

THE RICH MEN OF THE COUNTRY: CANADIAN LAW IN THE LAND OF THE COPPER INUIT, 1914-1930

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At a time when there is a great interest in writing a new legal history of Canada, it is perhaps surprising that this effort has not been extended to the writing of the legal histories of native people.¹ The reasons for this failure can be divided into the substantive and the methodological.

Clearly, a major effort of the "new" legal history has been to study the broad social impact of the law, rather than the more narrow, traditional focus of legal history on cases, statutes and legal institutions. Coupled with this focus on a broader range of legal questions, the new legal history has examined the impact of law on a broader range of peoples. It should not be surprising that two of the most productive new areas of scholarship in the area have been the legal history of women and the legal history of the criminal law. The study of both areas exposes two very large populations of people whose lives were affected greatly by the law but had very little voice in the formal institutions that made and applied law.² While a good deal of the same

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¹ For a recent overview of current work in Canadian legal history, see M.H. Ogilvie, *Recent Developments in Canadian Law: Legal History* (1987) 19 OTTAWA L. REV. 225. An analysis of the prospects of a "new" Canadian legal history is found in B. Wright, *Toward a New Canadian Legal History* (1984) 22 OSGOODE HALL L.J. 349.

An important source of Canadian legal history is found in D.H. Flaherty, ed., *ESSAYS IN THE HISTORY OF CANADIAN LAW* (Toronto: University of Toronto Press, 1981) but it contains no essays on native legal history. A second volume, published in 1983, also failed in this regard.

L.A. Knafie, ed., *LAW & JUSTICE IN A NEW LAND: ESSAYS IN WESTERN CANADIAN LEGAL HISTORY* (Toronto: Carswell, 1986) contains three fine essays on the history of Canadian Indian policy, but without significant reference to the legal history of Indian people.

² For a review of this literature, see Ogilvie, *ibid.* at 251-53.

logic that motivated this research would apply to the study of the legal history of native people, such a body of legal history has not yet been written.

No one would question the importance of this research. At a time when the whole question of the continued relationship of native people to the political, legal and social institutions of Canada is on the table for renegotiation in virtually every area, a whole range of questions focussing on how this existing relationship was shaped becomes increasingly relevant. Perhaps the most important of these concerns is the continued vitality of native sovereignty as a key concept in shaping the native past, present and future in Canada. There can be no question that, juridically, Canada worked hard on many fronts — at least until the 1960s — to wipe the concept out of the lawbooks.³ But it did not disappear. Sovereignty, as a legal concept, was preserved in the legal cultures of dozens of distinct native peoples. We need to know more about the legal cultures of these people.

At this point substantive questions merge with methodological questions. Lawyers and historians have not concerned themselves with the study of native legal culture because they were trained in disciplines that denied its existence. Anthropologists of law have been studying the legal cultures of the native people of Canada for just over one hundred years but they were neither concerned with legal or historical issues nor did their works make a significant impact on the work of lawyers and historians. The study of native law is much more difficult methodologically than the study of Canadian law. It does not exist in readily interpreted statutes and cases or in easily quantifiable police records or lists of property probated in wills or divided in divorces. Native law can be found only by either asking native people about their legal cultures — questions that are difficult even to frame because of different languages and underlying cultural meanings — or in observing “law in action”, that is, the law-like things one sees in native society.⁴

³ A general summary of Canadian Indian law is found in B.W. Morse, ed., *ABORIGINAL PEOPLES AND THE LAW: INDIAN, METIS AND INUIT RIGHTS IN CANADA* (Ottawa: Carleton University Press, 1985). For an analysis of the development of a Canadian Indian policy designed to destroy tribal sovereignty, *see* E.B. Titley, *A NARROW VISION: DUNCAN CAMPBELL SCOTT AND THE ADMINISTRATION OF INDIAN AFFAIRS IN CANADA* (Vancouver: University of British Columbia Press, 1986).

⁴ For one methodological approach to ethno-legal history, *see* K.N. Llewellyn & E.A. Hoebel, *THE CHEYENNE WAY: CONFLICT AND CASE LAW IN PRIMITIVE JURIS-PRUDENCE* (Norman: University of Oklahoma Press, 1941) especially Chapter Two. However, the contrast between traditional methods of approaching legal history as compared to native legal history does not take a fixed form and the investigator must use the available sources. In the absence of the living informants used by Llewellyn and Hoebel (and oral histories that may recollect some of the same case studies), the descriptions of early ethnographers and government officials, in this case the RCMP, are the only existing sources.

Furthermore, native law, like Canadian law, is not static. During the period of white colonization, native societies underwent rapid social change that consisted of at least three periods of distinct legal development: (1) the traditional law of pre-contact times; (2) a law based on tradition that changed to structure and accommodate early white contact; and (3) a law based on tradition that changed to protect the integrity and sovereignty of tribal life in a society dominated by powerful white institutions and laws. While rapid legal change is difficult to study when it is written and fully documented (such as the study of the changing law of divorce or criminal law), it is even more complex when, like native law, it is unwritten or, even worse, often described by outsiders who have an interest in distortion. Any study of native legal history in Canada necessarily involves the study of both native law and Canadian law because the two laws have been inextricably intertwined, for better or worse, for a number of years.

It is this author's intention to write an ethno-legal history of the imposition of Canadian law on the Copper Inuit people. This paper will focus on one short period of the legal history of one native people, a period during which Canadian law was imposed by way of a deliberate political process that was specifically intended to destroy Copper Inuit law.

The speed and totality of this occurrence is unparalleled in North America. The first Royal Canadian Mounted Police (RCMP) patrol reached the Copper Inuit on the shores of Coronation Gulf at the mouth of the Coppermine River in 1916. Only twelve years later these people, also (but mistakenly) called "blond eskimos" or the racial epithet "Cogmollocks", were under the legal authority of the Canadian government.⁵ During this period so much violence took place that the

⁵ W.R. Morrison, *SHOWING THE FLAG: THE MOUNTED POLICE AND CANADIAN SOVEREIGNTY IN THE NORTH, 1894-1925* (Vancouver: University of British Columbia Press, 1985). This history of mounted police activity in the north concludes that a major function of the RCMP was to protect Canadian sovereignty from foreign interlopers. The best history of the earlier period of the RCMP is found in R.C. Macleod, *THE NORTH-WEST MOUNTED POLICE AND LAW ENFORCEMENT 1873-1905* (Toronto: University of Toronto Press, 1976).

Anthropologists divide the Inuit people into 17 different tribal groups extending from Siberia to Greenland. The Copper Inuit are one of these tribal groups. "Tribe", as used among the Inuit, refers purely to a geographical location and not to a political structure because Inuit families moved freely from one hunting region to another. The Copper Inuit were then subdivided into smaller groups that, once again, characterized the territories in which they hunted. Ethnographers do not agree on the exact names of these subgroups of which there are approximately 11 to 16. For a map of the area, see D. Jenness, *THE LIFE OF THE COPPER ESKIMOS: PART A OF VOLUME XII/REPORT OF THE CANADIAN ARCTIC EXPEDITION 1913-18* (New York: Johnson Reprint Co., 1970) at 278. Jenness, the leading ethnographer of the Copper Inuit, lived among them from 1914 to 1916.

Early explorers reported that the Copper Inuit were racially distinct from other Inuit and were a lighter colour. This led early anthropologists, particularly Stefansson,

current Canadian image of an orderly and essentially non-violent, policed frontier must be reevaluated. Perhaps forty Copper Inuit were murdered by other Inuit. Six of the first few whites to work among the Inuit were killed by them: two priests, two explorers, a mountie and a fur trader. Two Copper Inuit were hanged after a staged trial that was perhaps procedurally correct but was undoubtedly unjust. Six additional Copper Inuit were arrested, tried and sent to prison. All of this violence occurred in a small, closed and traditional society of approximately 700 Inuit.⁶ It is a staggering record for such a short period of time.

These events occurred so late in the history of native contact with whites that the incidents were of great interest and controversy to Canadians at the time. The Copper Inuit had been unknown before the first decade of the twentieth century. As late as 1906 the Coronation Gulf area was still listed as "uninhabited" on Canadian maps, even though by 1905, up to twenty percent of the Mackenzie River Inuit had died of measles and epidemic diseases introduced into the area by whites.

What follows are two legal histories that recount the arrival of white people and their law among the Copper Inuit. One history chronicles both the violence that occurred as the Copper Inuit were incorporated into Canadian law and the measures instituted by the Canadian authorities in response to the wave of murders on the Coronation Gulf. Although the imposition of an alien legal system on a people who had no reason to know or respect that system is a familiar theme in native American history, the small number of Copper Inuit, their isolation and the short time span involved provides a unique opportunity to study the process of legal imperialism.⁷ This legal history draws from standard legal history documents such as case files,

to speculate that they were descendants of Scandinavian settlers. Jenness conducted an exhaustive study of the physical characteristics of the people and effectively refuted that suggestion. *See* D. Jenness, PHYSICAL CHARACTERISTICS OF THE COPPER ESKIMOS: PART B OF VOLUME XII/REPORT OF THE CANADIAN ARCTIC EXPEDITION 1913-18 (Ottawa: King's Printer, 1923).

The expression "Cogmollock" was used by mounties and traders. It may have been derived from the name of one of the tribal subgroups, the Kogluktok, who lived between Great Bear Lake and the Coronation Gulf where they actively traded with non-Inuit Indians.

⁶ The issue of aboriginal population is subject to debate. *See* D. Jenness, *The Copper Eskimos* (1917) 4 GEOGRAPHICAL REV. 81 at 81-83 for a series of population estimates that amount to 665 persons. No other estimates exceed 800.

⁷ There are perhaps two legal conceptions of this process that effect opposite realities. The first one is the imposition of the law of one group over that of another group. *See, e.g.*, S.B. Burman & B.E. Harrell-Bond, eds, *THE IMPOSITION OF LAW* (London: Academic Press, 1979). The second one is legal pluralism which is the idea that different legal systems can exist side by side and be respected by both peoples. *See, e.g.*, M.B. Hooker, *LEGAL PLURALISM: AN INTRODUCTION TO COLONIAL AND NEO-COLONIAL LAWS* (Oxford: Clarendon Press, 1975).

official government reports, newspaper accounts of trials, and legal forms that include coroner's reports, orders of executions and statements made to police investigators.

The second legal history that will be recounted is less frequently explored and is more speculative. It will analyze the imposition of Canadian law (and the Coronation Gulf murders that occurred in its wake) from the standpoint of Copper Inuit culture and law. This approach rarely appears in the various legal history materials because the Copper Inuit were viewed as lawless. The current analysis, in contrast, assumes that two distinct legal realities existed on the frontier and that events can only be understood with reference to both. In order to understand the Copper Inuit legal system, it is necessary to consult ethnographic accounts of the lives of the Copper Inuit and of related Inuit peoples. Although the Copper Inuit were unknown to whites in 1905 they are, together with other Inuit, now among the most studied native peoples in the world. Even in the area of legal anthropology there are no fewer than a dozen major studies of Inuit law and social control including those of the primary theorists in legal anthropology, E.A. Hoebel and Leopold Pospisil.⁸ While none of the legal studies directly describes the Copper Inuit, ethnographers such as Diamond Jenness provide descriptions of Copper Inuit life that help us piece together an understanding of their law in the context of the

⁸ See also K. Birkett-Smith, THE CARIBOU ESKIMOS: MATERIAL AND SOCIAL LIFE AND THEIR CULTURAL POSITION (Copenhagen: Gyldendal, 1929) at 260-66; F. Boas, THE CENTRAL ESKIMO (Lincoln: University of Nebraska Press, 1964) at 170-74; J.L. Briggs, *Living Dangerously: The Contradictory Foundations of Value in Canadian Inuit Society* in E. Leacock & R. Lee, eds, POLITICS AND HISTORY IN BAND SOCIETIES (Cambridge, Mass.: Cambridge University Press, 1982) at 109-31; N.H.H. Graburn, *Eskimo Law in Light of Self-and Group-Interest* (1969) 4 LAW & SOC. REV. 45; A.E. Hippler and S. Conn, NORTHERN ESKIMO LAW WAYS AND THEIR RELATIONSHIP TO CONTEMPORARY PROBLEMS OF "BUSH JUSTICE" (Fairbanks: Institute of Social Economic and Government Research, 1973); E.A. Hoebel, *Law-Ways of the Primitive Eskimos* (1941) 31 J. OF AM. INST. OF CRIM. LAW AND CRIMINOLOGY 663; E.A. Hoebel, THE LAW OF PRIMITIVE MAN (Cambridge, Mass.: Harvard University Press, 1954) at 67-99; C.C. Hughes, *From Contest to Council: Social Control Among the St. Lawrence Island Eskimos* in M. Swartz, POLITICAL ANTHROPOLOGY (Chicago: Adeline Publishing Co., 1966); Jenness, THE LIFE OF THE COPPER ESKIMOS, *supra*, note 5 at 94-96; R.H. Lowie, PRIMITIVE SOCIETY (New York: Liveright, 1947) at 412-15; L. Pospisil, *Law and Societal Structure Among the Nunamiat Eskimo* in W.H. Goodenough, ed., EXPLORATIONS IN CULTURAL ANTHROPOLOGY (New York: McGraw-Hill, 1964) at 395-431; N. Rouland, LES MODES JURIDIQUES DE SOLUTION DES CONFLITS CHEZ LES INUIT (Québec: Association Inuksiutit Katimajit, 1979); R.F. Spencer, THE NORTH ALASKAN ESKIMO: A STUDY IN ECOLOGY AND SOCIETY (New York: Dover, 1976); G. van den Steenhoven, LEGAL CONCEPTS AMONG THE NETSILIK ESKIMOS OF PELLY BAY, N.W.T. (Ottawa: Dept. of Northern Affairs and Natl. Resources, 1959); G. van den Steenhoven, LEADERSHIP AND LAW AMONG THE ESKIMO OF THE KEEWATIN DISTRICT, NORTHWEST TERRITORIES (Rijswijk: Excelsior, 1962); E.M. Weyer, THE ESKIMOS (New Haven, Conn.: Yale University Press, 1932) at 217-32.

Coronation Gulf killings.⁹ The Inuit offer a classic “hard” case because, from a Western perspective, their society shows as few law-like activities as any society in the world.

These themes will be elaborated upon by detailed descriptions of the Coronation Gulf murder cases. An analysis derived from casebooks alone is inadequate because casebooks often reflect the fallacy that truth can be best ascertained through the adversarial process. In the case of preliterate peoples, some truth derives from each person's story. In contexts that bridge cultures there can be no substitute for attention to detail and application of “law in action”, that is, a careful description of the legal events that took place in the country of the Copper Inuit.

I. CANADIAN LAW COMES TO THE CORONATION GULF: THE ARREST OF ALICOMIAK AND TATAMIGANA

In the summer of 1919, Staff Sergeant Clay sailed from the Arctic whaling outpost of Herschel Island, 400 miles east to the Coronation Gulf country, to establish a permanent Royal Canadian Mounted Police post at Tree River in the land of the Copper Inuit.¹⁰ Clay was returning Sinnisiak and Uluksuk, the first Copper Inuit taken out of the Arctic, to their homes.¹¹ Amidst great publicity, the two had been tried in Edmonton in 1917 for the murder of two priests. They were acquitted by an anti-Catholic jury that believed the priests might have provoked the killings by threatening the Inuit. Sinnisiak and Uluksuk were then

⁹ See, e.g., Jenness, THE LIFE OF THE COPPER ESKIMOS, *ibid.*; V. Stefansson, THE STEFANSSON-ANDERSON ARCTIC EXPEDITION OF THE AMERICAN MUSEUM: PRELIMINARY ETHNOLOGICAL REPORT (New York: American Museum of Natural History, 1914); K. Rasmussen, INTELLECTUAL CULTURE OF THE COPPER ESKIMOS (Copenhagen: Gyldendal, 1932). All three of these ethnologists worked among the Copper Inuit between 1908 and 1922.

¹⁰ REPORT OF THE ROYAL CANADIAN MOUNTED POLICE, 1920 (Ottawa: King's Printer, 1921) at 22-27. Canadian police activities in the Arctic are laid out chronologically, but oversimply, in H. Steele, POLICING THE ARCTIC: THE STORY OF THE CONQUEST OF THE ARCTIC BY THE ROYAL CANADIAN (FORMERLY NORTH-WEST) MOUNTED POLICE (London: Jarrolds, 1936). Steele, son of a RCMP official, compiled his account entirely from RCMP records with full RCMP cooperation. It reads like an official history.

¹¹ There are two major accounts of Sinnisiak and Uluksuk. See R.G. Moyles, BRITISH LAW AND ARCTIC MEN: THE CELEBRATED 1917 MURDER TRIALS OF SINNISIAK AND ULUKSUK, FIRST INUIT TRIED UNDER WHITE MAN'S LAW (Saskatoon: Western Producer Prairie Books, 1979). Although it contains some errors, this book is a popular account of the issues and context of the case. See also E.R. Keedy, A Remarkable Trial: The Case of *Rex v. Sinnisiak* (1954) PENNSYLVANIA L. REV. The author, later to become Dean of the University of Pennsylvania law school, observed the trials but did not publish an account until 1954.

Sergeant Clay had two other discharged Copper Inuit prisoners, Kumik and Cayugana, with him. They had been brought to Hershel Island the year before as they were charged with the murder of an Inuit woman. The charges were dropped later due to a lack of evidence and the prisoners were returned to Tree River.

retried at Calgary, where they were convicted and given death sentences. These sentences were immediately commuted to life imprisonment and were to be carried out at the RCMP post at Fort Providence. The trial was intended to assert Canadian law over the Inuit. Even the death sentence was symbolic because the decision to commute had been made before the end of the trial. The trial Judge stated, in imposing the death sentences, that he was authorized to say that they would be commuted.¹² Returning Sinnisiak and Uluksuk to the Arctic two years later was the last stage of this legal drama. They had been spared because they had a role to play in educating the Inuit in the ways and power of Canadian law.

Establishing a permanent police post at Tree River was a further imposition of Canadian supremacy. Before 1919, police were present in the Coronation Gulf area only as special patrols ordered to investigate specific crimes that involved killings.¹³ These patrols were so inefficient, costly and slow that eventual punishment was years removed from the crime. It had taken four years, for instance, to bring Sinnisiak and Uluksuk to trial.¹⁴

The same year a patrol was mounted from Hudson's Bay to investigate the disappearance of Radford and Street, two American explorers. Inuit were found in 1917 who described the killing. Radford and Street's Copper Inuit guides had decided to return home. Radford had threatened them and both had been killed in the resulting fray. The mounties decided not to return the Inuit for trial because they regarded the killing as marginal self-defence.

Placing a post at Tree River is a clear representation of the desire of Canadians to prevent murders of whites and to stabilize commercial and governmental activity in the Arctic. Comments made by Clay and Corporal Doak, who was sent to assist him, further illustrates the Canadian perspective. Before going to Tree River, Clay had told Hudson's Bay trader Phillip Godsell that "they're a tough bunch, those Cogmollocks. They'd slit your throat for a box of cartridges."¹⁵ Six months earlier, Doak had told Godsell that

[E]ver since Sinnisiak and Uluksuk were taken on that joy-ride to Edmonton and Calgary, shown the white lights and the picture shows, and given a couple of years as police interpreters at the island, I've expected trouble. . . . Now they're big men amongst these Cogmollocks,

¹² Moyles, *ibid.* at 81.

¹³ Morrison, *supra*, note 5. The author considered these patrols to be so important that he devoted Chapter Ten to them.

¹⁴ REPORT OF THE ROYAL CANADIAN MOUNTED POLICE, 1916 (Ottawa: King's Printer, 1917). Reports regarding the Great Bear Lake Patrol and the arrest of the murderers of Reverend Fathers LeRoux and Rouviere at 190-269.

