

AN ACTIVE AND LIVING HISTORY OF AN EVENT

“For centuries,” Aparna Mishra Tarc tells us, “various groups of Indigenous people including the Gitskan-Wet’suwet’en, fought for legal rights to land in British Columbia and across Canada, wrongly assumed to be the property of the Canadian government and people.”¹ In this ongoing dispute over “crown” land, Indigenous peoples are at a disadvantage, “as the burden of proof of the land rests with their oral historical records that are routinely discounted in Canadian courts.”² In cases where there are “official treaties, they are deeply contested by Indigenous people.”³ Despite “uneven legal terrain and terms, and despite numerous setbacks,” Indigenous people persist in presenting oral history in Canadian courtrooms to “lay claim to the land,” what Tarc characterizes as a “hopeful persistence” that is “pedagogically significant as it calls continually into historical consciousness the authority of Canadian law for adjudicating the land claims of Indigenous people.”⁴ Moreover, these land claims call into question the “veracity of colonial and Western history particularly in the context of colonial rule and governance of and over Indigenous land and people.”⁵

Tarc examines Mary Johnson’s public singing of “her *adwaak* and ‘story[ing] historical consciousness’ during a landmark land claim case in Canada,” what Tarc terms “a symbolic act of resistance that tells historical truths and, by doing so, restores a historical, epistemological, and legal wrong of the past committed to their peoplehood to justice.”⁶ A judge declined to hear Johnson’s testimony, prompting a “face-to-face encounter” that, Tarc suggests, “provides a vivid depiction of how history is restored in its fraught reenactment carried by the act of bearing witness to colonial events that took place.”⁷ For Indigenous peoples, Tarc continues, “oral historical consciousness attests to a broken and always renewing peoplehood,” adding that: “Storying provides Indigenous people a way of ‘reenacting history’ and re-stor(y)ing a people in the present.”⁸ In Tarc’s terms, “oral history *reenacts* and *regenerates* the historical and cultural loss of a people in the present,”⁹ evident in the oral testimony of Mary Johnson’s *adwaak* in a Canadian courtroom, as the “very sharing of the *adwaak* disputed the factual, temporal, and actual record, and pedagogically reenacted the epistemological and violent legal and political means by which Indigenous memory and knowledge became *intentionally* dismissed, disregarded, and in ‘fact’ discarded by the Canadian government.”¹⁰

What the case of Mary Johnson’s *adwaak* demonstrates, Tarc continues, is “that re-stor(y)ing historical consciousness extends beyond a contestation of history or what actually happened; as the “recounting of historical wrongs pedagogically interrogates and excavates the role of the legal, historical, and political apparatus in the willful sanction of historical records that continue to deny the existence of Indigenous peoplehood in Canada.”¹¹ Tarc summarizes: “Re-stor(y)ing history, as the *adwaak*

insists, produces an active and present demand for reparation and redress in the name of justice.”¹²

A set of stories and songs, Tarc explains, the *adwaak* constitutes a “lyrical and communal account of a people and their land,” providing “context to the political and social events that ground the significant event committed to memory.”¹³ The *adwaak* was “the key means by which the lawyers representing the Gitskan-Wet’sutwet’en staked their historical claim to the land.”¹⁴ In contrast to the West’s “burden of proof” rule that uses “non-human evidence” as its primary vehicle of truth in Western courts, Tarc points out that “the *adwaak* orally circulates an active and living history of an event for consideration by an interpretive community,” thereby “demand[ing] an active and communal consideration of, engagement with, and deliberation of the past.”¹⁵ Embedded within legal disputes is “historical and epistemological conflict,” what Tarc terms a “conflict of literacies in the symbolic production of truth, knowledge, politics, societal governance, and justice.”¹⁶ She explains:

Abstracted and masked in phrases such as “the clash of cultures” or “cultural appropriation” is a deep and enduring symbolic war of epistemologies enacted in language, events, institutions, and disputes structuring the deeply contested treaty relationship between two societies with radically different conceptions and thus priorities for the land and its people. Perhaps more than any other documented account, oral land claims tell a modern, postcolonial, and contemporary story of how one form of life is denied a hearing over another in the history of this nation.¹⁷

Mary Johnson’s testimony “forge[d] a conceptual revolution in the victim or plaintiff, it did so for the legal guardians of the law and political vanguards of the nation,” as “both the community and the court were revolutionized by Mary Johnson’s just effort to sing the *adwaak* in court in the face of every obstacle.”¹⁸

