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Repatriation and Decolonization: Thoughts on Ownership, Access, and Control

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Abstract and Keywords

This chapter focuses on the efforts of Ts'msyen from Lax Kw'alaams to repatriate songs and associated knowledge products from the Laura Boulton Collection of Traditional and Liturgical Music. It provides an overview of the sociopolitical context that created the conditions for the songs to be taken from the community, including an analysis of the contributing role of Western property frameworks in the dispossession of Ts'msyen knowledge, heritage and rights. Based on a community-based participatory action research project with, by, and for Ts'msyen, this chapter offers decolonial considerations on the topics of ownership, access, and control from the vantage of Ts'msyen laws, ethics, and protocols.

Keywords: Indigenous people, Tsimshian, cultural heritage, intellectual property, law, archives, decolonization

Introduction: Keeping an Eye Out for Our Songs

Repatriation means to return something or someone to their place of origin. The politics of Indigenous repatriation—whether it involves human remains, objects, or songs—requires that it be restorative so that the source community can find a sense of resolution from historical injustices. For example, Ts'msyen from Lax Kw'alaams, British Columbia experienced a form of hyperdispossession from settler colonial contact that is quite remarkable in terms of time and space. In our small coastal village, which became the political home of the Nine Allied Tribes, we had to contend with missionization (1857–1948), the Hudson Bay Company (1834–1856), and Indian Residential Schools (1879–

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1948) like other Indigenous communities in Canada, but we also experienced a targeted attack on our particular ways of knowing, being, and doing from the Potlatch Ban (1884–1951).¹

In the same period, anthropological thought promulgated the notion that modernity would overtake indigeneity as if the two concepts were mutually exclusive. Anthropologists were particularly fond of northwest coast cultural aesthetics and curious about our complex forms of social organization, so Ts'msyen became early recipients of the anthropological gaze and burden bearers of the salvage era, when capturing Ts'msyen cultural heritage was part and parcel of the overall project of Indigenous dispossession. It therefore took a series of concurrent and overlapping settler colonial processes to create the conditions for the mass expropriation of our cultural heritage by a range of individuals interested in salvaging what was thought and hoped to be the remnants of a "vanishing Indian" culture. What is most telling about settler greed of this period is that while our culture was being suppressed, and while our heritage was being captured, various individuals and institutions were giving new value and meaning to our objects, bodies, and knowledges through processes of objectification, appropriation, and commoditization. Consequently, there is an incredible amount of Ts'msyen cultural material located in universities, museums, archives, and personal collections around the world, but Ts'msyen are not considered the owners by default of Western property frameworks. For repatriation purposes, how do we deal with issues of ownership, access, and control in a manner that contributes to a decolonial future? For consideration, I discuss the potential repatriation of a collection of songs to the Ts'msyen community of Lax Kw'alaams.

I have been a member of the Lax Kxeen Ts'msyen Dance Group based in Vancouver, British Columbia, for nearly twenty years. Lax Kxeen represents an intergenerational community of families who primarily trace their lineage to the Ts'msyen village of Lax Kw'alaams. Over the years, conversations about the role of song and dance and the importance of cultural reclamation have increased among members, leading to a request of me by the leader of our dance group. She asked, "can you keep an eye out for our songs while you're out there doing your studies?" As a graduate student in anthropology and Indigenous studies at the time, I was both compelled to respond to the unique needs, priorities, and values of my community and intrigued by questions of property, ownership, access, and control where it concerned captured forms of Indigenous cultural heritage. As I thought through the possibility of reclaiming songs that our group leader knew were "out there somewhere," and as I thought about how repatriation could take form in various contexts, I was informed by a student colleague in my department about a collection of Ts'msyen songs located at Columbia University. The detection of our songs not only presented an opportunity for repatriation, but it would also allow me to test the application of a decolonial ethic to an actual case study. With consultation and guidance from Ts'msyen people, I began to implement a comprehensive, community-based Indigenous research paradigm to explore the motivations, possibilities, and obstacles associated with repatriating Ts'msyen songs from archives. Since 2012 I have engaged nearly three hundred Ts'msyen from infants to elders in a multisited, ethnographic

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research project: (1) in Lax Kw'alaams, the contemporary village for nine of the fourteen tribes of the Ts'msyen nation; (2) in Prince Rupert, a Ts'msyen place and the main urban locale; and (3) in Vancouver, where there is a large population of the Ts'msyen diaspora. The entirety of the research process was approached as much as possible per the ethics and protocols of our people—*Ayaawxsm Ts'msyen*—to reflect a distinctive Indigenous research paradigm based on the precedent of Ts'msyen laws, and our ways of knowing, being, and doing. While the case study is ongoing, and we have yet to find resolution, the research contributes to contemporary discussions about ownership, access, and control of Indigenous cultural heritage.