¹⁵ P.H. Godsell, *THEY GOT THEIR MAN: ON PATROL WITH THE NORTHWEST MOUNTED* (Toronto: Ryerson Press, 1932) at 182. Godsell, a fur trader and Hudson Bay Company Inspecting Officer in the Arctic, later wrote colourful and perhaps exaggerated accounts of the people he had met but he was present in the Arctic during these events.

and the Huskies seem to think all they've got to do if they want a good time at the white man's expense is to pot a snow-knife or a bullet into someone. First thing you know it won't be safe for any white men in Coronation Gulf.¹⁶

While these concerns involved Inuit contact with whites, the establishment of a post at Tree River meant that the mounties became actors in the Copper Inuit social order; they quickly turned to investigating activities within the Inuit community that violated Canadian law. It was these investigations that ultimately led to the tragedy at Tree River involving Tatamingana and Alicomiak. For Doak, the matter was simple: "Just another family mix-up somewhere east of Coronation Gulf. Same old story. Some Huskie got too handy with his knife, the rest piled in, and I've got to bring the whole caboodle back to Herschel Island."¹⁷ Doak clearly understood that his mission was to involve both police and judicial intervention not only when whites were killed, but also when Inuits committed Canadian-defined crimes within their community. The RCMP has come to believe that "an orgy for slaughter was sweeping the igloos" of the Copper Inuit and that it was the duty of the mounties to end the killings and bring the perpetrators to justice.¹⁸ Thus, the Canadian conception of Inuit law was racist and ethnocentric; the intervention of Canadian law in Inuit society was legal imperialism.

Initially, this intervention by the RCMP was unsuccessful. In 1919, in the first of the investigations, Clay headed to Coppermine River to arrest Ahtak who had shot Agluetuk "as the result of a misunderstanding over a woman".¹⁹ Ahtak could not be found. The following summer, the police were no more successful in their next

¹⁶ Godsell, *ibid.* at 182-83. See also Moyles, *supra*, note 11 at 66 where the author discusses the views of James Wallbridge who was the attorney for Sinnisiak and Uluksuk. Wallbridge stated that the ethnographer, Stefansson, was "apparently endowed with the necessary amount of tact and good sense to make friends, and nothing happened to him because he treated the natives in a way which they ought to be treated".

An important factor in the decision to put a post in the Copper Inuit territory was that four white men had been killed. However, some white men functioned perfectly safely among the Copper Inuit; for example, many foreign traders carried on business in the Arctic without Canadian permission. Captain Klengenberg, a Danish trader who worked closely with Americans, was a major commercial force in the region. His thriving trading business began in 1906 and included such commodities as guns, bullets, manufactured goods and furs. Mounties patrolled Canadian frontiers in order to bring a halt to foreign (especially American) commercial activity. The major Arctic post, Herschel Island, west of the mouth of the MacKenzie River, largely existed to control illicit whaling and trading activity. Klengenberg did not appear to have feared the Copper Inuit at all.

¹⁷ Godsell, *THEY GOT THEIR MAN*, *supra*, note 15 at 184.

¹⁸ Police forces tend to interpret issues narrowly as ones of crime and law and order. Racial and cultural questions are easily buried in such a context. See Morrison, *supra*, note 5.

¹⁹ Godsell, *THEY GOT THEIR MAN*, *supra*, note 15 at 181.

case. Hiktak and Komeuk had gone hunting together shortly after having an argument over Arkak, Hiktak's wife. When Hiktak failed to return, his neighbours gave search and found his rifle, cartridge belts and lots of blood among caribou tracks, but no sign of either Hiktak or dead caribou. The mounties heard about the case and searched in vain for evidence on which to try Komeuk, but found none. "[T]he Cogmollocks smiled inscrutably — and held their tongues."²⁰

The next summer, Ahtak apparently tried to kill again, but was seized by Olepseak and Ahkootuk and pinned to the ice. Recognizing that he was about to be killed, he asked to be strangled rather than stabbed, and he was strangled by a noose around his neck. When two mounties tried to arrest Olepseak and Ahkootuk, the people of the village successfully interceded. Omokok, the major witness, refused to accompany the mounties, who were left with inadequate evidence to support a criminal investigation. The mounties may or may not have feared being killed themselves, but Uluksuk, acting as police interpreter, evidently mediated this tense situation.²¹

The RCMP groped for an explanation for the violence that existed in Inuit society and they seized on a simple one. In their view, the Copper Inuit custom of female infanticide was at the root of the problem. Infanticide, they believed, produced a surplus of hunting age males without female partners. These men then resorted to "caveman" tactics and violently took women from other men. According to the mounties, infanticide was necessary to a hunting society where women were non-productive mouths to feed; killing them while infants kept their numbers small.²² This belief has been widely adopted in popular literature but is not supported by demographic evidence.²³ Thus, infanticide provided the RCMP, beginning at the highest level in Ottawa, with the rationale for policing Copper Inuit society.

The next case that arose, while the most serious, involved infanticide only peripherally. Pugnana and Tatamigana argued with Hanak, who threatened them with death. In reaction, they decided to kill Hanak at the first opportunity. Soon after, Hanak attacked and wounded Agnakvik, who, according to RCMP account, had nothing to do with the original dispute. Fighting broke out in the centre of the hunting camp. Tatamigana shot Hanak in the heart and Pugnana shot Ikialgina when he came to Hanak's aid. The two then shot Ikpahohaok in the lengthy exchange of bullets. Pugnana then ran down Hanak's fleeing wife and stabbed her and her daughter to death.²⁴

²⁰ *Ibid.* at 185. See also Steele, *supra*, note 10 at 209-10.

²¹ *Ibid.* at 185. See also Steele, *ibid.* at 204-05 and 222-24; REPORT OF THE ROYAL CANADIAN MOUNTED POLICE, 1921 (Ottawa: King's Printer, 1922) at 38-42.

²² *Ibid.* at 45. Infanticide captured the imagination of many interested in Inuit life, but was widely distorted. For one review of the anthropological literature, see C.M. Garber, *Eskimo Infanticide* (1947) 64 THE SCIENTIFIC MONTHLY 98.

²³ Weyer, *supra*, note 8 at 217-32.

²⁴ REPORT OF THE RCMP, *supra*, note 21 at 37-38.

According to the RCMP account, these killings occurred because Tatamigana was "envious" of Pugnana, who had taken one of Hanak's wives, Kupak. Tatamigana enlisted his nephew Alicomiak in a plot to take Pugnana hunting and shoot him. In return Alicomiak received a rifle that was worth twenty fox pelts. Pugnana's body was left in the snow and Tatamigana moved into his igloo. When he was bothered by the cries of Pugnana's nine-month-old daughter, he enlisted Alicomiak to kill the child. She was taken out onto the ice and never seen again. This small camp had experienced seven killings when it came to the attention of the mounties through rumors heard in other camps.

Corporal Doak heard about the case hundreds of miles away at his old post at Fort Norman on the MacKenzie River before he volunteered to be transferred to Tree River. He saw the transfer as a promotion: "Hit it lucky. Going back among the Huskies. Leaving this God-forsaken hole for God's wide open spaces. . . . Maybe I'll have a chance to clean up a few white foxes." Doak estimated that he could trap a "couple of hundred a year" at \$40 each. (As a RCMP corporal, he earned \$1.75 a day, including his expense allowance.)²⁵

The post at Tree River, where Doak arrived late in the summer of 1920, was home to five whites — three traders and two mounties. Doak learned, from native people who came to the post to trade, that Tatamigana and Alicomiak were located in a camp hundreds of miles to the northeast on the Kent Peninsula. On December 3rd, together with an Inuit interpreter, Silas, Doak set out to arrest them and bring them back for trial.

After days of travel, Doak entered a village to be met by "a wrinkled old savage", evidently the patriarch of the band. "What do the Kablunats desire in Oolibusk's village", the old man demanded with "an unfriendly look." Doak responded: "Do you know who we are." "The Rich Men of the Country", replied the old man.²⁶ Doak was ushered into an igloo filled with men, women, children and puppies, and lit by two smokey blubber lamps. He gave a packet of presents to his host and said that "[a]ll this the Great Angatkuk sent you because he knows you are an honest man. . . therefore he desires your help in bringing justice upon the murderers of Hanak and Pugnana".²⁷

²⁵ Godsell, *THEY GOT THEIR MAN*, *supra*, note 15 at 184. See also P.H. Godsell, *ARCTIC TRADER: THE ACCOUNT OF TWENTY YEARS WITH THE HUDSON'S BAY COMPANY* (Toronto: MacMillan, 1943) at 227-28, where Doak, stationed at Fort Norman, stated: "Huh! Am I fed up? I'll say I am, this rotten hole gets deader every day. Nothing to do but play poker or read the riot act to the Hare Indians. Boy! What wouldn't I give to be back along the Arctic Coast where I could trap white foxes again. A fellow could get a couple of hundred in a season, aside from police duties, and at forty dollars apiece that's not bad pickings." See also Steele, *supra*, note 10 at 217 with respect to RCMP wages at that time.

²⁶ Godsell, *THEY GOT THEIR MAN*, *supra*, note 15 at 192.

²⁷ *Ibid.* at 193.

The old man thought for a long time in silence and then stated that:

This man you call your Great Angatkuk must be wise indeed to deal thus generously with Oolibuk. Last night I projected my dream personality afar over the snows. I saw you, and knew you would be here today. The men you want are in an igloo nearby. I will send my son with you that you may find them easily and they shall go peaceably with you.²⁸

Led to the igloo, Doak found Alicomiak eating and seemingly unconcerned. Tatamigana was nervous and avoided the policeman's eye. Neither had made any attempt to evade capture, although it would have been easy. Doak hitched up the dog teams and left the village immediately with his two prisoners.

On the way back to Tree River, Doak heard from his prisoners about an unrelated killing at Grace Bay and changed course for that camp. There he found that Ikalukpiak had killed Havogak "to get his wife". Doak later reported that he knew he had little evidence to go on, but the village was "worked up", so he thought he should arrest Ikalukpiak before the villagers dealt with him "in their own way, which would be a dead end for him".²⁹ When Doak returned to Tree River, it was with three prisoners³⁰ whose arrests, although unprecedented, would have been forgotten but for the events that followed. At Tree River, there were no facilities for keeping prisoners. Doak and his partner Woolams borrowed from the model used earlier to confine Sinnisiak and Uluksuk; they put all three Inuits to work around the post. In effect, the prisoners were free to escape at any time and risked only being apprehended again. This possibility seemed remote to the RCMP, who held a contradictory image of the Copper Inuit; while they were unpredictable, bloodthirsty and violent in their own environment, they were docile, friendly and accommodating under white law.³¹

The three Inuit had to catch and haul in seals for dog food, mend harnesses and do other daily chores. Doak took a special interest in Alicomiak, a young man of sixteen or eighteen years old, and made him a sort of personal servant. He cleaned the house and maintained Doak's clothing. His work included menial tasks that Inuit men never performed and which Alicomiak resented being ordered to do. The first of April started off as a bad day. Doak rolled out of bed and called for his mukluks. The boy tossed them over, but Doak threw them back and told Alicomiak to chew them properly because they were hard as a board. (Clothing made of skin was routinely chewed by the Inuit to keep it soft, but it was considered women's work.) Later Alicomiak spilled the slop bucket on the floor, was once again

²⁸ *Ibid.*

²⁹ REPORT OF THE ROYAL CANADIAN MOUNTED POLICE, 1922 (Ottawa: King's Printer, 1923) at 40.

³⁰ *Ibid.*

³¹ *Ibid.* at 38.

reprimanded by Doak and thrown out of the cabin. That night, after a day of brooding, Alicomiak quietly got up, left the cabin, broke into a shed next door, emerged with a rifle and four cartridges and re-entered the house. Without warning, he shot Doak once, in the upper leg. He slowly died of shock and blood loss while Alicomiak waited across the cabin.³²

At daybreak, Otto Binder, the Hudson's Bay trader, customarily made a morning call on Doak. As he neared a point half way between the trading post and the mountie's cabin, a window pane was broken out by the muzzle of a rifle. One shot was fired and Binder died instantly, shot in the heart. Alicomiak then went to the house that Binder shared with an Inuit common-law wife who Alicomiak may have known before from his community. He showed her Binder's body and claimed that he had also killed "the policeman". Then he announced he was going to the seal camp to kill all the other white men.³³

That morning, Sergeant Woolams and Clarke, a trader, had gone further out on the ice for better sealing. Alicomiak arrived at the sealing camp looking for them, but one of the Inuit secretly had sent his son to warn the whites. Woolams returned to the camp hidden under furs. In the igloo of Tapuk, he found Alicomiak who was eating and boasting that killing a white was as easy as "killing a white partridge".³⁴ He seized Alicomiak, tied him up and threw him on a sled. Woolams did not believe that Doak was dead because he considered Doak a master at understanding the Inuit character, and he believed that the Inuit were great liars and braggarts. But after a hurried eight-mile sled journey, Woolams found that Alicomiak's account was accurate.³⁵

Four and a half months later, Alicomiak and Tatamigana were carried to Herschel Island by a Hudson's Bay Company ship. There they were locked in a guard room. Their freedom increased from daily exercise to roles in the community; Tatamigana became the chief seal hunter for the police and Alicomiak the pantry boy and laundryman for the Inspector's wife.³⁶ But, although both could have escaped easily, freedom was not to be their eventual destiny. Their fate was not in the hands of Canadian law, but rather in those of Arctic policy makers in Ottawa who had made a strategic decision. Because the leniency initially shown Copper Inuit killers had not deterred further murders, Tatamigana and Alicomiak would be hanged.

³² Godsell, ARCTIC TRADER, *supra*, note 25 at 234 and 238-39. This account is imaginative because there are no witnesses but it is consistent with both external facts and Alicomiak's statement.

³³ Godsell, ARCTIC TRADER, *ibid.* at 239. See also Godsell, THEY GOT THEIR MAN, *supra*, note 15 at 195-96.

³⁴ Godsell, ARCTIC TRADER, *ibid.* at 236.

³⁵ Godsell, THEY GOT THEIR MAN, *supra*, note 15 at 198.

³⁶ Godsell, THEY GOT THEIR MAN, *ibid.* at 198-99.

II. THE TRIALS OF TATAMIGANA AND ALICOMIAK

Records exist of famous trials that were "trials" in form only, that is trials designed to legitimate some official policy, but were actually pre-decided. The Canadian government had not fared well in the trials of Sinnisiak and Uluksuk. Not only had the first jury acquitted them (forcing the government to try them on a second murder count that it had reserved), but their trials had provoked a popular outcry in the Canadian press that led to considerable criticism of Canadian Arctic policy,³⁷ which by 1920 was essentially that of the RCMP, who constituted the *de facto* government of the territory. They saw their duties in simple terms: to protect the Canadian border and the fur traders' interests, arrest criminals, and control the Inuit. Rather than being governed by a judicious and responsible polity, the people of the Arctic became "wards of the police".³⁸

The full range of legal records of the trial exist, but no transcripts remain. Fortunately, long excerpts of it were published in the popular press and participants in the trial wrote detailed accounts. A reconstruction shows that it was a simple trial. Both of the accused made full confessions on the witness stand. But more important is how the trial exposed the plans of the authorities in Ottawa.³⁹ No court had ever sat in the Canadian Arctic. Yet correspondence between the Interior Department and the RCMP shows that it was decided, as a matter of policy, that a court should go north to hang Tatamigana and Alicomiak, an act of which any deterrent impact would be lost on the Copper Inuit watchers if it took place further south. Two memoranda were remarkably frank. The first, from Courtland Starnes, Assistant Commissioner (soon to be Commissioner) of the RCMP to the Director of the Northwest Territories states that:

A serious situation has developed in the Arctic Coast. A number of cold blooded murders have been committed by the natives in the past 12 months, the last 2 being the wilful murder of Corporal Doak and Mr. Otto Binder on April 1st of this year. At the present time 6 Copper Eskimos are being held at our Arctic Sub-District Headquarters each charged with the crime of murder. In his report dealing with the murder of Corporal Doak and Mr. Binder, Inspector Wood says: "This makes

³⁷ See Moyles, *supra*, note 11 at 58-59 for examples of the media commentary on the trials. Chapter three of the same book deals specifically with the first trial.

³⁸ See generally Morrison, *supra*, note 5. The thesis of the author is particularly developed in Chapter One. It is very similar to the analysis contained in D. Jenness, *ESKIMO ADMINISTRATION: Volume II*, Canada (Arctic Institute of North America Technical Paper No. 14, 1964) at 18-28. It is important to acknowledge that none of the authorities assert malevolence or incompetence by the RCMP. Rather their central thesis is that the Canadian government did not want to take responsibility for the Inuit in the North, hence assigned to the RCMP a complex range of responsibilities for which the police were neither trained nor supplied.

³⁹ I.D. Balbus, *DIALECTS OF LEGAL REPRESSION* (New York: Russell Sage Foundation, 1973).

the fourth deliberate killing since the wholesale shooting affray at Kent Peninsula in August 1921. Needless to say the few White people remaining in the country are very apprehensive, etc.,etc."

I consider the situation which has developed on the Arctic Coast demands that stern measures be taken. Kind and generous treatment of the Natives who have committed murders in the past has apparently had the opposite effect to that intended and I am afraid there is a danger of the Natives concluding that crime is a thing to be rewarded by the White man. In my opinion steps must now be taken to endeavour to impress upon the Eskimo that such disregard for human life will not be tolerated and those found guilty of committing murder will be adequately punished.⁴⁰

Starnes further recommended that the "penalty imposed be carried out. . . on the Arctic Coast".⁴¹ Because the penalty for murder was death by hanging and there were no prisons in the Arctic, there can be no doubt that Starnes was implying that the death penalty be imposed.

One month later, T.L. Cory, Commissioner of the Northwest Territories, demanded exactly what Starnes had requested:

The numerous murders committed by Eskimos in the last year or so, clearly indicate that kindness and clemency have not had the desired effect upon the native population and I am strongly of the opinion that a court ought to be sent into the N.W.T. in 1923 to try those accused of murder. The cases should be tried midst the accused's local surroundings where the Natives will feel the influence of the law and those found guilty should receive the utmost penalty.

The advantage in having the accused murderers tried in their own country among their own people, will be to bring home to the natives the result of their comrades' actions. Hearing and seeing the result and also the dignity of the court will impress the native mind much more deeply than if the accused were brought out, tried and hanged if convicted, in a land of which the natives know nothing.

As kindness has failed in the past I strongly recommend that the law should take its course and those Eskimos found guilty of murder should be hanged in a place where the natives will see and recognize the outcome of taking another life.⁴²

Cory pointed out that a precedent existed from a 1921 trial in which an Indian had been convicted of murdering a white. The Indian was hanged at Fort Providence which is in the lower reaches of the Northwest Territories. It is a location which, while more accessible, still caused considerable concern because of trial costs. One official in the Northwest Territories office went so far as to suggest that a judge not be used to try Tatamigana and Alicomiak. He recommended, instead, the appointment of a regular staff barrister as "Stipendiary

⁴⁰ Memorandum, dated August 14, 1922. See Public Archives of Canada, RG 85, Vol. 607, File 2580, which is the file that RCMP headquarters kept on the case.

⁴¹ *Ibid.*

⁴² Memorandum, T.L. Cory, Deputy Minister of the Northwest Territories to O.S. Finnie, September 12, 1922, in RG 85, Vol. 607, File 2580.

Magistrate" so that the trial could be conducted more cheaply.⁴³ But Judge Lucien Dubuc of Edmonton was the Stipendiary Magistrate of the Northwest Territories and had served well at the Fort Providence murder trial when he ordered the executive there. It would have been highly irregular to have a staff attorney as a hanging judge.⁴⁴ Order at the trial and hangings was further assured when Commissioner Starnes was named Sheriff of the Northwest Territories. Thus, he could appoint as deputies a sufficient number of his men to preside over the required legal functions.⁴⁵ In the summer of 1923, Judge Dubuc went north from Edmonton to try six defendants on four separate counts of murder. He organized the work efficiently, for he finished in four days. A portion of one day was wasted on a mistrial when, after Alicomiak's trial had started, someone noticed that Mr. Clarke, who had been empaneled as a juror, was the same trader Alicomiak set out to kill after he had killed Doak and Binder.⁴⁶ Because Alicomiak could not be tried fairly by his intended victim, Dubuc dismissed the juror and declared a mistrial. The remaining members of the jury were traders, ship captains, and Dubuc's law clerk.⁴⁷

⁴³ Memorandum, O.S. Finnie to T.L. Cory, October 12, 1922, RG 85, Vol. 607, File 2580.

⁴⁴ While we are not certain why a barrister working for the government of the Northwest Territories was not appointed as Stipendiary Magistrate, we do know that the Commissioner of the Northwest Territories formally requested that Sir Lomer Gouin, Minister of Justice, make such an appointment. Hence, it was the Justice Department that must have had doubts about the propriety of such an action. Memorandum, Charles Stewart, Office of the Director of the Northwest Territories, to Sir Lomer Gouin, October 12, 1922.

