attention to the multiple layers, and paints the real picture of lived experience; each individual is presented as an intersectional being, informed by education, mental and physical ableness, family, location, history, and more. Each layer is a barrier in one instance, at the same time building the united strength to stand in opposition, all the while creating and living regenerative lives, keeping culture alive in spite of oppressive conditions imposed by colonial and imperialist states.

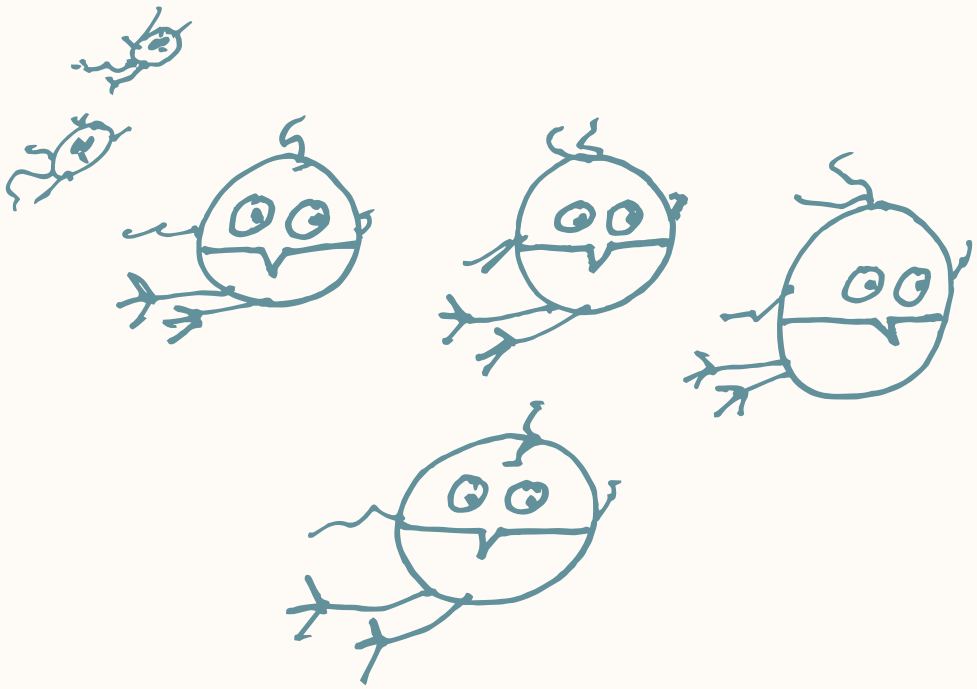

Fig 11. COVID Revolution

The importance of dismantling and decolonizing is core in both feminist and indigenous writings. It is not up to people of colour or other marginalized groups to educate those who are suddenly made aware of the 'Other' reality (Levinson, 1997). It is up to those of us with limited knowledge, those of privilege, to educate ourselves; to do otherwise is to deny the opportunity to achieve social justice. This is an important construct for mediators and social justice advocates. The question is not only how to engage, but also how to recognize and take responsibility for the 'inoculating' ways of settler colonialism.

Feminist principles disrupt the settler colonial, neo-liberal, and traditional patriarchal worldviews. Feminism acknowledges the lived experience and wisdom of women's voices, advocating for equity by seeing individual people through an intersectional lens. There are many views and feminist interventions to interrupt the status quo such as: drawing out women's wisdom, advocating for equality through an intersectional lens, and promoting "the values of equality, agency, whole humanness, generativity, and interindependence" (Harquail, 2019, p. 5). Harquail seems to give higher value to equality which causes me to situate her within the 'equal rights' topography. I sense a discounting of the inequities experienced by women of colour that some magic bullet of equality is supposed to rectify. It seems to me Harquail's work is proposing one feminism, rather than feminisms defined by and for the particular circumstances within which women find themselves in, a hangover from the White feminist hegemony.

Agency, accountability, generativity, and interdependence are threaded throughout Third World US Feminist, Indigenous, and Indigenous Feminist literature. The move towards an intersectional feminism is reflected in the "agenda for indigenous research" centered on the goal of self-determination (Smith, 2001, pp. 115-117). Four processes, based on the four directions are offered:

healing, decolonization, transformation, and mobilization. These processes recur throughout the present day feminisms as individuals and communities heed the call to gain control of imposed circumstance.

Agency and accountability are the new directives out of the enactment of Smith's four directions and the demand for equity, recognition, and respect. Gender-based feminism or second-wave liberal feminism is still very prevalent as the colonial hegemony pushes back against the rising tide that multiple feminisms expect. As a mediator, I must remain vigilant to this new and ardent feminist choir. Equity is hard to achieve when the practice of mediation is performed in time-bound institutional settings. Equality, while certainly important, pales in comparison to the work that equitable processes demand.

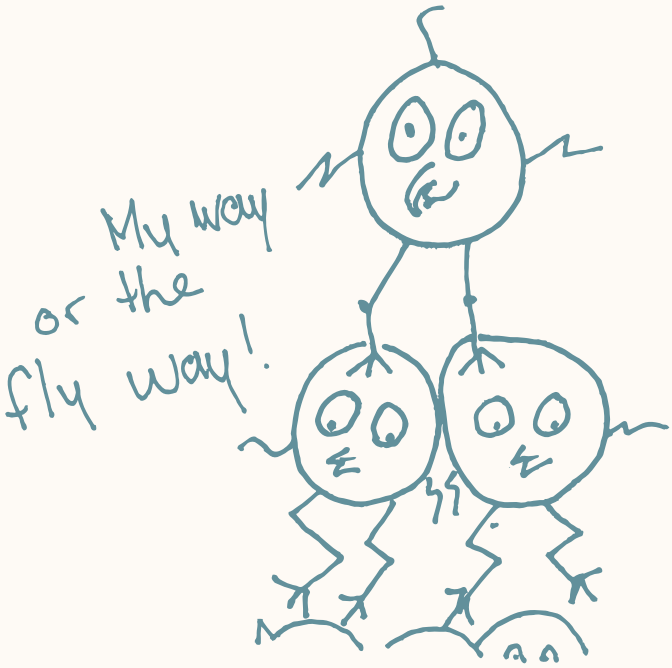

Fig 12. Settler Birds

And, I am reminded of Maynard's (2017) *Policing Black Lives*, that I read as part of a Showing Up for Racial Justice[6] group. She describes the present-day treatment of black and brown individuals by Canadian government institutions who train their personnel to judge and remove rights based on racist premises. The story of the woman whose children were removed by social services because she sent her child to school with a roti for lunch (Maynard, 2017) is just one more example of the petty and extreme racist views permitted by white supremacy to persist. Another is

[6] Showing Up for Racial Justice retrieved from https://www.showingupforracialjustice.org

the exoneration of the six Toronto police officers involved in events that led to the death of Regis Korchinski-Paquet in 2020 and further inflamed Black Lives Matter protests.

The driving force behind settler colonialism was the acquisition of land (Wolfe, 2006 in Dhamoon) which led to, and continues to result in, the forced dispossession, enslavement, and erasure of Indigenous Peoples. Initially these acts were perpetrated in the name of religion or sovereign rights (Dhamoon, p.32). In neoliberal economic discourse, settler colonialism is the system of acquiring capital which requires the exploitation of workers in order to be sustained. The role of government is to strike a balance between capital and labour; in the Western world this is primarily achieved through taxation (Picketty, 2017).

Settler colonialism acts in two ways; first through the forced removal of Indigenous Peoples from their lands, and second through the indentured service of those whose bodies were stolen in order to fulfill the role of worker in service of capital. The intentions are quite different. First, the settler colonial system requires capital; land and resources needed to build structures and lay claim to a dominant position on the landscape. From this perspective, settler colonialism sees Indigenous Peoples as a threat to be completely removed, which leads to genocide. Second, the settler colonial system requires workers. Labour is in service of capital, to do its bidding so that capital can maintain dominance (Arvin, Tuck & Morill (2013); hence white supremacy.

Indigenous researchers draw attention to Indigenous Knowledge (Dulfano, 217) standing in contrast to the settler colonial hegemony. The struggle for recognition and respect, for rights, has been the impetus for social movements like the American Indian Movement and Tiny House Warriors. Simpson claims her

Anishnaabeg way of knowing and stands outside the struggle of opposition. She speaks to her own people, reminding them of their agency and accountability to their own communities. Through her writing she thoughtfully describes her call for "radical resurgence" (Simpson, 2017, p.48) and invites others to listen to her explanation, "an extensive, rigorous, and profound reorganizing of things" (ibid). Her call to Indigenous Peoples is to be in "grounded normativity" which she describes as collective reciprocal self-recognition, "the act of making it a practice to see another's light and to reflect that light back to them" (Simpson, 2017, p. 184). She issues a radical invitation to reject the deprivation of history, and instead focus on centering within Indigenous nationhood. She draws attention to cultural difference between Indigenous governance and colonial systems of justice and decision-making praxis as she states so clearly, "This is a manifesto to create networks of reciprocal resurgent movements with other humans and nonhumans radically imagining their ways out of domination, who are not afraid to let those imaginings destroy the pillars of settler colonialism" (Simpson, 2017, p.10).

Understanding the difference between settler colonial and Indigenous political and governance leadership is central to social justice mediation when the rights of Indigenous Peoples are in question. (The case would be true of any mediation where there is a dominant culture at the table.) The treaty processes, a form of negotiated agreements, took place not only between nations but from an Indigenous perspective included all the non-humans with whom their world was integrally linked. Relationships with the natural world are reciprocal and mutual, which is very different from the 'dominion over' model of the Christian colonizer mindset. Without due respect there could be no gifts given by the natural world (Simpson, 2018). I feel the Canadian socio-political systems are so far from this model and my heart breaks.

It is incumbent upon all parties to find ways to communicate, to maintain and nurture agreements and foster mutual understanding. From my own experience I recognize that sometimes the hurt goes so deep that it is extremely difficult and requires specialized expertise to address feelings of revenge and move towards forgiveness (Cloke, 2002). Perhaps this is why social movements are so powerful. People don't have to stand up and demand change alone; there is a collective voice of many different experiences. In terms of negotiating with settler colonial governments, the belief was that treaties enabled Nations to care for the resources in the shared territory using their own environmental laws. Key is the (mis)understanding that each Nation would "remain separate, sovereign, self-determining, and independent nations" (Wing, 2002). Although it is far too generous to call this a misunderstanding, the dominator culture was never interested in anything other than taking whatever their distant sovereign said they could. The doctrine of discovery, is one of the most damaging 'statement of fact' concepts giving credit to European explorers as though these far parts of the globe were uninhabited. The result continues to be the denial of Indigenous Peoples, of their thriving and sustaining cultures throughout the global south, the Americas, and many islands in the Pacific. In Canada today, governments continue to assume their right to make decisions without any communication or discussion with those impacted. Art Manuel (2015) in *Unsettling Canada* questions whether a legal system, designed to uphold and serve one world view, can come to any conclusion other than one that supports the culture out of which the system emerges. The Assembly of First Nations (AFN) produced a report to express their ongoing concerns "about the contemporary ramifications of the doctrine of discovery and other discriminatory practices", (AFN, 2018). The ongoing racist and terrorist actions against the Wet'suwet'en on the west coast and the Migmaqq on the east sum up the Canadian government's approach to reconciliation.

The United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP) addresses the imposition of 'sovereign' rights and legal systems (Manuel & Derrrickson, 2017) and the disregard for the Nation-states of Indigenous Peoples with their own long-standing systems of justice and governance (Simpson, 2017). Canada demonstrated its deep settler colonial roots by being one of only four countries (Australia, Canada, New Zealand and the United States) to resist signing UNDRIP until 2016.

The historic actions of the Canadian Government have been labelled "genocide" in the Truth and Reconciliation Report (2015), which is defined as the forced removal of people from their lands and the loss of economic opportunity along with the loss of culture. The Missing and Murdered Indigenous Women & Girls Report (2017) makes clear that genocide continues today.

Standing strong in one's own culture has long been the path forward among Indigenous Peoples. For some this has required a level of secrecy, and for others, skills in international negotiation. A man from a west coast First Nation with whom I was working shared his personal story. He described how the children of community leaders were taken deep into the woods to be taught the ways of the People and kept out of reach of residential school police[7]. I had just read Delgamuukw v. British Columbia and wanted to understand the relevance of this decision to him and the work I was doing with First Nations communities. This young man described the signs, masks and other messages placed high in the treetops that had guided him, the alert traveller, from one community to another in an effort to avoid capture and placement in a residential school. I was grateful for

[7] Personal communication

his gift, my first introduction to the hereditary system of governance. I was unaware that the Indian Act imposed a system of governance and felt confused as I tried to recognize the role of the Chiefs to whom I was introduced.

Other Indigenous leaders took the approach of seeking the intervention of international platforms for recognition and social justice. The impacts of settler colonialism drew together First Nations from a land now referred to as British Columbia, Canada and the Sami people in a country now called Finland (Manuel & Derrickson, 2017). Canada, through the concerted efforts of Elders like Art Manuel, finally signed UNDRIP in 2016, although actual legislation by the current federal government remains remote.

Indigenous practices draw attention to the relationship between humans and non-humans, between the lived world and the spirit world. Learning occurs not in the classroom but in the daily experiences of life. Teachings belong to those teaching and learning, often within family lines (Maracle, 2017). The cultural appropriation of Indigenous knowledge continues unrecognized in mainstream Canadian culture. This rich depth of knowledge brings forward another set of principles based on respect, reciprocity, and regenerativity in stark contrast to the predominant view among Canadian businesses based on production, individual ownership, and heteronormative power.

Some Indigenous world views, in a broad sense, are closely aligned with my own. Yes, I do ask permission before I cut down a tree. I give back to the forest by maintaining it, helping trees to survive attacks on their sovereignty by pine beetles and extractive forestry practices. Perhaps this way of being comes from my DNA, ancient roots in Celtic wisdom in spite of my colonial inoculation. I have been privileged to work with and receive teachings from Indigenous Peoples throughout

Turtle Island. And, I recognize that although we may share ideals, we have different cultural roots to be respected.

The demands of Indigenous activists and community members who speak out in the mainstream media are reflected in the work of Indigenous scholars who describe principles and practices that have kept culture alive in the face of colonizer systems intent on the removal of Indigenous Peoples from their lands. Place-based Indigenous practices, such as the Thanksgiving Address (Kimmerer, 2013) and resistance (Simpson, 2014) bring critical information to social justice work. The important emergence of indigenous ways of knowing into the dialogue on globalization and its impact on Indigenous Peoples serves to separate and make distinct these voices (Dulfano, 2017). At the same time this dialogue is coalescing in intersectional collective action such as Standing Rock and Black Lives Matter. These demonstrations against racism and colonial forces lead the discourse in the academy and the activism taking place on the streets.

