

Grandma's Law: A Practitioner's Opportunity to Ensure Cultural Competency

By Rogina D. Beckwith



The Honorable Eugene Whitefish said “there’s no higher law than grandma’s law,¹” and his comment was welcomed with smiles and nods of agreement, from the audience at last year’s FBA Indian Law conference. Anyone who’s grown up in Native America appreciates the truth of that statement, seemingly such a simple statement, but culturally complex when one reflects upon the meaning of it. When I think about grandma’s law, I interpret it to be one and the same as cultural norms, nuances, and intricacies that have been handed down from generation to generation. The questions become what does that mean, why does it matter, and how do you ensure its survival?

I could tell you that grandma’s law means: family first, a willingness to work hard, and treating one another with love and respect. But to use words like “respect” and “love” leaves those words open to interpretation, and in turn means I’ve missed an opportunity to share examples of cultural experiences. Below I share a few memories from my life growing up Port Gamble S’Klallam, and then I wrap up with a couple of suggestions for opportunities to incorporate culture into the formal practice of law.

Continued on next page

Grandma's Law: A Practitioner's Opportunity to Ensure Cultural Competency from page 1

I fondly remember spending time with my grandparents; we shared many meals. My grandpa did all of the cooking and he whistled contentedly while doing so. My grandparents were always surrounded with family and friends, they never longed for company. My siblings and I brought coffee to my grandparents, uncles, and whoever else visited and we did so without them asking for it. We were to set the table and then clear and do the dishes afterwards. Our role was to help and to know that our grandparents shouldn't have to ask for it; this is how we were raised.

Back then my grandma gardened, canned fruits/vegetables, made home-made bread, weaved baskets and was the matriarch of my family. My grandpa cared and provided for her, dug clams, smoked fish, hunted game, and earned an honest living. We were the recipients of their love and from that love we internalized love, respect, family and hard work.²

Today we live in a different world; we are barraged with media messages of values that often contradict grandma's law. Most forms of media convey perfectly thin and sculpted people, the necessity of "on-demand" TV, cell phones, and MP3 players, and all things materialistic. It's a world of perfection and instant gratification, a world of "me, me, and me."

This world of instant gratification and selfishness seems to be accepted by the majority of U.S. Society, but not every non-S'Klallam is like that. I made a dear non-Indian friend in law school, Billie, and after she learned more about me, who I am, and where I come from, she asked if she could come to my Indian reservation to "see my culture." I laughed and wondered what she expected to see – the stereotypical romanticized image of Native Americans wearing moccasins and beads and living in teepees?

Since then, Billie has been to my community several times and has observed ceremonies from yesteryear where S'Klallams, Suquamish, Quinault, Makahs and others shared northwest coastal songs and danced into the late hours of the night. She once said: "Your people really know how to party,"³ after witnessing such a ceremony. But songs and dance are traditions that are easy to observe; culture is more complex than that.

When my oldest daughter, Melia, was almost two years old, my uncle made her a dress for the annual S'Klallam princess pageant. It was a beautiful white buckskin dress with long flowing fringe and it was obvious he was excited to give it to her. The night of the pageant I began dressing Melia and quickly realized the dress was too tight; needless to say, buckskin does not give well. Even so, I pulled at Melia's arms, and pushed her tummy and back into the dress until she was crammed into it; if the dress had been tan it would have been impossible to distinguish the dress from Melia's skin. I have to believe that most non-

S'Klallams would have given up on the dress. For me, I was respecting the hard work and love my uncle put into this gift for my daughter. I recognized his thoughtfulness, generosity and pride in my family. I wanted him to see his grand-niece wearing the fruits of his labor even at the expense of my daughter's comfort. Melia, she's fine – she's 13 now and doesn't even remember this occasion.

While the memory of Melia and her dress conjure up giggles, other cultural experiences are quite humbling. While death is certain regardless of one's culture, the manner in which S'Klallams remember one's life is a very cultural experience. Sadly, I have been to more than 33⁴ funerals in my lifetime, and while this is not something to be proud of, the funeral services my community provides are. The instant the community learns of a loss, the surviving family members are surrounded with visitors bringing: hugs, warm memories, food for the soul, and a willingness to help. I have never attended a service where there were any less than several hundred people; an impressive meal of traditional foods; numerous volunteers to cook, serve, and clean; and a gathering so important that time is irrelevant. My fiancé once told me: "I never knew what it meant to be a part of a community until I came here." I am heartened that he "gets it."

I have many reasons to be proud as a S'Klallam woman and a parent, but I am not without struggles. I wonder if I adequately teach my daughters grandma's law along with the values they learn conveyed by today's media.

As the attorney for my tribe, the challenges are equally difficult, but simultaneously exciting as I am in the unique position to incorporate grandma's law into the formal practice of law. After all, grandma's law existed before: (1) Congress' so-called plenary power; (2) the Termination era; (3) The Indian Reorganization Act; (4) the Indian Self-Determination and Education Assistance Act,⁵ and every other written and interpreted law impacting tribes. If grandma's law can survive attempted assimilation, termination, extermination, and the federal government's definition of self-determination, it certainly can survive instant gratification.

So how does today's practitioner incorporate grandma's law? Whether you're a tribal attorney, a tribal court judge, or an attorney in private practice, the opportunities are numerous.

