

CFSC intervenes in support of Tsilhqot'in at Supreme Court

By Jennifer Preston

November 7, 2013 the Supreme Court of Canada heard the appeal of Chief Roger William on behalf of the *Tsilhqot'in National Government vs. BC and Canada*. CFSC and Amnesty International intervened in support of the Tsilhqot'in. We coordinated with Tsilhqot'in legal counsel and other Indigenous interveners. Collectively, we called on the Supreme Court to reject government efforts to limit First Nations' ownership and control of land.

Our intervention focused on the importance of international law, especially the *UN Declaration on the Rights of Indigenous Peoples*, in cases dealing with Aboriginal rights. At stake is the right of the Tsilhqot'in Nation to own lands at the heart of its traditional territory. Canadian law recognizes that Indigenous peoples may hold ongoing title to their lands that predates colonization. Yet no Canadian court has ever affirmed such title.

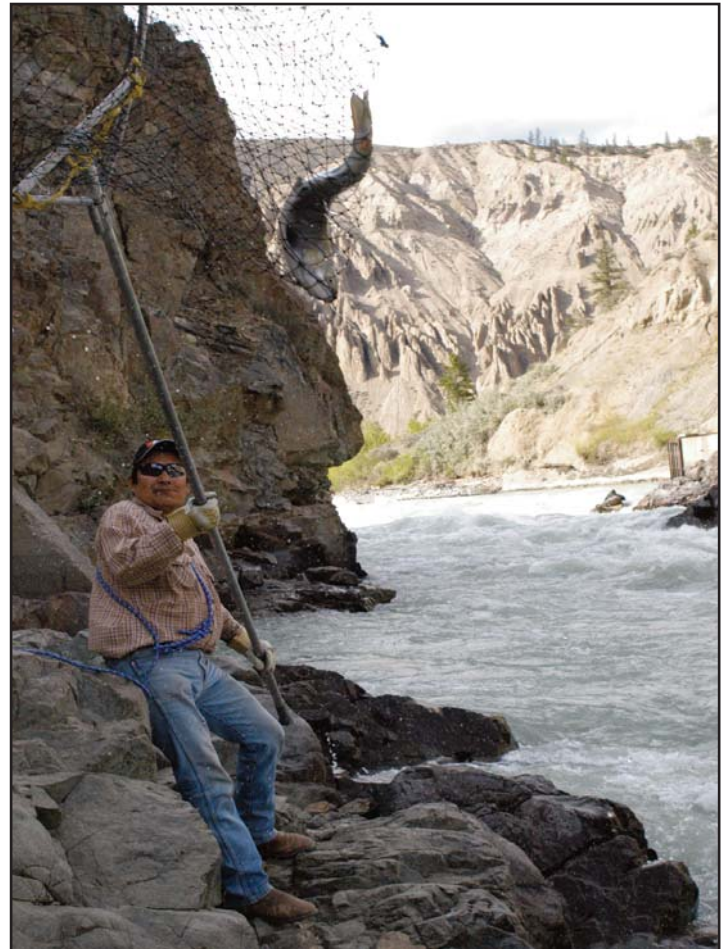
Greater control by Indigenous peoples over their lands and resources is essential for self-sufficiency, security, and well-being. This is a matter of fundamental social justice. It is our firm belief that upholding international human rights standards would benefit all by ensuring a just society that embraces the equality and diversity of Indigenous peoples.

This case began more than twenty years ago, when the Tsilhqot'in went to court to protect their traditional lands from industrial logging. After five long years of trial, the BC Supreme Court ruled that the Tsilhqot'in hold Aboriginal rights to hunt, trap, and trade in their traditional territory and that they had proven

Aboriginal title to approximately 40% of the claim area.