⁴⁵ Memorandum, T.L. Cory to O.S. Finnie, September 12, 1922. Memorandum, Finnie to Cory, September 12, 1922.

⁴⁶ Apparently no transcript of the trials exists, and no reference appears to one being made. The best accounts that we have are two published accounts by eyewitnesses who took notes. Paul Poirier was Judge Dubuc's law clerk and also served on the jury. His account can be found in the *Montreal Star* (15 September 1924) 1. Bishop Lucas, the Anglican Bishop for the Territories, also observed the trials. His account is on the first page of the *Edmonton Star* (14 September 1924). The two accounts are generally consistent factually, but their view of the events differ. Bishop Lucas thought the trials were a travesty of justice and worked for commutation of the sentences. Poirier wrote a glowing account of the majesty of Canadian justice. These and many other newspaper accounts are in RG 85, Vol. 607, File 2580, along with notations commenting on them. At the time, the publicity had a strong impact on the bureaucracy.

⁴⁷ "Blood Feud was Direct Cause of Eskimo Murders" *Edmonton Journal* (14 September 1924) 1. "Herschel Island Post in Turmoil of Excitement During Murder Trials" *Montreal Star* (15 September 1924) 1. Of the many problems involved in applying justice in so remote an area, Judge Dubuc complained most about the difficulty of getting a jury. As a remedy, he suggested the abolition of the right to a jury trial in the Territories, and the substitution of a panel of three judges. "Jury System Fails to Function Rightly in Arctic Regions" *Montreal Star* (17 October 1923). All these newspaper stories are found in RG 85, Vol. 607, File 2580. Often the clippings are unidentifiable.

The setting of the trials must have looked strange to those who attended. In the small RCMP barracks at Herschel Island, the furniture was rearranged to function as a courtroom. A large Union Jack was hung behind the bench. Judge Dubuc and the two barristers appeared in wigs and black gowns. Present in the court room were a few Inuit who were wearing furs and carrying children in slings. These were MacKenzie Delta Inuit who were among those natives having the longest contact with whites. Nearly every white in Herschel was participating in some way in the trials. The first trial was that of Tatamigana for murdering Hanak and shooting Ikpukwak with the intent to kill him. The weight of these charges was mitigated by the fact that Tatamigana had been threatened by Hanak and both Tatamigana and Pugnana had killed him. Tatamigana was acquitted in the wounding of Ikpukwak who had been "shooting at everybody in sight" and his conviction in the killing of Hanak carried a recommendation of mercy.⁴⁸

The court next tried Tatamigana and Alicomiak, in two separate trials, for Pugnana's death. The only evidence presented was the defendants' two cheerful confessions. They had killed Pugnana because he was angry at them after the initial shooting fray and when it was said of Alicomiak and Tatamigana that they were "no good and did not know how to shoot."⁴⁹ Pugnana further stated that he did not care what happened to himself and that he was going to kill more people.

Alicomiak and Tatamigana formulated the pretext of a squirrel hunt and prearranged a signal with their eyes. Each put a new bullet in his rifle and agreed that Tatamigana would shoot if Alicomiak did not kill Pugnana with the first shot. Alicomiak stated that:

I did not shoot him in the head, as I wanted him to say something before he died. My father found out and he was angry with me, but he did not touch me. He told me that if the white men came and took me away he would do nothing to stop them and try to help me.⁵⁰

Both men were convicted of murdering Pugnana.

Alicomiak convicted himself again by his own confession in the killing of Doak and Binder:

I belong to the Umingmuktok tribe living on the mainland south of Kent Peninsula. I do not know how old I am. . . . I bought my rifle two years ago. . . . for ten foxes. I was arrested by Corporal Doak for killing Pugnana. I was scared of Doak as he sometimes gave me little hard jobs. One day we went to haul meat and Doak made me run beside the sled with him. It was deep snow and I could not keep up. Doak spoke to me but I could not understand him and do not know if he was angry with me. . . . Doak gave me boots and lots of things to fix and I did not like it. One time he gave me seal skin long boots to fix. . . . and he

⁴⁸ *Ibid.* My account is synthesized from the narration in File 2580.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

told me that I had not done it right. . . I was mad and did not feel good inside. The next day I think I like to kill that man. . .

The morning after I worked on the boots I went to police store house and got Agnavik's rifle. Doak was still sleeping. I got four shells all I could get from the storehouse. I walked quietly to the left of the stove, and shot Doak who was on his bed, about ten feet away. Doak was sleeping on his right side and his face to the wall and I shot him in the left buttock as I did not want to kill him right away as I wanted him to get mad. I wanted to wound him as there was a revolver beside his bed and I did not care if he shot me, as I did not want to go west to Herschel Island. . . .

When Doak was shot he sat half up and turned on his left elbow looked at me and I think I understood him to say, "what is the matter with you." Then I went to the storehouse and got my own rifle and went back to the house to get my shells. I filled my rifle and waited for Binder at the window. I was afraid that Binder would see Doak and want to kill me. Just before Binder came Doak died as he finished groaning and breathing. Binder was about 50 yards away when I shot to kill him, aiming to hit him in the heart.

Toktogan had been standing on the porch of the house and saw Binder fall. She was crying plenty. I said, "Don't cry any more. I can't help it. I scared. I killed both of them."⁵¹

Alicomiak then described going off to kill Clarke and Woolams: "I thought Woolams would kill me as soon as I got in the door of the seal camp."⁵² He was convicted on both counts of murder.

The imposition of the death sentences was inexplicably postponed until some weeks after the trial when Judge Dubuc was preparing to leave for Edmonton. After the sentences were passed, Alicomiak left the prisoner's dock grinning. Walking past the bench, he handed the judge a cigarette. In the meantime, a gallows had been constructed in the "bone house" which was an old building from whaling days used for drying whalebone. The gallows, built with lumber brought from Alberta for this purpose, was overseen by Special Constable Gill, the hangman, who also came from Edmonton for the execution. This preparation is the most graphic evidence that Canadian authorities fully intended the court to hand down death sentences.⁵³ Evidently, none of the mounties serving at Herschel Island would act as hangman. The government did not want to wait a year for the next transportation season to the north to hang the Inuits, so the court had to bring its own executioner. Clearly, the hangings were too important to wait a

⁵¹ This is printed in "Herschel Island Post", *supra*, note 47.

⁵² *Ibid.*

⁵³ These facts were alleged by Bishop Lucas in his account, "Blood Feud was Direct Cause of the Eskimo Murders", *supra*, note 47. These factors informed a part of the public reaction against the hangings. While the Canadian Government vigorously defended itself against many other accusations, it was silent on these, although they were powerful evidence that the trial was a sham.

year. It is less clear why lumber was brought to construct the gallows. Herschel Island in 1924 was a partially abandoned whaling post and was full of derelict buildings that were already being torn down for lumber. Perhaps the same efficient bureaucracy that realized that a gallows would be needed also acted on the assumption that the Arctic had no wood.

III. THE CONTROVERSY OVER THE EXECUTIONS

Canadians did not learn of the trials and death sentences until mid-September when the court party returned to Edmonton. From then until the executions were carried out on February 1, 1924, controversies raged about the propriety of the death sentences and of the incorporation of Inuits into the Canadian legal system. It is accurate to say that the Canadian Government never wavered in its determination to hang the two men. Clemency was finally denied by the full cabinet on November 3, 1923.⁵⁴ It was believed that as the Arctic remained a critical area for Canadian sovereignty under the administrative jurisdiction of the police, Canadian authority had to be firmly asserted. Because the Government had projected a glorified image of white justice bringing an unenlightened people into the twentieth century, authorities criticized the past practice of judicial leniency, and pronounced it a failure, thus clearly justifying the supreme penalty. Authorities viewed the Copper Inuit in racist terms and as a savage people who were kept from advancing toward civilization by brutality and blood feuds.

The criticism of the Government's position took many forms. The most damaging information came from Bishop Lucas of Chipewyan who was the Church of England's Bishop for the Territories. Of all the witnesses to the trials, only Bishop Lucas was sympathetic to the accused. Without his records, the official Canadian Government view, as reflected in reports made by Paul Poirier (Judge Dubuc's law clerk and a juror in the trial) would probably have gone unchallenged. Within a few weeks of their return to Edmonton, Judge Dubuc, Poirier, Thomas Cory, the defence attorney, and James Freeman (a trapper and foreman of the jury) had given long and laudatory accounts of the trial to the press.⁵⁵ Fortunately, Bishop Lucas has preceded them.

Bishop Lucas understood little more of Copper Inuit law and culture than did the mounties, but he approached it more sympathetically. He characterized the string of killings on the Kent Peninsula as "blood feuds", but explained them as responses to cultural conflict

⁵⁴ *Ottawa Citizen* (3 November 1923). This clipping is found in RG 85, Vol. 607, File 2580.

⁵⁵ The accounts of Poirier, Lucas and Dubuc are cited above in footnote 47. The account of James Freeman is in the *Nanaimo Free Press* (5 November 1923); that of Thomas Cory, the Interior Department lawyer who acted as defence attorney, in the *Winnipeg Free Press* (1 November 1923).

rather than as reflections of the criminal character of the Inuits. He blamed Otto Binder specifically, and northern white society more broadly, for destabilizing traditional Inuit society. According to Bishop Lucas, Binder had taken as his wife the wife of Ikilagani. Allied with Hanak, he then set out to take another wife and thereby upset the stability of the community. The village was divided over the best solution. Some wanted to shoot Binder and take the woman back. Others were intimidated by the whites' power and preferred to adjust to their losses. According to Bishop Lucas, the band could not effectively restore its traditional community balance and consequently violence broke out.

Bishop Lucas's account is full of factual errors, but it is true that Binder had taken an Inuit wife who, it was rumored, came from the same band as Alicomiak and Tatamigana.⁵⁶ This factor did not affect the *mens rea* of the two murders, so it was not of legal significance under Canadian law. But it did call to attention the disregard white men had shown toward Inuit traditions and Inuit social cohesion. As a humane explanation for the killings, it raised sympathy and support for the convicted Copper Inuits. Although Bishop Lucas described the blood feud as the basis of Inuit order, the Canadian public became more informed about Copper Inuit mechanisms for dispute resolution.

Bishop Lucas revealed even more. It was his account that first described how the court had been accompanied by a hangman, had brought lumber for gallows and had dug graves even though the Judge was still considering what sentence to impose. These devastating revelations cast the worst aspersions on the integrity of the judicial process and on the role played by the Canadian Government in the trials. Later, the Government claimed that the graves had been dug for the bodies of two mounties, one of which was Corporal Doak. But the Government did not deny sending the hangman and the lumber.⁵⁷

Other criticisms focused on cultural differences. While Judge Dubuc had first raised the issue of the shortage of available jurors as a problem in the administration of justice, Bishop Lucas raised the issue of prejudice. All of the jurors were traders and trappers, except for Poirier and the steamboat captain who had brought the court party

⁵⁶ *Supra*, note 47. The origin of Binder's wife was a matter of controversy. REPORT OF THE RCMP, 1920, *supra*, note 10 at 37 confirms that Lucas believed she belonged to the tribal group of Alicomiak and Tatamigama. If true, then Binder set in motion a chain of events that led to all of the killings. This assertion was so significant that the RCMP published a denial in REPORT OF THE ROYAL CANADIAN MOUNTED POLICE, 1923 (Ottawa: King's Printer, 1924) at 32. Lucas would have heard of the matter at Herschel Island from "rumours" among trappers and traders who had known Binder for years.

⁵⁷ Lucas, *supra*, note 47. The major objections by opponents of the executions are summarized in "Quick Action Urged on Ottawa to Delay Executions in Arctic" *Toronto Sunday World* (21 October 1923) 1 and "What Do the Documents Say in Case of Doomed Eskimos?" *Toronto Daily Star* (6 November 1923) 6.

north.⁵⁸ The official records show that even a sergeant in the RCMP was called for jury duty, although he was not selected.⁵⁹ There were also formidable language and cultural barriers for the two Inuits that interfered with the fairness of their trial. Bishop Lucas argued that the Inuit, by their frank and honest testimony, readily convicted themselves. Had they been white men, they would not have been so cooperative. Although the police claimed to have warned each Inuit defendant twice against incriminating himself, their warnings could not have been adequately translated in the absence of understandable references to western legal concepts.⁶⁰

Bishop Lucas's descriptions of the pathetic trial scene were strikingly inconsistent with the majestic image of Canadian justice that was imparted by the authorities and further pointed out cultural incongruities. Only a dozen spectators attended, most of which were Inuits. The remaining Inuits had gone white whale hunting. The Copper Inuit defendants did not seem to understand what was going on. For example, Alicomiak laughed frequently and at inappropriate times. Two of the acquitted Inuit defendants in another murder trial insisted on shaking hands with everybody in the courtroom as they left. Because they recognized that it was inappropriate to shake hands with the Judge, they instead wished him a pleasant good bye.⁶¹ Such trials could hardly teach the Inuits to respect Canadian justice.

Strangely absent from Bishop Lucas's reports was criticism directed at Mr. Cory, the defence lawyer. Cory was an Interior Department lawyer who later defended the hangings by saying that the Inuit had received a "fair trial". Rather than deny facts that the Government presented and quite possibly could not have established, Cory had conceded too much of the Government's case. His defence, based on

⁵⁸ The contrast to the trials of Sinnisiak and Uluksuk in Edmonton and Calgary is marked. Those Inuits had an aggressive defense lawyer who vigorously attacked the government's case before a jury of disinterested city-dwellers. Their lawyer appealed to some sense of justice and fair play. He first won an acquittal; then when an appeal resulted in conviction, he gained a strong recommendation for mercy. The traders and trappers who tried Tatamigana and Alicomiak had a common interest with the RCMP: a peaceful Arctic, where white men could conduct their business without the interference or intimidation of natives. *See* the respective accounts of Moyles and Keedy, *supra*, note 11.

⁵⁹ Lucas, *supra*, note 47. A copy of a legal document entitled, "A Schedule of Jurymen Served", is contained in RG 85, Vol. 607, File 2580. In it, RCMP Corporal J.P. Pennefather certified that he personally served A. Carroll at the Hudson Bay Company House, and Sergeant H. Thorne at the RCMP barracks. Carroll served on the jury but Thorne did not.

⁶⁰ *See supra*, note 47. The attendance by preliterate people as defendants in a court of law with no parallel in their own culture is a complex issue. The anthropologist A.P. Elkin wrote the classic study on the problem, *Aboriginal Evidence and Justice in North Australia* (1947) 17 OCEANIA. It is still noted in the Canadian north that the Inuit people do not mount defenses, but simply convict themselves on their statements.

⁶¹ *Ibid.*

the traditional argument that the Inuit were too uncivilized to be subject to white justice is an argument that often had been rejected by Canadian courts.⁶²

Bishop Lucas's final criticism raised the issue of Alicomiak's age. In truth, no one knew his actual age, but he was quite young. Bishop Lucas believed that he was sixteen. This issue also resounded in the outcry over the executions.⁶³

The day after Bishop Lucas's account ran in the press, the first of a barrage of official versions appeared. The most complete official account, although ethnocentric, was written by Paul Poirier, the law secretary to Judge Dubuc and a juror in the trials:

On Tuesday morning, July 17, 1923, for the first time in the history of Herschel Island and the Arctic Ocean, a man was tried by his peers in his own country. Never before has this little whaling section seen a court and its imposing proceedings. A turmoil of excitement reigned when the orderly of the court in full dress of the RCMP gravely declared the court opened. Tattooed Eskimos, their wives with children strapped to their backs, whispered to each other as they saw the judge and the barristers in full gown:

"What is the meaning of the big flags on the wall? Why do all the people stand up when the Big Man comes in? Is he a chief of the white men? We have no chief. He must be the master of a big ship. They are the rulers of the North. But who are the six grave men sitting on one side, who do not return our smile when we smile to greet them? When we smile, it is because we want to show our friendship."

Wonderment is written all over their dangerous looking, yet friendly faces.⁶⁴

His full account provides more actual testimony than does Bishop Lucas's, but differs little as to the facts. Its naive, wishful and racist perspective fully met the goals of the officials who ordered the trial.

The debate continued in the press and was neither more humane and sentimental than Bishop Lucas's viewpoint nor less racist and ignorant than Poirier's. Those opposed to the execution wanted to assert political pressure in Ottawa, where the Commissioner of the Northwest Territories had to approve the death sentences. December 7th was the date set for the executions. Because it would take approximately two months to carry the warrants to the Arctic, little time remained to influence the Commissioner's decision. The most vigorous

⁶² See *supra*, note 53. Perhaps Lucas did not criticize Cory's defense because it did not appear inadequate to him, as a non-lawyer.

⁶³ See *supra*, note 47. The Justice Department responded to the matter of Alicomiak's age, arguing that "according to the consensus of reliable opinion from the north he must be between 20 and 25 years of age". *Ottawa Citizen* (3 November 1923).

⁶⁴ Poirier, *supra*, note 47.

opposition emerged in Ontario and was largely based on the evidence supplied by Bishop Lucas. A number of petitions were circulated and an ongoing discussion was maintained in the press. Arguments ranged from the prognostic — whether the death penalty would motivate Inuits to greater anti-white violence — to the historical, reflecting the preoccupations of sociology of law which exist even today.

These laws of ours have been the growth of centuries of human experience in genial climes, where the people have been tillers of the soil, artisans, dwellers in walled cities, accumulators of wealth and comforts. These laws of ours are meant to fit our state of society. The tribal customs of the native race are the product of their conditions and necessities. The arctic native inherits nothing, bequeaths nothing. . . . If one man kills a walrus the whole village eats of it, and it is no more his than every other man's. They have not written laws, for they have no alphabet. They have no jails, for they have no doors but open ones. They have no judges, courts, or policemen, and no prisoners. They have no punishment for an offender, but death. A man must be a decent and agreeable citizen or he dies. He wants to live so he behaves. If he doesn't he is regarded as being insane, which he probably is, and a dangerous man, and he is put out of world in which he does not fit.

It has been resolved at Ottawa, we are told, that white man's law must be respected in the far North. It may be enforced more or less, but we may doubt that it will be respected.⁶⁵

Public opinion also supported the official position that the death penalty was necessary in order to send a message to the "savages". Several traders wrote to the press and denounced the sentimentality expressed by those who had never been to the Arctic. It was argued that because Alicomiak had laughed so often during his trial, he should be hung so as not to make a mockery of justice. Similarly, it was argued that the Inuits should be hung so that they would not return to their homes as representatives of a weak white justice system. Some writers recalled how Sinnisiak and Uluksuk had been released after their trials.⁶⁶ Because the Canadian Government had decided its policies the year before, the Commissioner promptly signed the death warrants.

His act, however, did not end the orchestrated drama of white justice in the Arctic. The Government soon recruited another mountie hero to deliver the warrants to Herschel Island. "I'll be back in January.

⁶⁵ "Ottawa and the Eskimo Tribes" *Toronto Daily Star* (6 November 1923) (editorial) in RG 85, Vol. 607, File 2580. This quote is an early representation of cultural relativism — the idea that each culture produces systems suited to its own existence. It is a powerful contrast to the then-prevalent theory of cultural evolution — cultures develop a single path from the primitive to the civilized. Cultural evolution was grounded in 19th century imperialism and ethnocentrism.

⁶⁶ For examples of rationales, see "This Hudson Bay Trader Advocates Death Penalty" *Toronto Daily Star* (7 November 1923) 7; "Canadian Law must Replace That of Eskimo" *Montreal Gazette* (24 October 1923); and "Death Sentence May Halt Other Eskimo Crimes" *Edmonton Journal* (24 October 1923); all found in RG 85, Vol. 607, File 2580.

Good-by", casually remarked RCMP Sergeant Hubert Thorne as he bade farewell to his wife. In the dead of winter, he left Vancouver to make a 5,000-mile round-trip by boat, train, horse stage and dog sled, carrying his message of death. Thorne's journey to the Arctic was given great publicity:

Through North's White Waste Under the Shimmering Aurora Speeds Messenger of Death/Doom Pronounced by Canadian Law Will be Fulfilled When Lone Police Officer Reaches Most Northerly Post, Where Law's Representatives Await His Coming to Proceed to Execution of Two Eskimos Convicted of Murder in the Course of Blood Feud/Two Men Will Die at End of Journey, and Canada's Rule Will be Vindicated.⁶⁷

read the headlines of one newspaper.