Critical among Indigenous thinkers is the commitment to one's own knowledge and world views, to both be accountable and acknowledge individual agency that gives back to community whatever is taken (Simpson, 2017). The Medicine Wheel is an important symbol in many Indigenous Nations throughout North America. Medicine wheels teach values oriented to one of the four directions and often to the four seasons with a teaching for each season. I was first introduced to medicine wheels in the mid 80s, first from Coast Salish in British Columbia, and shortly afterwards from Pueblo Peoples in New Mexico. I have been introduced to many different medicine wheels and seen them on the land in the South Western United States. They are powerful reminders of how to behave in ways that respect the relationship between humans and the Earth. I have heard the four quadrants used to reflect the four peoples of the world, and the Four R's (although I have

heard more than four used in different contexts): respect, relevance, reciprocity, responsibility, resilience, and regenerativity.

Indigenous authors and activists from Turtle Island have a long history of working with other Indigenous leaders from across the far reaches of the globe. Raven Trust is one current example. They work to raise awareness and financial aid for Indigenous Peoples engaged in the protection of their rights and title. The last event I attended was in Tkaronto, to use the revolutionary counter ideology rather than Toronto. Indigenous artists from both North and South America demonstrated through song and spoken word how to enact 'differential consciousness'. Throughout the evening organizers drew attention to both similar and different forms of expression and cultural issues, and above all their collective solidarity. There is a growing recognition of the power of working across nations to draw on their collective knowledge (Smith, 1999; Simpson, 2019). An example is Grand Chief Phillip Stewart, who in an effort to stop the fossil fuel sector from further damaging the natural world, criss-crossed British Columbia calling on Indigenous communities and Nations to come together, at the same time inviting non-native individuals who share his dreams to enter the space and work together to protect all people from the growing harm of settler colonialism's unfettered hunger for growth. There is a cautionary note here to socially minded Western thinkers. Yes, there is much to be learned from Indigenous world views. However, I acknowledge that to be an ally to Indigenous, Black and Brown activists is to be aware of the causes is the paradox of natality (Levinson, 1997); we who are members of the dominant culture must educate ourselves and think for ourselves about the harm being done under the banner of progress. The BIPOC community does not need to add the education of interested settler colonials to the work they are undertaking on a daily basis to bring awareness to their many causes. It is not only the rich cultures and knowledge

systems that existed before the arrival of European settler colonials that we must be aware but the lived experience.

Indigenous knowledge is an embodied, holistic way of knowing and interacting with the world (Magnat, 2011). Artivists are opening windows to wrongs and informing social justice practices entrenched the current hegemony. Artistic praxis and creative techniques expose histories denied and illuminate alternate interventions (Bell & Desai, 2011).

Indigenous artists, activists, and artivists draw heavily on the counter ideologies in an effort to move towards a more egalitarian society. Symbols and images on items of everyday use, ceremony through dance, drumming, and song are creative and expressive technologies beyond spoken word that keep myth present and pass along teachings. The creation of meaning is embedded within this wholistic world view, where humans and non-humans are interdependent. Indigenous world views and decision praxis draw on creative arts (Siddiqui, 2017) to create meaning and relationship, physical and spiritual, with past, present, and future worlds. Futures thinking is a core construct of Indigenous practices designed to "dismantle colonialism and unsettle for change" (Mullen, 2019).

Dismantling and unsettling moves my research to the arts. Humankind has evolved into an expressive species able to create meaning with a vast array of tools and through a broad range of techniques. Accessing human creativity in social justice mediation offers a deeper experience of other world views. Artistic expression can deconstruct as a way to analyze or question an issue or situation or to reconstruct "to imagine the world we want and to think utopically, about how things ought to or could be rather than just consider how they are." (Naidus, 2009, p.xi).

My reason for considering creative techniques in social justice mediation comes from my years as an educator. I was and am curious about how people learn and communicate what they have learned. For several years, I ran an alternative elementary school in downtown Vancouver where we worked with each child to help them consider whether they thought they learned best through seeing, hearing, or moving. Gardener's *Frames of Mind* (1987) had recently been published and expanded the thinking on how to help each child become an effective learner. His seven frames described ways of learning to include: linguistic, logical-mathematical, musical, bodily-kinesthetic, spatial, interpersonal, and intrapersonal. The final two frames of mind that establish relations with others are of interest to me, primarily because people come to mediation because they have been unsuccessful in their relationship in some way. Again, it is this search for other ways, artistic and creative expression that drives my curiosity. The Western European influence has commodified artistic expression, giving less value to those who do not meet certain expectations and then giving high value to something else. Other ways, random sketches, movement also give meaning.

In line with this thinking, Inayatullah (2009) insists on the value of "many ways of knowing" (p. 4). Causal Layered Analysis layers the structural and the technical in between the creative litany and metaphor to activate the visual and explore movement. These ways of seeing and experiencing the world beyond the logic of words and the cognitive and into an embodied experience encourage the integration of creative techniques into social justice mediation. Much as it is incumbent upon the educator to consider how people learn, mediation could benefit from examining how people best communicate with each other.

Research on the brain, that grey mass at the top of the spinal column, continues to produce new insights. The act of drawing as a way to tap into the

creative side of the brain was proposed in *Drawing on the Right Side of the Brain* (Edwards, 1977). The ability to draw may tap into the right, creative side of the brain; however teaching people how to draw is unlikely to be useful in mediation. On the other hand, spontaneous drawing, shared images, or maps can bring meaning and invite conversation. In mediation and in education, I have looked for alternative ways to attend to others through creative arts and creative techniques to enhance communication and offer an embodied experience. Through the arts, cultural expression is brought forward often in a profound way. Literature aside, I know I have learned much about myself and others through participation in performance theatre, poetry, music, comedy, and cartoons; all experiences I share in an attempt to draw attention to the benefit of such practice in social justice mediation.

In one mediation, I invited two parties to draw pictures to represent what trust looked like. I handed each person a package of crayons and some coloured paper. I didn't know what would happen, or whether they might reject the idea outright. Instead, they began to draw and were soon chatting with each other about how much they loved to draw. This was a mediation that had almost gone off the rails, but as they shared their drawings, it shifted. In the end they signed an agreement based on what they had drawn, images of friendship, trust, and a shared history.

One of my favourite experiences was working with a church group in conflict over how to move forward with a major financial decision. Most of the congregants had been members of the church for over fifty years. I began with The Great Turning (Macy & Brown, 2014). This exercise invites deep listening, as those who represent the future ask questions of the elders, through the voice of the facilitator. The youth must listen without speaking through three cycles of questions about

how the elders had taken actions to shift the future to such a positive outcome. It was a deeply emotional experience, moving many to tears as they considered how their current conflict could affect the decisions they might make over the next two days. There were moments of silence as they considered the impact on their grandchildren and great-great-grandchildren. Soon after the exercise they were drawing in small groups, sketching ideas on the flip charts around the room. Some of the drawings were of buildings; others included flower beds and musical gatherings.

I am curious to learn more about how creative techniques draw out emotions and enhance the level of understanding needed to address complex social justice issues. The arts are powerful tools that awaken the imagination. Social movements draw on the arts and other ways of seeing the harm that dominator paradigms inflict; neoliberalism, settler colonialism, religious dogma – all in the name of power and control. There is a sense of movement in artistic endeavour that inspires and draws in even the most reluctant observer (Bell & Desai, 2012, p. 289). Accessing the arts invites a huge toolbox of techniques and methods to guide mediators and other conflict managers or coaches seeking additional techniques in their pursuit of social justice. Indigenous and feminist knowledge carriers understand the bridge that creative praxis offers to the hegemony of legal, education, health and other institutions established to maintain and control settler colonialism. Narrative, as demonstrated by Sandoval (2000) with the rhetorical figures and counter ideologies can serve both sides. The methodology of the oppressed could be a valuable tool in mediation when exploring the equitable representation of participant's interests. It seems likely, that in addition to story, other forms of creative expression might also serve to enhance mediation praxis. Certainly, social movements and social activists are using the arts to express deeply held beliefs and expose why changes need to happen.

Designing a process to address social justice, whether through conflict or project planning, is an iterative and interactive process. Other forms of sense-making outside of spoken and written language tap into a deeper group knowledge that social movements have long recognized. There is power in the collective, an innate recognition of the synergy that intersectionality brings and the value of specialized knowledge (Davis, 2016). The movement of walking together brings not only the individual but also the body collective fully into the demand. These are the sources that create meaning. We may call this music, art, or poetry but they tap into other ways of knowing. Social movements offer these alternatives to mediation.

The point of feminist and Indigenous writings, art and activism is that their ways of knowing must not only be a part of the dialogue, but also part of the process. In a Western-informed mediation the process is guided by an outsider, a foreigner to the cultural traditions and ways of knowing. How can the 'Other' find their way in? The impact of a world view based on individual power affects not only Indigenous Peoples but all human and non-human inhabitants of this Earth. Practices such as art and theatre make plain the contrast between feminist and Indigenous theories and Western colonial hegemony. Indigenous and feminist artists are grounding the discourse and activism that is taking place on the

Fig 13. Seeking Supremacy

streets. In a highly sensory way creative arts may also move the mediator to a new understanding of lived experience, exposing an existing paradigm.

I have used many creative and kinesthetic techniques in my work over the years and recognize how effective these tools can be to bring groups together. I was intrigued by a collaborative games workshop hosted at the YMCA where I worked in the 70s. I played with physical and board games, drawing, poetry, storytelling, and singing over the years to draw people into new ways of thinking about problems. I was not doing this work as part of a social movement but I do recognize a similar effect. Social movements take to the streets with images and sayings on placards, through call and response songs in the street, with their arms joined in solidarity. These expressions: music, poetry, performance, draw attention to areas where mediation could play a role. Charalee Graydon in her soon-to-be-released work on the use of the creative arts and mediation conducted an extensive review of the arts and how mediation can play a role in achieving climate change justice. She references studies conducted with both mediation and climate change advocates to reveal the extensive value creative techniques offer the international climate debate and by extension, mediation praxis. The arts are being used extensively to carry the message of social movements focussed on climate change (Graydon, 2019, p. 4). In this time of COVID people continue to share their art and music through virtual art galleries and on-line performances. Indigenous artists, with their cultural tradition of storytelling, are finding broad visibility through online media and virtual reality. Rather than creative techniques as one-way messages, I am interested in methods that accommodate real-time exchange going in both directions as can occur in mediation. I focus on methods that involve movement and drawing as techniques to create meaning outside of words. Images and movement can show relationships; words may not suffice.

The other benefit of creative techniques is that of reflexivity for all parties to the mediation to stand back and look critically at the experience in the body or the emotions elicited. To understand embodied sense-making I recall my own experiences with performance-based methods. I am a kinesthetic learner and have participated in several different workshops to learn more. I participated in a workshop led by John Banmen, an internationally recognized therapist and founder of the Northwest Satir Institute in 1986. The premise was that by engaging people outside of the family to play different roles, new insights could be gained and previous assumptions seen through a different lens. In the workshop a family dynamic was played out. People were selected to play various roles and given license to re-interpret a particular exchange. In the debrief, participants' critical examination of their interpretation of the role was explored and they were encouraged to consider the influence this might have had if previously known. I was fascinated to see how relations changed, 'ah-ha' moments not only for the family member but also for the participant. Banmen's work, although therapeutic by design, is an example of how an embodied experience could contribute to innovations in social justice mediation.

In 2019 I participated in a Conflict Theatre workshop led by Tom Scholte. Based in part on Boal's Theatre of the Oppressed, participants focus on a specific problem. For the purpose of this workshop, held at the Congress of the Humanities in 2019, a common real-life difficulty among women in the academy, that of equity in terms of recognition in male-dominated settings, was offered as the focal point. In the workshop a couple of participants were selected by the group to play out a role in response to questions from the facilitator. The participants froze in different body positions to express their emotional response. The audience was then invited to intervene to explore how a different outcome might be achieved. Thinking

together in this way offers new perspectives on the conflict and the support to try something new.

Both Banmen (1989) and Scholte's (2019) workshops offer participants powerful emotional experiences that invite not only group reflection but also personal reflection, where shared experience and insights can lead to new opportunities unimaginable at the outset. Moving as a group draws on the kinesthetic learning modality. For some, the use of materials such as white boards, coloured pens, and sticky notes, along with materials that can be touched and manipulated, is enough. Embodied methods such as role plays, performance theater, and forum theatre can offer direct experience and an outside perspective.

The act of drawing images and diagrams in a group serves to bring in creativity, at times the antithesis of logic. Drawing and arrows on a whiteboard can help to explain incomplete thoughts or connect one concept to another in ways words have failed. Working collaboratively requires individual effort. For the complex problems of social justice there may be many layers to sift through in searching for the root cause.

In my experience, creative techniques, poetry, performance theater, drawing, games, and the use of imagery or objects can lead to self-awareness that at times can seem less intrusive than talking or written rationale. Dramatic shifts do occur. This speaks to the importance of selecting techniques that are appropriate for the situation. Creative techniques bring both the practitioner and the participant into new realms of experience.

Seeking socially just answers to complex social, political, and environmental problems is not new, nor is mediation. In these next paragraphs, I explore mediation as the art of facilitating dialogue among those negotiating solutions

to a problem or problems. This intervenor or mediator role has been around for millennia. Simpson (2017) describes how the Nishnaabeg drew in "a delegation of diplomats, spiritual people, and mediators" to work out their failed relationship with the "Hoof Clan" (p. 60). Indigenous Peoples in the Americas engaged in negotiation with neighbouring Nations and continued this practice with colonizers. Mediation was a common practice in ancient Greece where educated slaves were used to assist in negotiations by passing confidential information back and forth (Merti, n.d.). The rhetoric 'quantification of quality' (p. 122) exposes how quantity (availability of slaves) overwhelms the value (quality) of the services and maintains upper class might.

Deconstructing social justice mediation requires an awareness of the dominant rhetoric and a willingness to reflect on the intent of the term "third-party neutral". This is not a new conversation among professional mediators working within the Western political construct (Wing, 2002). Although I certainly bought into the notion of neutrality at the outset of my career, I recognized the often profound differences in world view of those who sat in mediated settings with me. I recall my own frustrations with industry leaders who discounted Indigenous questions, maybe not in the room but certainly later. I could sense my own frustration with the repeated questions around the selection of 'indicator species' to be used in the computer generated scenarios. Clearly these species were of particular importance to the Indigenous Elder at the table but after considerable dialogue and explanation other species had been selected by the entire group. Part of me was saying, "he is not feeling heard, take time to find out more" and the other part of me was saying, "we've gone through this several times; you said you knew why these indicator species were selected; please we need to move on." I can recall standing in the middle of a room full of people, wondering what was going to happen next.