The BC Court of Appeal upheld Tsilhqot'in rights to use the land. However, the Court concluded that a broad territorial claim to title must not place "unnecessary limitations on the sovereignty of the Crown or on the aspirations of all Canadians." This limited Aboriginal title to small areas that were used on a regular and intensive basis, such as "salt licks, narrow defiles between mountains ... particular rocks ... used for netting salmon."

When the case came to the Supreme Court, government lawyers advocated this narrow approach. Further, they argued that if title were recognized, it should not limit provincial powers to continue making decisions about how Indigenous peoples' traditional lands should be developed. CFSC and



Xeni Gwet'in member Edmund Lulua salmon fishing at Farwell Canyon, an important Tsilhqot'in fishing site on the Chilcotin River.

TSILHQOT'IN NATIONAL GOVERNMENT

Amnesty are deeply concerned that governments use extensive legal resources to oppose the rights of Indigenous peoples. Such actions are incompatible with the constitutional imperative of reconciliation between Indigenous and non-Indigenous peoples.

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APPEAL UPDATE

Thanks so much to all who gave! We're still \$25,000 short of our goal of \$215,000 this year. Can you help us get there? Stand up for justice and peace. Support CFSC.

KEEPING UP WITH FRIENDS

New book on peacebuilding

We've published a new book, *The Four Elements of Peacebuilding: How to Protect Nonviolently*, by Gianne Broughton, who completed her staff service at CFSC in October 2013. Expanding on existing frameworks and full of gripping examples, *The Four Elements* is a valuable resource for any who wish to know more about the techniques of peacebuilding, or about the theory that can help to inform and improve current peacebuilding work. Email qpasc@quakerservice.ca for print copies or download it at <http://bit.ly/4ElementsofPeace>

QUAKER CONCERN

Canadian Friends Service Committee/Secours Quaker Canadien

Quaker Concern is the newsletter of Canadian Friends Service Committee (Quakers). Published three-times a year, it features articles on CFSC projects and concerns of Friends. CFSC's **Annual Report and Appeal** is sent to all donors in late autumn.

Canadian Friends Service Committee, founded in 1931, exists to unify and expand the concerns of Friends in Canada. Our work is carried out by three program committees (Quaker Indigenous Rights Committee, Quakers Fostering Justice, Quaker Peace and Sustainable Communities Committee).

Donations are received with gratitude. We rely on the support of individuals to carry out our work. CFSC issues tax receipts for donations over \$10.

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Think you are QIRC-y? Join the crowd!

At the fall CFSC meeting, the board approved changing the name of the Quaker Aboriginal Affairs program committee to the Quaker Indigenous Rights Committee (QIRC), to better reflect Friends' work.

National TRC event in the west

Friends, including QIRC Clerk Rob Hughes, participated at the Truth and Reconciliation (TRC) national event in Vancouver, BC in September.

The next national event takes place in Edmonton, March 27-30, 2014. Please contact us for our TRC resource, with tips on how to be involved.

Not too late to let them stay

January 2014 marked the 10-year anniversary since the first U.S. Iraq war resisters, Jeremy Hinzman and family, arrived in Canada. To mark this anniversary, and build support for those still in Canada seeking status to stay, the War Resisters Support Campaign held "Let Them Stay Week".

Although the week is done, you can still help by letting your support be known to the Minister of Immigration: <http://resisters.ca/take-action/>

QIRC grant helps spread quality information

QIRC approved a grant to First Peoples Human Rights Coalition to assist with the dissemination of solid human rights education materials via a list serve. If you are interested in joining this world class list serve, please email us at info@quakerservice.ca.

Endorsement of joint statement

In December, the Canadian Friends Service Committee endorsed the *Joint Statement on Physical Punishment of Children and Youth* developed by a national coalition of organizations facilitated by the Children's Hospital of Eastern Ontario (CHEO).

The *Joint Statement* provides an extensive overview of the developmental outcomes associated with physical punishment of children and youth and concludes that it only

poses risks to their development and plays no useful role in their upbringing. By endorsing this statement, we indicate our confidence in its review of research on physical punishment and our support for the recommendations contained therein.