On November 2nd, the Cabinet convened to consider the clemency petitions that had been presented.⁶⁸ This public statement was full of distortions like those in the popular press:

The evidence taken at the trials leaves no room for doubt as to the guilt of the prisoners and investigation has shown that they were properly and fairly tried by a jury of representative men, thoroughly acquainted with the ways and customs of the Eskimos. The confessions of the accused were corroborated by native witnesses and clearly established that the motives. . . .were totally different from those generally ascribed.

The belief that the Eskimo knows nothing of our law is absolutely unfounded. In this connection it may be recalled that only a few years ago other Eskimos were convicted for murdering two priests and death sentences were commuted, but the clemency does not appear to have had any beneficial effect; the number of murders now committed by Eskimos is surprising and in the opinion of those conversant with the conditions in the north it is to the best interest of law and order that the present sentence be carried out.⁶⁹

The last sentence shows that the Cabinet relied on the RCMP as its source of information with respect to methods of dealing with violence in the North.

In fact, the December 7th execution date was not met; it was postponed because of bad weather. Sergeant Thorne had not reached Fort Yukon in time to deliver the warrants, so the Governor General of Canada postponed the hangings until February 1, 1924. In spite of the delay, the warrants carried an awful finality. Once the warrants left Fort Yukon, the last telegraph station, they could not be recalled. There could be no "eleventh hour" reprieve for Alicomiak and Tatumigana.

⁶⁷ *Toronto Globe* (18 October 1923).

⁶⁸ "Eskimos May Get Brief Respite" *Montreal Star* (31 October 1923); "Eskimos May Not Hang December 7" *Moose Jaw Times* (29 October 1923).

⁶⁹ "Cabinet Refuses to Interfere in Case of Eskimos" *Ottawa Citizen* (3 November 1923).

Nor would there be. Tatamigana and Alicomiak were hanged at dawn on February 1st. They had spent their confinements at Herschel Island working for the RCMP as they had been asked to do. At the hanging they were described as being in high spirits and shaking hands with everyone present. Alicomiak offered a cigarette to the executioner and made a gift of a small ivory carving to the wife of the RCMP Superintendent. But once on the scaffold, Alicomiak declared that the police had long been the enemies of his people.

Tatamigana and Alicomiak were buried in the graveyard on Herschel Island, never to see their country again. The ethnographer Knud Rasmussen estimated that their trials and executions cost \$50,000-\$75,000. At that time a medical missionary was paid \$1,000 per year.⁷⁰ According to the editor of the *Ottawa Citizen*, Alicomiak's final declaration was the most reasonable conclusion that Inuit could draw from the trial and hangings.

IV. AFTER THE EXECUTIONS: IMPOSING CANADIAN LAW ON INUIT SOCIETY

What did Canada achieve with its expensive investment in law and order in the North? What other costs did the controversial actions raise? Did the two executions deter further Inuit violence? These are complex questions that we can only begin to explore here.

What policy Canada had in mind for its Arctic inhabitants was unclear as long as Canadians experienced Inuit culture only within the limited and distorted context of murder investigations.⁷¹ At the time of the executions the Canadian authorities were confused about which of two legal models they wanted to apply to the Copper Inuit. In one model, which we can call "symbolic application", the full power of the law is applied, but its impact reduced sharply for humanitarian reasons. The authorities did this in the earlier cases of Sinnisiak and Uluksuk, who were removed from their homelands for four years.⁷² The second model can be labeled "full application". This is the

⁷⁰ "Eskimos on Scaffold Blame Mounted Police" *Toronto Globe* (1 March 1924); "A Successful Hanging" *Ottawa Citizen* (11 March 1924); "Execution of Two Eskimos A Costly Matter to Canada" *Ottawa Citizen* (9 May 1924). Five people attended the execution: RCMP Superintendent Wood, Sergeant Thorne and Constable Gill, who acted as Executioner, Acting Assistant Surgeon Doyle and Reverend Geddes of Shingle Point.

⁷¹ It is important to note that the point of conflict between tribal people and western law is a fruitful place to analyze the process of the imposition of law. See, e.g., M. Crowder, *THE FLOGGING OF PHINEHAS MCINTOSH: A TALE OF COLONIAL FOLLY AND INJUSTICE*, BECHUANALAND 1933 (New Haven: Yale University Press, 1988); and W. McLoughlin, *CHEROKEE RENASCENCE IN THE NEW REPUBLIC* (Princeton: Princeton University Press, 1986).

⁷² REPORT OF THE RCMP, 1921, *supra*, note 21 at 38-44.

approach policy makers took when they executed Tatamigana and Alicomiak.⁷³ Neither model recognized Inuit sovereignty.

A. Adult Killings

Perhaps the best place to begin an evaluation of Canadian policy is with killings that occurred among the Copper Inuit in the 1920s. Trials at Herschel Island involved eleven killings: six in the fight on the Kent Peninsula that led to the arrest of Tatamigana and Alicomiak; two at Prince Albert Sound that led to a conviction and one-year sentence for an Inuit named Ekkootuk; and those of Doak and Binder. The first Inuit to serve a sentence in a Canadian prison was Ikalukpiak, who had been arrested during Doak's return with Tatamigana and Alicomiak for an unrelated killing. He had been slated for trial with them, but his trial was postponed for lack of evidence because no witnesses were available at Herschel Island. Eventually, in 1926, he was tried, convicted of manslaughter, and given a five-year sentence in Stony Mountain Prison in Manitoba.⁷⁴

By the end of the decade, the Copper Inuit committed nine more known killings. Comparatively, among other Inuit of the Northwest Territories, official records reported only fourteen murders in the same decade.⁷⁵ That is, while the Copper Inuit account for nineteen killings, the remaining five Inuit peoples of the Territories, each more numerous than the Copper Inuit, account for fourteen all together.⁷⁶

After the two executions, no more white men were killed by Inuit in the Arctic. Although the deaths may have acted as a deterrent, it may be more accurate to explain the end of interracial killings as the result of whites becoming more careful in their dealings with Inuit. Apparently there was no change in the patterns of killings within the Inuit community. Having already taken a short look at the patterns of killings before the executions, let us look at those after them. It is important to remember that all the motivations for these killings are those reported by the RCMP who, in turn relied on what Inuit told them.

⁷³ REPORT OF THE RCMP, 1922, *supra*, note 29 at 39-40.

⁷⁴ REPORT OF THE RCMP, 1920, *supra*, note 10 at 22; REPORT OF THE ROYAL CANADIAN MOUNTED POLICE, 1919 (Ottawa: King's Printer, 1920) at 15.

⁷⁵ REPORT OF THE RCMP, 1922, *supra*, note 29 at 41-43.

⁷⁶ The figure of 19 is not a simple addition of 11 from the preceding paragraph and 9 that occurred after the executions because one of the killings had occurred in 1917. In 1920, the population of Inuit in Canada's Northwest Territories is estimated at 5,000 to 8,000 including approximately 700 Copper Inuit.

The imbalance among tribes is greater when we include the two priests and two American explorers killed by the Copper Inuit in the preceding decade. Of the seven white men murdered by Inuit in the Arctic during the early twentieth century, six were killed by the Copper Inuit.

It is sad to report the killing of Uluksuk, who had undergone a great deal in his life. After shooting a priest, he became, with Sinnisiak, a public spectacle in Edmonton and Calgary. He was tried twice and sentenced to death by Canadian courts. When his sentence was commuted he worked odd jobs in the mountie post at Fort Providence, and became a guide and translator for the mounties when they first established a post at Tree River in 1919. Although "rehabilitated" in the terms of Canadian law, he was not considered trustworthy. It was rumored that he told his people how easy it was to kill the priests, and that white man's law was weak. He became known, in police terminology, as "a troublesome person, given to bullying other natives, and reputed a thief".⁷⁷ The story of Uluksuk's death comes from the Inuit charged with killing him. Uluksuk had been bullying Ikayena, so Ikayena shot one of Uluksuk's dogs, a "highly unfriendly" act, even though he replaced the dog. Later Uluksuk hung around in front of Ikayena's tent, saying nothing but playing with cartridges. As the two men eyed each other, two shots rang out. Ikayena claimed that Uluksuk made a threatening move and that the second shot was necessary because Uluksuk was still trying to reach his rifle, although witnesses denied this assertion, and Uluksuk's first wound was very severe. Ikayena was taken into custody, tried at Herschel Island, and acquitted.⁷⁸

In another incident, Tekack was arrested for killing Puwyatuck in a fight over possession of one of Puwyatuck's two wives. Tekack did not like how Puwyatuck watched but "did not smile". This attitude conveyed hostility to Tekack. Tekack was tried and given a one-year prison sentence.⁷⁹

On Victoria Island north of Cambridge Bay, Itkilik killed his three small children, evidently fearing starvation. He then committed suicide. His own death might have closed the matter, except the police went after Alongnek, erroneously described as Itkilik's "heir". Alongnek eluded the police for years on the northern reaches of the island. When he finally emerged, it was in an "insane" condition, so he was kept under observation at the fur post at Cambridge Bay.⁸⁰

In 1926, reports arrived at Tree River that Angervranna had killed an Indian in the country north of Great Slave Lake. When summoned by the police, Angervranna freely admitted his role in a great fight, fighting five Indians, killing one, and escaping unharmed. Police Officer Barnes thought the fight too uneven for Angervranna to escape without a scratch. An inquiry to the missionary in the Indians' territory

⁷⁷ REPORT OF THE RCMP, 1921, *supra*, note 21 at 44; Steele, *supra*, note 10 at 253.

⁷⁸ Steele, *ibid.* at 253-54; REPORT OF THE ROYAL CANADIAN MOUNTED POLICE, 1924 (Ottawa: King's Printer, 1925) at 43-44.

⁷⁹ Steele, *ibid.* at 256-57; REPORT OF THE ROYAL CANADIAN MOUNTED POLICE, 1925 (Ottawa: King's Printer, 1926) at 47-48.

⁸⁰ Steele, *ibid.* at 255, 295, 304.

revealed that no Indian was missing and that no fight had been reported. Barnes concluded that "the native is endeavoring to get a trip outside. Steps taken to punish these natives may have an effect contrary to that intended. Cases have occurred of Eskimos being brought out for imprisonment and returning delighted with the experience."⁸¹

In 1928, Isyumatok killed Higluk in his sleep because he was abusing her and her son. She was arrested and taken to Herschel, but the charges were dropped. The police also investigated the "mysterious death" of Hiktak, but no charges were brought.⁸² In the final incident, Okchina "put Oksuk out of the way" by shooting him at the behest of Nellikok. Okchina was arrested and taken to Cambridge Bay with the witness Avocona and her small daughter. He was tried and given a one-year sentence.⁸³

These killings are those "known" to the police to have occurred among the Copper Inuit over the decade after the executions of Alicomiak and Tatamigana.⁸⁴ We can see that the authorities retreated from the death penalty. In this decade, they handed out two one-year sentences. Ikalukpiak had earlier gotten a five-year sentence to prison, perhaps because he was the first Inuit sentenced after the Herschel Island trials.⁸⁵

B. Infanticide

These arrests for murder are one aspect of police activity in the Coronation Gulf district in the 1920s. In another thrust into Inuit culture, the mounties began a long campaign in 1925 against infanticide. The Canadian government had been stung by criticism that it lacked concern for the native people of the north. In addition, law enforcement viewed female infanticide ethnocentrically as causing the high incidence of adult killing by creating a sex imbalance in Inuit communities. Yet no one was ever arrested for infanticide: the Inuit were able to protect their society to a considerable extent from Canadian intervention. After the Herschel Island trials the Inuit were

⁸¹ Apparently a reference to Sinnisiak and Uluksuk. REPORT OF THE ROYAL CANADIAN MOUNTED POLICE, 1928 (Ottawa: King's Printer, 1929) at 92-93; REPORT OF THE ROYAL CANADIAN MOUNTED POLICE, 1929 (Ottawa: King's Printer, 1930) at 87-88.

⁸² Steele, *supra*, note 10 at 290; REPORT OF THE ROYAL CANADIAN MOUNTED POLICE, 1927 (Ottawa: King's Printer, 1928) at 99-100.

⁸³ REPORT OF THE RCMP, 1927, *ibid.*; REPORT OF THE RCMP, 1928, *supra*, note 81 at 93.

⁸⁴ Steele, *supra*, note 10 at 228-41 summarizes these cases. See also REPORT OF THE RCMP, 1928, *ibid.* at 87.

⁸⁵ On the other hand, had he been unfortunate enough to be in the original trials, he might have been hanged, for he had been involved in an offense not unlike that of Tatamigana.

portrayed as simple and truthful people who readily deferred to the majesty of Canadian law. As Sergeant Barnes said in his 1926 report:

Continued rumors regarding infanticide come in, though in no case can I get definite evidence. In the majority of cases it is white men who state that so and so was about to have a child when he saw her once, and the next time he saw her she had evidently had one, but that the child was not in evidence. Conclusions may be drawn from such statements, of course, but when it comes to interrogating the natives, it is always a case of the child dying or there was no child. Personally, I am of the opinion that infanticide is still practiced extensively, and that the only difference between it now and a few years ago, is that it is now hidden, where it used to be done openly. As reported previously, evidence in such cases is hard to come by because the natives are all tarred with the same brush and will not talk.⁸⁶

Recognizing the difficulty in reducing infanticide through police investigation, the RCMP tried more imaginative methods. A farther-reaching strategy involved both registering children (part of the broad administrative function the mounties had already assumed in the Yukon Territory) and paying "baby bounties", trade goods provided by the Department of Indian Affairs for families with small children. The police appear not to have minded the counting of children, but storing, accounting for, or dispensing bounty goods was beyond their capacity.

Although it is unclear whether the bounties reduced the incidence of infanticide, Barnes asked for goods to extend the program to the far end of the Kent Peninsula. At the same time, he was not above complaining about the difficulties involved in distributing the bounty goods.

When we leave on a police patrol. . . .we have all that we can carry in the way of police freight. On a recent patrol I carried about 16 issues, which is about 100 pounds of dead weight, and it was a nuisance before I got rid of it. I might better have been carrying 100 pounds of feed for men and dogs. In addition, the tribes were large and I could have disposed of 100 issues. Giving out 16 was not very wise. . .because those that got none were inclined to grumble a little.⁸⁷

Barnes went on to suggest that there should be more emphasis on lighter goods.⁸⁸

⁸⁶ Extract from report of Sergeant F.A. Barnes, January 31, 1926. Public Archives of Canada, RG 85, Vol. 869, File 8455.

⁸⁷ Given the remoteness of the Coronation Gulf District, the range and volume of bounty goods is amazing: 160 pounds plug tobacco, 1200 round cartridges, 120 traps, 60 heavy clasp knives, 600 yards calico, 10 dozen spools strong linen thread, 60 packets of needles, 360 packets bull durham tobacco, 60 pairs heavy stockings, 5 cases condensed milk, 60 sauce pans, and 60 pounds tea. (Letter, Commissioner Cortlandt Starnes, RCMP, to Dr. Scott, Deputy Superintendent General, Department of Indian Affairs, November 17, 1925 as found in RG 85, Vol. 869, File 8455.)

⁸⁸ Report, Sergeant F.A. Barnes to Commanding Officer, RCMP, Herschel Island, February 25, 1925 as found in RG 85, Vol. 869, File 8455.

The issue of infanticide embodies the lack of communication between the two cultures and Canadian ethnocentrism. The attention that infanticide received from police and missionaries distorted and turned it into a symbol (like the "blood feud") of the barbarity and injustice of Inuit society. Infanticide was often inferred from the excessive ratio of males to females in some Inuit societies, often two to one among adults, but some observers, including Stefansson, reported Copper Inuit bands with approximately equal male/female ratios.⁸⁹ It became part of the rationale for substituting Canadian law for Inuit law. Yet Diamond Jenness argued that Canadian authorities had falsely labelled infanticide a persistent attribute of Inuit culture, when in reality it was a survival mechanism used only when food supplies were very short, and nursing mothers could not travel with two suckling children.⁹⁰

The effectiveness of the baby bounty program cannot be judged because that it coincided with a rising standard of living brought about by expanded trade (especially in Arctic foxes), which probably succeeded in helping to change the conditions that produced infanticide.⁹¹ On the other hand, the emphasis on infanticide took a real aspect of Arctic life out of its social context: a high death rate from all sources existed for everybody: men died in hunting accidents; women died in childbirth; men, women, and children died of starvation and exposure to the elements. An analysis of infanticide and other patterns of killing among the Copper Inuit needs to take full account of social and

⁸⁹ See, e.g., "Crime Report Re: Infanticide Amongst the Copper Eskimo" signed by Rev. Herbert Girling, Anglican missionary at the Coronation Gulf, July 2, 1917 as found in RG 85, Vol. 869, File 8455. The report ends with a notation of Inspector LaNauze that Girling "has promised to keep track of all fresh cases that occur when he returns to Dolphin Straits this fall". This was the second crime report that Girling filed that day. The other reported the killing of Kadluk by her husband, Kumik.

Infanticide was often inferred from the excessive ratio of males to females in some Inuit societies, often two to one among adults, but some observers, including Stefansson, reported Copper Inuit bands with approximately equal male/female ratios. Statistics compiled by E.M. Weyer, *The Eskimos*, 1932 at 134 show that most Inuit peoples had surpluses of women over men in the adult population, but a slight surplus of males over females as children. A survey of ethnologists' accounts of infanticide can be found in C.K. Garber, *Eskimo Infanticide* (1947) 64 SCIENTIFIC MONTHLY 98. V. Stefansson was directly asked for a report on infanticide by the RCMP. In a memo to Inspector W.J. Beets of Herschel Island, dated May 2, 1912, Stefansson indicated that he believed that infanticide did not exist among some Copper Inuit people:

Among the people of Victoria Island. . .numbering about 200, the disproportion of the sexes is not marked and we learnt of no child exposing. The tribe is seldom hard pressed for food, and it is probable that child murder does not take place among them. The practice is, in my opinion, rare among the Copper Eskimos, except in Dolphin and Union Straits.

As found in RG 85, Vol. 869, File 8455.

⁹⁰ Jenness, *THE LIFE OF THE COPPER ESKIMOS*, *supra*, note 5 at 249.

⁹¹ *Ibid.* at 249.

cultural contexts. We have not seen an adequate, respectful understanding of Inuit society in the accounts of the mounted police, traders, or government officials who contrived the image of "blood feud" in the north and carried out the Herschel Island hangings. While we can never know fully the Inuit side of what happened in the Coronation Gulf after white contact, we have clues. We need first to acknowledge the existence of the two competing and conflicting legal orders governing human life in the Coronation Gulf district: customary Inuit law, deeply embedded in the life experience of the Copper Inuit, and Anglo-Canadian criminal law, imposed through the police institution as one piece of a larger official move to impose Canadian authority on both Arctic land and Arctic peoples.

V. THE COPPER INUIT COMMUNITY AND COPPER INUIT KILLINGS

The ethnologist Kaj Birket-Smith allegorically referred to Inuit communities as "grown like . . . the poor plants of the Arctic soil".⁹² Anthropologists' fascination with the Inuit people makes them the most studied of the world's native peoples. In North American anthropology no people are more central to the development of the science, in spite of the great logistical difficulty in studying their lives. Since Franz Boas, father of American ethnography, began his career with the Baffin Island Inuit in 1883,⁹³ several hundred studies of the Inuit have been written covering aspects of Inuit life often well beyond what is available for other societies.⁹⁴ Anthropological fascination with the Inuit stems from the extreme conditions under which they live. To study the Inuit is to study the ultimate limit of the human social order. They have provided models for many theories of human adaptation to extreme physical and social conditions. Because their lives are conducted on such a basic level, the Inuit have provided an available context for studying the social characteristics of their institutions, and the forms social change took when white institutions were introduced, encompassing even their intricate spirit world.

This section will focus on Copper Inuit communities first documented by ethnologists, with particular reference to observations about social order, particularly law, social control, and killings. Many discussions of the Inuit are ahistorical, sweeping over 50 or 75 years without distinguishing the major changes that occurred during those time periods. Or they are overbroad, discussing the lives of a dozen

⁹² K. Birkett-Smith, *THE ESKIMOS* (London: Methuen & Co. Ltd., 1936).

⁹³ See Boas, *supra*, note 8.