The Case Study

The repatriation case study began with knowledge about a collection of Ts'msyen songs that became caught up in the Laura Boulton Collection of Traditional and Liturgical Music, located in the Center for Ethnomusicology at Columbia University. While this was the initial detection and point of entry for a potential repatriation, the preliminary research revealed that answers to questions about provenance were not as straightforward as one might think. In consultation with the former and current director of the Center, Aaron Fox, and largely due to his knowledge of the Center's lineage and research about Boulton's activities leading up to the acquisition of her music collection by Columbia, I immediately discovered that there were complicated webs of meaning and ownership associated with the Laura Boulton Collection, and thus the Ts'msyen content therein. Boulton was originally funded by the National Film Board of Canada (NFB) to document the traditions of ethnic communities for the Peoples of Canada project, which she did in the years 1941 and 1942. The primary point of the project was to use her documentary resources, including photographs, film footage, and sound recordings, for inclusion in a series of films for the NFB. This endeavor resulted in her accumulation of documented musical traditions from mostly ethnic white minority communities, but she also recorded songs and oral histories of three northwest coast Indigenous peoples: Gitksan, Haida, and Ts'msyen. Her encounter with Ts'msyen was brief, taking place in June of 1942 with two men in their eighties: Matthew Johnson in Lax Kw'alaams and someone named "Pearce" in Prince Rupert.

In 1962, Boulton arranged to both sell the music that she recorded between 1933 and 1962 to Columbia University and curate her collection in the newly founded archives of what would become the Center for Ethnomusicology. She included the Peoples of Canada recordings in this sale. Dated June 14, 1962, the contract between the Trustees of Columbia University and Laura Boulton regarding what was originally named the Laura Boulton Collection of Traditional and Exotic Music stipulated that, beginning January 21, 1964, the collection, notes, rights, title, and interest would be transferred to the university. The contract specifies that Boulton would be paid \$5,000 on February 15 and August 15 of each year during her lifetime—she passed in 1980. Boulton thus made

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\$170,000 over a seventeen-year period from the sale of this collection (in which the Ts'msyen content is caught up), while the university placed value in having rights to the recorded material in perpetuity. In June of 1973, Columbia entered into a contractual agreement with the Library of Congress to deposit the original master recordings of the Boulton Collection on "permanent loan." Meanwhile, Columbia would retain the rights to the collection, including the authority to determine who can transcribe, analyze, or publish the speech and music contained therein. By accepting the masters, the Library of Congress agreed to produce three sets of listening copies on reel-to-reel tapes. Two sets went to Columbia, and one set went to Boulton for her personal files. After her death in 1980, her personal files, including an endowment and royalty rights to her commercial publications, were left in trust to Indiana University Bloomington by way of the Laura Boulton Foundation. And since a tape copy of the collection that she sold to Columbia was in her personal files (which included the Peoples of Canada recordings), Indiana, Columbia, and the Library of Congress represent default stakeholders with various assemblages of rights, managing access to and control of Ts'msyen cultural heritage. Indeed, complicated webs of meaning and ownership are demonstrated in the fact that an additional 1982 final agreement about access and control clarified that Indiana and the Library of Congress might be in the position to provide public access to our songs for scholarly interests, but Columbia maintains ownership, and decisions about who can duplicate or transcribe the collection rests with the director of the Center for Ethnomusicology (Fox 2013). It is also worth noting here that the Columbia Center has digitized the Boulton Collection for permanent retention, raising additional concerns about the potential for remote access and future use.

Yet, for all of the transactions that took place leading to the documentation, commoditization, preservation, duplication, and circulation of the Ts'msyen content caught up in the Boulton Collection, there was not one instance in which either of the actors or institutions have acknowledged the legal, cultural, or moral rights of Ts'msyen, nor the rights of any other Indigenous community, whose knowledge, history, ceremonies, and creative expressions were captured by Boulton (see Fox 2013). In all instances, Ts'msyen songs and oral histories were given new meaning and value *ex situ*—divorced from the appropriate sociocultural context, without consultation from the community, and without due consideration of the laws and protocols of the people whom the performers represented. The primary reason why these transactions could proceed without due consideration of Ayaawxsm Ts'msyen is that copyright ascribes protection over products of knowledge rather than to knowledge itself. In the Western property view, Ts'msyen never owned the copyright to the knowledge product, the tangible recording. Laura Boulton, the researcher, claimed ownership of it, then sold it and bequeathed it, and now multiple institutions control the means of access to our songs by default of them being recorded, duplicated, and homogenized into a self-named collection for their archives. This signals one of the colonizing properties of Western property frameworks, especially in a settler colonial context where Indigenous societies are hyper-researched, and where Indigenous knowledge is hyper-represented in the archive even though the people are not. Through intellectual property laws like copyright, a researcher arbitrarily gains