Partnership renewed with PCR

CFSC has signed a new three-year agreement with the Palestinian Centre for Rapprochement between Peoples (PCR). In particular, CFSC supports their English language news project the International Middle East Media Centre (www.imemc.org).

PCR also runs responsible tourism programs. If you are interested in touring the West Bank you can find out more about your options at www.sirajcenter.org

CFSC joins justice networks

To advance its current area of work on youth justice issues, CFSC recently became members of the Canadian Coalition on the Rights of Children (CCRC) and the Canadian Criminal Justice Association (CCJA).

CCRC is a network of Canadian organizations and individuals who promote respect for the rights of children. Its purpose is to: exchange information; provide public education materials about the *Convention on the Rights of the Child*; monitor implementation of the Convention in Canada; and engage in dialogue with government officials on child rights issues. The UN *Convention on the Rights of the Child* is the guiding framework for all activities of the coalition.

In recognizing that the criminal justice system must serve the needs of all people, the CCJA is an umbrella organization representing all elements of the criminal justice system, including the public. It exists to promote rational, informed, and responsible debate in order to develop a more humane, equitable, and effective justice system.

Pilot youth justice project launched

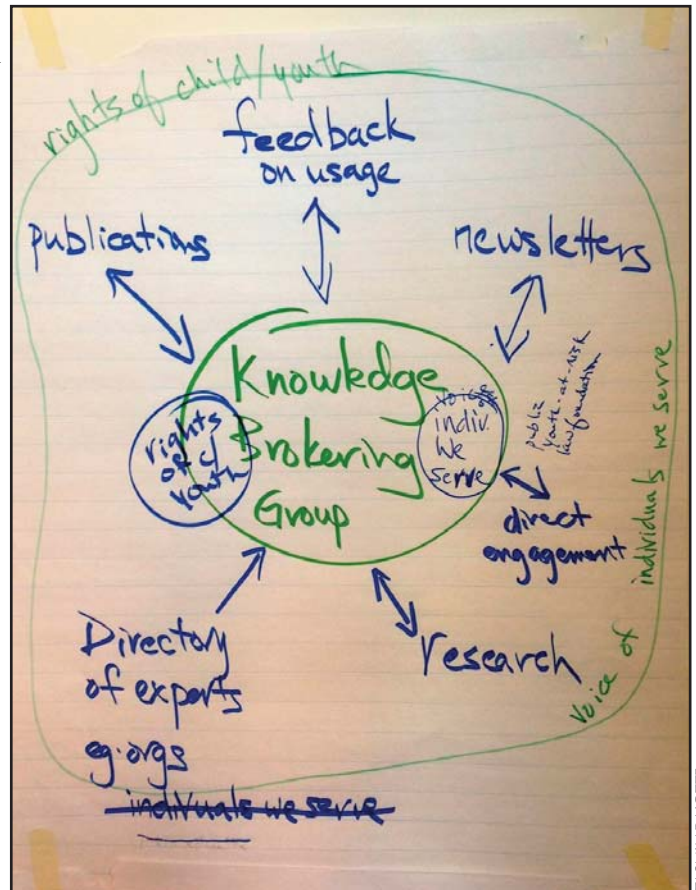
By Tasmin Rajotte

Canadian society has an enduring challenge in dealing with youth who come into contact with the criminal justice system. It is well documented that a significant number of children and youth that come into contact with the justice system suffer from some form of cognitive or learning disability and a large percentage have experienced some form of neglect. The impacts on children of incarcerated parents are also becoming documented.

CFSC's Quakers Fostering Justice (QFJ) program consulted with people working on restorative justice and youth justice issues to discern what it could do in this area. During the consultations, there were repeated references to the need for more and better data and information and for more education about youth and justice issues. As so much work is carried out in segmented manner, with information ending up in silos, people and organizations only accessing fragments of the bigger picture (e.g., street workers helping youth stay out of gangs, brain research in understanding adolescent development). There is no systematic linkage of research and bodies of practice in the different areas that

informs the bigger picture of "...a system that supports youth at risk". Everyone puts out information; nobody takes on an information management role. This indicated to us that there was a possible need for "knowledge brokering".