⁹⁴ For introductions to this literature, see E.S. Burch Jr., *The Ethnography of Northern North America: A Guide to Recent Research* (1979) 16 ARCTIC ANTHROPOLOGY 62.

distinct peoples spread over 6,000 miles of Arctic, without acknowledging their differences.⁹⁵

Inuit society was nomadic: overlapping extended families hunted and fished together. None of these family groupings was permanent; each changed and reformed as the annual hunting and fishing cycle advanced. The Copper Inuit were prosperous as Inuit societies go, having access to plentiful food. There were no formal leadership structures. Leadership functions were exercised in a number of overlapping areas — hunting, family affairs, and religious matters. While these are common elements among Inuit societies generally, among the Copper Inuit there seems to have been considerably more killing.

Rasmussen, passing through the country of the Copper Inuit in 1922 with the Second Thule Expeditions, shared the views of Viljamur Stefansson and Diamond Jenness, who had worked there in 1908 and in 1914-16 respectively. Ethnologists who studied the Copper Inuit agreed that their communities were complex. They functioned effectively as tight-knit hunting communities, well adapted to survival under harsh conditions. Yet they were violent to an extent that immediately attracted the attention of anthropologists.

Rasmussen questioned each of the men in Kunajuk, a snow hut village of fifteen families with well under a hundred people, at the mouth of the Ellice River, and found that almost every grown man had been involved in a killing:

Havguagluk killed his wife in a fit of jealousy, and was killed by her relative, Makharaluk.

Angulalik took part in a murderous assault on some neighbors during a vendetta.

Uaquaq and Erfaluk killed Qutlag to revenge their relative, Qaitsag (the father of Netsit), who had been killed by Qutlag.

Kivgaluk lost both his father and a brother through murder. He was ready to take vengeance, but was restrained because of the mounted police, who came on patrol every winter and took all killers for trial.

Jealous Ingoreq failed in his attempts to kill both Arshuk and Orsharoq.

Ervana killed Kununasuag and also took part in the murder of Qutlag.

Kingmerut shot Mangigshalialuk, and was also one of those who shot at Halgiuhialuk, who escaped.

Qaitalukaoq, in anger, struck down Maggararaq with a knife.

⁹⁵ One commonality was their language. Knud Rasmussen, fluent in the dialect of the Greenland Inuit, was able to make himself understood as far as the Bering Sea, failing to communicate only in intricate discussions of religious life as he neared the Aleutians. See K. Birkett-Smith, *THE ESKIMOS*, *supra*, note 92 at 66.

Pangnaq, a boy of about twelve years, shot his father because he was cruel to his wife, the boy's mother.

Tumaujoq stabbed Ailanaluq with a knife because he had killed Tumaujoq's relative, Mahik.⁹⁶

This adds up to more than ten killings. In addition, Rasmussen listed five serious assaults which did not end in death. Allowing that these attacks occurred over the life spans of adult men in a hunting band of ordinary size, they add up to one killing in every three or four years. They do not include infanticide.

Rasmussen spent a great deal of time with fugitives from the RCMP, including Hagdlagdlaoq and Qanijap, two of Radford and Street's killers. He found them "pleasant and extremely helpful men". On the way to the Coronation Gulf, Rasmussen located Irsivalitaq, who he called "the outlaw", who was hunted by the mounted police for killing his hunting companion "in a fit of temper". The young man (he was sixteen at the time of the killing) told Rasmussen the story of the killing and his flight. He was insulted by his hunting companion, who had "rubbed muck" on him. As well as a great insult, the act indicated the partner's intention to kill him. "Hatred grew up in me and every time I met my old companion out caribou hunting; it was as if I loathed myself, thoughts that I could not control came up in me, and so one day when we went alone together up in the mountains, I shot him." Igsivalitaq escaped into the mountains, where no white men had ever been. He had sharpened his knives to kill Rasmussen thinking he might be the police to whom he would never surrender.⁹⁷

Rasmussen described contemptuously the attitude of a mounted police officer in the Coronation Gulf district. The mountie thought that the Copper Inuit "[were] all born thieves, awful liars and so absolutely untrustworthy that he would not be surprised if he heard before long that more murders had been committed, as every one of them would be willing to sell his soul for a rifle".⁹⁸ After condemning this view

⁹⁶ Rasmussen, THE LIFE OF THE COPPER ESKIMOS, *supra*, note 9 at 17-18.

⁹⁷ K. Rasmussen, ACROSS ARCTIC AMERICA (New York: Greenwood Press, 1927). Although not a Copper Inuit, Irsivalitaq succeeded in escaping toward Copper Inuit country to avoid the mounted police. However, Rasmussen later reported his whereabouts to the RCMP at Baillie Island. *See* Steele, *supra*, note 10 at 245-46. A plan was laid to capture Irsivalitaq. It involved two patrols simultaneously leaving Tree River and Chesterfield Inlet, points 1200 miles apart, to converge on his hiding place on the Adelaide Peninsula. Corporal Barnes finally arrested Irsivalitaq (whom he called Etergooyuk) on May 10, 1925, on King William Island. He had eluded capture for two years. *See* Steele, *ibid.* at 245-46, 253-56. The great distance involved in taking the youth back to Chesterfield Inlet for trial, plus the weakness of the case against him, induced the RCMP to drop the case. He was "released with a warning not to take the law into his own hands". REPORT OF THE RCMP, 1925, *supra*, note 74 at 73-74.

⁹⁸ Rasmussen, INTELLECTUAL CULTURE OF THE COPPER ESKIMO, *supra*, note 9 at 16-17.

of the Inuit as "loose talk of bands of murderers", Rasmussen contrasted murder in the two societies:

[I]t is not always taken into account that the difference between life and death is not looked upon with the white man's solemnity. [The Copper Inuits'] habits and customs are so entirely different to ours, and, in particular, their time honored infanticide or extermination of superfluous girls. . . is so diametrically opposed to all forms of society that the rivalry about the women, and the many cases of vendetta which naturally follow in its wake, give birth to morals that are peculiar to these careless and temperamental children of nature.⁹⁹

This image of "careless and temperamental children of nature" was a common element in the era's ethnocentric analytical framework. It denied the sophisticated complexity in Copper Inuit methods for resolving conflict without violence. These methods were applied in two situations described by Rasmussen that did not produce killings, one of which involved Rasmussen himself.

The first of these incidents was a dispute between Ulogshaq and Arshuk. Ulogshaq had taken a drum and stepped into the middle of a gathering whereupon Arshuk seized him by the shoulder and shouted in his face: "Is it true that when I am out hunting you visit my wife behind my back?" Ulogshaq laid down his drum and answered: "We are not strangers to each other; get away from me and don't let us quarrel." He thereupon left the dance and went home (where no one was ever attacked). The people in the dance house enjoyed Ulugshaq's reply, for both men were known as brawlers of uncertain temper, always ready to pick a quarrel. Arshuk carried the matter a dangerous step further by following Ulugshaq to his house. There he took Ulugshaq's sledge and drove it to his own home to show he was not afraid. The affair looked like it might end in bloodshed, so some neighbors intervened and pulled the sledge away from Arshuk's hut, but only half-way between the two huts, for they were afraid of Arshuk. Then a little boy of seven or eight did what no adult dared: he returned the sled to Ulugshaq's house. At this, the whole village laughed so hard that Ulugshaq came out and made peace with Arshuk. The dance resumed.¹⁰⁰

This sudden flaring of tempers was typical of Copper Inuit violence. Insults could assume an enduring and deadly quality. One of these situations may have endangered Rasmussen's own life. He had left his prized dog team with Maneraitsiaq at Ellice River, giving him a rifle to care for them. When the dogs were not brought to the trading post at Tree River as the first ice formed, he sent someone to look for them. The dogs had not been fed; four had died of starvation and

⁹⁹ *Ibid.* at 17.

¹⁰⁰ *Ibid.* at 18-19.

three of the survivors had to be carried back by sledge. When Rasmussen next saw Maneraitsiaq at the post he scolded him for his behaviour, and walked into the next room. Maneraitsiaq began to tremble violently, seized a knife, and rushed out, heading for his snow house. Other Inuit, believing that he had gone after his rifle, warned the whites, who armed themselves with revolvers and protected Rasmussen.

After an hour's wait Rasmussen walked back toward his own house. On the way back Maneraitsiaq, his wife and son ran up to Rasmussen, then unarmed. Rasmussen knew that the normal method of attack was for the woman to throw her arms around the victim's neck and for her husband to stab him in the armpit when he fought to throw her off. Rasmussen stayed calm. He explained to Maneraitsiaq that anger was not always synonymous with a desire to kill. Maneraitsiaq replied that he could not be scolded for the dogs' conditions because a dog was far beneath a man in prestige. He went on to say that he assumed Rasmussen would take the first opportunity to kill him — that he had to kill Rasmussen in order to prevent his own death. As they talked, the Inuit tried to corner Rasmussen by the trading post. Rasmussen was getting colder. He considered attacking Maneraitsiaq while his arms could still move and before he was completely helpless. He was saved when another white man arrived. After the incident, Maneraitsiaq often called at Rasmussen's house, acting as if nothing had happened. The Inuit's anger was gone, and he later confided that he had been "sick with shame" at being lectured. Rasmussen wrote that, during the attack, "[his] life hung by a hair; that [he] was not struck down was exclusively due to [his] calmness. . ." because he was speaking to a mind "completely unsusceptible to reason".¹⁰¹

Overt defiance of Canadian authority was rare, but present, as in the case of Igsivalitaq, the fugitive. In another case, Arshuk lost his temper, threw his two wives naked out into the snow, and began to beat them. When the women threatened to summon the police, Arshuk declared that "he would kill every white man who dared to mix up in his family matters". It can be argued that, in such contexts, defiance was a willful and rational reaction to white authority.

Rasmussen was not the only anthropologist personally caught in a potentially violent situation. Diamond Jenness was involved in a more elaborate case. A young man had died near the Liston and Sutton Islands. Jenness was accused by his family of "stealing his soul by magic",¹⁰² although at the time he was 100 miles away at the mouth of the Coppermine River. Jenness believed that the family might not apply the customary penalty for murder, which he referred to as

¹⁰¹ *Ibid.* at 21.

¹⁰² D. Jenness, *PEOPLE OF THE TWILIGHT* (Chicago: University of Chicago Press, 1959) at 85-89.

“assassination”, because trading would immediately cease and his well-armed party would make reprisals. But he also thought that no one could say with certainty what would happen. “Certainly, it was not safe for me to wander in and out of their huts as freely as before; some hot-headed individual might forget discretion and stab me in the back as I crawled through a low doorway.”¹⁰³

Some of Jenness’ Inuit friends, eager to settle the matter and believing in his innocence (at least according to Jenness), sought the help of Knife, a “medicine man”, who could unravel the mystery of the death. According to Jenness’ ethnocentric account, he consciously manipulated the process:

I calculated the chances quickly. Knife knew that I spoke his language, and it was not in Eskimo nature to accuse a man of murder to his face. Moreover, he was crafty, and would consult his own interest before everything else. At the present moment, he sorely needed ammunition and other goods that I could supply. Would he dare to name me guilty to my face? I decided to attend his seance and hear the verdict myself.¹⁰⁴

Knife sat on a sleeping platform in the front of the dance house. Suddenly he gasped, staggered into the centre of the floor and motioned Jenness to stand near him. Choking cries gave way to what Jenness called “wild gibberish”.¹⁰⁵ Jenness answered in Latin and French. This event went on for two hours, after which Knife ceased the “gibberish” and announced it was not Jenness, but a white man in a far distant country who had caused the young man’s death.¹⁰⁶

Jenness left us the most detailed single description of the life of the Copper Inuit, based on field work among them from 1914 to 1916. He was critical of Inuit law, whose failure he attributed to the lack of an effective political structure. He left us accounts of ten separate incidents of killings, going back no more than ten years before 1914 and totalling fourteen people. His total of fourteen dead is large for a small population during a ten-year period.¹⁰⁷ His accounts are similar to the patterns of killings we have already examined, for example a pattern of quick assaults with weapons after personal disputes. But Jenness also describes two large-scale killings on the Kent Peninsula, one of three people and one of four people.

In 1908, in the first incident, a woman was accused of causing a man’s death by sorcery. Because this was a direct murder charge, a quarrel arose and a man was stabbed with a knife. He ran outside to get his rifle, but died before he reached it. Another man fatally stabbed his murderer in retaliation. Then three men were shot, though none

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.*

¹⁰⁷ Jenness, THE LIFE OF THE COPPER ESKIMO, *supra*, note 5 at 94-96, 160.

fatally. Jenness gives no reason for the feud to have ended at this stage, other than speculating that “nobody was willing to carry it further”. In the second incident, a Netsilik Inuit couple with three sons moved to Asiak with the wife of the oldest son. An Asiak native wanted to share the woman. When the son could not prevent it, he stabbed her to death. Her father, with the help of other natives, seized the son and killed him. The second brother stabbed the woman’s father in the back, then was pursued and stabbed himself. The village decided to end the vendetta by killing all the men in the newly-arrived family. They killed the father but only wounded the third son.¹⁰⁸

Jenness’ final analysis of the incidents he recounted overlooked the non-violent mechanisms that he also had observed:

It is clear, therefore, that the maintenance of order in a Copper Eskimo community rests purely and simply on a basis of force. No man will commit a crime, save in the heat of passion, unless he believes that he can make good his escape until the affair blows over, or else that his kinsmen will support him against any attempt at revenge. . . .Murder, with its corollary the blood feud, has always been frequent, and nothing but external influence can prevent it.¹⁰⁹

Jenness backed up his opinion with action when he cooperated with the mounted police expedition to arrest Sinnisiak and Uluksuk by providing them not only with substantial material support, but also with evidence. Jenness had seen many of the priest’s possessions in the hands of Copper Inuit, including Uluksuk. One of his primary research informants, Uluksak, led the police directly to Sinnisiak.¹¹⁰

From the police visit with Jenness at the Canadian Arctic Expedition’s headquarters in Bernard Harbour, we gain insight into his ethnocentrism on matters of Copper Inuit law. Jenness’ further confusion about Copper Inuit “law and order” is recorded in a confidential assessment of Uluksak, that he provided the police: “Uluksak is a shrewd, enterprising fellow, utterly unscrupulous, who has most of the natives under his thumb. With a stern master, who would keep him strictly to account, he would make an excellent servant, but at present, he sadly needs discipline.”¹¹¹

Moreover, the visit of the RCMP may have fundamentally altered Jenness’ analysis of the nature of violence in Copper Inuit society. Half of the three-page “Report on the Copper Eskimo” that Corporal W.V. Bruce wrote in 1916 assessed similarities between Copper Inuit and Canadian law. It was based on conversations with Jenness and

¹⁰⁸ *Ibid.* at 95.

¹⁰⁹ *Ibid.* at 96.

¹¹⁰ Uluksak is a major figure in THE LIFE OF THE COPPER ESKIMO, dominating the section on “Chieftainship” (at 93-94). On Jenness’ work in the murder investigation, see Corporal W.V. Bruce, *Crime Report* in REPORT OF THE RCMP, 1922, *supra*, note 29 at 243-44, 246.

¹¹¹ REPORT OF THE RCMP, 1916, *supra*, note 14 at 353.

review of Jenness' unpublished field notes. "As far as I can find out these Eskimo have very few customs that conflict with our own laws", wrote Bruce, "and as far as Mr. Jenness can ascertain, what we would consider a criminal offense, few have been committed."¹¹² Bruce went on to deal specifically with several types of Copper Inuit behaviour that later became so prominently labelled criminal. "Children are sometimes exposed after birth, if no one is found who is willing to adopt them; this is very rarely done, however, as the birth rate is low and the natural affection of the mothers prevents this."¹¹³

"Murder is not frequently committed, and so Mr. Jenness states it is only done on the spur of the moment in a sudden fit of anger." Bruce went on to say that blood feuds existed but that Jenness knew of only one, which involved the stabbing of Ekkeahoak by Kikpuk on an island in the Coronation Gulf in the spring of 1913. This case appears in Jenness' *LIFE OF THE COPPER ESKIMOS* and is used there to support his contention that the community had mechanisms to avoid the blood feud. Hitkok had fled eastward. It was Jenness' impression that a year later his victim's daughter felt no bitterness; that "probably if he had returned he would have been left perfectly unmolested". With the passage of time also passed the wish for vengeance.¹¹⁴

It is clear that Jenness' early conclusion, contrasted fundamentally with those in his 1922 ethnography. In his report, Jenness wrote that "murder, with its corollary the blood feud, has always been frequent, and nothing but external influence can prevent it".¹¹⁵ Either Jenness' attitude changed when he returned to Ottawa, or he rewrote his field work to give support to the government's policies aimed at making the Inuit "wards of the police".

Eventually, Jenness, like Rasmussen, came not only to advocate mounted police intervention into Inuit society, but also actively to aid the police in their investigations. He used his position as ethnographer as a "cover": he did police investigations, collected evidence for the police, and interrogated witnesses. Rasmussen was less extensively involved with the police, but he did give them the location of the fugitive Igsivalitak. Jenness stated their basic attitude:

The natives came into conflict with civilized law for the first time in 1916, when a patrol of the Royal Northwest Mounted Police arrested and deported the murderers of the two French missionaries. They learned then that the murder of a white man would inevitably lead to their paying the penalty at some time or another; but life will never be secured or progress possible to these natives unless swift and exemplary punishment is meted out for assassination within their own groups.¹¹⁶

¹¹² *Report on the Copper Inuit*, as found in REPORT OF THE RCMP, 1916, *ibid.* at 341.

¹¹³ *Ibid.*

¹¹⁴ *Ibid.* at 342.

¹¹⁵ Jenness, *THE LIFE OF THE COPPER ESKIMO*, *supra*, note 5 at 96.

¹¹⁶ *Ibid.*

Jenness' rich ethnographic descriptions are very valuable, but his ethnocentrism cautions us in our interpretation of his evidence. He freely used ethnocentric and derogatory terms in referring to the Inuit that perhaps then were common to the social sciences of the day, but are clearly racist. For example, he found that native religion stunted the intellectual growth of the Copper Inuit because it allowed them to attribute unusual phenomena to a supernatural agency, a process that "dampens every impulse to anything in scientific inquiry". Similarly, he attributed both the lack of a complex counting system and the failure to understand maps to "intellectual inertia", rather than, for instance, to the absence of a market economy or an environment that needed to be represented symbolically.¹¹⁷

Another of Jenness' discussions reveals not only ethnocentrism, but also that he was playing a risky game of "cops and robbers": his party was carrying out unsanctioned law enforcement functions against the Inuit. In a discussion of the "lack of independence in thought or action" among the Inuit, and the "ease with which natives are dominated by Europeans", Jenness refers to two thefts where the Copper Inuit were punished by members of the Arctic Expedition and responded "meekly".¹¹⁸

In one case, Uluksak was accused of stealing ammunition. "[B]old as he was, [he] became humble and obsequious when he was confronted with a charge of stealing ammunition and his rifle was held in bond until he should either clear himself or restore the stolen articles."¹¹⁹ In the other theft, Nanneroak carried off a case of pemmican and was pursued by a sled party. They recovered only a part of the pemmican and compelled Nanneroak to pay two boxes of cartridges for the quantity consumed. Although the loss of the cartridges was a serious blow, neither Nanneroak nor his kinsmen, "had the courage to resist, though they outnumbered the sled party four times over". From Jenness' point of view, in order for Nanneroak to prove that he had "independence in thought and action", was not "easily dominated by the whites", and was "courageous", he should have forcibly resisted having his ammunition taken by the white sled party.¹²⁰ Had he done so, we might well have had more than seven murders of whites in the taking of the land of the Copper Inuit. It appears that, to Jenness, the Inuits were either too violent or too cowardly.

Following are other brief examples of Jenness' ethnocentrism. Jenness wrote of "the deficiency of the natives in a proper sense of responsibility", and of a "naive childishness and simplicity — even

¹¹⁷ *Ibid.* at 229. On previous pages Jenness discussed the intricacy and complexity of Inuit discussions about their days hunting, fishing, and sealing, but did not attribute any intellectual qualities to such skills.

¹¹⁸ Bruce had reported that theft was rare, and that little had been stolen from the Canadian Arctic expedition.

¹¹⁹ Jenness, THE LIFE OF THE COPPER ESKIMO, *supra*, note 5 at 232.