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ownership of knowledge when it becomes documented and transformed into a knowledge product in the form of a manuscript, a film, a photograph, or in this case an audio recording and its metadata. Even though Ts'msyen are the original creators of their knowledge expressions and have unique laws and protocols that govern their relationship to cultural heritage, in most countries around the world copyright laws have not allowed, and do not provide space, for the incorporation of Indigenous customary laws, systems of property, or notions of property ownership (Torsen and Anderson 2010). As Rebecca Tsosie (1997, 5) notes, "the clash between indigenous peoples and European colonial nations has largely concerned property rights." Indigenous dispossession in settler colonies has resulted from the appropriation of Indigenous cultural heritage—lands, resources, knowledge, objects—into the property of a settler entity such as a researcher, an institution, the state, or the commons. And in this case, since "it is copyright which historically and contemporarily makes, maintains and distributes the figure of the 'author' and correspondingly the 'work,' both of which are folded into the classificatory frameworks of the archive" (Anderson 2013, 229), the Boulton Collection, in all of its iterations, becomes an important locus for studying the coloniality of power, knowledge as property, and Indigenous dispossession (Anderson 2009a, 2009b, 2013). Beyond theory, however, there is praxis, so for the purpose of repatriating Ts'msyen songs from these archives, it raises the question: how ethical, or even practical, is it to use the same legal frameworks for restitution that were leveraged to dispossess us of our heritage and rights in the first place? Ayaawxsm Ts'msyen predates and persists alongside the existence of settler states in North America even if the understanding of our laws have been shrouded by colonial geopolitics, and embodiment of our laws have been restricted by the ban. Furthermore, from a strictly educational or scientific perspective, how ethical, or even responsible, is it to make our cultural heritage accessible to the public when the original collector and the aforementioned gatekeepers do not even know what it is they hold, or the significance of what they have assumed control over? The scientific argument for Indigenous repatriation is just as important as the legal or moral one.

Aural Resuscitations: Breathing Life into Our Songs

In September 2012—exactly seventy years after our songs were recorded, and fifty years after they ended up at Columbia—I visited the Center for Ethnomusicology to confirm the Ts'msyen content in the Boulton Collection with Aaron Fox. To both of our knowledge, it was the first time a Ts'msyen had accessed the Ts'msyen recordings, and it was the first time that the Peoples of Canada files, in this collection, had been given any attention. Because there were accumulated inaccuracies and noncorrespondences between their metadata and audio files, Aaron wanted to be sure that I was accessing the correct content, and so this visit was not only meant for me to gain access to our songs but also to clarify that they indeed had Ts'msyen songs, and to determine whether their collection was actually complete. Unfamiliar with northwest coast Indigenous cultural sensibilities, Aaron was uncertain how to distinguish between the northwest coast audio files labeled Haida, Ts'msyen, and Gitksan, and so he needed my ear to help make the distinctions. Even though I did not have linguistic fluency in Sm'algyax, I knew enough words, sounds, and tones, and I also had my instincts as a Ts'msyen, to at least give it a try. We began by listening to all the northwest coast audio files so that I could try to isolate the Ts'msyen content. When I felt confident that I had the Ts'msyen content isolated, we then sought to determine whether the track numbers aligned with the notes in the metadata.

The Columbia metadata listed forty-one individual files labeled "Tsimshyan Indian." Out of these, thirty-two were attributed to "Matthew Johnson (Age 87)" and nine to "Pearce." However, through that initial listening process, I was certain that only half of the metadata had a corresponding audio file; I was sure that at least twenty were missing. I was not able to confirm which exact files were missing on the spot because I did not have the linguistic expertise to translate them. I did suspect, however, that the missing files were associated with Matthew Johnson because, among the Ts'msyen content, I heard two distinct voices. Here the metadata was useful—because Boulton associated nine individual files with "Pearce," and because I heard nine continuous sound recordings that contained one of those distinct Ts'msyen voices, I deduced that they could be associated with "Pearce," and that the missing files could be associated with Matthew Johnson. I was already overloaded with information, confused by the matrix of property transfers that occurred with the Boulton Collection, when I realized that if Columbia did not have a complete collection, to boot, this was not going to be a straightforward repatriation case at all. Indeed, after my first visit to Columbia, Aaron provided me with digital access to the entire Peoples of Canada collection so that I could investigate whether perhaps the missing Ts'msyen files were cataloged incorrectly and could be found somewhere else among the collection. After listening to the approximately 1,000 recordings on my own time, I could not locate the missing songs anywhere.