In North America, the overloaded justice system led to a search for an 'alternative' approach to resolve conflict. By the early 1930s the court system in the USA was backed up and legal experts began to propose an alternative dispute resolution process centered around mediation. In North America and Europe mediation was re-introduced as a cost-effective and efficient means to settle disputes using a neutral third party (Wing, 2002). Primarily practiced by those trained in the legal justice system, the key difference was in who would determine the outcome. In the legal system a judge or jury was tasked with determining a fair and just outcome. In mediation it was the parties to the conflict who would draft any agreement they had made. Mediation has evolved in the last century and several forms are in common practice within both legal and non-legal structures.

The Alternative Dispute Resolution Institute of Canada (ADRIC) is a governing body for mediation and arbitration practitioners. Members must commit to regular professional development, a Code of Ethics, and national Mediation Guidelines. ADRIC requires levels of training and practice in order to receive one of four designations. Mediators and arbitrators can receive the designation of 'Qualified' as an entry-level designation followed by 'Chartered' in recognition of practice and ongoing professional development. I look at my own designation, "Chartered Mediator" and reflect on the circuitous route I took to get there, seeking some letters as a way to give 'authority' to my role, some

Fig 14. Whose Law?

recognition for my work; why? I understand how power is framed in white Canada and have often felt as though I were on the outside looking in. That was an illusion. I was on the inside, just not in the innermost circle. I bring ADRIC, this Canada-wide organization, into this paper to demonstrate how the cultural hegemony has the potential to limit the equitable participation of those who represent Indigenous and feminist world views.

As a Chartered Mediator, I subscribe to an ethical code that includes "A Member shall conduct all proceedings related to the resolution of a dispute in accordance with applicable law" (ADRIC, 2019). The language does not appear to be problematic unless one asks the question "whose law?" In other words, the mediator has been 'inoculated' into a belief system that is designed to protect against those who would challenge the dominant system (Sandoval, p. 118). If I assume that the intent is the application of Canadian law then another one of Sandoval's poses, 'the privation of history' describes how this neat side-step denies the existence of other laws such as those of Indigenous Nations. I recognize the potential difficulty this poses to religious communities who in the past have wanted to impose Sharia Law or Judaic Law on members of their community in direct opposition to Canadian Law. In this instance, I am specifically referring to the Indigenous Nations who were living on Turtle Island, long before the arrival of settlers and colonizers.

Beginning in the 1980s the practice of mediation was taken up by non-legal practitioners in droves, in part due to Fisher & Ury's worldwide best seller, *Getting to Yes: Negotiating Agreement Without Giving In*. First published in 1981, it quickly became the classic text for many North American and European trained mediators and business negotiators. Through this interest-based approach, the goal was for the parties to resolve their own conflict following a prescribed set of steps.

Moving from confrontation and disagreement to mutual problem-solving required a commitment from all parties to the terms laid out at the beginning and in their concluding agreement.

The Justice Institute of BC (JI) offered Canada's first post-secondary training in mediation and negotiation in response to the burgeoning demand for more information following on the success of *Getting to Yes*. The JI's conflict resolution program was specifically developed across disciplines drawing from psychology, communication, and decision theory (Hughes, 2009). Now a specialized professional practice with governing bodies, fees, and codes of conduct, the close alignment with legal systems in many countries around the world, including Canada, is gaining influence as seen in the several different approaches in common use.

At around the same time that Fisher & Ury's book was released, community consultation and stakeholder engagement became commonplace. Public demands for input on infrastructure, large-scale developments, or community planning initiatives were on the rise. Elected officials and government bureaucrats had become comfortable making decisions, and were reluctant to hear from a broader public. This new view towards citizen empowerment, the collaborative participation among citizens, government, business, and not-for profit organizations where, "learning and action are joined together and where the polity, interests and citizenry co-evolve" (Innes & Booher, 2004, p.422) led to the community mediation approach.

Mediators were developing approaches depending on the client, their personal beliefs, and the context within which they were working. Facilitative, narrative, evaluative, and transformative mediation offer insights into the

power dynamic between professional and client and between practitioner and participant. I am not suggesting that these are the exclusive practices of mediators. In my experience, mediators are adept at varying their approach as appropriate to the clients and the issues to be addressed. Four common practices are explained below: facilitative, evaluative, transformative, and narrative mediation.

Facilitative and community mediation emerged in response to public sector demand. The intention was for the mediator to control the process, guiding the participants through the stages of identifying, exploring, and solution seeking (Zumeta, n.d.). The parties often met separately to caucus with the mediator in an effort to help to understand what might be blocking the movement towards settlement. When the parties reached agreement, the mediator helped to draft the terms as set out by the parties continuing to find mutually beneficial language.

My practice proceeded along these lines. I designed and led multi-party mediation and stakeholder engagement as part of government planning initiatives or with industries in the extractive resource sectors. Sometimes public backlash led to my involvement; at other times government or industry would bring me in as part of the public consultation process in an effort to include private, public, and government interests. Unfortunately, the engagement often came too late, in my opinion. The problem and the solution were pre-determined and the 'consultation' with others was a mere approval process. Nevertheless there were projects where input was given serious consideration and adjustments made.

In evaluative mediation, the legal rights of the parties take precedence over their needs and interests. After hearing statements from the mediator or lawyer representing the parties, the evaluative mediator will make a formal (legally binding) or informal recommendation for settlement (Zumeta, n.d.). This is

similar to arbitration where the mediator or arbitrator will draft the terms of the agreement upon review of the various concerns. At times evaluative mediation can be the final step in a process to settle a dispute. For example, in BC institutional mediation, processes may begin with mediation. If the process fails, the next step is a judicial review. In some instances, the parties may still proceed to court for a final determination. Once the process moves beyond the mediation stage the parties have little say in the outcome beyond that determined by the legal system.

In the last ten years mediation practices have begun to evolve towards a mediation/arbitration model. This evolving practice falls into the category of evaluative mediation. It may be the mediator or it may be the parties who determine that the mediated approach no longer appears to be working. The process then shifts to an arbitration model and the mediator, now the arbitrator, is tasked with drafting a legally binding settlement.

For transformative mediation the intent is to empower the parties and enable them to recognize the points of view and interests of the other party (Cloke, 2002). This approach is based on the importance of future relations. The outcomes or steps for transformation are determined by the participants with the skillful intervention of the omnipartial mediator.

Narrative mediation has a similar structure with the focus on storytelling as a way of delving into the pre-conflict history. Guided by the mediator, probing questions help to uncover the often-hidden experience to obtain some level of understanding by the other party. Once the stories have been revealed, the next step is to work out a mutually beneficial agreement. When transformation is the goal, the focus is less on a formal settlement agreement and more on an ongoing agreement to shift the nature of the relations through mutual or collective effort.

Along the spectrum from legal institutions enshrined in political systems to processes designed by and for the people involved, there appear to be many alternative processes. Locus of control may play a role in the selection process if options are available. Those with an external locus of control experience the world as a place controlled by outside forces. In the extreme these people are unlikely to exhibit agency or self-determination. From this perspective a process that leaves the decision to someone else would be preferable. Whereas those with an internal locus of control understand their agency in determining a preferred future. I have no idea whether locus of control has any influence on the choices people make to resolve their differences although I suspect that those with an internal locus of control might be more likely to select a process where they have a significant say in the outcome.

Professional and volunteer mediation organizations serve a growing demand. The Alternative Dispute Resolution Institute of Canada (ADRIC) has close ties with the Canadian legal justice system as does the American Institute for Mediation (AIM) in the USA. Mediators Beyond Borders International (MBBI) has members in over 40 countries around the world and provides training, peace building, and conflict engagement consulting services provided by both volunteer and professional practitioners.

However, as COVID-19 exposed the level of unjust, racist, white-supremacist activities perpetuated by traditional patriarchy, heteronormative, and neoliberal economic practices (Simpson, 2008, 2011) the role of mediator as "third party neutral" to balance power is called into question. I am not questioning the ethical performance of mediators; each of us must follow our own moral compass. I do suggest that some approaches may be more conducive than others for cases where social justice is of critical import.

Most mediators see differences in opinion or positions as opportunities for deeper exploration. Generally, the divergent thinking stage continues until all voices have been heard. This shift, delightfully named the 'groan zone' in the *Facilitator's Guide to Participatory Decision Making* (1996), represents the struggle for a group to move from divergent thinking and begin the process of convergent thinking. In divergent thinking individuals offer ideas and riff off each other until new or different ideas cease to flow. Convergent thinking requires a shift from individual focus to collaboration if a mutually agreeable solution is to be reached.

Within Western legal circles, social justice is the process through which the marginalized and disenfranchised receive a just solution for the harms committed against them (Lamont & Christi, 2017). The 'privation of history' exposes itself here. There is no reflection on how these people come to be deemed 'marginalized' or the role of those who committed the 'harms'. Deconstructing social justice mediation requires an awareness of the dominant rhetoric and a willingness to reflect on the intent of terms like "third-party neutral" still in common parlance. The concept of objectivity has been replaced with the phrases "wholly impartial" and "free of any personal interest" in the *National Mediation Rules and Code of Conduct for Mediators* (2012). When, in an effort to remain neutral, the mediator ignores or is oblivious to the social inequities between parties, any opportunity for a fair and just outcome is not possible. (Wing, 2001).

I challenge the question of impartiality. Is this an appropriate stance when one party 'identifies' as the one holding the power, social or political as ordained by the dominant culture? Should the mediator remain impartial? This sounds like 'neither-norism' and as a result the hierarchical role of the mediator is maintained. When one party continues to violate the rights and freedoms of the other party with toxic language or explosive behaviours, these are obvious occurrences that

mediators manage but what about the more subtle shifts in power? What if the language in which the mediation is being conducted is not the first or even second language of one of the parties? Should they still be required to make their case within the same time frame? I suggest such impartiality is totally inappropriate. How and when is impartiality or, reverting to the older term of neutrality, to be applied? Even mediators who do not believe in the construct of neutrality or impartiality are 'inoculated' by the context within which they come to the practice of mediation; there is a recognition of difference, yes, but the effect of that difference – how is that mitigated? Mediators run the risk of 'statement of fact' rhetoric when they assert their role as impartial manager without consideration of the impact this might have on one of the parties. This leads me to an exploration of the relationship between the practice of mediation and views of social justice.

I certainly was 'inoculated', given the opportunity to have an "admirable tolerance for difference" (Sandoval, 2000, p. 118) in the notion of my own neutrality at the outset of my career. In many instances I felt I could easily stand apart from the people and the problem. I understood the process and could guide the parties to a mutually agreeable solution. Or I could terminate the process. I questioned why a mediation had failed. What was my role in the failure? The mediation profession does not require ongoing supervision such as in psychology. Ongoing professional development is deemed sufficient. It is incumbent upon the practitioner to reflect and be critical of their own practices and biases. I was fortunate to have non-mediator friends and colleagues to ask insightful questions that I might understand how to improve the outcome for those who sought my services.

Philosophical discussions on social justice are long and involved. What is determined to be just for some often leaves others with an ongoing sense of injustice having been perpetrated against them. One of the most comprehensive

explorations of the formation of a just society is *Pluriverse, a Post-Development Dictionary* (Escobar, 2019). This edited version showcases, in short stories, the plethora of ways in which communities of place, affiliation, or association address their views for a just society.

The United Nations paper, Social Justice in an Open World, 2006 describes the evolution of social justice as a framework for understanding whether relations between nations, individuals, and groups are determined to be just or unjust. There is sense in this statement that what is just or unjust is broadly known. Indigenous scholars are challenging the definitions of social justice and the question of determining what is 'just' or 'unjust' seems to have been largely ignored. I felt disturbed when I read this definition. I sense a hierarchy that wants to put all those unjustly treated into one group, merged, and essentially disappeared. It is against this 'disappearance' that differential consciousness speaks most loudly, enacting the flexible moving in and out and through of postures to oppose the dominant colonial system that would define social justice in a particular and self-serving way.

The UN approach fits within the 'Strict Egalitarian' (Lamont & Favor, 2017) theory of social justice. Everyone is equal and will therefore have equal access to services and overall wellbeing. The assumption is that everyone has equal opportunity. The unspoken here is that those who have less are there through their own doing. This definition exposes a 'privileged' supremacist ideology by claiming a higher moral ground which says there is no difference between people and recalls the 'privation of history'; slavery, incarceration, poverty no longer exist. The very fact that people have been and continue to be enslaved, that lands and cultures have been stolen with little or no opportunity within the 'law of the land' to right these wrongs; the history of how those "othered" are pushed to the margins and held safely out of settler colonial view – these realities are denied.

The Difference Principle (Lamont & Favor, 2017) is similar in its view of equality but requires those who have more to look after those with less. The assumption here is that supporting those with less results in a lessening of inequality. Here again, any differences are minimalized, the practitioner has been 'inoculated' in order to comfort the colonialist and maintain the premise that the 'Other' is a danger to the supremacist topology (Sandoval, p.56).

The perturbations of these two models reflect the dynamic tension inherent in attempts to search for social justice. The dominant colonial political structures continue to rely on the rhetorical figures, for example privation of history and inoculation, which present a dilemma to the practice of mediation framed within legal praxis.

I have attempted to demonstrate how the rhetorical figures illuminate the social, legal, and political rules by which social justice and in turn mediation is understood. A more extensive read of these philosophical interpretations of social justice would help me to understand the extent to which some approaches to mediation might better serve social justice than others. When the mediation shifts from a problem-and-solution focus to relationship, transformation is possible. The 'right and wrong' legal history has become entwined in many approaches to mediation. When lawyers act as mediators between lawyers negotiating agreements on behalf of their clients where does the lived experience, the participation in transforming the relationship go? Several years back I was invited to work with law students as part of their education. The students were quite flabbergasted when I insisted that they allow their clients to speak directly to each other. They were sure that was their job. I suggested their responsibility to the law was something they could provide their clients but in mediation it was up to the client, not legal counsel, to solve the problem. The difference between mediation and

their wonderful appreciation for the law became apparent. While it is the ethical responsibility of the mediator to manage power differences effectively prior to and during mediation (ADRIC, 2019), it is also the responsibility of the mediator to recognize their own power and privilege through a reflexive interrogation of their own position. This awareness of how privilege is maintained could also be used, through open-ended questioning in the mediation, to access the otherwise unexposed roots of conflict.

Another potential challenge to social justice mediation is that the process is to be constructed symmetrically, with equal time for all parties. How is it possible to achieve social justice when one story may require significantly more time to be told and to be understood, or one person is speaking a second or third language (Wing, 2002). A symmetrical process may appear equal but that does not make it equitable. The lack of recognition for different lived experiences, factors of race, gender, class, and education, requires conflict engagement practitioners to be aware of the intersectional influences on equitable participation and outcome. The professional practice of mediation must recognize that this inherent bias moves away from the equitable participation necessary for a fair and just outcome.