¹²⁰ *Ibid.*

among older people". He described their "extreme curiosity" as annoying, and evidently played tricks on them. It was "amusing" to him that Nik, Aksiatak's wife, unintentionally tasted cayenne pepper, and that "another native who liked to help himself to our sugar took a mouthful of salt that was left out for him". Jenness also found a "rather thoughtless cruelty" in their treatment of animals and in permitting infanticide.¹²¹

To be fair, Jenness also reported strong virtues among the Copper Inuit: "much kindness and unselfishness", "great energy, patience, and endurance", "peacefulness", "keen sense of humor", and "considerable skill in the treatment of skins, carving wood, and working metal". And in some areas he found the Inuit similar to his society: "truthfulness is a virtue that varies greatly everywhere with different individuals", and "the Copper Eskimos have not escaped that weakness of every people, cultured and uncultured, that is, a certain insularity and narrowmindedness that exhibits itself in the constant laudation of themselves and their own ways and the depreciation of other communities".¹²²

Stefansson, the first ethnographer to work among the Copper Inuit, in 1908, leaves us the least helpful descriptions. The only description of a killing he includes is one from 40 years earlier that ended when the community agreed to take action against the killer. Yet Stefansson adopted the simplistic "blood feud" analysis of Inuit law, arguing wrongly that in the killing he described, the relatives were required to take revenge. In reality, few killings were the result of a "blood feud". Most were brought under control through some kind of community mechanism, and did not lead to endless cycles of killings as in the classic "blood feud" model.¹²³

Stefansson did engage in extensive discussions with Copper Inuit about the meaning of killing that may have given rise to the racist notion that "man killing" had little meaning among Inuit people:

My informants. . .agreed, in general, that to kill a man was about the equivalent of killing a whale, though they were a little doubtful whether the killing of an Eskimo was to be considered quite so much as the killing of a whale; but an Indian was quite up to a whale.¹²⁴

Stefansson went further:

The Kanhiryuarmiut told me, when we want to kill a man, we stab him with a knife. We do not shoot men with bows. . .It is not safe to give warning, except from a distance when you are going to shoot a man. . .A

¹²¹ *Ibid.* at 233, 239. Jenness focussed so much on "murder" among the Copper Inuit, yet the basis of his discussion on "cruelty" related to the killing of animals, while he wrote only one line on infanticide.

¹²² These observations are found in Jenness, *ibid.* at 228-42.

¹²³ V. Stefansson, *MY LIFE WITH THE ESKIMO* (New York, 1913) at 365-66.

¹²⁴ *Ibid.*

knife is much better than a gun. Though it does not kill so quickly, the knife, if of any size, will paralyze the stabbed man so he can do no harm, especially if the stab is in the abdomen.¹²⁵

Stefansson recognized the power of public opinion in Inuit society, but he did not realize that public opinion could have an impact on homicide cases. Similarly, he did not acknowledge Inuit government structures; he saw only a “communist anarchy”.¹²⁶ His analysis is often illogical: for example, he criticized missionaries for preaching against theft and lax morals, rather than against “patricide and murder”, arguing that, while the fear of the police kept murder in check, a “missionary prohibition would be more efficacious”.¹²⁷ His statement makes no sense for the 1908-1912 period that he describes, a time when neither mounted police nor missionaries had penetrated the country of the Copper Inuit. When they did, they were killed; hardly evidence of their persuasive powers.

While Stefansson’s account lacks the experience which other ethnographers had, it does not reach strikingly different conclusions. Both Jenness and Rasmussen endorsed wholeheartedly the importance of mounted police intervention into Copper Inuit society as the only way to control the high murder rate. Jenness was extremely concerned with the economic development of the Canadian north. He argued that the Copper Inuit would make successful trappers, but cautioned that “little can be expected from a purely hunting people in the way of labor for mines”.¹²⁸ Rasmussen took a more humanistic position: “My own experiences. . .have convinced me that the white man, though bringing certain perils in his train does, nevertheless, introduce a gentler code, and in many ways lightens the struggle for existence.”¹²⁹ Still, he cautioned that the Inuit were “at an early stage of evolution” and that “we should bear in mind that life in these inhospitable regions, exposed to the crudest conditions and ever on the verge of extermination is not conducive to excessive gentleness”.¹³⁰

What can these fragments tell us about the community life and the legal order of the Copper Inuit? To answer this question we must draw on some of the different models of Inuit law that legal anthropologists have identified.

¹²⁵ Stefansson, THE STEFANSSON-ANDERSON EXPEDITION, *supra*, note 9 at 309-10.

¹²⁶ Stefansson, MY LIFE WITH THE ESKIMO, *supra*, note 123 at 365.

¹²⁷ Stefansson, THE STEFANSSON-ANDERSON EXPEDITION, *supra*, note 9 at 310.

¹²⁸ Jenness, *The Copper Eskimos*, *supra*, note 6 at 91.

¹²⁹ Rasmussen, ACROSS ARCTIC AMERICA, *supra*, note 97 at 236.

¹³⁰ *Ibid.*

VI. THE ANTHROPOLOGY OF INUIT LAW: BEGINNING TO UNDERSTAND THE LEGAL WORLD OF THE COPPER INUIT

The preceding section provides some idea of the range and scope of what early ethnologists found among the Copper Inuit. It shows that the ethnologists, while more humanistic and appreciative of native culture than most whites, looked at the Copper Inuit with much the same narrow priorities and perspective as the mounties and their superiors in the Canadian government: Inuit customary law was uncivilized and needed to be subsumed, like its people, into Canadian society, to make the Arctic safe for white developers. Before we try to unravel some of the confusion that both approaches suffered in looking at Copper Inuit society we will abstract the ethnographic observations on one level in a brief discussion of how anthropologists have seen Inuit law. Besides Jenness' two-page section on "Law and Order" in his standard ethnography of the Copper Inuit, no one has attempted a broad, theoretical analysis of Copper Inuit law, or related Copper Inuit law to the broader body of information on Inuit law in general.¹³¹ Because there are no observations of Copper Inuit law beyond those described above, our discussion here will cover all Inuit law, and, of necessity, will be speculative in relation to the early twentieth century events among the Copper Inuit.

The literature on Inuit law suffers from at least two major contradictions that we will characterize but not resolve. First, the Inuit were seen, on one hand, as well-ordered hunting societies, fundamentally redistributive in their sharing of the tools and proceeds of the hunt, tolerant of the eccentricities of others in the group, gentle and loving toward their children, and organized along extended family ties in small social units so that every person was personally known. Such a stable structure contrasts strongly with descriptions of excessive anger and high levels of interpersonal violence within Inuit bands, where external warfare was almost unknown.

The second contradiction concerns the attraction that Inuits, often viewed as "a people without law", hold for legal anthropologists. Perhaps these anthropologists show such a strong interest because the Inuit are the proverbial "hard case" that fascinates legal theoreticians. Because they were small bands with no clear authority structures, no universally-applied norms or sanctions, and high levels of violence, it was difficult to apply to them the concept of law. The Inuit have been the ultimate challenge to the theory that law is inherent in the human condition. Offering a different and definitive definition of law is beyond the scope of this paper. It is important, however, to point out the ethnocentrism which is found in the view that the Inuit inhabit a legal

¹³¹ Jenness, *THE LIFE OF THE COPPER ESKIMO*, *supra*, note 5 at 94-96.

terra nullus which justifies interposing Canadian law into their “empty place”.¹³²

The concept of law was first applied to the Inuit by Franz Boas in his study of the Baffin Island Inuit in the middle 1880s. In a four-page section devoted to “social order and laws”, he listed a number of “laws”:

- “a bear or seal belongs to the first man who saw it no matter who kills it”;
- “lost objects must be restored to the owner if he is known”;
- “when a seal is brought to the huts everybody is entitled to a share of the blubber.”¹³³

Boas then concludes:

There is no way of enforcing these unwritten laws and no punishment for transgressors except the blood vengeance. It is not a rare occurrence that a man who is offended by another man takes revenge by killing the offender. It is then the right and the duty of the nearest relative of the victim to kill the murderer. . . . In certain quarrels. . . . in which the murderer himself could not be apprehended the family of the murdered man has killed one of the murderer's relations in his stead. Such a feud sometimes lasts for a long time and is even handed down to a succeeding generation.¹³⁴

While we want to avoid an unfair criticism of Boas' work, we can note the following: (1) to a large extent, this image of Inuit law is the dominant one among anthropologists; and (2) while it may fit the community Boas studied, the above model does not fit the killings that occurred among the Copper Inuit. First, sanctions for violations of basic property rules did not include violence. Second, very few killings, at most five or six of nearly fifty, involved any kind of “blood feud” cycle at all, and none was carried on beyond the immediate context. Even those that involved a “blood feud” occurred in the context of a continuous melee, so it is unclear whether people were killed in revenge or as part of an on-going fight. Boas did not describe the kinds of killings resulting from sudden fits of anger that ethnographers describe as being at the heart of Copper Inuit violence. This either means that (1) killings occurred among the Inuit of Baffin Island for different reasons than they did among the Copper Inuit; or (2) there is a common thread to the experience of these two Inuit peoples

¹³² “*Terra nullus*” comes from the white claim that native land was empty and, therefore, available for the taking. For an analysis of the legal basis of Inuit land ownership, see G. Lester, *Inuit Land Rights in the Northwest Territories*, Ph.D. dissertation, York University, 1980.

¹³³ Boas, THE CENTRAL ESKIMO, *supra*, note 8 at 170-74.

¹³⁴ *Ibid.*

that is not clear to us from ethnographic accounts. While Boas' model is important because it is the first, it is by no means the best, or the most significant. Later models of Inuit legal behaviour have the advantage of a more ethnographic description. Still, it is important to note how Boas' initial view set the stage for subsequent analyses of Inuit law.

The first major statement of Inuit law that systematically took advantage of the ethnographic research was written by E.A. Hoebel. Hoebel never did field work among the Inuit himself, but wrote two accounts based on his studies of Inuit ethnography. The first was written in 1940 and was contemporary with his more well known work on the Comanche and Cheyenne, among whom he did field work.¹³⁵ His 1954 book, *THE LAW OF PRIMITIVE MAN*, begins with a substantial restatement of his Inuit work as the first of five case studies that he uses to illustrate his broader thesis about the nature of primitive law.¹³⁶ This work is still viewed as a masterpiece in the anthropology of law and probably the most important book in the field. It is the foundation of all legal studies of the Inuit.

Much insight into Hoebel's approach is revealed in his chapter titled, *The Eskimo: Rudimentary Law in a Primitive Anarchy*.¹³⁷ "Rudimentary law" is a concept found neither in law schools nor in books on the anthropology of law. For Hoebel, it was a critical part of his analysis of primitive law: the idea that every social system no matter how apparently "simple", necessarily gives rise to some order-maintaining mechanisms that are "legal". In order for there to be law, according to Hoebel, there have to be first, a legitimate authority and, second, some form of physical coercion that follows a violation of law.¹³⁸ Hoebel looked for law not in stated principles, but as "law in action", that is, actual resolution of cases that occur. The importance of this method in opening up new fields of legal scholarship cannot be underestimated, and occurred as a part of the "legal realist" movement that produced Hoebel's model of analysis.¹³⁹ In this context the Inuit were, indeed, the proverbial "hard case".

Hoebel's 1940 article was very narrow and applied in its focus, essentially a study of comparative criminology and criminal law. Its thesis was that the Inuits',

[d]irect and intimate experience in so limited a social world in which sharing and economic cooperation are the supreme virtues, makes all

¹³⁵ Hoebel, *Law-Ways of the Primitive Eskimos*, *supra*, note 8 at 663. See also THE POLITICAL ORGANIZATION AND LAW-WAYS OF THE COMANCHE INDIANS, no. 54 (Menashe, Wisconsin: Memoirs of the American Anthropological Association, 1940); and Hoebel & Llewellyn, *THE CHEYENNE WAY*, *supra*, note 4.

¹³⁶ Hoebel, *THE LAW OF PRIMITIVE MAN*, *supra*, note 8.

¹³⁷ *Ibid.* at 67.

¹³⁸ *Ibid.* at 28.

¹³⁹ *Ibid.* This method is developed in Chapter 3, "Methods and Techniques".

individuals extremely sensitive to social pressure. The fundamental problem of control is solved at this point. It means that the need for an elaborated law system is forthwith forestalled.¹⁴⁰

Using data from virtually every ethnography of the Inuit, Hoebel then briefly described Inuit conflict-regulating mechanisms to show how each formed an element of a system that maintained social equilibrium and channelled human behaviour.

Hoebel's concern with a definition of law, while present in 1940 in his other work, was not a concern in the Inuit study. Rather, he contented himself with showing that social control mechanisms had an element of logic and regularity to them. Working ethnographic data into a systematic definition of law was left for his book, although Hoebel did not do significant new research in the intervening thirteen years. Not only was the chapter in his book organized around the same Inuit legal phenomena, it also incorporated the conclusion of the article as the conclusion of the book chapter. What changed was that Hoebel included in the book a list of "jural postulates" that were the basis of Inuit legal principles. For Hoebel, a "postulate" was a "[b]roadly generalized proposition held by the members of a society as to the nature of things and as to what is qualitatively desirable and undesirable", and he added that "philosophers and sociologists commonly call them 'values'".¹⁴¹

Given the importance of Hoebel's work, and the fact that these "jural postulates" were his summary of the fundamental principles of Inuit society, some attention to them here may help us understand the Coronation Gulf events and the Copper Inuit.¹⁴² The first two postulates have to do with the spirit world of the Inuit:

Postulate I: Spirit beings, and all animals by virtue of possessing souls, have emotional intelligence similar to that of man.

Corollary I: Certain acts are pleasing to them; others arouse their ire.

Postulate II: Man in important aspects of life is subordinate to the wills of animal souls and spirit beings.

Corollary I: When displeased or angered by human acts, they withhold desired things or set loose evil spirits.¹⁴³

In beginning here, Hoebel showed great insight into the linkages between Inuit religion and their social order — the spirit world and

¹⁴⁰ Hoebel, *Law-Ways of the Primitive Eskimos*, *supra*, note 8 at 665.

¹⁴¹ Hoebel, *THE LAW OF PRIMITIVE MAN*, *supra*, note 8 at 13.

¹⁴² The Copper Inuit were only one of sixteen ethnographic accounts Hoebel studied.

¹⁴³ Hoebel, *THE LAW OF PRIMITIVE MAN*, *supra*, note 8 at 69.

the temporal world could not be separated. This theme can explain how Jenness misunderstood the Copper Inuit "murders".

Hoebel's next three postulates deal with the relationship between Inuit environment and values concerning property:

Postulate III: Life is hard and the margin of safety small.

Postulate IV: All natural resources are free or common goods.

Postulate V: It is necessary to keep all instruments of production (hunting equipment, etc.) in effective use as much of the time as possible.¹⁴⁴

Since our focus is on killings rather than on property crime, these postulates will not be dealt with except to note that, if accurate, they adequately explain the image of the "thieving Eskimo". The opposite image would be of the "greedy, property-hoarding Canadian".

Hoebel then designates four postulates directly concerned with violent interpersonal conflict:

Postulate VI: The self must find its realization through action.

Corollary I: The individual must be left free to act with a minimum of formal direction from others.

Corollary II: The measure of the self for males is success as a foodgetter and in competition for women.

Corollary III: Those who are no longer capable of action are not worthy of living.

Corollary IV: Creation or personal use of a material object results in a special status with respect to "ownership" of the object.

Postulate VII: Women are socially inferior to men but essential in economic production and childbearing.

Postulate VIII: The bilateral small family is the basic social and economic unit and is autonomous in directing its activities.

Postulate IX: For the safety of the person and the local group, individual behaviour must be predictable.

Corollary I: Aggressive behaviour must be kept within defined channels and limited within certain bounds.¹⁴⁵

If Hoebel is correct, these postulates may help us explain the Coronation Gulf killings. But already there are problems in applying his "general framework" to the Copper Inuit who did not practice

¹⁴⁴ *Ibid.*

¹⁴⁵ *Ibid.* at 70.

“senilicide” (the killing of old people). Thus Postulate VI, Corollary III does not apply to them.¹⁴⁶ Other Inuit evidently did not practice female infanticide; consequently, Postulate VII pertains only to some Inuit groupings, including the Copper Inuit.¹⁴⁷ Finally, Hoebel spends about twenty percent of both his article and his later chapter discussing non-violent release mechanisms such as song duels and head-butting or wrestling contests which are common topics for analysis by anthropologists of Inuit law generally, but were virtually unknown among the Copper Inuit.

While introduction of a framework is the major theoretical difference between the 1940 and the 1954 analysis of Inuit law, it was not the major policy difference by 1954, although none of his major source materials had changed. In 1940, Hoebel was value-neutral about Inuit killings, but he reached the same conclusion as Jenness: “But the weaknesses of the Eskimo system are evident. In a society in which manpower is desperately needed, in which occupational hazards destroy more men than the society can well afford, there is additional tragic waste in the killings which the inchoate system permits — indeed, encourages.”¹⁴⁸ To these anthropologists then, Inuit law is criminogenic, while Anglo-Canadian law presumably is not.

Hoebel’s model for inquiring into the legal functionings of a society is the starting point for most modern students of legal anthropology. What is important to us is to get a firm hold on the legal culture of the Copper Inuit, especially to the extent it differed (1) from Hoebel’s generalized model of Inuit law and (2) from the ethnographers’ specific description of Copper Inuit social life, in general, and their image as “murderers” in particular.

For another recognized specialist in the anthropology of law, Leopold Pospisil, the elements of “leadership” and “social structure” are critically important beginning points for the study of the law of any people. While this perspective is not wholly inconsistent with Hoebel’s, it does differ in emphasis. Unlike Hoebel, Pospisil engaged in secondary research on only one Inuit people, the Nunamiat of Alaska, in an essay that took sharp issue with an ethnological study by Robert Spencer.¹⁴⁹ Like Boas, Jenness, and Birkett-Smith, Spencer had seized on the “blood feud” as an essential element in Inuit law, evidencing its anarchy.¹⁵⁰ But to Pospisil, the blood feud “represented an antithesis rather than a manifestation of law”.¹⁵¹ Hence, Pospisil set

¹⁴⁶ Jenness does not report that senilicide existed, and none of the reported cases involve senilicide.

¹⁴⁷ Garber, *Eskimo Infanticide*, *supra*, note 22.

¹⁴⁸ Hoebel, *THE LAW OF PRIMITIVE MAN*, *supra*, note 8 at 99.

¹⁴⁹ Pospisil, *Law and Societal Structure Among the Nunamiat Eskimo*, *supra*, note 8; Spencer, *The North Alaskan Eskimo*, *supra*, note 8 at 97-123.

¹⁵⁰ Boas and Jenness are previously discussed in the text. See Birkett-Smith, *THE CARIBOU ESKIMOS*, *supra*, note 8 at 265.

¹⁵¹ Pospisil, *supra*, note 8 at 395.

out to show how leadership and social structure regulated Nunamiut conflict.

In the process, Pospisil showed how law can be understood only by comprehending a very complex network in the case of the Inuit; of hunting bands, factions, and nuclear and polygynous family units, each differing as to legal norms for inter- and intra-group conflicts. Different laws apply in different relationships. Feuds, in Pospisil's analysis, exist outside law, beyond the legal boundaries of a particular social unit. Pospisil found different levels of law among the Nunamiut outlining a system much more complex than that outlined by Hoebel. He also placed "psychological sanctions" on a level with Hoebel's physical sanctions, a concept important to understanding the operation of any legal system, but perhaps especially important to understanding societies based on primary grouped relationships.¹⁵²

The Inuit are comprised of 16 peoples spanning 6,000 miles. Nelson Graburn and several other anthropologists have chosen to emphasize differences and contradictions among them, rather than to explore Inuit law on the basis of similarities. While Hoebel and Van Steenhoven found "few legal structures and processes", and Pospisil claimed that such structures "are or must be present" among the Inuit, Graburn concluded that both positions were correct. The disparity reflected the fact that ethnographers reported many variations in Inuit legal behaviour, all of which Graburn took to be essentially accurate. What is unique about Inuit legal behaviour is its situational and individualistic character.¹⁵³

Graburn then constructed a listing of Inuit values and of the behavioral correlates of those values. The behavioral correlates are as follows:

- (1) Consider one's own self above all others in all things.
- (2) Take every opportunity for self-enhancement of prestige or self-preservation.
- (3) Never risk self or prestige unless such risks are unavoidable.
- (4) Test every situation and person to see how much one is likely to be able to get away with safely.
- (5) Manipulate one's social situation to every personal advantage.
- (6) Beware of and take steps to appease the many forces of the supernatural.

