
IMPLEMENTING DELGAMUUK'W

Biography of Neil Sterritt

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Neil Sterritt, *Madeegam Gyamk*, was research director for the Gitksan in the 1970s, president of the Gitksan-We'suwet'en Tribal Council from 1981 to 1987, an expert witness in the Delgamuuk'w case, and has worked extensively at the international level on constitutional issues. He has learned the territories first hand and on the land from hereditary chiefs, and matriarchs beginning as a child and continuing into the present.

We have a problem this morning: we have an Elder, a lawyer, an anthropologist, and a retired politician all trying to speak in one hour. I think we can overcome it.

[Speaks a Gitksan greeting.]

Ladies and gentlemen, I am Gitksan. Hapaguak, there, is my uncle, and we both belong to the same clan but different houses. I want to thank the organizers for setting up, when you look at the outline, an incredible conference and a badly needed conference. It would be really interesting to see what can be done between now and, say, another year in terms of making some of the things happen that are identified in this outline. It's really pretty impressive and the people that organize that should be commended.

The topic is legal implications of post-Delgamuuk'w. I began work on issues that ended up in Delgamuuk'w almost thirty years ago. When we moved towards Delgamuuk'w, deciding to go to court, then some of the work that I had done in the early 1970s, we had to examine. So what I want to talk about is really from a community point of view, from an individual point of view, and an aboriginal point of view about the legal implications of Delgamuuk'w and what it might mean for you if you are doing work in your community on these issues. I am going to try and not take very long on this. I want to give you an opportunity to ask questions, so I've revised while I sat there some of what I was going to say. Hopefully we can get to questions and comments from the floor.

First of all I want to talk about oral history and then about oral history evidence. Then I want to talk about what it means in court, and I am going to do that by example. First of all, oral history is really information handed down -- it's as Julie [Cruikshank] described it and by Ken [Harris] and the way that Cynthia [Callison] addressed it -- oral history is information that has been handed down as history from generation to generation for perhaps thousands of years. But it also can be information that has been handed down within our lifetimes. I am aware of incidents that happened in 1890-1900 that my grandparents talked about, and I talked about people who were actually there myself -- they talked about it but weren't there, my grandparents, but these other people were there -- and that in fact has become part of the Gitksan *adaawk*. *Adaawk* is true history. *Amatulas* is what we consider myth and fable and so on, while *adaawk*, as Ken described it, is true history. That's what we mean by *adaawk*. So we have oral history, it can be ancient and it can be recent, and we have to think about that if we are thinking about trying to make a point in court or in negotiations. It doesn't have to be in court; it could be in negotiations. But negotiations may end up in court, or if you're in court you may end up in negotiations. Those things go so closely together. As communities we must always keep that in mind; as researchers or as leaders in communities we must always keep that in mind.

So, if you are seeking to make a comprehensive claim or a specific claim based on aboriginal title or a treaty, you might have to gather oral history to support your position. If, for example, you're going to court, then that oral history may become "oral history evidence," which you would put forward to the government or the court as required. So we have gone from what is oral history to what becomes "oral history evidence." That is the challenge when you make that choice. Before Delgamuuk'w it was not possible to do that. We took it into court and we got trashed until it finally got to the Supreme Court of Canada. But, in legal proceedings, ordinarily the existence or non-existence of facts must be proved, and the most common means of proof is evidence, which may be defined in the statements of witnesses and the production of documents and actual things. So ordinarily witnesses have to state what they actually saw or heard, and not what somebody else told them, in order to prove a fact. But that normal rule has probably been changed because of Delgamuuk'w. We can't say that it has been changed; it may be changed. So I think what we have to do is deal with the issue of credibility. If it's going to change, then we can't simply walk in and tell our *adaawk* and say "that's it, because that's what it is," because we may get thrown out. That will damage oral history evidence -- it doesn't change the oral history; the oral history is there -- but it may affect or impact on oral history evidence by other First Nations in the future, or by your own.

So credibility is very important and I want to use a couple of examples and then I want to elaborate on that. First of all, the Gitksan have what we call an *adaawk* of Malulook and Wiraak. Malulook is a hereditary chief, Wiraak is a hereditary chief. My father is Wiraak, and Malulook is from the Frog-Raven Clan in the village of Kisagas. Now this *adaawk* has come down to us and it talks about -- and I am going try and be as brief as I can -- as it comes down to us, what occurred was on a mountaintop near one of our borders with what we call the Tischeio. Tishcheio are Athapaskan people from the North or the East; it's a generic term. The Tishcheio attacked Malulook and Wiraak on a mountaintop called Wesinskit, north of Bear Lake in northern B.C. They shot them, and they captured a young girl and took her away. They didn't come back for a number of years, but when they came back, in the *adaawk*, a trading post had been set up at Bear Lake and the fur trader there recognized this girl as being Atna -- in other words, Gitksan -- and hides her and then, after about six months, sends her back to her village near Hazelton. This girl tells her family what happened. A war party was put together, they go back to Bear Lake, they intend to attack the trading post that has been set up and a number of incidents happen. In any event, you have what ends up being oral history that connects in with non-aboriginal people at a fur trading post. In the *adaawk*, we adopt some crests and so on. For example, *ucymisaloas*, well what is that? Well, what that means is "the dog of Mister Ross." We discovered that the fur trader's name was Charles Ross -- he actually died in Victoria later on -- and Charles Ross set up that fur trading post in 1827. So now we can start to say, well something happened prior to that. But we really don't know what happened, or whether it was even true that this killing took place on the top of Wisinskit, the mountain north of Bear Lake.