A third factor that can influence the effectiveness of social justice in mediation is in determining the problem to be solved. In some of my work, my curiosity about the problem has been received as a threat to the competence of others. This example serves to underscore the power of paradigm and the effect when one party is quite convinced of the accuracy of their solution. In social justice the root cause can be deeply buried to the extent that members of dominant culture trapped by inoculation, identification or the manner in which facts are presented keeps them unaware. In Canada, the decades-long lack of access to clean drinking water in over 100 Indigenous communities, according to the David Suzuki

Foundation, is one such example. Is the problem about infrastructure or is there a deeper issue at play? The answer is clear in my mind but remains unresolved by a Canadian government in denial of its white supremacist roots. Complex issues may not lend themselves well to mediation without a comprehensive team who can provide accurate and unbiased information. Unfortunately, it may be the case that one party has the means to access information that supports their position while the other does not. The legal system and by extension the professional practice of mediation does not acknowledge that for the most part institutions are not designed to empower individuals (Wing, p.83).

People who come to mediation often experience a range of emotions that can interfere with their capacity to participate fully in the process. In my experience the mediator must be attuned to these stressors. I have experienced all sorts of behaviors; sometimes individuals have tried to draw me to their side or get me to agree the other person is wrong. I have had tantrums, name calling, and abuse directed to me and to others. It takes not only patience but also the ability to recognize when and why people feel backed into a corner and as a result lose their capacity to listen. I have looked for ways to help people view the privilege within which their positions would be strongly held. Separating out the underlying behaviours as a result of personality disorders, narcissism, and uncontrollable anger (Eddy, 2012) has helped me to adjust my practice. I have rarely had to call an immediate halt to a mediation, but Eddy's work has been invaluable in reflecting on those distressing times when I have had to do so. Every mediation is an invitation for reflection: where have I failed, where have I been successful in transforming relationships, and what might I do differently in the next encounter?

The difference between Western and Indigenous approaches to negotiation reveal how the colonizers drew on the 'privation of history', moving from a nation-

to-nation negotiation to a sovereign state structure with a legal system structured to create dominance over those who stood in the way (Wing, 2002). Ongoing conflicts in Canada over Indigenous Nations' demands for rights and title are still being carried out in parliament and in the courts. The British North America Act gave the federal government sole responsibility for "Indians, and Lands reserved for the Indians" and the Constitution Act in 1982 followed with "rights of aboriginal peoples of Canada are hereby recognized and affirmed." (Manuel & Derrickson, 2015, p. 74). The stealing away of history is evidenced in the language in several ways. There is no reference to the individual Nations; they are subsumed into a category of ownership 'sole responsibility' as if Indigenous Peoples were incapable of looking after themselves, and 'peoples of Canada' as defined by one side, the colonizer state. The Canadian legal system is intended to uphold the rights of settler colonial Canadians. There is no consideration of an Indigenous governance system. Initial negotiation between colonizers and Indigenous residents accepted the concept of nationhood. The 'tautology' principle can be seen at play where during those very first meetings of cultures, both parties assumed they were alike, the same in different form. Although this principle permitted early negotiations to occur, the 'identification' principle soon began to emerge. Colonizers viewed (and view) Indigenous Peoples as 'dangerous' or 'exotic' as a way to separate and differentiate themselves and impose their own world view. Colonizers worked hard within their legal system to register and then dismiss the perceived difference in the meaning of 'nation', in order to deny rights and restrict access to the lands across which these First Peoples had roamed for millennia. 'Differences' were recognized and then disregarded. The sense of a higher moral ground framed within the stance of neutrality led colonizers to replace quality with quantity. The first colonizers arrived seeking gold and treasure, unconcerned with the quality of life of the Indigenous Peoples they met. Colonizers were guided by the maxim of sovereign

dominion and were trained and selected to assert their reality over all others (Wing, 2002).

In the settler colonial context, power is centered at the top and determined by those with acquired or presumed power. From a neoliberal economic perspective, capital has the power through deemed ownership of land and resources. Labour has no power and will work at the behest of and in service of capital. The legal justice system is designed to protect the interests of those in power, those with capital. The focus is on the individual, in both the capital and labour contexts. (Picketty, 2017).

Not all feminist and Indigenous world views focus on community, although the sense that there is power in collective action remains. I have led many tables where time must be provided for the representative to refer back to community before making a decision. I often note how challenging this can be for Western participants who have the authority to proceed. This can be particularly awkward when the process is time bound or funded by other clients at the mediation. In my experience there is a deep commitment by Indigenous individuals who sit at negotiating tables on behalf of their community to assume agency and to be accountable for their contributions. This speaks directly to the high value Indigenous governance structures place on relationship. There is a recognition that each individual has agency and must also be accountable to the ways in which each person contributes to the maintenance and well-being of the community; everyone contributes to the level of their ability and special skill to the benefit of all (Simpson, 2018).

The influence of the colonial structure is clear in Canada. The combined impacts of the pandemic, climate change, and racism affect those families with the

least access to resources; workers are less important than capital. When women working in precarious jobs, for example those who work in grocery stores or in care sectors, are called 'heroes'; what I hear through the rhetorical figure 'statement of fact', for example, means, "thanks for protecting my capital". Government talks as though workers are important and then acts in the interest of capital. Again and again, those with the most power, the most capital – retail and restaurant chains, big business, the fossil fuel sector – receive the most benefit. Demands for a return to normal are indicative of the lack of awareness and deep entrenchment of white supremacy in this country. Among those speaking for change, Indigenous and feminist voices persist in demanding decolonization. As racism and anti-racism awareness vie for attention, the need continues for mediation as an invaluable approach to transforming relations and finding social justice.

When I consider settler colonialism through the mediator's lens, I recognize my strong bias against the entitlement that is traditional patriarchy. As I read through transnational feminism, Third World feminism, native feminism, and indigenous theorizing the opposition to settler colonialism, white supremacy, heteropatriarchy is powerful. All those labels heavy with symbolism, decry the capacity of mediation alone to affect change on a grand scale. Given that neocapitalist (Chang, 2004), and traditional patriarchal structures have marched across the world much like the current pandemic and that as a result, thousands if not millions of people and cultures have died and species made extinct, then how might socially just solutions be developed to remedy the situation? I imagine I am not alone in wishing for a magic wand. The mediations I envision are not attempted on a grand global stage but rather are played out in local communities. It is here that differences can divide or bring together.

When I sit back to consider all the different cultures and world views I have

been exposed to over the years, I think about the Pluriverse (Escobar, 2011). These examples from around the world highlight the multiplicity of solutions; there is not one way forward but many, each designed to support a particular place or world view. In reading this text I recognize the topographies of consciousness (Sandoval, 2000). Some stories espouse their way as the one right way while others take a more philosophical approach and describe a way to sustain a just community. Other describe systems that succeeded for many years if not millennia. The settler colonial world view would have everyone believe that there is only one solution, when in fact there are many. The challenge is in finding the edges, bringing in the margins. For the social justice mediator who recognizes and is omnipartial (Cloke, 2002) towards these different world views, then answers can be found. It will not be easy. Sustaining life and culture, looking for the best way for a particular people and a particular place is the question feminist and Indigenous scholars and social justice seekers continue to ask.

Given that the mediation profession does not require ongoing supervision, it may be difficult to change those mediation practices that are embedded within the legal system. Professional development, although required to maintain membership and status within professional mediation organizations, is deemed sufficient. It is incumbent upon the practitioner to reflect and be critical of one's own practices and biases. Feminist and Indigenous approaches help to consider how a structured reflexive praxis might contribute to a shift in thinking and improve the likelihood of a mutually beneficial outcome. Current models of mediation invite both questions and reflections in the efficacy of such processes to achieve socially just outcomes. My research explores how practitioners, including mediators, conflict managers, coaches, and other advocates of social justice draw on the arts. Social justice requires multiple ways to understand and address complex social justice issues (Bell

& Desai, 2012). The arts offer ways to understand the dominant and oppressive world views by drawing on the imagination, the creative, to "transform the practices that sustain oppression as it endures across history and locality (p. 288).

The literature review reveals the extent to which creative methods are integral to Indigenous world views, offering ways of communicating meaning that are different from logical, dare I say disembodied, western approaches to education, communication, and by extension, justice (Magnat, 2011). Words alone may not be enough to understand racism and adopt an anti-racist stance. Embodied experiences bring multiple senses into play. Moving more deeply into a story by playing a role, or reflecting on the impact of witnessing a story can lead to surprising realizations. Yet without a commitment to engage in reflexive praxis, it is extremely difficult to untangle oneself from the strong cultural drivers embraced by the settler mindset through education, health, food, and politics. All these systems demand attention and identification and the disregard for other equally valid ways to teach, to be well, to eat, and to govern.

In the next chapter I outline the methods used to analyze my research with the thread of Sandoval's methodology of the oppressed running in the background.

Chapter 3

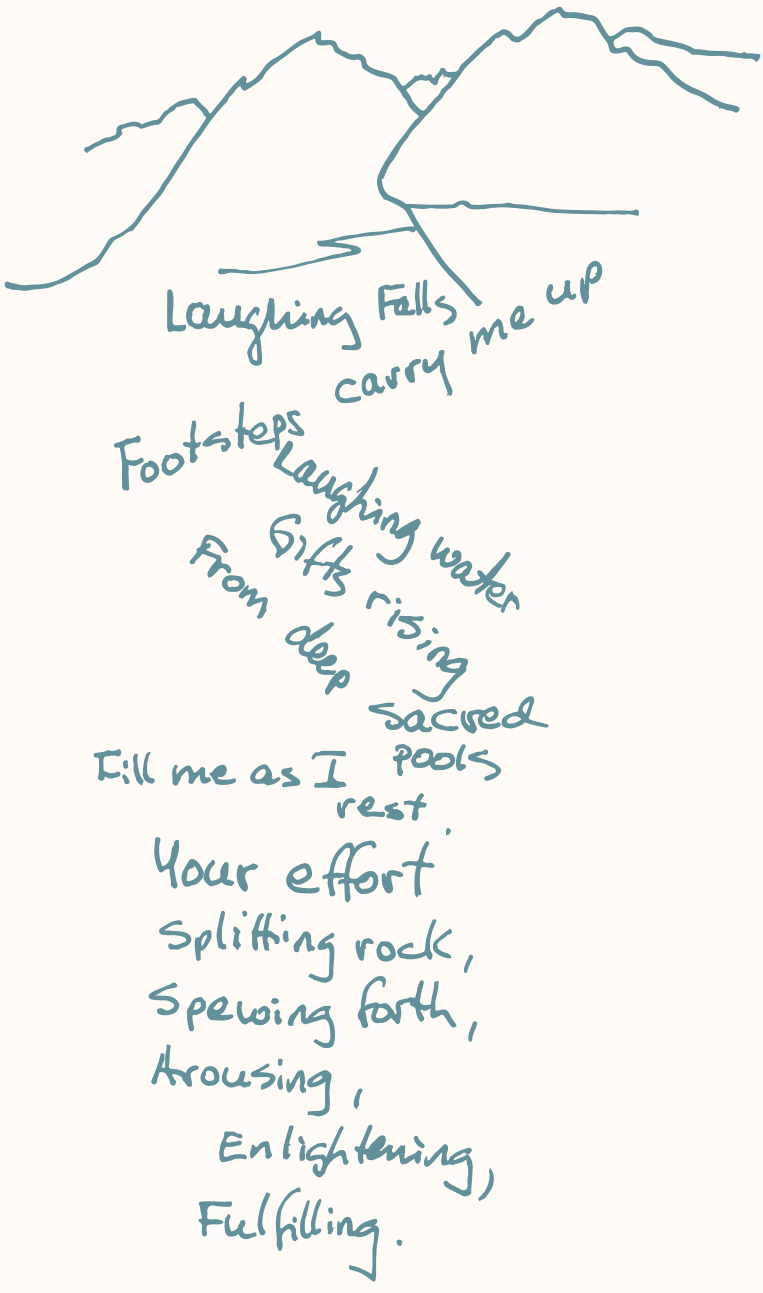

Fig 15. Hand written poem, Laughing Falls

71

Methodology

Fig 16. Wired Bird

The methodology for this project is primarily interpretivist in that I am interested in how mediators experience themselves in the practice of social justice mediation and why they choose the techniques they do. Given that I am a practicing mediator it is important for me to situate myself within the research by integrating my own experience as I seek meaning within the differences and similarities in the role of social justice mediation praxis. My approach to mediation has been informed by Indigenous views, feminist principles, and my lived experience.

The methods draw on semiotics as informed by my reading of Sandoval and thematic coding through narrative as the two major techniques to analyze the interviews. Sandoval describes for categories beginning with semiology the process by which meaning is socially constructed and then used to identify signs of power (Barthes in Sandoval, 2000). Mythology is the next level at which meaning

is broadly adopted as the dominant paradigm and in turn used to deconstruct the signs in this system. Meta-ideologizing is the flexible process of moving in and out of perception, consciousness, identity, and tactics in relation to power (Sandoval, p. 110). These first three categories combine to form the fourth category, differential movement, where the commitment to social justice can be used to decolonize the dominant power paradigm; a theme that is dominant in the Indigenous and feminist literature that I reviewed.

Sandoval's categories are similar to the four layers in causal layered analysis (CLA). In CLA words and phrases are not only "symbolic but describes reality" (Inayatullah, 2009, p.6) which seems to be the intention of differential consciousness. The use of these two methods is "in creating transformative spaces for the creation of alternative futures" (Inayatullah, 2009, p.2). The four layers: litany, social causes, worldview, and myth or metaphor are tools to invite a closer exploration of a problem or situation. 'Litany' is the common or superficial expression of the problem, 'social causes' are the structures or systems that keep an issue problematic, 'worldview' gives legitimacy to assumptions such as those that keep dominant systems in place, and 'myth' is the metaphoric, creative expression of the issue. These layers remind me of the layers through which a mediation may often progress, uncovering information beneath the superficial level of the problem down to the metaphor where creative techniques can help to shift how the situation is understood. Myths and stories are used to teach and pass knowledge to the next generation. Similarly in mediation accessing the arts can help conflicted parties to make sense of experience and the root of desire for change.

To begin the research process, I conducted three expert interviews with senior white male mediators practicing in the US and Canada with whom I have

long working relationships. I asked for their experience with creative techniques and requested sources of information on social justice and creative techniques in mediation. Their feedback helped me to formulate the questions for the qualitative interviews which I conducted with eight female mediators and facilitators working in conflict resolution and transformation.

The expert interviews revealed a deep commitment to the practice of mediation and a level of awareness of the hegemony within which they practice. Each acknowledged their concerns about the deep cultural and political divisions in society. I was encouraged to hear the ways in which creative techniques, predominantly storytelling, were incorporated into their work. I also recognize that none work within institutional settings; these three mediators are all in private practice.