The Canadian Health Services Research Foundation has spent years figuring how best to do knowledge brokering. According to a 2003 report by the foundation: "[k]nowledge brokering is about bringing people together, to help them build relationships, uncover needs, and share ideas and evidence that will let them do their jobs better. It is the human force that makes knowledge transfer (the movement of knowledge from one place or group of



While some may think "knowledge brokering" is just information sharing, it is much more - it is about building relationships and finding new ways to improve lives.

people to another) more effective".

In October, CFSC hosted a two-day workshop in Toronto with a wide range of representatives working on youth issues from across Canada (youth workers, corrections, social workers, agencies, justice system, etc.) to explore in detail what this "knowledge brokering" would look like. Rachel Brett, Representative for Human Rights and Refugees with the Quaker United Nations Office in Geneva, attended and shared her work on human rights issues related to children of incarcerated parents and of incarcerated parents that are sentenced to death.

The workshop commenced with participants sharing the wealth of information they knew and discussing information needs that would enhance their work. They then explored how they gathered information, "connected-the-dots" and translated the connected-dots into successful action. There were

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Application Deadline: February 15, 2014



CFSC Intern, summer 2011: Hannah Ivanoff

Reflections from Israel and Palestine

by Matthew Legge

The tones of a Muslim call to prayer reverberate and fade over the hills of Bethlehem. The sound seems to make everything all right, spreading and protecting all who hear it. I don't understand the words, yet get a powerful sense of the singer's longing for the Divine. In the Christian churches in this little town there are similarly prayerful songs to be heard.

It is all the more bizarre at night, in my comfortable hotel room, to feel positive and secure in the sounds of the call to prayer after having spent the day reading stories of horrific Palestinian suffering posted up on a 26-foot high wall. It makes Bethlehem feel like a large, yet still carefully controlled, prison compound. While in Palestine and Israel, my moods were as different as these two sounds, from desperation and great sadness to awe and optimism. I was feeling what I was witnessing: the plurality of realities people live, and the contradictions between them.

I arrived in the region to the beauty and apparent peace of Jerusalem at night. The following morning, as I entered the West Bank and stood for the first time near the massive separation wall, covered in messages from world travelers and Palestinians alike, its truth did not seep in. I looked at it and struggled to get what it meant to live with that *thing* around your town. I couldn't quite tell, until I glanced up and saw, in a guard tower overhead, a young Israeli soldier (none that I saw seemed to be much over 20) pointing what looked like a gun down at me...

A great deal has already been written about the violence being perpetrated in Israel and in Palestine by both sides (though, it must be stressed, in *vastly* unequal ways and proportion). But overt violence was not my direct experience, so I will share what I witnessed - more subtle and pervasive forms of subjugation.

Arriving in Bethlehem, I met a taxi driver, Basem. He told me he had spent over a decade working in Jerusalem and had learned to speak



Women walk past the separation wall in Bethlehem, Palestine.

good Hebrew. Today he is unable to visit the city. It is a few kilometres away, and I, as a foreigner, can go with relative ease. To me, it was merely a fascinating place to visit, and I'd been there freely that morning, just an hour ago, on the other side of the wall. To Basem, it is the cultural, economic, and spiritual centre - a vital part of a vibrant and full life for Palestinians from which he is now cut off.

Basem's story is similar to dozens of others I would hear during my stay. And, like others I spoke with, he was not spewing hate, or even dwelling on his grievances. "Is this a good sign, or does it mean he is resigned to his fate?" I wondered. He was certainly not shy to tell me what the problems are, but then he was soon laughing with me as he told stories in very broken English - funny anecdotes that could happen anywhere.