Now let me tell you another one, very briefly. This one comes from the family of Hacklaguui, another Fireweed in the ancient village of Temleham. Temleham was, in our *adaawk*, two, three, four, five, six thousand years old; it is very, very ancient. This situation, it occurred right on the Skeena River. There is a lake across the river and up on the hillside called Seely Lake -- Damshegluk is our name for it, but if you drove by the highway you would see Seely Lake, not far from Hazelton. A number of young women were at the lake. There were spawning salmon in the lake, and so there were all of these skeletons of the fish, the salmon, and they were making tiaras out of them and making fun of the salmon and what was going on. Then, suddenly erupting from the lake, is what we call Medigensuyaks -- that is a supernatural grizzly bear from the water, Medigensuyaks -- and what it did was, it was foaming and a great rush of water. The young women were swept into the water down the lake, down a creek. Trees were flying in every direction; mud, rocks. And this supernatural grizzly bear swept right down the creek across the Skeena River and up into the village of Temleham, and then took all the houses and the people down the river and, in the *adaawk*, the supernatural bear went on down the river and that was the end. One of the major catastrophes of Damshegluk. I happen to live right at that site. I have a farm at the ancient village site of Damshegluk. I have moved there in 1975 and there's this mountain in front of me and I know where the lake is, and I look at it and I try to figure, over the years, what happened? How could this supernatural grizzly bear have done all of this? That was an idle question. It couldn't be idle when we started to go to court. So when we decided to go to court, we knew that our Elders were going to tell these histories. We knew the one about Wiraak was going to get told, and Malulook; we knew the one about the Medigensuyaks was going to get told. But what about them? As we did research, we discovered that Charles Ross kept a diary, and in his diary he heard that a family had been attacked and killed by the Tischeio -- he called them the Sekani -- north of Bear Lake and this occurred about 1826 in his diary; he'd heard that there was trouble. So there is a bit of corroboration.

But how do you corroborate something that happened thousands of years ago? Well, you don't *have* to, but we felt that it might be useful to see what might have occurred. So what we did was, we sent the Medigensuyaks *adaawk* to a landslide expert and when he read it, he said this is a classic description of a mudslide. But we didn't stop there. We asked a geologist and an ethno-botanist to do some work. The geologist did a traverse; the ethno-botanist took and put a core tube down into the lake and dragged out a horizon from the mud at the bottom of the lake. The evidence of the ethno-botanist, when he had his sample analyzed, was that a major mudslide had occurred 3,500 years ago, plus or minus 250 years. The geologist -- in 1985 there was a huge rainfall; a bunch of creeks had been newly-created on the mountainsides near Hazelton -- the geologist did his traverse right across past the lake and across some creeks, and happened to discover about twelve feet down in a creek bed, a newly-opened creek bed, a log sticking out. It was evident that spot was part of a major mudslide. So he took the log, had it carbon dated, and got a carbon dating of 3,500 years ago, plus or minus 250 years. So here you have one in writing. Here you have something that you can't definitely say was the Medigensuyaks; however, credibility is increasing in terms of the *adaawk* of the people. So the judge -- you know Judge McEachern, you know what he was like -- the judge actually sat up and took notice when the geologist connected all of these events: the creek, the core sample from the bottom of the lake, and the histories. You know what he did to us, but that is beside the point. It shifted -- at least for the Supreme Court of Canada -- our histories as closer to being true, and I think it creates credibility for other oral history in Canada.

So there you have it: oral history, as Julia describes it -- and I agree with what she says totally -- oral history evidence because you bring it into court, and how you make it credible. From the community point of view that's the challenge. It's nice to have a partnership with experts, but sometimes you may not have the evidence to do that. There are things that you can do to help to make that oral history good oral history evidence.

We are running out of time, so I think it is better that you have a chance to ask questions or make comments than for me to keep on. But I want to add one more dimension to community research. We have talked in kind of a sterile environment here about what really happens in communities. Sometimes you may have political leaders who are prepared to assist you with getting the best possible oral history evidence, and other times you may have political leaders who say, "nope, that oral history can never be told" -- and then it shouldn't be, if the people who own it agree. They can also create a climate where "we don't need those white people to help us out," or even, never mind white people, "we have aboriginal people who are experts; we don't need those experts to help us." Well that may become a dilemma, if you think you can go in an win when the elements that are needed to prove the oral history evidence just aren't there. I only raise that as an issue because we do live in a real world where we have leaders -- and we need them, we respect them -- but there may be situations where it's not going to help.

I don't want to go any longer. I just really want to thank everyone for this opportunity. Just think a little bit about what I said, think about what everyone said; it's important. I look forward to your questions and comments. Thank you very much.