For the next round of interviews, I reached out to about 25 people, some of whom I had heard at conferences or met in a professional capacity, in order to find people to interview. Through my affiliation with Mediators Beyond Borders International (MBBI) and LinkedIn I had a network of mediators, facilitators, and social activists to contact. I made the decision to interview only women for three reasons. First, given that there are multiple expressions of feminism, I was curious to see if similarities of praxis and perspective would arise and if so, how this might be expressed. Secondly, women have shown to be leaders globally in responding to COVID-19, and so I selected women who were leaders in mediation, social activism, and Indigenous knowledge. As COVID began to grip the world women in leadership, political leaders like Angela Merkel and Jacinda Ardern who were unafraid to take action to protect their citizens from the dehumanizing impact of this novel virus stepped in. Drs Bonnie Henry and Theresa Tam, who continue to lead with authority but also with a gentle and caring authenticity, inspired me to look for women

leaders in my own profession. And thirdly, I wanted in some way to recognize women's wisdom in my research. I am very aware of the powerful work of women mediators in high conflict areas around the world, in Europe and in continental Africa, building peace out of the war-torn detritus of colonialism and patriarchy. I have heard several speak and, in the future, would very much love to interview these wise women. All these women led me to question what could be done in response to the inequities social movements continue to address. Does mediation offer a way to accelerate the road to new futures?

I ended up with eight women mediators, facilitators, researchers, academics, and activists seeking social justice and conflict transformation. Six women identify as being of European descent and two as Indigenous. Two live in Canada, two in Europe, two in the USA, and two live on the unceded territory of their ancestral homelands. They are all leaders with roles in government, private practice, not-for-profit organizations, and the academy. All these women work to affect change among parties with a history of conflict. Three women shared their direct lived experience with the political strife resulting from settler colonial action. Although the histories occurred in different countries, the long and painful history of conflict was in evidence. Several women described the impact of a patriarchal culture that condones inappropriate treatment of women. I was able to have an in-depth dialogue with this small sample of practitioners to reveal similarities in approach and a commitment to praxis even from vastly different experience and educational, and economic backgrounds.

I prepared a set of open-ended questions to open up a one-on-one dialogue and explore the research question. To the general theme of each I added comments in response to their introductions, or my thoughts based on experience and from the literature review, as an invitation to dialogue. I considered these four themes:

social justice, approach to social justice, neutrality and creative techniques.

Each interview was recorded with consent and lasted between 60 and 90 minutes. Zoom allowed for a face-to-face connection which meant I was able to focus attention on the interviewee rather than on taking notes. Later the transcriptions were printed out for analysis.

For the analysis I weave together the stories shared with me in the interviews with Sandoval's (2000) topographies, rhetorical poses, and counter ideologies as the background. The topologies of consciousness include: equal rights, revolutionary, separatist, supremacist, and differential. Differential consciousness is the effective use of these four topographies through embodied agency intended to challenge the current system. Sandoval describes each topography, equal rights, revolutionary, separatist, supremacist as a mindset to challenge to the colonizer. Yet in the extreme, social movements can also run the risk of becoming isolated within the topography the oppositional form was intended to counteract.

In Chapter 1 I described the context within which I place myself and a brief overview of Sandoval as a reference point throughout this paper. The mediator has a responsibility to be aware of and in some instances to declare this context. The topographies of consciousness (Sandoval, 2000) illuminate our placing. Equal rights are the predominant view among the liberal left. However, this view misses two key points: the effect on those who have been marginalized and whether the type of equality is even desirable. Effort towards equity must come before equality. The separatist and supremacist views are frequently the domain of the conservative right. I recognize these are extreme views in constant tension with each other in political spheres and within Sandoval's frames.

Black Lives Matter, #MeToo, and Fridays for Future are examples of a shift

towards revolutionary voices. These social movements maintain that deep change is not possible within the current political paradigm, and that profound change must occur. The Proud Boys, an all-male right-wing group argue for their superiority and a return to traditional patriarchal values through aggressive means. They were classified by the FBI as "extremist" and by the Southern Poverty Law Center (SPLC) as a "hate" group (2020). Last year I read, *Everything You Love Will Burn: Inside the Rebirth of White Nationalism In America* (2018) as a way to try to better understand this complex history fuelled by hate and fear. Engaging with those actively involved in violent acts requires the intervention of a highly skilled practitioner, assuming any willingness to participate.

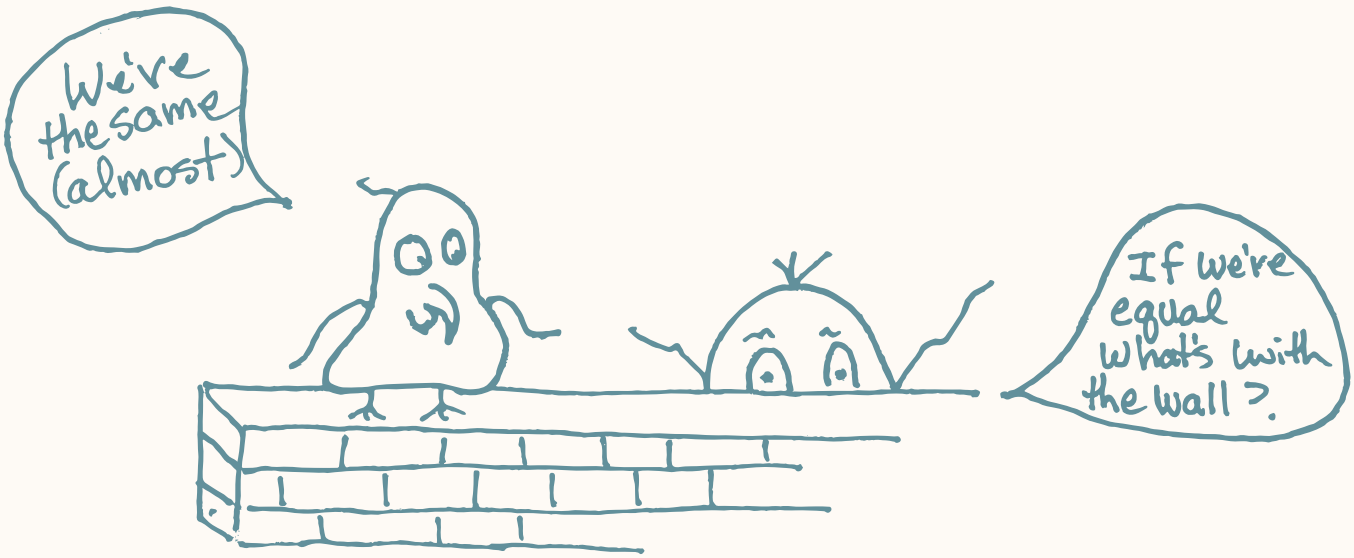

Fig 17. Equality Wall

From a Third World Feminist world view each of the four topological forms: equal rights, revolution, supremacist, and separatist can also be acted out in opposition (Sandoval, p. 56). Equal rights, from a privileged perspective, were guaranteed in the Declaration of Independence. The Civil Rights movement

used this same topology in opposition which resulted in the Civil Rights Act. Multiculturalism in Canada is another example of the 'equal rights' topology. Historically, Quebec separatism was an expression of the 'supremacist' form (p. 56), alleging both their difference from and superiority over the British. Today this supremacist view has become one of privilege as dominance is asserted through Bill 21, the banning of religious symbols. The 'separatist' topology (p. 556) moves beyond the 'revolutionary' form (p.55), where the goal is often assimilation, for example multiculturalism adopted by the Canadian government about the time I headed to university for the first time. In the oppositional separatist form, there is no alleged superiority; rather the intent is the freedom to practice and maintain their particular difference. Wet'suwet'en Elders are expressing the oppositional stance as they peacefully claim their right to decision authority over land they continue to claim is unceded. Rather than engage in meaningful dialogue, their assertions are met by RCMP carrying assault rifles. The juggernaut of the political industrial complex continues to prevail in the courts. Although Delgamuukw v British Columbia is the basis for their claim within Canadian jurisprudence, the 'devil is in the details'. The Canadian government continues to avoid any final solution to land claims and human rights, instead turning their focus to reconciliation. The Yellowhead Institute examined the promise to act on the 94 Calls to Action outlined in the release of the Truth and Reconciliation Commission of Canada (2015) final report. The results speak volumes: "In 2016, five Calls were completed; in 2017 there were seven; 2018 saw the completion of 8; and in 2019, we are at a total of nine complete Calls to Action out of 94." (Jewell and Mosby, 2019).

In the previous chapters I have applied Sandoval's methods to my own experiences and to the literature. In the next chapter I analyze the interviews predominantly through narrative. Occasionally a phrase or comments invites an observation from the methodology of the oppressed.

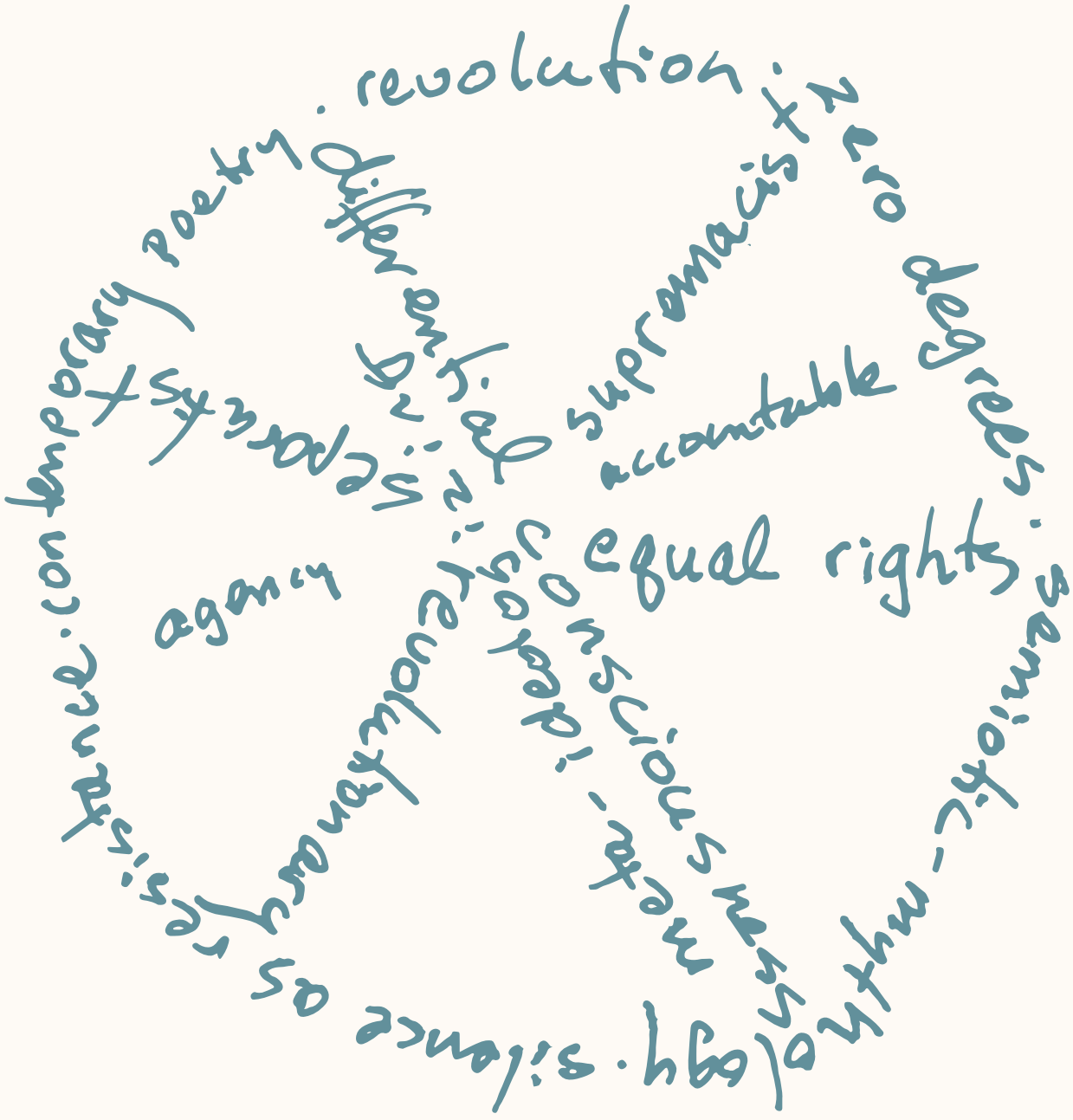

Fig 18. Spoken Wheel

Chapter 4

Travellers

Humble, awkward, uncertain
search dark corners
Elude unkempt deeds.
Intersecting travellers.
Promises smashed,
shards among sandcastles.
Oh, history of tears
Nightmare of mazes.

certain destiny
Altered courage?

Delicate translucence
Spectrum of wonder
Stories intertwine
Quell thirsty thoughts.
Travellers intersecting.

Fig 19. Hand written poem, Travellers

80

On the Research Path

In this chapter I explore how I addressed my research question: How might conflict engagement practitioners and mediators address social justice and manage power in such a way as to enable participants to transform relationships?

I am humbled by the stories and wisdom shared, and do not want my analysis to detract from the attention these social justice travellers have given my questions. I have gathered the responses to each question together as though we were engaged in dialogue. Quotes reference the participant by number so as to allow the voice to come through while at the same time maintaining confidentiality.

Fig 20. Mythologizing

In my introduction to the interview, I wanted to establish a relationship and gain some insight into the nature of their work. I still chuckle at one of the

descriptions “I became the conflict jedi” as she described her work resolving conflict in the corporate sector. Other phrases offered the perks and challenges of the work, “Getting the heart and head aligned but we get stuck with our ego”. The work experience among these eight women is vast: restorative justice, traditional knowledge facilitator, international peacebuilding, conflict transformation practitioner, research scholar, organization leadership, government intervenor, author, director of strategic innovation, women’s coalition facilitator, family and corporate mediator, collaborator, community advocate, and government intervenor describe some of their many roles and types of work, all involving social justice in some way. I feel this one comment sums up the work:

> *I’m going for the root. I’m going to the foundation of what is needed, not the top and often I feel like I get overlooked because of that because we’re not the radical warriors out there doing those very visible things cause we’re going to the very root we’re fostering hope and self-agency. (P1)*

The first interview question, “What does social justice mean to you?” caused a long pause as each thoughtfully considered her response. Each approached the question with a sense of struggle as they reflected on the question. A search for the term “social justice” in 2009 revealed over 3700 articles and 580 book titles (Adam in 2010 in Bell & Desai, 2011 p. 293). No wonder this question resulted in considerable grappling.