A primary example of this opportunity is my Tribe's Family Code.⁶ There, my predecessor, Tallis⁷, dedicated numerous years to ensuring that the Code governing the support and care of children not only reflected, but explicitly incorporated, grandma's law⁸. The specific provisions are numerous, but one only has to read the first few provisions to realize the uniqueness of the Code. The Duty of Child Support is explained as:

(continued on next page)

Grandma's Law: A Practitioner's Opportunity to Ensure Cultural Competency from previous page

Parents have a duty to care for their children. ...This duty includes providing *love*,⁹ guidance, education, a safe and healthy environment and financial support. Parents also have a duty to ensure that S'Klallam children have an opportunity to *learn about and participate in the S'Klallam Way*. This includes access to S'Klallam family, participation in S'Klallam events and an opportunity to exercise S'Klallam treaty rights.¹⁰

Notice "love," "family," and "treaty rights" are explicit responsibilities a parent has as a part of caring for children?

Similarly, when reviewing the policy of the Code, one will find consistent provisions incorporating S'Klallam values:

Port Gamble S'Klallam parents have a responsibility for caring for their children, *bonding* with them, making sure they are safe, and providing for all their basic needs. *Aunts, uncles, grandparents and other extended family members help parents and their children* when they need help by advising the parents in decision-making, showing love to the children, *teaching values and respect*, and taking over in parents' absence. Grandparents share with their grandchildren the wisdom of their experience and traditional values....

By way of comparison, Washington State's Child Support of Dependent Children Code¹¹ identifies the legislator's intent is "to conserve expenditure of public assistance funds," and "lighten the heavy burden of the tax payer."

It is the responsibility of the state of Washington through the state department of social and health services to conserve the expenditure of public assistance funds, whenever possible, in order that such funds shall not be expended if there are private funds available The failure of parents to provide adequate financial support and care for their children is a major cause of financial dependency and a contributing cause of social delinquency.

The purpose of this chapter is to provide the state of Washington, through the department of social and health services, a more effective and efficient way to effect the support of dependent children by the person or persons who, under the law, are primarily responsible for such support and to lighten the heavy burden of the taxpayer....¹²

Nowhere in the purpose or definition¹³ sections of the State's Code will a practitioner find words like: "love" and "extended family," but I cannot fault the state's legislators for its code; after all, the purpose of the comparison is to demonstrate the beauty of being a tribal attorney where a practitioner has the opportunity to ensure cultural competency and simultaneously exercise sovereignty—it is not to make an example of the State.

Drafting codes is not the only opportunity a practitioner has to incorporate cultural values, as most attorneys I know draft or at least negotiate contracts. When I first began practicing, my "aunt" Betty¹⁴ called me to ask if she should sign a contract or not. After more discussion, I learned a local tribe wanted to buy some of her traditional wool, cedar and other weavings to decorate its resort/hotel. As it turned out, the tribe wanted to buy not only the weavings but the rights to her work as well; that is, if she signed the contract as proposed, she would have to give up her right to use the patterns and symbols in any other artwork. It appears the lawyer for the tribe either didn't understand or didn't care that the patterns contained family stories, and the weavings are the means to share them between generations. Thankfully my Aunt Betty's artwork turned out to be more valuable than proprietary rights, because her artwork is beautifully displayed and she continues to share my family's stories.

I recognize that not all contracts or other work an attorney practicing Indian law engages in will provide an opportunity to protect culture; even so, all attorneys practicing Indian law have the opportunity to remember: Indian people never let go of each other as a people, and that is the crux of grandma's law.

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- 1 Judge Eugene Whitefish, Panelist, Federal Bar Association, Indian Law Conference, April 2008.
- 2 These traditions have survived, my daughters and I have learned how to weave and we bake bread every winter. My brother has hunted, fished and dug clams along side my grandpa—tribal members continue to actively exercise treaty rights.
- 3 Drugs and alcohol are not traditional and are not tolerated at such ceremonies.
- 4 See http://www.nwpublichealth.org/docs/nph/f2004/indians_f2004.pdf; <http://info.ihh.gov/Files/DisparitiesFacts-Jan2006.pdf>
- 5 The history, scope, implementation, and interpretation of these laws is beyond the scope of this paper, I recommend referring to *Felix Cohen's Handbook of Federal Indian Law* or another Indian law treatise for an overview of these laws.
- 6 The history, scope, implementation, and interpretation of these laws is beyond the scope of this paper, I recommend referring to *Felix Cohen's Handbook of Federal Indian Law* or another Indian law treatise for an overview of these laws.
- 7 Tallis King George, also my mentor and dear friend.
- 8 Tallis ensured confidential one-on-one interviews with tribal members were conducted and then worked with a committee comprised of community members to help shape, write and codify a Code that works for the Port Gamble S'Klallam.
- 9 Emphasis added.
- 10 *Port Gamble S'Klallam Law and Order Code, Title 21§21.03.02* (September 9, 2002).
- 11 *RCW 74.20 et al.*
- 12 *Ibid.*
- 13 See also *RCW 74.20.021*.
- 14 Betty is my cousin by lineage but I was raised believing she is my "auntie." I have not provided her last name because I don't intend this article to be about what other tribal practitioners are doing or are not doing.