Our partner at the Palestinian Centre for Rapprochement between Peoples (more on PCR below), George Rishmawi, would later explain to me, "This is not a war zone. It's important that people know that. We are under occupation. This is not chaos - it's a system. Under this system we continue to live our lives and to protest."

Other members of PCR that I met echoed how the system of control exerted over Palestine is very much a calculated and stable arrangement.

This is important to understanding. The world needs to know that this is not merely a protracted conflict between two warring parties filled with ethnic or religious hatred and with no possibilities of reconciliation. Believing this can easily lead to a feeling of apathy, which distracts attention from viable options to build a just peace.

It is a cliché in writing about other cultures to say that everyone is "friendly". There are unfriendly Palestinians and unfriendly Israelis and I would like to grant them their space to be so. But it would also be a lie if I said that I met many who were anything less than wonderfully welcoming and helpful.

I am sure that both sides have members so steeped in negative emotions that they do wish horrendous things on "the other". Even in unbelievably difficult living conditions like those I witnessed in Hebron, however, this did not seem to me like a majority. Rather, it was obvious that people were simply captives of their situations, functioning within a system that has lost any semblance of balance or justification.

In Hebron, I met Waheeb. About two months before my visit, Israeli settlers had suddenly arrived on his family's farm, built a house, and started uprooting his family's olive trees.

Waheeb's family placed a call to Christian Peacemaker Teams¹ for international observers to come, document the situation, and bear witness as the family replanted their trees. No sooner had a group of us arrived than the settlers called their "private security guard" (a man in street clothes with a large gun) and the Israeli military. The soldiers began screaming that we could not be there as it was a "conflict zone". The Palestinian farmers stood their ground, responding that they had every right to be on their own farm. Eventually the soldiers gave in, the trees were planted, and the story documented. But this situation will likely go on and on.

Waheeb gave me a huge smile when we arrived and thanked us all for coming. He looked up at the farm just before dusk and breathed in deeply. He said, "This place is beautiful. I like to bring my young daughter here." She, at age three, was among the first members of the fifth generation to live on this plot of land. Looking at the hills and olive trees in that oddly silent and peaceful early evening, I got a deep sense of what the land means to Waheeb and why he will never simply give it up to the settlers.

Waheeb's eyes twinkled and he said in a soft voice, "I don't know why they hate us. I love Jewish people. We just want to make some peace. We don't want these problems." As we walked back up the hill to the road back to downtown Hebron, one of the Israeli soldiers shouted at Waheeb, asking what he was doing with a farming implement that he accused him of



MATTHEW LEGGE

Waheeb, a Palestinian living just outside of the city of Hebron, replanting olive trees uprooted by Israeli settlers who've built a house on his family's farm. Waheeb asked that we share his story.

carrying as a weapon.

For me as a foreigner, it was unbelievably hard to reconcile feeling so welcomed and safe while in Israel with the treatment of Palestinians that I witnessed in various forms throughout my stay. Was this simply a case of different individuals behaving

militarized and ever more fearful. There seemed to me to be limited space for careful thought or listening. What does security mean to the state of Israel? If such a massive and well-funded military has been unable to deliver a feeling of safety, how long will the current trajectory continue?



CFSC partner Palestinian Centre for Rapprochement between Peoples (PCR) Executive Director George Rishmawi in his office.

MATTHEW LEGGE

At Canadian Friends Service Committee, we hope to help Palestinian narratives about nonviolent action reach audiences outside of Palestine. For over a decade we have partnered with PCR, supporting a project called the International Middle East Media Center (www.imemc.org), a free English language news source. IMEMC tells Palestinian stories, focusing in particular on the multitude of nonviolent direct actions being taken all the time, often

differently due to their contexts? What systems, both within Israel/Palestine and internationally, uphold these injustices?