> *It’s a big question! ….at the heart of it is dignity and then dignity as expressed and constructed and expressed in the structures that govern our livelihood…I wasn’t prepared for that question. I don’t want to come up with some kind of pat answer, but I truly believe that dignity and how we construct and facilitate dignity in and amongst ourselves is critical. (P4)*

…the essence of social justice to me is embodied in ideas of equity, inclusion, fairness, kindness compassion, equal access, interconnectedness all of those things play a major part in the way I think about social justice…without those foundations being built into policy we struggle, so I think there's a direct link with policy and legislation and leadership that gets at the foundation of what is being brought forward. (P6)

Oh, my goodness, That's a challenging one… I'm mean I guess it's really around all of those words around equity and creating opportunity and ensuring across every social measure we're looking at, whatever grouping whatever communities, whatever ways we're thinking about society that we are creating equal opportunities for people within and across all of those different communities and societies. (P8)

Social justice, these words are loaded it's a label to me; social justice – even justice and equity can be loaded and hold different meanings for different people which can create a challenge in and of itself… it's about removing barriers removing obstacles and creating obstacles. (P7)

The concept of social justice, as I was indicating, is not easily definable… we have the concept of society and how do we define… different cultures, for different people, what is justice, what is social justice, what is social, what is justice? We have to look at the society we are dealing with. The world, region, community, means different things. This is one of the things to look at when we talk about social justice, it's not a terribly meaningful concept. It depends who you are where you come from. (P2)

Social justice is imperative for peace and reconciliation. Equity is important to bring everyone up… not starting on equal points. (P5)

The many meanings of social justice emerged through the dialogue. Equity, fairness, and inclusion reflect the relational aspect of social justice; perhaps more attention needs to be paid to what we mean and how we uphold this rather diaphanous concept. Some felt they couldn't really define social justice or that while it was an interesting question it could take quite a while to give a meaningful response. The sense of injustice is apparent along with an underlying sentiment of responsibility to right wrongs, a recognition that there are inequities to be addressed. They referenced different societies, different communities and implied that social justice could be sought and found in place and reflected in community.

The responses were not all positive though.

> *Social justice, these words are loaded it's a label to me; social justice – even justice and equity can be loaded and hold different meanings for different people which can create a challenge in and of itself… it's about removing barriers removing obstacles and creating obstacles. (P7)*

Nevertheless, thoughts on this first question continued to emerge throughout the interview. I noticed an important focus on positive language: dignity, kindness, and trust intended to support a fair process or to at least invite parties into an equitable space. Their words describe motion towards a positive intent: dignity, interconnected, and harmonious. Although words like equity, restorative, and reunited may signal the effort required to counter the dominant ideology, whether this is actually the case cannot be determined from these few words. I do believe from the tone and contemplative response that these words contribute to a socially justice praxis.

As the dialogue turned to the ways in which they engage with participants the personal side, the reflective side of praxis was exposed.

I genuinely approach with curiosity, humility, authenticity and empathy I think because I did start out from such a challenging place and have been discounted by so many people. (P7)

to create a space where everyone's voice can be articulated without fear, brings me back to freedom from fear, freedom from want… because what I've learned in restorative justice and in my own life is that I just want to be heard on my own terms; what somebody wants to have acknowledged needs to be acknowledged, agreement or not. (P4)

So, I was kind of excited …and deeply disappointed…other mediators really, really tried to block any new knowledge coming in from people who were perceived as learners as opposed to those who were perceived as experts in their own communities, coming in with their own experiences and their own ways of learning and being and it was profoundly disappointing on some levels while still exciting to see new ideas and new people engaging. (P8)

These comments show the ways in which personal experience, the context as I discussed from my own experience in Chapter 1, influences the approach.

It was bred into me. I was too young at 13 to be involved in the early peace days. Mom was a single parent, so you went along. She worked with a women's group, they were quite divided, there were a lot of issues…I was never excluded and able to add comment… (P5)

To be so directly involved at such a young age and then to continue to be involved some twenty years later is one of several examples of the extreme commitment these women bring to their work. I went back to the transcripts in search of words and phrases that might demonstrate differential consciousness in

action. I am not saying these phrases are being used specifically with an awareness of the methodology of the oppressed, but I am suggesting these spoken words are examples of how the counter ideologies enact differential consciousness, a flexibility and awareness of ways to disrupt and actively engage in sense-making. A cacophony of voices:

> *address injustices…not being looked over…shed light on relations… equal opportunity within and across community…righting the wrongs… different for different people…not harming…understand the wrongs…not being looked over…food and housing security…grow healthy economy… transform to repair…peeling off the layers…immerse in community… lens to look for opportunity…bring everyone up…disrupt patterns… steps to change…capacity for difficult questions…critical thinking…create opportunity…community based*

In context these phrases reflect a dismantling of the dominant rhetoric through a combination of actions and values which I suggest offer pathways to differential consciousness. Whereas the inoculation pose serves to create a tolerance for difference, zero degrees draws attention to phrases like, "shedding the light" to expose and speak to signs of power. Revolutionary actions counteract the privation of history, "to understand the wrongs" and "develop opportunity". Semiotic-mythology draws attention to identification as a way to draw on the colonizing consciousness out of its assimilation mindset and reveal novel ways to live in a just world. The metaphor of tautology, everyone is alike, is best counteracted by contemporary poetry actions that reach back and scatter the dominant form into a creative opportunity; "immerse in community". Patterns are further disrupted in meta-ideologizing, shifting and challenging the 'statement of fact' pose of supremacy. The differential brings all the rhetorical figures into stark

view. In addition, these phrases begin to describe the agency and responsibility of all parties to think critically, to create opportunity, and to ask difficult questions in a collective effort to reveal the overarching impact of colonial, heteropatriarchal, and dominator cultures.

I wanted to get a sense of their feelings on the word 'neutrality', often a core element in the training and practice of mediation, where the goal is to resolve the conflict and sign off on a settlement agreement. I offered my thoughts, how I questioned whether I, or anyone for that matter could be truly neutral. I asked, "If mediation praxis has been grounded on the premise that the mediator is neutral or objective, what are your thoughts?" The first response, really summed up my own feelings precisely:

> *Mediation is older than lawyers but when the law profession found that it was a good thing, they're the ones that created this neutrality space. I think it was out of necessity given the nature of their profession. While I understand it and if you are in a legal space doing this kind of work then I kind of get it because your client needs to think that you're neutral to some degree… to say that any lawyer is ever neutral I beg to differ… (P6)*

The next comments identify the inherent difficulty with the idea of neutrality.

> *the dharma, the sangha, the interrelated space - it's about holding an unconditional space to do no harm and to seek harmony. I'm glad we're talking about this. It's the first time I've articulated how I hold this open space where people can see each other's inherent worth. Neutrality is that wide open space and there's also the element of power… (P4)*

> *in work that I do, with equal regard for all people, the funny thing is*

that it speaks to being omnipartial not neutral so it's like saying if you are neutral about slavery or genocide you would say what happened is ok, I can't and nor should anybody else that's in the room. (P6)

Several interviewees indicated that for them part of bias management is the recognition that they were not neutral or were not neutral on the subject of the mediation. Some found it helpful to reveal elements of their own experience as a way to build trust. The limitation of this research is that the conversation I am having is between professionals and the response from a participant might be quite different.

Neutrality depends on context and social history. Where and when. If you've never experienced something you may be more able to be neutral… working with ex-prisoners and groups, my own context is part of the legacy, but I present that. It can be more difficult for many with subconscious or conscious bias" (P5)

all the implicit biases that are occupying our mind and that we don't actually see …just completely ridiculous to say we're neutral and of course we are bringing our own biases and value systems… even the way we ask questions presupposes that we are seeing a solution or a path through that is entirely situated in our own life and our own senses of what's valuable in the decisions people should make… (P8)

…it is very difficult to suggest a mediator can be completely objective even if trying everything…but participants see us in a certain role…the reality, if you have a strong group on one side and not so strong on the other the mediator has a big job to balance and unless you have a lot of control you will lose the battle with the one who wants to take control mediation…collaborate is a better concept… really about managing people (P2)

The ability to be neutral was largely dismissed as an impossible task. The question of bias entered into many conversations which led to a conversation about when it can be helpful for the mediator to share their lived experience as a way to expose potential bias. Omnipartiality was suggested as way to be biased or in support of all views. While I understand the intent, I think the caution is in the rhetorical figure 'neither-norism', that by not taking a stance or expressing one's views a hierarchical position is maintained. In this analysis some of the words used to describe neutrality included: impossible, implicit bias, and subconscious bias. There were also words that suggest the effect a neutral stance might have on the process: power, privilege, and control. Other phrases suggest other actions that keep the space open and equitable: not neutral on human rights, consider intersectionality, hold open space, seek inherent worth, see the other side, survivor experience, and participant perspective. Overall, these responses show a recognition that the role of conflict engagement practitioner requires a high level of reflection in an effort to maintain a degree of objectivity.

I introduced the next question, "Does your work have a theoretical frame?" by sharing some of the elements from my literature review. I was curious to see if either Indigenous or Feminist frameworks would be identified by those I spoke with. For the Indigenous women I interviewed, even though adept at walking with a foot in each world, their culture framed their approach. First the impact of settler colonialism:

> *lack of hope that we can create; we have the self-agency and we have the self-determination to make a change in our life. It was zero and I felt, it hit me. It was like really a hard blow, not a hard blow a hard wake up call for me, what I was doing was just contributing to that token process we gotta get these words on paper so we can get our funding next year and I was like I*

need to figure out how do we create a feeling of hope for the future 'cause why bother putting all these words on paper? (P1)

And also, the recognition of the capacity to affect change in oneself and others:

…we the people, it means our dream like the dream, it's our imagination. What is creativity? The ability to think things up and act upon them so as colonized, how colonization has impacted all of us, so decolonizing is about freeing up the ability to strengthen these muscles, to think things up together so that's how it relates to social justice. (P1)

The urgent need for recognition from colonial governments and organizations and the denial and forced removal of their traditions were poignant examples of consciousness in opposition. This was also true for a third mediator, also with strong connections to cultural tradition and the work to move through past hurts.

Reconciliation and potential for wider and protracted change, it's a movement that will never resolve, it's a longer-term process of creating slight attitudinal change of how we see each other… (P5)

How is it that I as a white settler woman pay attention to my lived experience? My parents and grandparents generation were very poor, I was the first generation to go to university. I come from two European ethnicities. On my mother's side, my grandparents were Ukrainian, but their land was taken, that is, it's Aboriginal Land. They had an enormous amount of pride about their homes, their farms, their culture, but still... it's stolen land. At the same time, in terms of the dominant culture, my grandmother was hit at school for

speaking her language. My family's oppression is the portal through which I have always felt and understand the oppression of others, yet I also have to continually reflect upon the oppression towards others that was built into my history in so many layers. (P4)

Two women indicated that intersectional feminism informed their practice and two referred to Buddhist practice and Buddhist psychology as informative of their approach.

Absolutely my Buddhist practice, and not simply from a mediation perspective but from a deep study of Buddhism as a religion and its intersection with Catholicism. We all struggle. I'd like to meet someone who doesn't. I've met the Dalai Lama, I've been in his presence and he struggles, so we all struggle, and to be able to see this in this omnipartial equanimous space is critical. (P6)

My final question, "Are the creative arts or creative techniques integral to your work?" revealed two different uses. First as a process to engage the participant more fully in the process, to create a sense of safety or familiarity. Second as a way to give focus to an issue being explored. Everyone used art-based techniques to find alternate ways for parties to the mediation, first simply as a way to support communication and secondly as a way to help make sense of feelings and ideas that were otherwise difficult to explain. In addition to creative techniques, games were identified as a helpful way to take the focus off the mediation and real-life difficulties that could be explored within the context of the game. It was often easier to talk about game play than the same behaviours in the dynamic that had brought the parties to the mediation table. Drawing was used more as an activity for the participant, similar to the use of objects rather than words to communicate

meaning to others. Poetry and music were offered as calming, connecting processes that could lead into the work of transforming the conflicted experience. The following three stories demonstrate the power of creative techniques. The stories shared with me drew back the curtain on the social justice stage. To all who undertake differential consciousness, receive your standing ovation.

In this first story, the mediator, well known to have experience with trauma-informed conflict, was asked to meet a group at the only church still standing after a catastrophic climate event.

> *I learned early on (2005) about embodiment and its role in conflict and peace building. I have been utilizing experiential practices my entire career wherever I could, but what brought home in mediation was when I was working to build conflict capacity, in the midst of the catastrophic storm, Hurricane Katrina, I was invited into a church, one of the only remaining standing churches that was able to weather the storm. They invited our team to church and then invited me particularly to come back because they knew my expertise was in trauma-informed peace building practices. They asked me to talk to a group of folks. Turns out it was a group of about 150 formerly incarcerated people, mostly men, many of whom had been let out of prison early because of the storm. When I walked in, I was a little taken aback. I thought it was going to be the pastors and a few folks. They all welcomed me with open arms. I sat down and they said we want to know how we can become more peaceful in the midst of this horrible storm and not harm other people…and how trauma might play a part in what happened to us. Here I am, sitting with 150 people of colour, all from the South, and many just released from prison. I just said, you know, you've caught me by surprise, so let me think about this for a moment, but in the meantime… let's sing. They*

asked if I had a favourite, I said yes, a few, and they started singing. I get chills even now; we sang together. When the songs ended I told them they had just started the practice of healing trauma. We talked a bit about trauma and the physical and emotional aspects. We talked about how to move from something you can't see and can't touch but you can feel, to something that is actually happening in their bodies and in their brain and what you could really do…what they could build into their lives and into their bodies, were practices they already had, inherently, in their culture, community, and world. Singing, dancing, drumming, community, art...they already do this. From that day on, I became completely convinced that we can do this differently. We can bring peacebuilding and trauma healing together in a completely different way. (P6)

This story is a lovely reflection of Sandoval's differential consciousness embodied. The mediator adopts silence as a way to create an opening, to transform reality. Whether consciously or not, to begin she deconstructs her role and the contemporary poetry of song emerges spontaneously. Through collective voice, the entire group, mediator included, was immersed in a joyful and safe past world. This strength of group consciousness invites each individual to assume personal agency. With a common bond, the group was then able to have a meaningful conversation and exploration of other ways they could support each other to transform the behaviours that had led to their incarceration, carrying forward embodied ways of knowing revealed through the creative arts.

In the second story the mediator, working with a group of women who had lived for many years on opposite sides of conflict, hastily scribbled an image of trees and posed the question, "where are we on the road to peace?".

With hopes for children, we need a creative, a road to peace, love. Art is

a way. Trees were scribbled on a piece of paper and then put into places on the paper. I asked, "where are we on the road to peace?" Show where are we on the road to peace. This enabled the women who had lived on opposite sides of the conflict to engage. Slowly the women began to talk. 'I think we're here'… 'that tree is blocking our path uphill'…'there's no other side'…'we need another page'... Many roads had been blocked and so everyone's mobility was affected and what access there was felt access was blocked. The women slowly began to share experiences of the day-to-day impact. Art offers a mediative approach to enhance the experience and impact of violence and to re-humanize each other. The arts are seen as an enabling feature…for race, religion and political opinions. The desirability of promoting good relations. (P5)

As the mediator shared her conversation, I could see in my own mind's eye a group of women in tentative conversation, unsure at first but slowly recognizing that irrespective of their past positionalities they had all suffered. Accesses that some thought existed felt blocked by others. Sharing their lived experience led to the beginning of a conversation on the day-to-day impact of the long-standing conflict. Participants began to understand the boundaries and limitations that could lead to the beginning of mutual understanding. Art is used in this instance to read the signs of power and the ways that, instead of erasing history, offered the participants a different view and an eventual path to move beyond conflict. The road would not be easy but the journey had begun.

