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## IMPLEMENTING DELGAMUUK'W

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Biography of Julie Cruikshank

*Professor of Anthropology, University of British Columbia and co-author of Life Lived like a Story: Life Stories of Three Yukon Native Elders.*

Julie Cruikshank currently teaches at UBC. For more than a decade, she lived in the Yukon Territory where she worked with the Yukon Native Language Centre recording oral traditions and life stories with Athapaskan and Tlingit elders. Working closely with those elders, she prepared booklets under their authorship documenting family history, place names, land use, social history and other subjects largely absent from history books. With Yukon elders Angela Sidney, Annie Ned and Kitty Smith she co-authored the book *Life Lived Like a Story* (1990). A second book about oral history, *Reading Voices* (1991) was prepared for use in Yukon high schools. Her recent book *The Social Life of Stories* was published in 1998.

Thank you very much, Wayne. I'd like to thank the organizers of the conference for inviting me to be part of this panel. It is an honour to be here in this room with people who are working on these issues, the implications of Delgamuuk'w, on a day-to-day basis, and also to be a member of this panel where all the members have thought about this a great deal.

My experience in this area comes from a different region of Canada; it comes from more than twenty years of actually working with Elders in the Yukon territory, who have spent a lot of time discussing this whole issue of oral tradition and oral history, both before their land claims began, during the period when land claims was being negotiated in the Yukon, and now subsequently after they have a settlement actually in place. So I bring that experience to this discussion, with the understanding that situations are very different in British Columbia communities from the Yukon in many ways, but also that there are differences within communities in British Columbia, and that you're all running into different kinds of issues as you continue this work.

When Leigh [Ogston] invited us to be participants in this panel, she asked us to address two things. I have a few things to say about each of these issues. The first was the legal implications surrounding the collections of oral evidence, post-Delgamuuk'w, and all those issues related to that, like intellectual property and copyright -- and Cynthia [Callison] has addressed some of these very clearly in her presentation. Secondly, the one that I think many of you are really concerned with too, are the practical problems of the day-to-day work that you are doing as you are trying to understand the meaning of the Delgamuuk'w decision in the community, and the work that you are doing to try and address some of these issues about oral history in the province of British Columbia today. So, again, while bearing in mind there may be some differences from the Yukon, I hope that I have some things to say that may resonate with some of you.

Cynthia cited parts of the Delgamuuk'w decision, and the one that I think is particularly relevant here, that raises some questions for me -- it's repeating what she said, but I will just do this again. The decision states that, "the laws of evidence must be adapted in order that this kind of evidence," meaning oral tradition, "can be accommodated and placed on an equal footing with the types of historical evidence that courts are familiar with, which largely consists of historical documents." So the first question that I will address, that Leigh asked, is this whole question about what is history? We're given a definition... one of the definitions one could take from the Delgamuuk'w decision is that we should be thinking about oral tradition like legal documents. I will stress here what you all know again: we don't know what this Delgamuuk'w decision means yet and we won't know for awhile, and all of you will be involved in this process. But this question of equating oral tradition with legal documents raises some questions for me that I think might be worth discussing as a part of this panel.

The problem, I think, is that if we are restricted to kinds of definitions that work in the court, it may narrow the whole idea of what oral tradition is. Definitions are important and they're important to work with, and it is really important to know what this court decision means. But a definition that equates oral tradition with legal documents may raise some kinds of questions. Partly I think that, for me, this loses some sense of the complexity of oral tradition, the disorderly parts of oral tradition. It suggests that oral tradition may have the same kind of way that it can be categorized and put in archival documents, when we all know that history is something that is discussed and debated and thought about and there are agreements and disagreements and a whole lot of discussions that go on with communities. I am sure you are all aware of this, but I think it is really important to remember that it is not just the words that are a part of the oral tradition but the silences, the debates, the commotion that surround the discussion of history in any society in the world anywhere.

I am especially concerned that there maybe a bias built into this decision that equates oral history, or oral tradition, with sources; sources for the courts, sources for historians, sources for anthropologists. I think that may be problematic. It seems to me that the oldest kind of history-making, the production of history, the oldest history-making in this province is oral

tradition. It's thousands of years old, it's been going on in this province forever. The kind of history-making that we sometimes see in academic writing or in the court process is a much more recent notion of history. So, again, I think it's important to think about oral tradition as history-making, as part of the production of history, and to push this idea with the courts that this is not evidence, it's not sources: it's history. Ken Harris, I think, has discussed this eloquently in his discussion this morning. It's about the making of history.

All societies, I think, have their own understandings and their own debates and their own discussions about what history means. We all know that there are certain ideas -- and, again, Ken Harris has mentioned this morning -- there are some histories in First Nations communities that are meant to be discussed in the feast hall, they are not meant to be discussed in the court. But there are other areas where there are things that can be discussed and the debates can become public, and those may be the ones that may be important to take into consideration in debates about what we mean by history and what we mean by oral history. So my sense of this is that we need to think really hard about oral history as historical practice, as history, not merely as sources, not merely as evidence, not merely as "like legal documents." Again, I would suggest that while the court gives them some definitions to think with, we don't want to be bound by those definitions because it can constrict the range of ways that people can talk about their histories and oral histories.