Jewish Israelis I spoke with lamented what they saw as Israeli society shutting itself off from opposing viewpoints and becoming ever more

ignored by the media, which distorts understandings through a disproportionate focus on violence.

Matthew Legge is the Coordinator of CFSC's Quaker Peace and Sustainable Communities program.

1. More about CPT on their website www.cpt.org. I was visiting their office when the call came and went with them.

TSILHQOT'IN

Continued from page 1

The BC Court of Appeal shockingly referred to the colonial Doctrine of Discovery as part of the reason why title cannot be granted. CFSC and Amnesty called on the Supreme Court to repudiate the Doctrine of Discovery.

Tsilhqot'in members set out for Ottawa by bus – the “Tsilhqot'in Title Express” - with elders, youth and others. Indigenous communities along the way warmly received them and upheld them on their journey.

The evening before the hearing, the ad-hoc coalition on the *UN Declaration* (in which CFSC plays a coordinating role) held an informal dinner for all the journeyers. We planned for about 50 people and were delighted by closer to 100 attending. Everyone from the Tsilhqot'in Title Express, many representatives from the interveners group, and other First Nations came to pay respects to the Tsilhqot'in. The dinner became this wonderful evening of community, celebration, and anticipation of what the next day might hold. We were treated to songs and stories over three hours. The Tsilhqot'in use hand drums, and we had many drummers – from the elders to the youth. Powerful testimonies were shared and expectations and emotions were high. One of the leaders stated, “No matter what happens tomorrow, we have already won.”

The next morning there were prayers and a rally of support on the steps of the Supreme Court. Tsilhqot'in youth handed everyone a small bag of sweetgrass. There were so many people that there were three overflow rooms watching via live TV feed. As interveners, we had tickets for the courtroom. I sat with my colleague from Amnesty and Chiefs from BC at the back – our lawyers were up on the benches in their robes. It was all fairly grand.

We were surprised and cautiously hopeful, as the justices appeared to find the Tsilhqot'in position reasonable and only a few clarification questions were put to



ANNA SHEA

CFSC staff Jennifer Preston with colleagues from the CFSC/Amnesty intervention - Paul Joffe, Craig Benjamin and Justin Safayeni - and Robert Morales and Rosanne Daniels (R) of the Hul'qumi'num Treaty Group (HTG) which also intervened in the case, highlighting the importance of international law.

their lawyer and to the interveners.

When the lawyer for BC began, the judges had more questions. It became clear that the Court was not supporting the positions of government – which in essence is that Indigenous peoples can never truly have title to their lands. When particularly outrageous things were said, the Chief beside me gave me an elbow and we exchanged raised eyebrows. As the day concluded, we all felt pretty good about the direction things were taking. There was an air of accomplishment. Now we wait.

The following day, CFSC co-hosted an event at the Wabano Health Centre. There was a planned opening by Chief Roger William, but it was discovered that he wouldn't be able to attend as the Tsilhqot'in Title Express was departing for home. A young Chief Russell Ross Meyers was scheduled. The bus journey decided to make a detour – everyone came to the Wabano Centre and there were openings from both Chiefs, followed by keynote presentations from Grand Chief Edward John, member of the UN Permanent Forum on Indigenous Issues, and Louise Mandell, distinguished litigator of Aboriginal rights.

The bus journey needed to get underway and was sent off with songs. I made a presentation on behalf of the

organizers and thanked Chief Roger for allowing all of us to be a part of the journey. A call out was made for funds and the bus departed with good wishes, financial support, and warm hearts.

The event continued with a panel of lawyers, Jay Nelson (who has worked with the Tsilhqot'in for a decade), Robert Morales, Maria Morelato, and Paul Joffe – all experienced lawyers who worked on the Supreme Court appearance. It was rich and stimulating dialogue with the lawyers and the audience on what this case means, the role of international law, and what everyone hopes the outcome will be.