A third story involved a restorative justice mediator working with a young person who suffered from fetal alcohol syndrome (FAS). The mediator explained the situation:

A young teen with FAS who lived in a group home came to a co-

mediation with his case worker. He was close to this worker but one night, coming home late, he got triggered and assaulted her. Despite having had a good relationship with the worker, the man was having a hard time speaking. He had a sense of shame for the harm he had done to someone he cared about. As the mediation began she talked about what she liked about him. He found it very difficult to talk about sensitive emotional issues, but it was important to talk about the incident. I had to caucus with him to get through the mediation. In the conversation he said how much he liked rap music. I put a piece of paper in front of him. I said, 'So you like rap, can you write a rap song about what happened?' He quickly focused and the rap song he wrote was accepted by the worker as an apology for harm done and served as an agreement between the two of them going forward. (P4)

I've been involved in creating games which has been fun to do because part of that is about breaking down the process and how you think about games to be able to use a game in mediation. It's been interesting because a lot of people have stepped away from playing just because it is a pandemic. I'm finding that a lot of the zombie games are not as fun anymore; people are feeling they're already in this pandemic this apocalypse happening! Something that is a fast useable card game is quite useable with certain types of groups. Non-profit boards for instance where they can't understand why they can't communicate with one another. Doing something that is a collaborative game allows them to talk about what their communicating styles are as part of the game. Debriefing the game is helpful because it doesn't have to be about them personally. If they are aggressive about something you can talk about it as a game player and you can let them extrapolate the ways that that might apply as you kind of shift into a more oblique conversation about what they're

doing. It also works really well with groups of teens who might have conflicts in schools and games are interesting with families who are struggling. In these situations when you have a large group experiencing stress, finding it very difficult, and can't even talk then giving them something to play with on the side can be really good. In this way they can talk about the ways they play in a light-hearted way. From there you can explore their communication. I've found in people with dementia that just holding cards in their hands gives then a familiar feeling, then they can relax in order to have a conversation. Games are an effective way for people to engage; anything that can be an impasse breaker that can cause people to look at something differently. (P8)

These two examples show the power of creative techniques to elicit emotion and share experiences that are otherwise difficult to describe in words. For some the focus was on arts to access ways of knowing and expression. For others the focus was more on objects or images that could be held as a way to stay with the process.

One mediator has used collaborative games and imagery in her mediations for many years. Recently, she discovered Gary Hirsch's[7] bots, small hand-held wooden figures that helped people through difficult experiences. Small objects, like these bots, helped to create a sense of safety.

While some mediators indicated they would not impose creative techniques, they recognized the value of allowing artistic expression to emerge. Art and imagery are useful to offer alternate ways to create meaning and build on the capacity of the participant by meeting them where they are.

[7] Botjoy is a global art movement designed to spread joy, courage, love, and gratitude throughout the world, one Bot at a time. Retrieved from https://www.botjoy.com

At this juncture, the language and examples from the interviews are suggestive of a reflexive praxis. The agility, flexibility, and joy, even in the most challenging situations, with which all these practitioners approach their work speaks to me of differential consciousness in action. Artistic and creative expression offers a safe and familiar place and from here movement towards transformation and the "shifting currents of power" (Sandoval, p. 57) can occur.

> *there are so many different intersections there among the marginalized and possible ways to engage and for me that is where conflict resolution work should be taking place where we can actually make a significant social difference. (P8)*

There is much more to be gleaned from these interviews. The conversations explored not only the attention to process detail but also the struggles within the profession. The resistance to change among practitioners influenced by Western European legal justice systems can be strong and frustrating. Feedback from within the mediation profession can be "unpopular with the powers that be" (Meadows, 1999, p. 13) and yet it is clear to me and those I interviewed that change is happening in spite of push back. As with any system the challenge is to continue to serve the needs of those in conflict. For my part, I believe there is an opportunity to step outside of the influence of the legal system and into collaborative and community led processes. Restorative justice, is one such area that has offered a court-based alternative for both victims and offenders. This is not an area I have included in this paper to any significant degree although it is an area of practice with some of the interviewees. What I take away from the interviews is a realistic glimpse into the work and awareness required of those who will walk in harmony and carry the heavy load in the direction of socially just and transformative outcomes. I see all these practitioners and their peers acknowledging that, we

too can act as a social movement, draw in the creative, and continue to push for change. In the final chapter I reflect on the extent to which my research has answered my research questions and where this first step might take me in the future.

Fig 21. Privilege Squawking

Chapter 5

Story is Alive

when I tell my story, i
search for truth connecting me
to you but we are different.
my story reveals bones and
nakedness, no matter scarves
or necklaces i embellish my
truth shifting from telling to teller
reflections honed in polished mirrors
into whose past i sometimes wonder.

yet i do and will seek to know
new truths – reveal your truths
inklings hot to the touch not
gone cold story is alive.
vibrant additions, sparkling
revelations such joy even
in the hard vanity of loss.
stories alive, living story.

Fig 22. Hand written poem, Story Is Alive

99

Where to From Here?

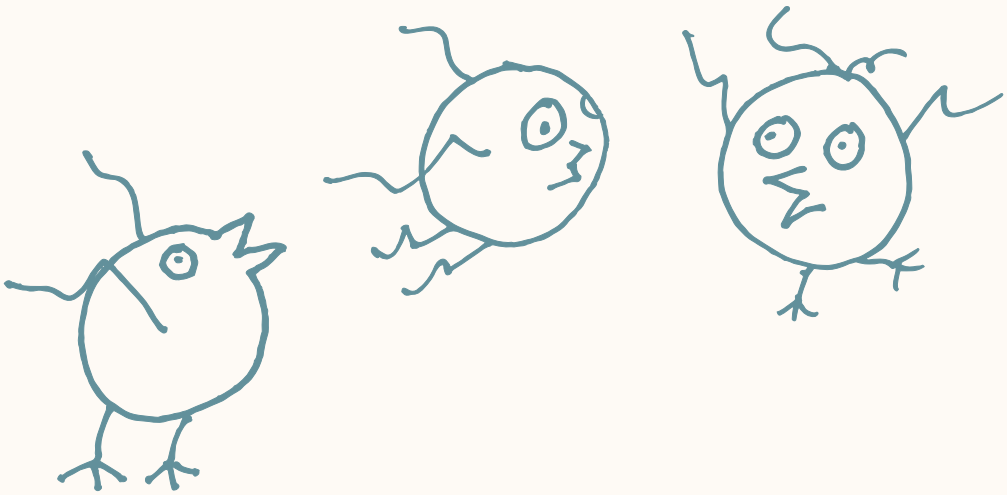

Fig 23. Contemporary Poetry

Social movements have transformed past injustices and although there is much to be done, the transformation into a multiplicity of futures can be envisioned and brought to life. In the future a deeper exploration of foresight tools along with creative techniques in mediation will enhance this initial work. There are many routes to tap into future efforts to address social justice, ways to engage with social movements as allies, and with conflict engagement practitioners. I continue to be intrigued by the idea that social justice mediation demands a participatory approach that is collaborative and guided by differential consciousness. There are serious inequities to be addressed that may best be expressed through the arts and the engagement with creative techniques. Imaginaries are to be enacted out of an abiding love for all who inhabit this planet and upon whom we all rely for our future well-being. I imagine a co-evolving process; one where everyone is evolving,

learning, and changing. What new ideas are to be embodied, what courage is needed? May we all continue to be infinitely curious and wholly accountable for the nature of our impact on others.

The story of mediation praxis as an approach to social justice, to transform longstanding and seemingly intractable injustices, continues to unfold. The interviews offered a wonderful way to connect with other mediators, yet interview alone may not be the most efficacious approach to understand how practitioners might best employ Sandoval (2000) in their work. On the other hand, the revelation of the power of creative techniques to elicit new ways of thinking about a difficult situation has been quite clearly demonstrated.

To oppose pervasive Western colonialism can toys be used as signs and symbols in mediation to draw out the rhetorical figures? I think of games where the intention is to gain power or take over an imaginary world. I have learned a lot from playing games, not only for fun but also for reflection. How do games take away some of the power of putting a new 'supremacy' (Sandoval, 2000) in its place, one that brings 'other' selves and creative imaging to this world rocked by racism, disease, and exclusion. While the skilled execution of the methodology of the oppressed may well contribute ways to address complex social justice issues, my research demonstrates that the practice is well underway without the constraint of specific labels or tools. Might the formal use of Sandoval's differential consciousness move those so very grounded in their own inoculated world, perhaps? Combined with the creative arts differential consciousness has a way of shifting thinking, building capacity and finding the path to the heart. Even among those who for centuries have been deprived of their own ancient teachings, driven out of consciousness by the colonialist hegemony, there is yet hope "and the

darkness shall be the light and the stillness the dancing" (Eliot, 1943). In this time of COVID separation, whether physical or spiritual belief system, the arts continue to find a place in people's everyday lives. This is a start.

Social movements have certainly adopted creative arts as a technique to address the complex social justice issues. The theoretical insights from feminist and Indigenous epistemologies show a strong inclination towards the arts as a "critical component of social justice practice." (Bell & Desai, 2011, p. 287). The interviews reveal how the use of creative arts is such an important alternative to words and language alone. It is a gift to watch one human being access their deeply held embodied ways of knowing. To safely draw this out as demonstrated by the women who followed the sketches of trees, the synergy of voices raised in song, and the delight in game play that opened up conversation, all demonstrate the empathy that can flow from a skillful intervention. Social justice mediation is one way to awaken the imagination and pull from the depths of human consciousness a 'differential' awareness so necessary for the hard work of decolonizing and re-humanizing relations. Social justice mediation may be important on the world stage as shown in Graydon's (2020) work but the real lifting is taking place in local community meeting rooms where the outcomes are determined by and relevant to the people and the places they jointly inhabit.

In the field of conflict resolution, many are looking for methods and techniques to transform conflicts between individuals and among members of groups. In the recently formed group 'Democracy, Politics & Conflict Engagement' in association with MBBI, leading mediation scholars and practitioners recognize the importance of reaching out to the those from the full spectrum of belief systems, from socialist to fascist. Here is another opening for bringing creative techniques to the fore. The work of mediation continues to be needed to make sense of situations

rooted in strong belief systems and the seeming inability of some to see beyond their Facebook-informed reality (as so delightfully exposed in the Netflix release Death to 2020 [8]). Humour is another way into worldviews beyond the predominant settler colonial perspective, world views critical to social justice mediation praxis.

While I did not find scholarly articles that specifically address mediation through the methodology of the oppressed, the concepts run throughout the literature. Social justice work, done from the perspective of decolonizing and opposing dehumanization is tapping into the methodology of the oppressed, consciously and unconsciously. There are activists, both masked and unmasked, who march in the streets. Some demand change and others fight to keep change from happening. Traditional media are drawn to those demonstrations deemed newsworthy for their market. Meanwhile, stories on social media abound and rebound. I receive on average ten emails every day from the social justice movements I support; Indigenous rights, climate justice, and socialist politics. I often re-post to Facebook (against my better judgement) and on Twitter where I am a passive observer and rather reluctant participant.

Conflict transformation as intended in social justice mediation requires the practitioner to engage in some form of reflexive praxis. The tone and reflections in the interviews were indicative to me of self-reflection. The women interviewed frequently indicated a spiritual practice as the means to ground their practice and support their belief that broken relations can be transformed.

Although I have focused on Sandoval and her work to engage in the "differential form of social movement" (p.68) it is only one consideration for the

[8] Death to 2020 retrieved from https://www.netflix.com/ca/title/81332175

transformation social justice demands. Differential consciousness has an artistic side; it invites the nimbleness of mythological traditions, a preparedness for any possibility arising on the journey through the forest, for all those seeking a path out of darkness.

That reminds me of an experience I had many years ago in Vienna.

> *A group of world-renowned scientists, predominantly white men of different nationalities listen intently, "Knots is a collaborative game…reach out and take someone's right hand…now reach out and hold someone else's left hand…now you are tied up and your challenge is to untangle this human knot without letting go of one another's hands." Stepping over and under clasped hands with concentrated intensity, they cajole, direct, and complain. One of them comments, "we could use something like this in our talks with those…*

Back then I chose to 'identify' with them wanting to be recognized for the different perspective I brought to them, hoping to influence their work in collaboration and negotiation. Out of naiveté, or cultural arrogance, I ignored the age and authority differences and assume I belong. Today, would I challenge their white patriarchal given role or would I 'assimilate'? Would I invite them to reflect on their authority or would I stand aside as they carry on with whatever political or scientific office affords them?

For the next stage of this work, I would invite those who participated with my research into a widened circle where we could explore together. Causal Layered Analysis (Inayatullah, 1999), as discussed earlier in this paper, is another way to connect with the methodology of the oppressed through the arts, working through litany, systems, and world view into myth and metaphor and from there to imagine alternative social justice mediation futures; to explore more deeply the feminist

and Indigenous philosophies alongside mediation practitioners and participants; and then to play these future scenes out as performances, poetry, and large wall paintings. For the moment, this work will have to wait.

To embark on an exploration of the role of mediators in social justice is to recognize this work as an opportunity to engage deeply with all the technologies, those that resist and those that invite; to call in rather than to call out. For the practitioner, the notion of compassionate action, working with rather than struggling against (Chodron, 2008), is the enactment of differential consciousness; a moment-by-moment reminder to see ourselves in the other. Sandoval offers those of us who are born and raised as white settlers, a mirror to see ourselves, our inoculated, identified, history-denying selves in our everyday lives. Hers is an incredible gift in the movement to overcome colonization and re-humanize society.

Looking in the mirror, I am reminded that the mediation profession does not require ongoing supervision such as in psychology. Ongoing professional development is deemed sufficient. It is incumbent upon the practitioner to reflect and be critical of one's own practices and biases. Reflexive praxis requires a commitment and at times an outside observer who can ask the right questions to untangle oneself from strong cultural drivers. I am reminded of Thich Nhat Han's poem, *Call Me by My True Names*. In the poem he connects the oppressed, the victim, to the oppressor, the victimizer, as a poignant reminder that when harm is done, we are all harmed.

I am the twelve-year-old girl, refugee on a small boat,
who throws herself into the ocean after being raped by a sea pirate,
and I am the pirate, my heart not yet capable of seeing and loving.

I will continue to reflect on my own praxis and share this work with others.