“Through her recognition of the court’s incapacity and refusal to hear her oral history,” Tarc argues that “Johnson altered the meanings of knowledge and evidence as determined by a non-hearing Western court of law exposed to be upheld by a non-binding historical account.”¹⁹ Moreover, Tarc suggests that “the force of oral history sung in the *adwaak* disturbs Western forms of language, knowledge, and history and compels a just redress of the colonial and violating record.”²⁰

“Land claim cases,” Tarc points out, “are then more than a conflict over land,” adding that “these cases dispute the ontological, symbolic, and cultural forms taken by knowledge, history, and justice in postcolonial and multicultural nations.”²¹ After denying oral history any status of “truth and knowledge, this finding would restore a symbolic form so vital to Indigenous peoplehood, political life, and forms of governance to official, public, and scholarly record.”²² Moreover, the ruling demonstrates that land claim can correct “wrongly legitimized colonial histories,” even

“contribute” to improved “relations produced from a terrible colonial past.”²³ Despite the odds, Tarc notes that “Indigenous existence could not be extinguished by an unjust colonial past and instead continues to challenge and exceed the presumed omnipotent reach of Western knowledge.”²⁴ Specifically, “Johnson’s act of witness tested the limits of judgment set out by Western courts,” as “her delivery of the *adwaak* for the court, all in attendance witnessed the incapacity of Western systems of knowledge for recognizing the rightful claim for existence of Indigenous people to live on the land.”²⁵ Tarc concludes: “The consciousness re-stor(y)ed in the courtroom exceeds its historical and legal mandate—the *adwaak*’s song reached way back to first contact to reanimate and reenact an epistemological and cultural split that continues to gravely divide Indigenous and Canadian societies.”²⁶

COMMENTARY

Tarc recounts Mary Johnson’s public singing of the *adwaak* – a set of songs sung by Elders of the Gitskan-Wet’sutwet’en First Nation which provides an account of the history of relationship of their peoples with the land – in the Supreme Court of British Columbia. The *adwaak* constituted a key piece of evidence to demonstrate the Gitskan-Wet’sutwet’en historical land claim to their traditional territories; it marked a precedent in Canadian law wherein Indigenous oral histories (specifically a song) were considered before the Supreme Court as historical evidence. Tarc testifies to the significance of Mary Johnson’s *adwaak* as a testament to the living histories embedded in *adwaak* and all oral histories of Indigenous peoples.

REFERENCES

- Pinar, William F. 2019. *Moving Images of Eternity: George Grant’s Critique of Time, Teaching, and Technology*. Ottawa: University of Ottawa Press.
- Tarc, Aparna Mishra. 2020. Justice Sang in *Adaan’k*: Re-stor(y)ing Historical Consciousness. In *Oral History, Education and Justice: Possibilities and Limitations for Redress and Reconciliation*, edited by K. R. Llewellyn & N. Ng-A-Fook (50-69). New York: Routledge.

ENDNOTES

¹ Tarc 2020, 50.

² Tarc 2020, 50.

³ Tarc 2020, 50.

⁴ Tarc 2020, 50-51. “Oral history,” Tarc (2020, 53) explains, “is a story of a community’s relation to and guidance from the land and living that figures of authority pass on to the people. It is the story of how a people come to be and exist on and through the land.”

⁵ Tarc 2020, 51.

⁶ Tarc 2020, 51.

⁷ Tarc 2020, 51.

⁸ Tarc 2020, 51. This affective dimension of reactivating the past can be crucial in embodying the past in the present, marked by a temporally complex subjective presence: Pinar 2019, 11.

⁹ Tarc 2020, 51.

¹⁰ Tarc 2020, 51.

¹¹ Tarc 2020, 51-52.

¹² Tarc 2020, 52.

¹³ Tarc 2020, 52.

¹⁴ Tarc 2020, 52.

¹⁵ Tarc 2020, 52.

¹⁶ Tarc 2020, 54.

¹⁷ Tarc 2020, 54.

¹⁸ Tarc 2020, 63.

¹⁹ Tarc 2020, 63.

²⁰ Tarc, 2020, 64.

²¹ Tarc, 2020, 64.

²² Tarc, 2020, 64.

²³ Tarc, 2020, 64.

²⁴ Tarc 2020, 66.

²⁵ Tarc 2020, 66.

²⁶ Tarc 2020, 66.