This is the first time the *Declaration* has been argued thoroughly and properly before the Supreme Court of Canada. CFSC made an important contribution. We are grateful for the extra financial support from Hamilton, Ottawa, and Vancouver Meetings and individual Friends. A decision from the Court is expected in early 2014.

Jennifer Preston is the Program Coordinator for CFSC's Quaker Indigenous Rights Committee. The CFSC/Amnesty factum and other materials are available at: <http://quakerservice.ca/news/indigenous-land-rights-canada/>

PLANNED GIVING



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YOUTH

Continued from page 3

many insights, but a key finding was that “engaging the voices of youth” in all aspects of knowledge gathering and sharing was crucial to any successes or systemic change.

Participants described how they needed more opportunities to network and dialogue, particularly at the national level, and came with incredible energy and momentum to try to get something off the ground as soon as possible. In discussing the practicalities around how this knowledge brokering would work, quite a few stakeholders offered full endorsements of their organization, staff, time and resources towards the initiative if CFSC took the lead in coordinating it. There was also agreement the knowledge brokering be anchored in a child's rights framework. As a result, CFSC's Quakers Fostering Justice program is currently developing a pilot ‘knowledge brokering’ system that should be up and running this winter and

participants agreed to meet in March to evaluate it.


There was also agreement among participants to learn more about the UN Convention on the Rights of the Child (UNCRC) and incorporate it into their work and for sharing resources with the Canadian Coalition for the Rights of Children (CCRC). In 2012, the UNCRC reviewed Canada's Third and Fourth Reports to the UNCRC and the concluding observations

included recommendations for action on the implementation of the rights of the children in Canada and juvenile justice issues.

The UNCRC makes recommendations in good faith and expects that ratifying countries (like Canada) will make their best effort but that is the extent of the process. There is no enforcement. Increased sharing of information will assist the work of CCRC, and many others, in ensuring compliance to the recommendations. To enhance the work on youth justice issues, CFSC became a member CCRC; Jane Orion Smith, CFSC's General Secretary, and Philip Smith, QFJ Clerk, attended their recent annual general meeting and participated in a panel discussion about our work.

Tasmin Rajotte is the interim Program Coordinator for CFSC's Quakers Fostering Justice Program, and is a member of Ottawa Meeting.

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*Sarab & Trevor Chandler
CFSC board members
(Lillooet, BC)*

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FRIENDS ON THE MOVE

CFSC welcomes newly appointed Board member **Jessica Tellez** (Halifax MM)! Jessica is joining the board in-term to fill a vacancy.

CFSC staff **Jennifer Preston** was delighted to present on a panel with her father, **Dick Preston** (Hamilton MM and CFSC associate member) in October. The pair of Prestons were part of a panel at the annual Peace and Justice Studies Association conference held in Waterloo, ON. titled "A Dialogue on the Histories, Practices and Relations of Indigenous Governance in the Regions Around James Bay". Dick spoke to a history project he is currently involved in and

Jennifer spoke to the *UN Declaration on the Rights of Indigenous Peoples* and the leadership of the James Bay Cree.

Philip Smith, clerk of CFSC's Quakers Fostering Justice program, recently attended the National Restorative Justice Symposium, co-hosted by YOUCAN and Canadian Safe School Network as well as the 20th anniversary gathering of the Association in Defence of the Wrongly Convicted in Toronto.

In December, CFSC's General Secretary, **Jane Orion Smith**, gave a presentation, on how CFSC is contributing to the implementation of

the UN Convention on the Rights of the Child at the recent Annual General Meeting of the Canadian Coalition for the Rights of Children. In January, she and Janet Ross are speaking to Mennonite Community Church in Stouffville, ON about "Walking in the Light" and the connections to our call to service.

QPASCC associate member **Sheila Havard** (Coldstream MM) and CFSC staff **Matthew Legge** will be traveling to the Democratic Republic of Congo at the beginning of February, to visit with Friends from Kinshasa Meeting and witness the peacebuilding work of their Project Muinda, which CFSC supports.



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