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Although the Ts'msyen files that I did get to hear seemed to match up with the metadata, there were some serious shortcomings that illuminated the politics of representation with Indigenous cultural heritage (Smallacombe 2000). The metadata was inadequate, with curious titles like "Indian Song" and scant descriptions like "Folk Song." Instinctively I knew that our songs had suffered the same fate as most forms of captured Indigenous cultural heritage: they were collected, copyrighted, poorly documented, disseminated, and archived, "in a 'vacuum' apart from the proper cultural setting" (Gii-dahl-guud-sliiaay 1995, 194), and as a result they lacked sociocultural context including translations, statements of history, lineage, and hereditary rights to ownership. The notes that Laura Boulton made can be described as overly simplistic labels for classification given by someone who did not understand the content. In fact, it was not until 1962 when she negotiated the terms of her sale that Boulton collated and cataloged the metadata for her collection—twenty years after the moment of capture. This is haphazard, even by the standards of the time, and can be owed to the curious life of Boulton. She was not so much a researcher as she was a typical amateur collector of her era, albeit one who adamantly sought professional and academic legitimacy for most of her life (McMillan 1991; Fox 2013).

I also consulted Boulton's book, *The Music Hunter: The Autobiography of a Career* (1969), to see whether there was additional information or context to consider beyond the pithy descriptions that she does provide in her notes. I found that she made fleeting references to Ts'msyen, oddly in chapter 25, which is arbitrarily titled, "The Queen Charlotte Islands and the Northwest Coast Indians" (Boulton 1969, 393–410). There were two things that I found from this book—something about "Pearce" but nothing about Matthew Johnson. She writes, "William Pierce was my best informant with the Tsimshian at Prince Rupert, an important coast village of British Columbia. He belonged to the Eagle clan by birth and the Blackfish clan by adoption. When he sang these clan songs for me he was eighty-four years old but still knew very many songs, which he sang well" (Boulton 1969, 409). Boulton went on to conclude the chapter with a transcription of William Pierce sharing an *Adaawx* (oral history) in English about how the halibut became dark on one side. I was able to corroborate that there were two files with this title that were attributed to "Pearce" in the metadata—one recounted in Sm'algyax and the other in English. The book turned out to be useful with regard to figuring out the last name and age of "Pearce," but it too proved to be inadequate for many reasons, namely that there were no other references to William Pierce, nor a single reference to Matthew Johnson throughout her book. Even the assertion that William Pierce was "Eagle clan by birth" but "Blackfish clan by adoption," and that he sang "clan" songs raises the questions: Which clan songs was he singing? Were they *Laxsgiik* (Eagle) songs or were they *Gisbutwada* (Blackfish) songs? Could they even be described as clan songs at all?

Given all of the confusion associated with this particular collection of Ts'msyen songs—ex situ meaning and value, various assemblages of rights, an incomplete archive, limitations in the metadata, and a short-lived reference to a Ts'msyen encounter in her book—it was clear that repatriating Ts'msyen songs would require a great deal of community-based participatory action research with, by, and for Ts'msyen. Community-based research