The second question, though, is one that is probably more concerned to those of you who are working in communities looking at the practical issues of how to do research that may have some validity in the courts. Again, I have this feeling that if we are bound by the court's definitions, which may be broad -- as Cynthia was mentioning, it may be broadening the notions of oral history or it may be narrowing them in some ways -- but if we take the court's definitions that oral traditions are sources, then the main issue for researchers becomes one of a kind of archival documentation, an idea of recording individual testimonies, an idea of preserving tapes, an idea of archiving these, organizing them, and ordering them. While I think that's all very important, it pushes it in a certain kind institutional direction that may raise problems later on by narrowing that definition of what oral history is. In the Yukon territory there has been so much discussion about this because people have been involved in this process for twenty-five years. One of the things that people have talked about recently is the idea, as well as recording traditions and having a record of what those traditions are, the issue of preservation is not so much about preserving words as about preserving spaces where people can talk about history in a public context. Those are the kinds of spaces that have been eradicated in many ways by colonial processes in this province and, indeed, in this country. It is creating situations where people can talk about these issues and, again following what Ken Harris was saying, there are certain things that, of course, shouldn't be talked about outside the feast hall. But what has been done recently in the Yukon is younger people are creating situations for talking about oral history by organizing what they call Elders Festivals, and these are situations and festivals that... for instance, one that happened a couple of summers ago, it was set a hundred miles away from Whitehorse, thirty miles away from the community of Tesland and it was a place where families and people and Elders and young people and other invited guests could come and talk about history, and about the fact that not everybody always agrees about issues about history, but that these are issues that can be discussed in a situation where there can be discussion about these issues, all of which, again, have relevance in court situations. These are situations where it's negotiated very clearly, the whole idea of taping -- not only taping, because while these are taped by the young people in the communities, the authorship of the copyright remains with the community -- but there is not just a discussion about taping, there is the discussion about the process, about how the work should be recorded: whether they should be recorded exactly as Elders are saying them or what these issues are about, the whole issue of the ideas of recording history. There is an amazing amount of discussion that happens not only about history, but about this process of recording oral history and what is appropriate practice, what people should believe should be done. And these ideas change all the time. The question that we are asked about, how does that kind of rules about how you make contract law and look at the kinds of authorship and contract releases and so on are tremendously important. My sense is that they change. They change from year to year, from week to week, from day to day and it is important to always have the people who are doing the recording making those decisions at the time about what they would consider appropriate practice in this context.

The reason for thinking about preserving places, creating places, I think, is that it does what I think is important in looking at history: it shows that history is always located in social and political universes. It's different, maybe, from recording history with individual persons because, when you're recording in a larger setting, the social and political context remains central and remains foremost, and I think this is the case with history all of the time and probably in all places. I think that it also allows the possibility of challenging the institutions, like the academic institutions that Cynthia has referred to, or the courts, or archival practice to make sure that the Elders are central in the process of deciding what oral history is and how it should be used in different contexts. At the same time these issues of preserving and recording continue to be important and it is something that I know people in Yukon communities consider to be very, very critical.

So these two questions, I think, which Leigh asked us to address, one is really what is history, what is oral history, what does this mean in the context of Delgamuuk'w? The second is what does this mean for people who are working on the ground in practical situations in communities? I think my conclusions would be, first, that we must be aware of the court's rules, but we can't let those court's rules define or constrict what is meant by oral tradition and oral history. Both speakers, I think, have addressed this in their presentations this morning. We must be aware, but always thinking about pushing those boundaries about how it can be used in ways that work, in ways that are important for the community and how history is part of a social process of history-making. It's not just sources, it is history-making, and history-making is done by living human beings who are a part of that history-making, and that goes on. History is being made now in communities in British Columbia and the Yukon and everywhere, and that oral history continues to be important. It is not just from the past, it's present and it's critical now.

Secondly, the question about preserving and making sure that accounting for preservation. I think the important thing is thinking about preserving and creating settings for debate and discussions in communities where Elders are able to debate with one another about some of these issues, and to talk in ways that allow these issues to be discussed so that history is something that is discussed daily in communities and that is the record that continues to be a part of, eventually, the court record as well. The debates are important, the recording is important. And, again, in Yukon discussions at the Elders Festivals and at the Yukon International Storytelling Festival, which is held each year, there's really a conscious effort to record this and to make sure that it's always checked again with the speakers so that they are always aware of how their words might be recorded and transcribed and they have the final say on how those words can be used in particular kinds of situations.

I would just say, too, that the Yukon International Storytelling Festival, I think, is a remarkable setting, is a public space in which oral history is discussed, because -- and that continued during the land claims negotiations and it continues now -- festivals like this are often interesting and good places to talk about political issues, because festivals are seen as places that are kind of safe places to speak because they are usually thought of as being for broad communities. They're not thought of as charged political events, and yet they allow people to speak very strongly about the political and legal implications of the work they're doing and of their own notions of history in a public context where others are listening and are able hear oral tradition continuing to be passed on. So thank you.