And to you who embody this work daily, share widely, your wisdom is much needed in the world today. The social movements arising out of 2020 in response to this latest global pandemic are complex. Whatever calls, we must each answer in the ways for which we are best suited, with massive commitment and no less.

To those who embody this work and encounter opposition daily, share this work openly. To those who have participated in my research, both actively and passively without knowing, thank you; may this further inform the good work you are doing. To those professional organizations of which I am currently a member, I invite you to reflect on the work presented here, to reflect on who you are and why you do the work you do.

I have met many wonderful practitioners who already embrace and embody differential consciousness. How might this way of thinking be brought to broader audience in this time of global stress? It is easy to interview those with whose world views we are in sync. The next step would be to interview those who stand firmly in the dominant Western colonial world view. What might be the outcome from engaging these others, who I imagine embody the rhetorical figures? In the months to come there is more writing and reflection to be done as I continue this conversation and engage others in the method of emancipation.

In listening to their stories, I see a circle of wise women able and willing to build the capacity of those who come to work with them. Across the board I recognize the fifth form, differential consciousness in the mutable and flexible characters they inhabit in their work. As I consider the privilege of sitting with these women, I reflect on other wise counsellors from mythologies around the world; Kokopelli, Baba Yaga, Coyote, and Raven; Tricksters who live in the place of differential consciousness. The literature added another layer of story, an invitation

into the thinking of those who see a better world, in whatever way that is best expressed. I feel as though the articles and books I read are urging me forward, teaching me the language of revolution and emancipation. Their stories draw attention to the folly of not reading the signs, of falling into the trap and arrogance of power. And through a commitment to differential consciousness a rhetoric of love is revealed.

Fig 24. Differential Bird Circle

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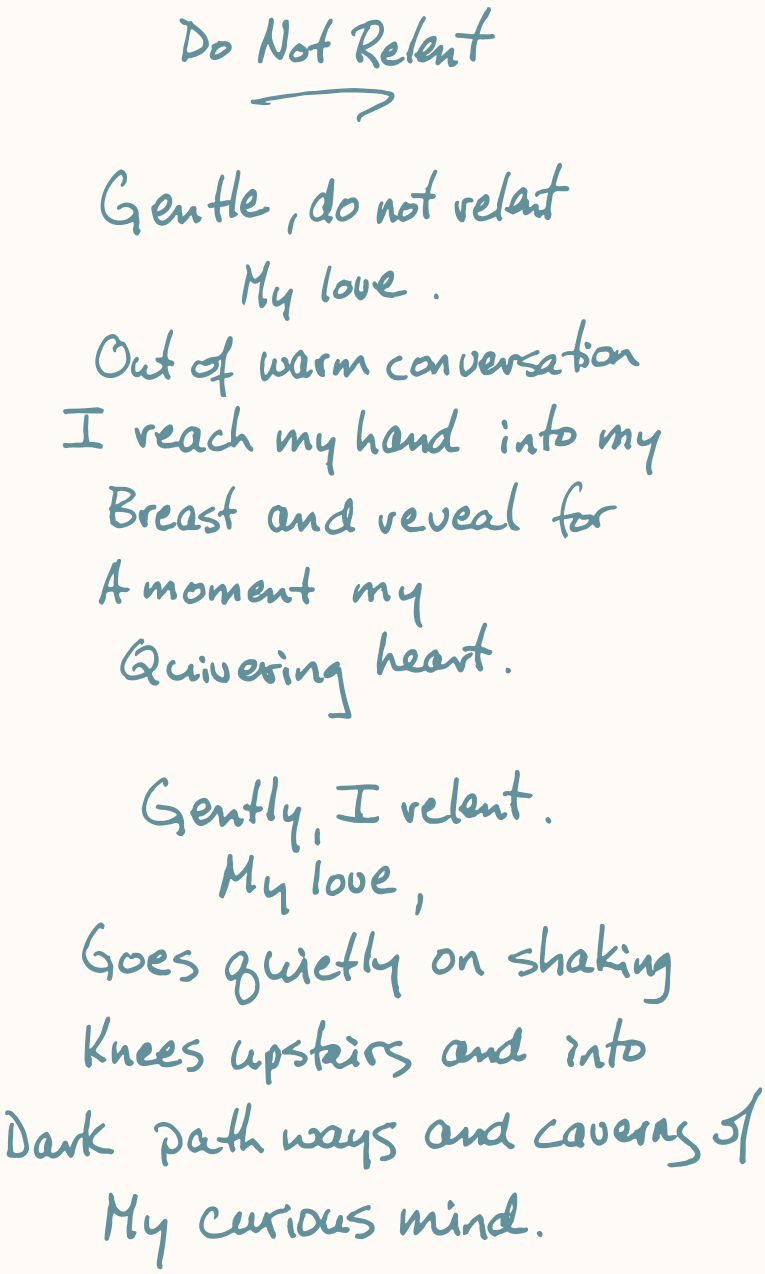
Appendix A

Do Not Relent

Gentle, do not relent
My love.
Out of warm conversation
I reach my hand into my breast
And reveal for a moment my
Quivering heart.

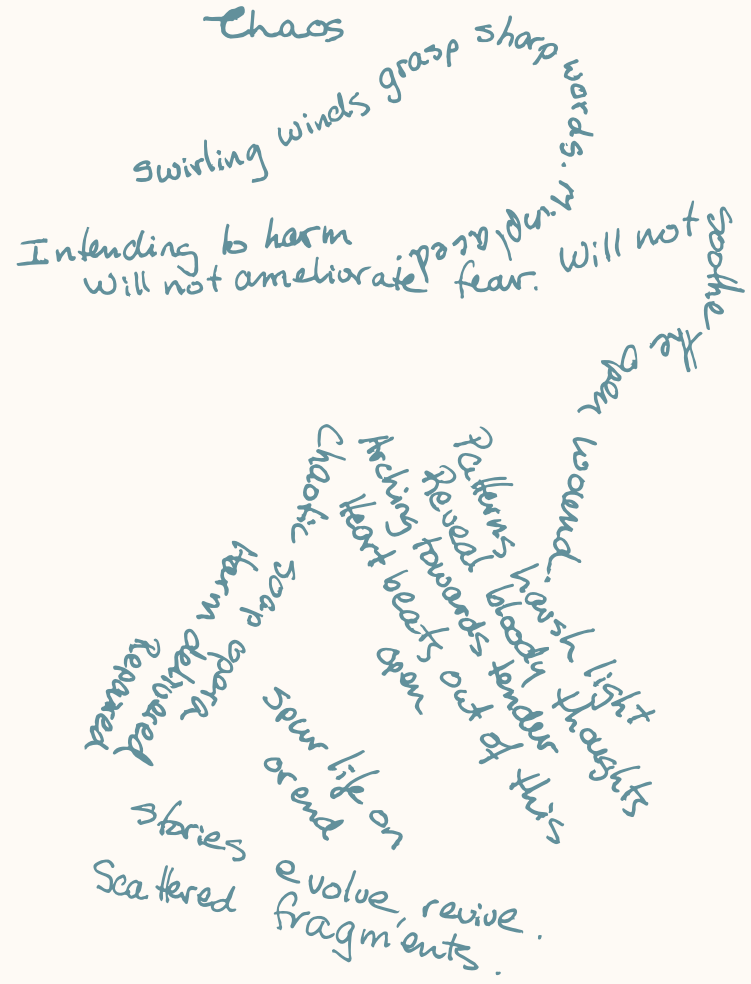
Gently, I relent.
My love,
Goes quietly on shaking knees
Up the stairs and into the
Dark pathways and caverns of
My curious mind.



Appendix B

Chaos

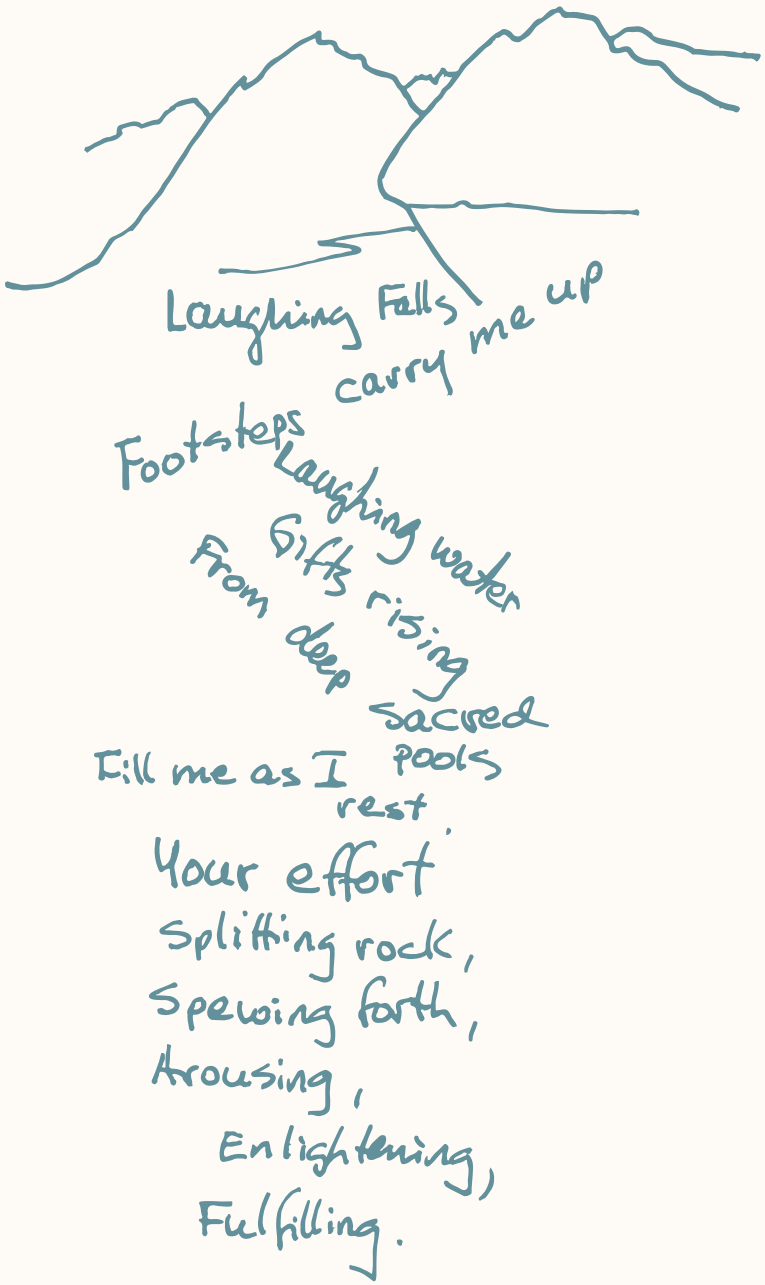
Swirling winds
Grasp sharp words
Misplaced.
Intending to harm
Will not ameliorate fear
Will not soothe the open wound.
Patterns harsh light
Reveal bloody thoughts
Arching towards tender
Heartbeats open
Out of this chaotic
Soap opera
Spur life on
Or end.
Harm delivered
Repaired.
Stories evolve, revive.
Scattered fragments.
Opportunity.



Appendix C

Laughing Falls

Footsteps
Carry me up
Laughing water
Gifts rising from deep sacred pools
Fill me as I rest.
Your effort;
Splitting rock,
Spewing forth,
Arousing,
Enlightening,
Fulfilling.



Appendix D

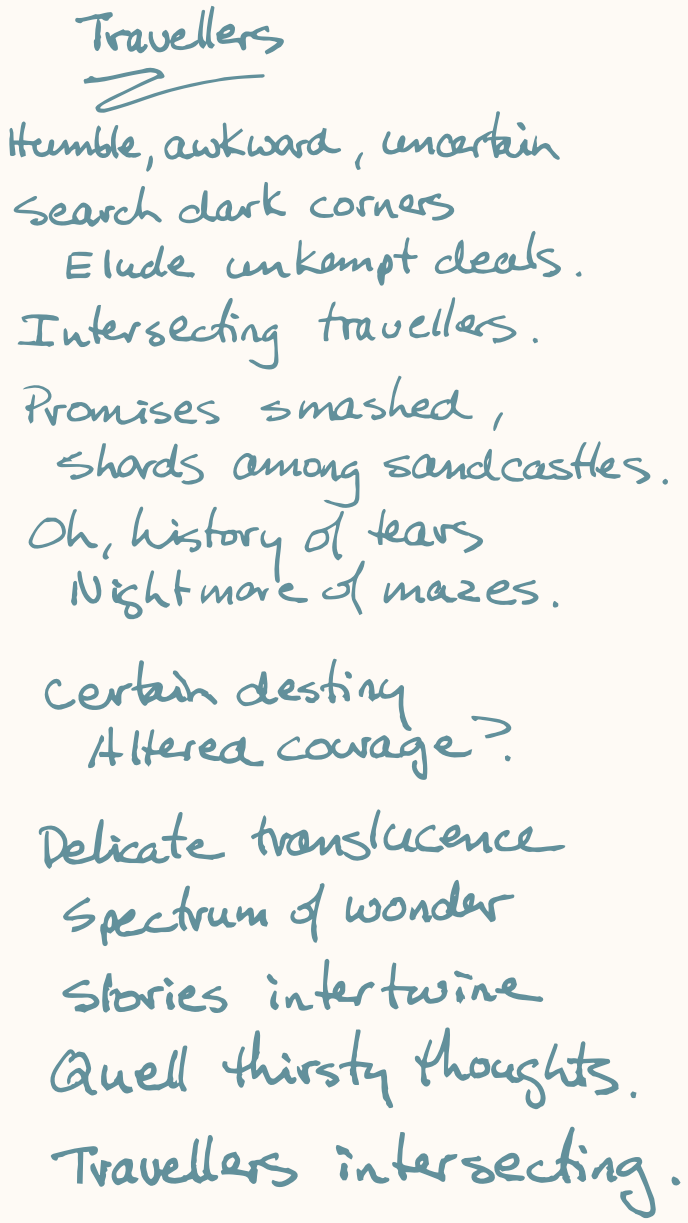
Travelers

Humble, awkward, uncertain
Search in dark corners
Elude unkempt deals.
Intersecting travelers.

Promises smashed,
Shards among sandcastles.
Oh, history of tears
Nightmare of mazes

Certain destiny
Altered courage?

Delicate translucence
Spectrum of wonder
Stories intertwine
Quell thirsty thoughts.
Travelers intersecting.



Appendix E

Story is Alive

when i tell my story
i search for truth
connecting me to you
but we are different and my
story reveals only the bones
and nakedness of my experience
no matter scarves and
necklaces i
embellish my truth
a truth shifting from telling to teller
hone my reflection
polish mirrors
into who's past
i sometimes wander.

yet i do and will
seek to know new truths
reveal yourselves
inklings, hot to the touch
not yet gone cold
story is alive
vibrant additions
sparkling revelations
such joy
even in the hard
vanity of loss.