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would be necessary to “breathe life” into our songs, to re-transform static heritage into activated and then active heritage once more. Our songs remained static, confined to archives for so long, but they became activated through our collective research, and will be active once more when Ts’msyen themselves determine rights to ownership based on our Ayaawx, and the appropriate people or entity are singing/dancing their songs again in ways suited to time, place, and protocol. Regarding the ownership concept, it should not be thought of solely in the Western legal sense. “What is sacred and what is law is entirely bounded by culture” (Bell and Napoleon 2008, 5). In the Ts’msyen worldview, ownership is more synonymous with responsibility than it is with possession. In a general sense, tangible and intangible forms of Ts’msyen cultural heritage are collectively owned, with rights to crests, names, masks, hereditary titles, and songs, for example, possessing intra- and interdependent levels of individual, family, House, Tribe, Clan, community, and nation-based ownership and responsibilities. Ts’msyen trace lineage through our mother’s line to determine our Clan, House, and Tribal identities within the Ts’msyen sovereignty structure. We all belong to the Clan of our mother, first and foremost. The Clans are represented as multiple House Groups that are organized among the fourteen Tribes of the Ts’msyen nation based on a complex system of matrilineal descent and inheritance. Therefore, aural resuscitation of the Ts’msyen songs in the Boulton collection is only possible through collective inquiry, in the appropriate cultural contexts and based on the laws and protocols of the people. Repatriating Ts’msyen songs is about giving meaning and value in situ *again*. With these guiding sensibilities, derived from consultation with Ts’msyen, I employed interrelated research methodologies that set forth a decolonial path for studying the wholistic reclamation of Ts’msyen songs. Since October 2012, Ts’msyen in three locations have come together *sagayt k’uluum goot* (of one heart) in a series of seven listening gatherings, six translation workshops, and four talking circles to breathe life into the songs again. As a complementary case study, I also facilitated an accompanying research project on embodied heritage with Lax Kxeen, which demonstrates how Ts’msyen laws are enacted whenever we sing and dance (see Gray 2015).

The listening gathering format was important because it helped to address accessibility issues for Ts’msyen. It was important for Ts’msyen to gain access to the old songs, not as individuals but as collectives, in a manner that would facilitate the co-creation of knowledge in the appropriate cultural contexts. Furthermore, the Sm’algyax word “*amuks’m*,” which means to listen and pay attention, is a core sensibility in the Ts’msyen worldview, relevant to the act of witnessing that is so critical to the Ts’msyen oral tradition and to concomitant feasting protocols, for example. While there was space for interpretation in the listening gatherings, the complexity of our language, and the varying levels of linguistic fluency among Ts’msyen, required a more focused attempt to breathe life into the songs with hereditary leaders and Sm’algyax experts in Lax Kw’alaams. The focused translation workshops, importantly, were place-based in consideration of the linguistic nuances (primarily pitch and intonation) that range among Ts’msyen village communities. And finally, the talking circles created the necessary space for community members to confront the issue of control with more precision. Sure, it was nice to have

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access to our songs through the listening gatherings, and extremely powerful to be able to listen to them together—but how would we apply our Ayaawx to a repatriation case if the goal is control? Many were already aware of repatriation cases that have occurred for neighboring nations, like Haida, Haisla, and Kwakwaka'wakw, but were astutely cognizant of the fact that what worked for our neighbors might not work for us. Ts'msyen were clear that we need a process for repatriation that accounted for Ts'msyen sensibilities, considerate of our unique history, and based on our Ayaawx. As Łuum (Smooygit, Ganhada, Waap Łuum, Gitgiis) noted in one of the talking circles, there will inevitably be “problems whenever you're trying to apply the white man's law instead of going by our own law.” This was affirmed by a Haisla Elder who was present with her husband at the very first listening gathering in Lax Kw'alaams:

Robin, just a suggestion . . . one of the things that we had to do at the very beginning of our repatriation process—and people call it the largest repatriated article in history [the G'psgolox totem pole from Sweden]. But one of the tasks that we had to do at the very beginning was to hash out the word ownership. Our ownership, and the museums ownership or whatever organization calls ownership, are two very different things. And ownership with the songs . . . you don't know yet who they belong to, which Tribe, which community. Make sure there's the ownership idea that it belongs to a specific family, or a specific Clan or a specific Tribe. And just because the lady tape-recorded these songs, doesn't mean she's the owner of those songs. And just because she sold and willed it to the universities, doesn't mean that it's theirs. That's their law. But you need to help educate them on your Ayaawx (Louisa Smith, Kitamaat, Haisla Nation, Eagle Clan, G'psgolox House, Nli'skusa Tribe).

Based on our Ayaawx, in/tangible forms of Ts'msyen cultural heritage are collectively owned in a general sense—rights encompass intra- and interdependent levels of individual, family, House, Tribe, Clan, community and nation-based ownership and responsibility. There are many ways that we can describe Ayaawxsm Ts'msyen; it is not easily defined, but it absolutely defines us as Ts'msyen. It governs our relationship to everything and everyone. It is our precedent, law, policy, and ethic, and it shapes our ways of knowing, being, and doing. Ayaawxsm Ts'msyen is the reason for our in/tangible cultural heritage. Ayaawx is not prone to generalizations, however—we apply Ayaawxsm Ts'msyen to various contexts. In the case of song repatriation, Ts'msyen are the only people who have the collective authority and expertise to give value and meaning to the songs, and to affirm ownership and responsibility. Furthermore, from a humanist perspective, “what could be more reasonable than a desire to ensure that you are the custodian of your own cultural heritage? And what could be more unreasonable than holding another people's cultural heritage, of ongoing significance to them, in your hands?” (Asch 2009, 394).