¹⁵² *Ibid.* at 424-28. Although complete data has not yet been gathered, it may be that Pospisil places too much emphasis on the complexity of Inuit structure.

¹⁵³ Graburn, *supra*, note 8 at 46.

(7) Accept situations when they cannot be helped, when they are beyond one's control.¹⁵⁴

Graburn then analyzed a number of specific behaviour choices individual Inuits made to put the above correlates into operation. "Killing", the first option, was simply one choice among many. Others included "self detachment or running away", "ostracism", and "avoidance reaction" (denial of the problem) or "deference to dominion authority" (letting the white man deal with it). A number of specific social mechanisms also existed, including resorting to shamanic or religious intervention, as well as boxing contests, song contests, scolding sessions, malicious gossip, and a kind of "probation", or placing the offender under close scrutiny to see whether bad behaviour continued or was only an isolated mistake.¹⁵⁵

Graburn's work clearly reflected observed Inuit behaviour, based on his own fieldwork carried out among the Inuit of Quebec and Baffin Island. It is unique in that it took the earlier ethnographic observations about "primitive anarchy" to their legal conclusion in a careful and systematic way, envisioning a legal order that emphasized maximum individual choice in the pursuit of self-interest. Ethnographic evidence that self-interest above all other values is more prominent among the Inuit than in other societies is not altogether convincing. In addition, Graburn's work, like Hoebel's, includes the study of mechanisms that either do not exist among the Copper Inuit, or exist in different forms. Finally, Graburn's work was done in the modern period, and reflects legal values that almost certainly were changed by Canadian influence. While such a study is clearly valuable, it differs from one that explores the question of the character of Copper Inuit law at the time of contact.

However, Graburn's emphasis on ethnographers' selectivity apparent in their studies of Inuit law is important. A basic characteristic of Western legal systems is their juridical uniformity, at least as it appears as formal written law. Students of legal realism, or "law in action", have long pointed out that this uniformity is a fiction, and that, in operation, nothing is uniform about Western legal systems: killers escape, or are rewarded, or unnoticed, or given probation, or short jail sentences, or medium-to-long jail sentences, or they are executed.¹⁵⁶ The basic issue for legal scientists is "What are the social mechanisms operating behind these social choices?" Pospisil tried to answer this query in detail for the Nunamiut, but we lack adequate studies to do so for other Inuit tribes. Graburn tries to answer it differently for the Baffin Island Inuit, focusing on each legal event as a unique occurrence, understood in an individualistic way.

¹⁵⁴ *Ibid.* at 47.

¹⁵⁵ *Ibid.* at 48-49, 52-53.

¹⁵⁶ On legal realism.

Several observations by other scholars give support to Graburn's method. The Dutch legal anthropologist Wim Rasing, a careful student of Inuit law, criticizes Hoebel's emphasis on "trouble cases" as necessarily overemphasizing social conflict as the basis of law. Similarly, Rasing points out that ignoring a legal problem is an essential expression of law — law acts by not acting (something every speeder knows).¹⁵⁷ Norbert Roland, a French legal anthropologist, is critical of Western legal scholars who place undue emphasis on formal or informal sanctions as the essence of law.¹⁵⁸ While sanctions are one identifying mark of a legal system in operation, the law of the Inuit puts emphasis on internalized psychological punishments, highly effective in Inuit society because of its social characteristics.¹⁵⁹ Small size, family-based units, intense interdependence, and changing ecological conditions create legal values that change. Not only do sanctions change to fit conditions, they are often not imposed for the first offense, but only after one of several repeat offences. Psychological mechanisms to restore social harmony operate at different levels depending on the intensity of disintegration in a society. There is no emphasis on meting out "justice" in Inuit law, only on restoring social harmony, hence no attempt is made to impose a uniform, individualized, "just" sanction.¹⁶⁰ Roland's model, similar to Graburn's, accounts for the high level of variation and inconsistency that ethnologists saw (and continue to see) in Inuit law. We see uniform sanctions only on occasion, and miss the processes that occur as sanctions shift because we do not orient our model of law from sanction shift to sanction shift.

This brief survey of major theorists of Inuit law is not designed to break new ground in legal anthropology, for that would not do justice to the complexity of the work of Hoebel, Pospisil, Graburn, Rasing, Roland, or any others who have done work in this area. Our purpose has been to look to this body of theory for some tools with which to return to our analysis of the Copper Inuit, the Coronation Gulf killings, and the use of those killings as one rationale for imposing Canadian law on the Copper Inuit people. Such a rationale continues to deny the Copper Inuit their own traditional legal order and unnecessarily imposes a strong mounted police presence in their country.

VII. A CLOSER LOOK AT THE LEGAL CULTURE OF THE COPPER INUIT

We have chronicled the killings involving Copper Inuit as one way to approach analyzing their legal culture: the "law" of every society must regulate killings. We have also considered Canadian legal

¹⁵⁷ W. Rasing, *ON CONFLICT MANAGEMENT WITH NOMADIC INUIT: AN ETHNOLOGICAL ESSAY* (Doctoral thesis, Nijmegen: Catholic University, 1964) at 7.

¹⁵⁸ Rouland, *supra*, note 8.

¹⁵⁹ *Ibid.* at 20-21.

¹⁶⁰ *Ibid.* at 7-19.

history, witnessed the disciplined, tough and resourceful Royal Canadian Mounted Police carry both flag and law to the Arctic, where, they averred, no law existed. Not even a "perfect" legal system could have accommodated the rapidly changing economic interests of northern whites, and the political interests of the Canadian state, reinforced by the law and order interests of the RCMP, without a great deal of stress. Today, it is still maintained of the Copper Inuit that "they have no law, no capacity to maintain social order". It is this rationale for imposing an external legal order — the essence of colonialism — that denies them their legal history, peace and internal stability.¹⁶¹

Among the Copper Inuit there was a total of fifty killings in the thirty year period beginning about 1900.¹⁶² We cannot make a reasonable estimate of the incidence of infanticide.¹⁶³ For all the intensity of their anti-infanticide campaign, the RCMP never made an arrest for it among Copper Inuit.

As Rasmussen pointed out, infanticide was an adaptive mechanism, not an inherent element of Inuit culture; its solution was economical not legal. As the economic basis of Inuit existence stabilized, infanticide disappeared.

¹⁶¹ For a summary of the problems, see "Judicial System Unfamiliar" in *News/North* (21 June 1985) 1. This is a popular press account of a series of discussions in Parliament. See Minutes of Proceedings and Evidence of the Standing Committee on Justice and Legal Affairs, House of Commons, Issue No. 5, February 14, 1984, and Issue No. 6, February 16, 1984, "The Criminal Justice System in the North." See also L. McDonald, M.P., *Criminal Justice in the North*, unpublished paper, 1985. Ms. McDonald was at that time the New Democratic Party critic in the Standing Committee of Justice and Legal Affairs of the Canadian House of Commons and took a particular interest in justice in the North. There is also a growing criminological literature on both Inuits and on the Northwest Territories, which is about one-third Inuit. See R.G. Condon, *SEASONAL VARIATION AND INTERPERSONAL CONFLICT IN THE CENTRAL CANADIAN ARCTIC*, 1982.

This study is of a modern Copper Inuit community, Holman Island. See C.H.S. Jayewardene, *Violence Among the Eskimos* (1975) 17 CAN. J. OF CRIMINOLOGY AND CORRECTIONS 307; and a number of studies by H. Finkler, including *Corrections In the Northwest Territories 1967-1981, with a Focus on the Incarceration of Inuit Offenders* (1982) C.L.A.B. at 27-28; and *INUIT AND THE ADMINISTRATION OF CRIMINAL JUSTICE IN THE NORTHWEST TERRITORIES: THE CASE OF FROBISHER BAY* (Ottawa: Department of Indian and Northern Affairs, 1976).

¹⁶² Copper Inuit murders by source:

- a) as found in Jenness, *LIFE OF THE COPPER ESKIMO*, *supra*, note 5: 14 (beginning a few years before 1908 and ending in 1918);
- b) as found in Rasmussen, *INTELLECTUAL CULTURE OF THE COPPER ESKIMO*, *supra*, note 9: 11 (within the memory of men alive in 1922);
- c) as found in *REPORT OF THE RCMP*. 1916, *supra*, note 14: 6 (1910-1919) and 20 (1920-1929).

¹⁶³ There were no arrests related to infanticide. Jenness reports four cases of infanticide "in the vicinity of our station" in the winter of 1915-1916, and one from two years earlier. Although he does not number the Copper Inuit groups that wintered there, perhaps 200 people, or 1/3 of the whole population was present. Jenness states it was "more than the average number owing to the severity of the winter".

The pattern of adult killings was not so easily encompassed. Canadian efforts at deterrence as manifest in the hangings of Alicomiak and Tatamigana were, at best, ineffective. Copper Inuit killings dropped from eleven between 1920 and 1925 to nine between 1925 and 1930. But an increase occurred in killings among other Inuit, from four in the period before 1925 to ten in the period after. Probably more arrests were made because more arrests were possible, as RCMP presence in the Arctic became general and relatively efficient. In 1926, the RCMP Annual Reports noted that with the advent of the wireless radio an Inuit murder that took nearly five years to investigate between 1912 and 1917, could now be investigated in ten days.¹⁶⁴

But these are outside explanations, having to do with the nature of Western systems of criminal justice. The more difficult task is to learn about the Copper Inuit legal order through its interface with social structure.

A. *Leadership Structure and the Dynamics of Homicide*

Both the ethnographers and the mounties failed to grasp the relationship among the Copper Inuit between leadership structure and interpersonal violence, best exemplified by the organized murders of Fathers Rouviere and LeRoux. The record on the context of these deaths is complete: whether they were planned in advance was a major concern to the RCMP in conducting their investigation. These murders were contemporary with Jenness' ethnographic investigations, which included the anthropologist's usual interest in leadership; around these events is the most extensive set extant of published interviews with the Copper Inuit. When attention is paid to the leadership dynamics, the official "theory of the case" adopted by the mounties appears to be nothing more than the simple explanation fed them by the Copper Inuit. It is more likely that a complex competition for Inuit leadership explains the murders of the two priests. The Inuit, in a carefully concocted story, concealed this motivation.

The full story of the killings of Rouviere and LeRoux is told in the first section.¹⁶⁵ The two priests had become familiar to the Copper Inuit while working from a cabin at the head of Great Bear Lake where the Inuit and the Indians met to trade in the summer. In the fall of 1913, they accompanied a trading party down the Coppermine River to the Coronation Gulf. After a month or two, they set out to return to Great Bear Lake. Sinnisiak and Uluksuk confessed that they met and travelled with the priests for a day during which the priests became

¹⁶⁴ Steele, *POLICING THE ARCTIC*, *supra*, note 10 at 48.

¹⁶⁵ Inspector C.D. LaNauze, *Reports Regarding the Great Bear Lake Patrol and the Arrest of Murderers of Reverend Fathers LeRoux and Rouviere*, printed as Appendix A of the *REPORT OF THE RCMP*, 1916, *supra*, note 14 at 190. The statement of Uluksuk is found at 211; of Sinnisiak at 212.

angry at them for not helping enough with their heavy sled. In fear of the priests, Sinnisiak stabbed one, and while Uluksuk finished him off with an axe, Sinnisiak shot the other. Both then ate the liver of one of the priests, took their guns and ammunition and returned to the coast.¹⁶⁶ Based on this testimony, one jury acquitted Sinnisiak by reason of self-defence, but a second jury convicted both Inuit for the remaining murder, evidently finding the theft of the rifles as motive for the killings. When the mounties came to solve the crime, several Copper Inuit told them similar versions of the story down to the location of Sinnisiak and Uluksuk. Looking at the evidence, we can conclude that it is likely that the priests were killed through a consensus of the members of a hunting band led by Kormik; the priests had embarrassed and offended Kormik, they had valuable possessions — chiefly the rifles, and they had powers that the Inuit believed could be seized and controlled.

How the Copper Inuit received the mounted police investigation team shows clear organization. A patrol led by Corporal Bruce arrived in the Copper Inuit country eight months before. He found many religious articles belonging to the priests, but the people were evasive about events connected to possession of the articles.¹⁶⁷ Inspector LaNauze, upon arriving at the mouth of the Coppermine on April 30, approached the murder investigation slowly. He found that the first people he talked to were as evasive as they had been with Bruce. On the evening of May 7, while in an igloo talking to Ekkeshuina, Koeha started to speak. The Inuit present deferred to him and by 4:00 a.m., Koeha had told the story of the killings exactly as it was eventually set forth in the trials. Uluksak, a shaman of powerful talents and a kingpin in Jenness' ethnography (confused with Uluksuk in the major published account of the murder case), volunteered that he knew where both Uluksuk and Sinnisiak were and offered to guide the police to them. He was immediately hired.¹⁶⁸

Inspector LaNauze marvelled at his "good luck". Sinnisiak was located nearby and arrested on May 14; he would normally have been hundreds of miles away on the far side of Victoria Island. On May 17th, Uluksuk was also located nearby, instead of far off on the Kent Peninsula, where he normally would have been. Both were arrested sitting in their igloos. While Uluksuk seemed passive and willing to go, Sinnisiak was surly and resistant. "If the white men kill me, I will make medicine and the ship will go down in the ice and all will be drowned", he threatened. Both, at first, refused to talk to the police,

¹⁶⁶ Corporal W.V. Bruce, *Crime Report re the Disappearance of Two Priests, Fathers Rouviere and LeRoux* in REPORT OF THE RCMP, 1916, *supra*, note 14 at 243-47.

¹⁶⁷ REPORT OF THE RCMP, 1916, *ibid.* at 199-200.

¹⁶⁸ *Ibid.* at 200-03. The quotation of Sinnisiak is at 201.

but Sinnisiak gave them a statement on May 17th and Uluksuk on May 29th recounting essentially the same thing as Koeha.¹⁶⁹ All their stories came to the same conclusion.

Koeha's original statement contained two important clues that the mounties, in possession of confessions and clearly identified guilty parties, never followed up. First, Koeha revealed that the priests, who originally intended to stay as missionaries to the Copper Inuit, decided to turn back after only five days because they had a violent fight with Kormik, who stole a priest's rifle and hid it in the corner of his igloo. The priest found the weapon and got angry at Kormik, who lost his temper so violently that he had to be restrained by his mother while Koeha helped the priests pack. Second, almost incomprehensible in the Arctic, they left late in the day, a dangerous departure time, as it grew dark early in the fall. Koeha escorted them out of the camp "as far as he could see the tops of the tents" and sent them on their way.¹⁷⁰

The circumstances of this departure raise questions about Kormik's role in the priests' death. Furthermore, Kormik had more of the priests' possessions, even than did Uluksak. Both Inuit claimed that they had "traded" for the articles, although Uluksak later admitted robbing the priests' cabin.¹⁷¹

As LaNauze went to interview Kormik, he took Koeha along, noting that he "seemed to want to help us in every way. . .he is quiet, elderly man". LaNauze further noted that "as I was taking Kormik's statement, we observed him watching Kormik closely".¹⁷² Nor was Koeha able to offer a motive to explain why Sinnisiak or Uluksuk might have killed the priests. "Sinnisiak never wanted to kill the white men for their stuff, and the white men never troubled any of the Eskimos." "I asked Uluksuk, 'What did you kill the white men for', and he said, 'I did not want to kill them; Sinnisiak told me to kill them.'" This version of events — including Uluksuk as Sinnisiak's unthinking accomplice — continued through the trials.

Hupo's statement revealed some things about the camp where the argument occurred. It was made up of "many" people (the Copper Inuit had no numbers larger than three) who had come down the river, together with the priests. "There were many families and tents for each family travelling with us." Hupo named Koomuck, Neochtellik, Kingoralik, Uluksak and Sinnisiak, as well as himself and Kormik, in whose tent the missionaries were staying. They met other people

¹⁶⁹ For the statements themselves, *see* note 165, *supra*. The circumstances of Sinnisiak's are found in REPORT OF THE RCMP, 1916, *ibid.* at 201, Uluksuk's at 203. LaNauze claims to have warned each twice before they made their incriminating statements.

¹⁷⁰ REPORT OF THE RCMP, 1916, *ibid.* at 207-09.

¹⁷¹ *Ibid.* at 204, 243-47.

¹⁷² *Ibid.* at 208-09.

already on the coast including Kocha, Itegitak and Kitoroon. Angebrunna admitted to being in the camp and Toopek, Kallun and Kinorlik were named as among those who checked the priests' dead bodies and stripped them of their possessions. By all accounts, this party was led by Kormik. No fewer than fourteen Copper Inuit were present in the camp. The camp probably reached fifty or more people, a merger of at least two travelling groups.

We do not know the full range of relationships that linked the families in this camp, but we know they were interrelated. Regarding leadership structure, we know that “[a] man acquires influence by his force of character, his energy and success in hunting, or his skill in magic”.¹⁷³ No witnesses attributed shamanic powers to Kormik, but because he both had the priests as guests in his tent and wound up with most of their possessions, Kormik was clearly in a leadership position. According to LaNauze, Kormik “had a rather bad reputation, and has not a prepossessing appearance”. Yet he admitted to taking the priest's rifle from Uluksuk after the killing.¹⁷⁴ Gaining possession of the rifle was Uluksuk's only motive for killing the priests. That Kormik could take it away from him indicates Kormik had recognized power.

Sinnisiak played some leadership part too; perhaps as a minor shaman.¹⁷⁵ He led in committing the murders; when he ate one of the priest's livers to neutralize the priest's power after death, it was ritualistic behaviour, typical of a spiritual guide. It may be that in the confusion, after the dispute between the priests and Kormik, there was a discussion of how the priests should be followed and killed. Sinnisiak may have volunteered, to do a favour for his superior, Kormik, or to advance his own personal or spiritual power. It is clear that Sinnisiak never told the full story of the killing. Moreover, in his self-incriminating statement, it appears he was protecting Kormik: “The next morning, we got back to camp as soon as it was light. I went to Kormik's tent and I woke him up. I told him I killed these two fellows already; I can't remember what Kormik said.”¹⁷⁶

Uluksuk was probably in the same situation as Alicomiak ten years later; that is, a younger man helping a more powerful older man do an important task. Uluksak (not to be confused with Uluksuk) was identified as a very powerful shaman by Jenness. He was the Inuit seen by RCMP Officer Bruce wearing the priest's cassock. Uluksak admitted robbing the cabin at Great Bear Lake, a substantial journey, but worthwhile for seizing material goods associated with the priests's

¹⁷³ Jenness, *THE LIFE OF THE COPPER ESKIMO*, *supra*, note 5 at 93.

¹⁷⁴ REPORT OF THE RCMP, 1916, *supra*, note 14 at 204.

¹⁷⁵ Sinnisiak's statement to the police that he “would make medicine and the ship would go down” suggests his shaman role.

¹⁷⁶ REPORT OF THE RCMP, 1916, *supra*, note 14 at 213.

powers to enhance his own and not lose ground to Sinnisiak.¹⁷⁷ He led the police to Sinnisiak and Uluksuk as an opportunity to be rid of an adversary and to remove himself from suspicion. The fact that he gave both Jenness and the mounties three different accounts of how he came by the priests's possessions, at least one a complete lie, demonstrates how Copper Inuit could resort to lies structuring the reality they presented the police and anthropologists.

Such a plan to mislead the mounties seems too elaborate for a "primitive" people with no previous experience with white police. We should keep in mind that many Inuit interviewed by LaNauze revealed that they had been told by Hornby (a white man who had earlier lived with the priests at Great Bear Lake) that all the Inuit would be killed if they killed a white man.¹⁷⁸ Self-preservation would have dictated that they concoct a simple story which greatly limited group responsibility. LaNauze noted that many Copper Inuit appeared to have lied to him, told him half-truths, or talked to him with great reluctance.¹⁷⁹ Evidently, after some confusion, a group decision was made, quite possibly influenced by intergroup rivalry, to tell the mounties the most obvious piece of the full story, thus sharply limiting responsibility to two people. LaNauze acknowledged as much. That Kormik and others were fully involved in the murder seems as likely as the story that ultimately convicted Sinnisiak and Uluksuk.