Ayaawxsm Ts'msyen informs our sensibilities, and therefore the creative expressions that connect us to people, places, and processes of the past and present. Ts'msyen songs cannot be fit into a neat category of intangibility—let us just think about how they

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became transformed into a knowledge product, or how the intangible is made tangible, from utterance to record. Beyond that, however, from a Ts'msyen perspective, songs are always connected to something else like a process (mourning, feasting, teachings) or a cultural object (masks, drums, regalia), and they are enacted through embodiment (dancing, ritual, protocol), for example. That is Ayaawx in motion:

that's why these songs are so important; because it connects the art, to the piece, to the dance, to the story. Because that's what our dances are—they're a reflection of who we are. When you see it on the dance floor, at a feast, or in a big house, that's what that is. It's, "this is who I am, this is a dance and a song that comes from my House in my territory and this is what it's all about." Like when you're feasting, you're telling your oral history to people, so that's a reflection of who you actually are. And that's the legal part; that is ours. That is our tribal system, and we own it. It doesn't belong to anybody except the people who own those songs, and the people that own the art, the people that own the mask that goes with that certain song, etcetera. And some songs are so sacred they're only brought out once every five, ten years, depending on the situation, right? So there are levels of spirituality within all of our stuff. Spirituality is part of who we are. Like our Nax Nox songs, those are so sacred, it just hurts me to know that it's just sitting somewhere and I can't get access to that because somebody said, "well, we got a law about that." Well, what about our law that says you had no right to take it in the first place? (people agreeing). Who gave you the right to take my song from us and what gave you that right to do that? And they made a law that says I can't get it back unless I talk to you first, or I have to negotiate with you? That's just wrong. Because it's not theirs, it's ours. (Mosgm Gyaax, Sigyidmhana'a, Ganhada, Waap Lugiisgagyo, Gitwilgyoots)

Even with the assertion that they are "ours" and that they belong to Ts'msyen, my research partners remained aware and cautious to respect the various intra- and interdependent levels of rights and responsibilities that anchor the Ts'msyen sovereignty structure. We might know that they are Ts'msyen songs that trace to the one of the Nine Allied Tribes, but "you have to be careful about who actually owns the songs before you say, 'I'm gonna sing a song'" (Aldm lxah, Smooygit, Ganhada, Waap Aldm lxah, Gitwilgyoots). Uncritically ascribing legal ownership over the songs to any given social entity within our sovereignty structure before doing the appropriate research-based Ayaawxsm Ts'msyen would be a serious breach of protocol. But settler colonialism has had devastating effects on our community and an enormous amount of Ts'msyen cultural heritage has been extracted from the Nine Allied Tribes in Lax Kw'alaams, so I have been advised that it is appropriate to consider the songs as part of the collective history and cultural heritage of the people of Lax Kw'alaams, especially since the men recorded indeed belonged to one of the Nine Allied Tribes and were also recorded within our tribal territories. "Our songs belong somewhere. Some Tribe, House or family. And even though we don't know it now—where they all belong—we do know that they belong here" (Wii

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Haughtkm Skiik, Laxsgiik, Waap Laax, Gitando). Ts'msyen continued to assert that issues of ownership within our community must be dealt with by our community.

Establishing ownership over Ts'msyen cultural heritage based on Western property systems, and establishing ownership based on Ayaawxsm Ts'msyen, will inevitably result in two different approaches and outcomes. For example, if following the Western system one will likely be concerned with tracing ownership based on the collector and their descendants, or the institution where the collector deposited the recorded material. Even if beginning with an acceptance of the agency of performers from the Boulton Collection, one is still likely to privilege an inquiry based on lineal descent—who were Matthew Johnson and William Pierce's direct descendants? This is certainly a question that Ts'msyen would ask, but it would not be the only question to determine ownership and, importantly, responsibility. By following our Ayaawx, we begin with a different set of questions: Where did these two men stand within the Ts'msyen sovereignty structure; did they hold any hereditary leadership titles; have they feasted; what Ts'msyen names have they worn; what types of songs were they singing, or what kinds of stories were they telling; and what ceremonies or processes did they connect to? And the list goes on. But because the songs were at a university, Ts'msyen had additional questions to ask. At every listening gathering, for example, I was met with the same questions: Who recorded the songs? Were they ever copyrighted? Did the recorder ever have a relationship with Ts'msyen? Did the recorder note which Tribe or House or family the songs belonged to? Whenever I played the songs for people I would be sure to read the metadata before each recording to see if they reflected the titles and descriptions, but folks weren't only interested in clarifying Boulton's notes. They wanted to know where the songs fit within our sovereignty structure, for our own accountability.