But the purpose for reopening the LeRoux and Rouviere murder case is to apply Pospisil's notion that a complex network of Inuit leadership structures based on both family ties and ascribed power was at work in Copper Inuit violence. LaNauze ignored the clear foundation for Kormik's leadership, as well as any relationship between the two leaders, Uluksak and Kormik. These ties would be pertinent even if Sinnisiak and Uluksuk acted alone. To ascribe structure to Copper Inuit society was probably beyond LaNauze's view of the primitive. His communications with Jenness were not helpful for Jenness spent very little time working out the intricacies of Copper Inuit social organization. Although he specified twenty-four familial relationships, he did not explore their function.¹⁸⁰ The concept of leadership, which Jenness mistakenly called "chieftainship", was condensed into one page spent discussing the leadership methods of only two men, Ikpakhuak and Uluksak,¹⁸¹ Jenness described Uluksak in glowing terms:

In all matters relating to everyday life, his integrity was beyond question; he had never been known to abuse his influence, or divert it to his own selfish ends at the expense of his fellow-countrymen. . . . The natives of

¹⁷⁷ *Ibid.* at 243-47; Jenness, *THE LIFE OF THE COPPER ESKIMO*, *supra*, note 5 at 93.

¹⁷⁸ *REPORT OF THE RCMP*, 1916, *supra*, note 14 at 200.

¹⁷⁹ *Ibid.* at 215.

¹⁸⁰ Jenness, *THE LIFE OF THE COPPER ESKIMO*, *supra*, note 5 at 83-84.

¹⁸¹ *Ibid.* at 93-94.

Bathurst inlet seemed to obey him without question. Frequently, he led them on the migrations; he brought about forty of them with him to visit our station, and without question, they were the most honest and the best behaved natives we ever had dealings with.¹⁸²

Jenness became deeply involved in the police work of the investigation, not only as an interpreter for the RCMP when they questioned the Inuits involved in the case, but also as interrogator himself on behalf of the police. Before LaNauze's arrival, Jenness hid the purpose of the investigation from the Inuit, relying on the Canadian Arctic Expedition as a cover. LaNauze wrote: "I would like to state here that these Eskimos have no idea that any investigation is being carried out, for Mr. Jenness, as an ethnologist, has necessarily to ask the most pertinent questions."

It is more difficult to speculate about what happened on the Kent Peninsula in the "murderous affray" that ultimately led to the executions of Tatamigana and Alicomiak. The mounted police relied on the Inuits' own confessions to convict them, and did not take statements from many natives that help to reconstruct relationships. At their trial, Doak's murder was the dominant issue; it did not involve the complexity of the original murders. Nevertheless, the information we have suggests that the murders were not a blood feud, but rather involved complex structural factors.

Hanak, who wanted to get possession of another wife, caused the community disruption that ultimately led to the killings. He evidently postured about his intentions for some time, for he gained two allies, Ikpakhuak and his son, Ikialgina. The other people in the camp became apprehensive and prepared to leave the area. Threats were made to Pugnana and Tatamigana as well as challenges to a gun fight. While the challenges had been refused, the two were on the alert for trouble.

The day before the intended move, Hanak shot Anagvik without warning, wounding him. At this point, Pugnana and Tatamigana rushed out of their igloo, and shot and instantly killed both Hanak and Ikialgina. While Pugnana killed Hanak's wife and finished off Hanak with a knife, Tatamigana engaged in a long gun battle with Ikpakhuak, who was ultimately killed when Pugnana joined the fray. Pugnana, then killed Okalitima, Hanak's four-year-old daughter, totaling five killings on that day.¹⁸³

¹⁸² *Ibid.* at 93. Jenness became deeply involved in the police work of the investigation, acting not only as an interpreter for the RCMP when they questioned the Inuits involved in the case, but also as interrogator himself on behalf of the police. Before LaNauze's arrival, Jenness hid the purpose of the investigation from the Inuit, relying on the Canadian Arctic Investigation as a cover. LaNauze wrote: "I would like to state here that these Eskimos have no idea that any investigating is being carried out, for Mr. Jenness, as an ethnologist, has necessarily to ask the most pertinent questions." REPORT OF THE RCMP, 1916, *supra*, note 14 at 247.

¹⁸³ REPORT OF THE RCMP, 1922, *supra*, note 29 at 38.

A number of things about these events drawn from statements by Tatamigana and Alicomiak do not make sense. In all the ethnographic accounts of Inuit life, there is no account of a general melee like this — a camp where the power structure is so broken down that civil warfare erupts. The official report gives contradictory reasons for the fight which centre on two stereotypes about women: Hanak both wanted another woman and was also upset that Tatamigana and Pugnana were “too friendly” with his wife. It is a well known Inuit defence mechanism for the rest of the people in a camp to move away from violence, isolating troublemakers. Hanak and his allies, it seems, were put in the category of troublemakers by the rest of the camp group.

But this does not explain the killing of Hanak’s wife. Wives were never killed in disputes between men. There was no reason to do so and murder cut down the number of women available. Some unknown relationship or circumstance must exist to explain Hanak’s wife’s murder.

Finally, we know that Pugnana was killed by Tatamigana and Alicomiak. Tatamigana stated:

[H]e asked me if I would help him to kill some more people. I talked to him and tried to get him to change his mind, but he said that he was bound to do more killing, as the other people were against him. On our return to camp, I decided that the best thing to do would be to kill Pugnana and save any further trouble.¹⁸⁴

By itself, this was a conventional form of Inuit killing, to rid the community of a troublemaker. It was for his crime that Tatamigana was executed. It was unlikely that the violent troublemaker role taken by Hanak was quickly transferred to Pugnana only in order to rid the community of two troublemakers. The unprecedented acts of violence involved men from both sides. Some major community disruption occurred, the cause of which is beyond our grasp (at the root of the community disruption may have been the trading post owner, Binder’s, effort to take Ikpakhuak’s wife).

The other Herschel Island murder cases, the killing of Ahkak by Kapokatchiak, Olepsekak, Ekootuk and Amokuk, probably best fits the classic example of an Inuit murder case showing community legal mechanisms in operation. Ahkak, a poor hunter, had often quarrelled with Agluetuk. There were no witnesses when Ahkak shot Agluetuk, but he was heard to say that he thought Agluetuk might do something to him. The common belief was that Agluetuk was killed as a result of Ahkak’s jealousy.¹⁸⁵

The next winter Ahkak made camp, but became dangerous and attempted to kill his wife and brother-in-law. As a result, he was

¹⁸⁴ *Ibid.* at 38-39.

¹⁸⁵ REPORT OF THE RCMP, 1921, *supra*, note 21 at 39-42.

turned out of his house and lived alone. One day, four people met and decided to kill Ahkak. They went to his house and seized him. Ahkak realizing what was happening, asked them to strangle rather than stab him, telling them where there was a strong cord.

Several well-described Inuit legal mechanisms are in action in this killing. Ahkak was not killed for killing Agluetuk but because he was a continuing danger to the community. He had not been killed after the first murder, nor was he killed in retribution, although the RCMP applied a “blood feud” analysis. Here we have evidence of a traditionally-functioning Copper Inuit hunting camp that was able to process a threat to its community order.¹⁸⁶

B. Shamanism, Religion and Inuit Law

Hoebel observed that Inuit life was organized around deep religious beliefs that helped deal with a hostile and unpredictable world.¹⁸⁷ As an “active” religious belief, one that could intervene in life, it cannot be separated from a discussion of manifestation of Inuit law. Many of the Inuit killings have some kind of religious meaning at their core. The operation of unseen religious factors (like unseen familial and leadership factors) explain in good part the lack of uniformity in community reaction; as we have seen in the killings of the two priests. Religious factors also interrelate with issues of power and survival. Perhaps one way to explain the priests’ sudden departure is that they threatened the religious base of the Copper Inuit. Among the Inuit, religious forces also resolved disputes. But ethnographic accounts of the killings do not give us enough material to reconstruct the religious interface with the Copper Inuit law.

C. White Contact and Inuit Interpersonal Violence

One recurring theme in the study of native customary law is the extent to which that law is disrupted when native social order is transformed by white contact. The period we are concerned with covers the massive transformation of the Copper Inuit, from the arrival in 1905 of the fur traders with their guns to the arrival of the wireless in 1927, which facilitated carrying Inuit off to jail. Was the high level of violence intentionally precipitated just before the arrival of the police, to be used by the mounties as a rationale to take control of Copper Inuit society? Was Copper Inuit society less violent than these killings would suggest? Much evidence supports these conjectures.

¹⁸⁶ *Ibid.* at 38.

¹⁸⁷ Hoebel, THE LAW OF PRIMITIVE MAN, *supra*, note 8 at 69-74.

White observed that "giving the huskies guns" led them to engage in killing each other wholesale.¹⁸⁸ Almost all the Copper Inuit murders after 1920 were done by rifle; before rifles were available, all killings involved the use of other weapons. The question is whether access to the rifle produced killings or patterns of killings that would not otherwise have occurred. There seems no question — in two ways it did.

First, whatever the cause, the shooting fray on the Kent Peninsula was a unique event that had no precedent in Copper Inuit culture. While there were two other killings involving a number of people at one time, both involved some notion of emotional disturbance, each killed only three people, both involved a range of different kinds of weapons and, perhaps most importantly, both ended with the community executing the troublemaker and restoring order. At Kent Peninsula, more than fifty shots were fired in a wild exchange of gunfire involving the whole community. All four men who were killed were shot with rifles.

Second, given the characteristic sudden flaring of tempers that Jenness attributed to the Copper Inuit, the quickness with which one could resort to grabbing a gun in an argument would increase the likelihood of killings.¹⁸⁹ Before the advent of guns, there were numerous accounts of people in similarly disruptive situations, who were able to keep a watchful lookout for people who might kill them. Furthermore, the clumsier weapons required face to face confrontations that endangered the killer as well and provided time to deflate the situation. This did not happen on the Kent Peninsula when three adults were killed at one moment. But although we can say that the killings at Kent Peninsula would not have occurred en masse, we cannot say that the dispute would not have given rise to one or two killings. Because it is impossible to make a statement about whether the killing rate actually rose, we cannot say that any of the other killings recorded, after the advent of the gun, would not have occurred in some other way.

But this discussion limits our conceptualization of the rifle to its being only a tool, when a more useful focus would be on the rifle as an index of the social change brought about by the fur trade. A great deal of evidence shows that events disrupted traditional leadership structures and produced a great deal of internal conflict. For the first time, a great deal of conflict centred on property, an example being the complex diffusion of property that occurred after the priests were killed, and the fight over the gun, which may have initiated their murders.

¹⁸⁸ Jenness, THE LIFE OF THE COPPER ESKIMO, *supra*, note 5 at 233-34. Rasmussen confirms this in INTELLECTUAL CULTURE OF THE COPPER ESKIMOS, *supra*, note 9 at 16.

¹⁸⁹ Jenness, *ibid.* at 191.

Jenness made a comment that seems inconsistent with everything else he said in his ethnography about property, when he wrote in his chapter on shamanism, that “control over any familiar [object] may be obtained by purchase” (an observation another researcher has made about the religion of any Inuit people). A clue to this contradiction is suggested in Jenness’ access to the two “leaders” whom he discusses in his chapter on “chieftainship”. Both Ikpakhuak and Uluksak spent a lot of time trying to convince Jenness and the Inuit that they were “rich men”. But they may have become rich because of their close contact with whites. Jenness himself may have made Ikpakuak rich: “When the expedition finally left this region in 1916, Ikpakuak had acquired so many possessions that he was forced to convey them in relays whenever he travelled; and the same was true of other natives.”¹⁹⁰

The RCMP investigations of the two priests’ death provide some insight into the exchange of valuable property among the Copper Inuit. Without trying to trace the chains, which were long and convoluted, property was often exchanged, and seemed to ascend the ladder of community power. Anthropological informants described this as “trading”, but it is not clear what was traded. Given the value of certain items, for example, prestigious and rare rifles, it is difficult to imagine what they could have been traded for. The expression “trading” may represent a more complex network of relationships. We already know that Uluksuk gave over his rifle to Kormik, apparently acquiescing either to an authority relationship or to coercion. Kormiak then traded the same rifle to Ikpakuak, “acting on behalf of Kirpak”. The rifle changed hands several times, but was seized immediately after the arrest of Sinnisiak.¹⁹¹ Uluksak made a profit for leading the police to the murder weapon; he traded his cousin his 30-30 rifle and was, in exchange, issued a new 30-30 by the mounties from the stock of the Canadian Arctic Expedition.¹⁹² The rifle taken by Sinnisiak was never recovered, nor did he say what happened to it. Because he did not have it when he was arrested, he must have either traded it or had it taken from him.

An account by Jenness of the limits on Ikpakhuak’s power gives more insight into the way that new forms of property broke down channels of authority. For Jenness, one of the first signs that Ikpakuak was a leader was that only Ikpakuak had intervened to prevent another native from seizing a long machete from Jenness in the middle of a village. The event is strange in that it describes behaviour that would have been unknown to Copper Inuit society. Property of another was not seized in broad daylight in front of a whole village. The event

¹⁹⁰ *Ibid.* at 89.

¹⁹¹ REPORT OF THE RCMP, 1916, *supra*, note 14 at 209, 210.

¹⁹² *Ibid.* at 216, 220.

may have been orchestrated to impress Jenness with Ikpakuak's leadership qualities. If so, Jenness believed it, although Ikpakuak's weakness was exposed in other incidents.

Unfortunately, when we try to relate this change in leadership to the actual killings, we lack the evidence to be able to determine how it had an impact. The main reason for this is the fact that many of the killings turned on what were characterized by the mounties as "fights over women". At the same time, as in the case of Sinnisiak and Uluksuk, that explanation ended their inquiry. Since we know that one of the things that wealth did was to motivate Copper Inuit men to acquire second and third wives, we know the issue of access to women is related to power. Inuits trusted by the traders to be "fur runners" were advanced trading supplies worth \$400 to \$500, and could accumulate large profits. Runners were chosen with no attention to traditional Inuit leadership structures.¹⁹³

While a direct connection between leadership changes and killings cannot be shown, perhaps it can be illustrated by the whole trend of killings. The initial period of contact was characterized by a sharply-rising rate of killings, which was then brought under control by the mounted police. If Rasmussen is correct in his estimate of the large number of killings, the high rate of Copper Inuit homicide found in the 1910s and 1920s was probably consistent with earlier levels of killing, although the structure of the killings may have changed with new power relationships.

Let us look a bit more closely at Rasmussen's information. At most, his village of fifty would have represented eight percent of the Copper Inuit. Should we extrapolate 130 killings by applying this statistic to every village?¹⁹⁴ Not when the Copper Inuit moved freely from camp to camp. In other words, the people in Rasmussen's population roamed over much of the Copper Inuit country. They described events in which many people had participated. In this context, we are beyond the realm of statistics: we cannot introduce a simple fraction as a corrective. If Rasmussen's informants were accurate, we have to conclude that a high rate of killings existed at that time. Rasmussen's data match the general range and type of killings found in reports by Jenness and the RCMP.¹⁹⁵

But we should look at the matter in another way. Rasmussen's inquiry, made of all of the men in Kunajuk, a fifteen-family hunting camp at the mouth of the Ellice River, was whether each of the men had been involved in acts of violence. He found out that all had been

¹⁹³ *Ibid.* at 93.

¹⁹⁴ This figure would be derived by multiplying the 11 murders by 12 to represent 100% of the Copper Inuit population, assuming that Rasmussen's village represented about 8% of the population.

¹⁹⁵ Rasmussen, INTELLECTUAL CULTURE OF THE COPPER ESKIMOS, *supra*, note 9 at 17-18.

and produced a count of eleven killings, together with other examples of non-fatal violence. But Rasmussen's account has no temporal element to it, and we do not know how far back Copper Inuit men would remember to answer the question. Given the short life expectancy among Inuits, it is very possible that most all of the accounts covered a period of ten to twenty years — back to 1902. They overlap the period of Jenness' research (1913-1916) at the other end of Copper Inuit territory (Jenness' murder accounts cover a period from about 1904 to 1918). Together with the RCMP accounts, these reports indicate a high rate of killings immediately after the point of contact with whites in 1913. But they do not take us significantly back before that point in history. Thus, the wave of Copper Inuit killings that so concerned the police may be better explained as the result of Canadian-introduced changes in Copper Inuit life rather than as the result of the murderous Copper Inuits and their "lawless" social order.

VIII. CONCLUSION

Two distinct sets of questions are raised by the challenge of the study of native people's legal history. The first has to do with the meaning of that research for the current native struggles in Canada and in the rest of the world. The second concerns the incorporation of native people's law and legal history into our understanding of Canadian law, the formal law and legal institutions of a western society.

The first theme that emerges from the study of the legal history of native people is that the concept of sovereignty is not an abstract slogan, but is at the heart of the people's conception of their place in the world. The Copper Inuit were a sovereign people, confronted with an aggressive and imperialistic Canadian power that was difficult for them to understand, let alone incorporate into their world. Yet, it must be clear that the Copper Inuit tried to do so. First, this meant meeting the Canadian authorities as the Inuit would have met other Inuit peoples, in a hospitable way, seeking to build the same complex network of social relations with the mounties that the Copper Inuit built with neighbouring Inuit groups.

Once it was clear that the mounties were not operating within the same universe or norms, the Copper Inuit resorted to the full range of traditional mechanisms for structuring their interaction with the "rich men of the country". Given the band level social structure of the Copper Inuit, the range of individual tactical choices engaged in at any one time was not part of any broad plan, but was derived by a small group of people, sometimes on very short notice, but, on other occasions, evidently carrying out plans that may have taken months of consultation.

Probably the major mechanism that the Copper Inuit used was their own traditional law. In a number of ways, they tried to incorporate the mounties, and the unseen Canadian power they represented, into their own legal order. To some extent this worked, as some of the

elements of Canadian law were consistent with some of the elements of an Inuit law that was highly flexible, with norms changing from situation to situation.

But there clearly were Copper Inuit legal norms structuring both Copper Inuit society and also Copper Inuit contacts with Canadian society. A full understanding of native/Canadian relations requires further efforts to understand the myriad of ways this process unfolded across the continent, both structuring those contacts historically and also continuing to structure native relations with Canadian society today. For example, the role that Copper Inuit law took in protecting native norms from Canadian intrusion is still played in the Arctic by Inuit law.

Leaving the realm of native law and its continuing role in native society, we move into a whole range of modern policy issues concerning the proper scope of Canadian law in native society. The classic legal analysis is that this situation is one of two legal orders in conflict. But it is simplistic to characterize Copper Inuit law as being in conflict with Canadian law. Operating within Copper Inuit society, traditional law was an effective mechanism for the regulation of social relations. Its fundamental norms were not opposed to the norms of Canadian law and, even if there was some conflict, Copper Inuit society was so isolated from Canadian society that there was, in fact, no conflict. Canadian authorities, however, presented a view of Copper Inuit society as bloody and lawless, exaggerating the concept of "blood feud" out of its context. The occasional Inuit practice of infanticide, perhaps not even practiced by the Copper Inuit, was also central to the official Canadian view of the lawless and violent nature of Copper Inuit society. Canadian motives were complex and contradictory. One set of motives was apparently a sincere desire to save the Copper Inuit from themselves, now recognized as a misguided throwback to nineteenth century imperialism. But, as with other forms of imperialism, this "civilizing" motive coincided with Canadian nationalist fears of a foreign threat to northern borders, as well as with the continuing expansion of the fur trade to the interior reaches of the North. Corporal Doak made perhaps a hundred times his mountie pay as a fur trader selling arctic foxes to the Hudson's Bay Company. Thus, this myth of the conflict of Canadian law with Copper Inuit law was part of the ideology of the rationalization of Canadian domination of native people.

There is support for the argument that Canadian law had the opposite effect of imposing order and western conceptions of morality in Copper Inuit society. As traditional Copper Inuit structures were disrupted, violence and disorder may well have increased. It is, for example, doubtful that the high level of homicide of the 1914-1930 period were typical of the actual level of violence historically present in Copper Inuit communities.

Policymakers cannot continue to evaluate the historical development of Canadian law and legal policy concerning native people from the standpoint of western law, or of western legal culture. It was an

interactive process with native people showing great strength and great imagination, deeply adhering to their law. They yielded their ways slowly, often turning toward secretive and self-protective forms. It is important to build a future that incorporates both legal histories into our understanding of law and legal policy, a future that recognizes a pluralist legal tradition, recognizing the vitality of native sovereignty and of the diverse legal cultures that that sovereignty protects.