At a listening gathering in Prince Rupert with Sm'algyax experts, I was asked about a song that had just finished playing, "What do her notes say, again?" And I responded, "The title says Death Song for Chief and the description says Funeral Song." She reacted, "Is that it?!" "Yup, that's all she wrote," I replied, and the room erupted with disappointed giggles: "Wow!" They knew it was another inadequate recording of the song, not only because of its suspect title and description, but because there were no additional notes related to statements of lineage, history, and rights. This was extremely disappointing to Ts'msyen because our Ayaawx was never considered, but also because Boulton's pithy notes were misleading—which also cast a light on the politics of misrepresentation about Ts'msyen lived social realities. At another listening gathering in Prince Rupert with Ts'msyen Elders and hereditary leaders, the issue of misrepresentation was tackled when I attempted to play the first song. I explained that it was titled, "A'alos (Chief's Song)" and was described as a "Canoe Song, Sung When Going to Buy Skins." Before even hearing the song, Xbinhoon (Smooygit, Ganhada, Waap Xbinhoon, Gitzaxłal) interrogated the description of the song in relation to our sociocultural history in Lax Kw'alaams:

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Sung when going to buy skins? I know Hudson Bay [Company] used to be in Port Simpson [Lax Kw'alaams] there. But they [our people] sell skins when they go there after their trapping. They come back from trapping, they sell. They don't go there to buy skins! I hear my grandfather's story, that Hudson Bay made it a total rip off for the First Nation people, the trappers; especially the trappers. He said the gun was so high, and they used to stand it up on the wall, and they'd say, "this is how much skins you have to pile up to get that gun." That's what my grandfather said. So, it took him a long, long, time to get his skins on account of the way they worked. "If you want that gun," they said, "this is how much furs you got to pile up, right to the end." And those guns there were this big—a musket. And, you know, they were pretty long. And that's how many skins—it must've taken about 100 skins to get one gun. So imagine how much they made out of that one gun, eh, for all the skins they got. My grandfather said it took him all winter.

In this instance, Boulton did not only provide a pithy description of a song; she provided an inaccurate description of our sociocultural reality in Lax Kw'alaams. "Buying" skins versus "selling" skins did not account for the unequal power dynamics between Ts'msyen and the company that set up a trading post in our community to exploit our labor and resources. Whether or not it is actually a canoe song related to trapping, the note was written as evidence, created as metadata, transformed into property, and now the public can access it—with permission, of course, but not from Ts'msyen. In this case, the colonizing properties of property, the socioeconomic power afforded to authors, and the force of objectified knowledge in the archive work to reduce Ts'msyen as exotic, knowable, exploitable, and ultimately, invisible.

Throughout our community-based research process, Ts'msyen worked together to breathe life into the songs from the Boulton Collection. Although there are more questions than answers, we found that the songs and oral histories said a lot about Ts'msyen peoples, places, and processes. They gave us clues about Matthew Johnson and William Pierce's lives, they contained teachings about significant places in Ts'msyen territory, and they represented aspects of significant cultural processes such as mourning through song. Furthermore, Ts'msyen challenged the classificatory logic and representational status of the metadata, and thus the archive, by clarifying the titles and descriptions, and providing important sociocultural context that could not have come from anywhere else other than from Ts'msyen. The research shows that, even if there were an argument for gatekeepers to make about the need for public access to our songs and their metadata for the advancement of knowledge, it is clearly a public disservice to make the Ts'msyen songs in the Boulton Collection available when it would only perpetuate decontextualized, misleading, and incorrect information about Ts'msyen culture, society, and people.

Concluding Thoughts: Repatriation as Decolonization

Indigenous repatriation is an opportunity to right historical wrongs, to remedy settler colonial violations, and to build new nation-to-nation relationships with Indigenous peoples. With each case of repatriation—whether it involves human remains, objects, or audio recordings such as songs and oral histories—it is necessary to historicize the situation and give sociocultural context to contemporary claims for access and control. For example, when Matthew Johnson and William Pierce were recorded in 1942: (1) the Potlatch Ban was still in effect, making it illegal to practice our culture, (2) our children were still being mandated to attend Indian residential schools for assimilation, (3) Indigenous people did not yet have citizen rights in Canada, and (4) universal standards of human rights and human subjects research were not yet institutionalized. Therefore, there were no real means of protection against the unethical and illegal collecting of Ts'msyen cultural heritage, nor from the commoditization of our knowledge into property. In this case study, we had to confront the fact that the right of ownership to our songs was never vested with Ts'msyen by settler entities. Ts'msyen laws were not considered in the transactions that transformed our knowledge and heritage into the intellectual property of the researcher and then, by her claiming alienable wealth, the property of Columbia, and so forth. Ts'msyen gained access to the songs through a community-based research process—which has been a powerful act of healing and reclamation—but the fact remains that the issue of ownership and control has not yet been addressed for restitution. Therefore, I have described this case as a *potential* repatriation.

Western property frameworks present ongoing obstacles for repatriation as decolonization. Repatriation refers to a process of returning to a place of origin, and decolonization refers to a process aimed at changing the larger social structure. However, there exists a core tension within these aims—Western property frameworks remain largely unchanged, and settler societies continue to overwhelmingly favor, indeed rely on, Western sensibilities about property and ownership. As a result, the repatriation of Indigenous cultural heritage has taken many forms in settler colonial contexts such as Canada and the United States. Where there are laws it has been legally enforced, and where there are not it has taken form through negotiation. In many cases, an institution will debate the terms of access and control, and this can result in the digital return of songs, borrowing arrangements for masks and regalia, or replica transfers of totem poles, for example. For some Indigenous communities, access is enough to find resolution. For Ts'msyen, however, reclaiming control over our captured cultural heritage is integral to a successful repatriation, as it would allow the community to appropriately reset the terms of ownership, access, and control based on Ts'msyen laws, ethics and protocols, and without settler interference. If an Indigenous community wants to pursue custodial arrangements with museums, libraries, and archives, then that is their prerogative. But an institution or a gatekeeper of Indigenous cultural heritage should not assume that

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access is enough for every community. Institutions that hold Indigenous material must not only be open to potential repatriation cases; they must also be prepared to give up control of Indigenous cultural heritage if that is what the source community wishes.

In this case study, three primary decolonial sensibilities have framed the discussions about ownership, access, and control. First, Ayaawxsm Ts'msyen is a precedent for access and control of Ts'msyen cultural heritage, and the power to determine legality rests with Ts'msyen who make up the sovereignty structure. This means that political authority is located in our hereditary leaders and the people, not necessarily in the Band Council or in some other settler colonial-approved system of governance. Second, it is necessary to distinguish that access to Ts'msyen cultural heritage is not the same as control over Ts'msyen cultural heritage. Accessing Ts'msyen songs in digital format is not a successful repatriation because the rights to ownership, and the power to control access, is maintained by the institutions. In this scenario, paradigms of colonial control and Indigenous dispossession remain intact. And finally, we do not need to argue for copyright or even for the incorporation of Ayaawxsm Ts'msyen into Western property frameworks to make the claim for repatriation. Western laws have proven to be inadequate for protection, and there remain incorrigible tensions between the two legal traditions. Therefore, where it concerns decisions about Ts'msyen cultural heritage, Ayaawxsm Ts'msyen should prevail. In fact, the most important finding from this repatriation case study is that the Ts'msyen songs caught up in the Boulton Collection should not be in circulation, should not be accessible to the public, and should not be considered research material for non-Ts'msyen interests. Thus, in consideration of a decolonial future, the institutions in question must be willing to surrender rights and title for Ts'msyen to find resolution from historical injustices. Only then it will be a successful repatriation.

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Notes:

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(¹) In 1884, the Canadian government amended the Indian Act (1876) to include a Potlatch Ban, outlawing the feasting and potlatching activities of northwest coast Indigenous people by 1885. Motivated by particularly Christian, racist, and capitalist ideals, missionaries and Indian Agents insisted that the potlatch system was an impediment to cultural assimilation in the area. In 1951, the Potlatch Ban was finally lifted. For further reading on the Potlatch Ban and perspectives on the potlatch system vis-à-vis Aboriginal rights see: *An Iron Hand upon the People: The Law against the Potlatch on the Northwest Coast* (Cole and Chaikin 1990); *The Potlatch Papers: A Colonial Case History* (Bracken 1997); *The Reunification of the Kwakwaka'wakw Mask with Its Cultural Soul* (Sanborn 2009); and *Feasting Judicial Convergence: Reconciling Legal Perspectives through the Potlatch Complex* (Ebert 2013).

