

STORIED COMMUNITIES



This volume has emerged from the work of the Consortium on Democratic Constitutionalism (Demcon), an interdisciplinary, international group of legal, political, and social theorists who work on questions of constitutional theory, design, and practice. Demcon takes the view that participatory and deliberative institutions – their structure and operation, not merely formal rights guarantees – are essential concerns of constitutionalism. Contributors are especially concerned with integrating issues of cultural difference into reflections on democratic constitutionalism – in particular, drawing on insights obtained from indigenous-nonindigenous relations.

Other Demcon volumes include:

Between Consenting Peoples: Political Community and the Meaning of Consent (2010), edited by Jeremy Webber and Colin M. Macleod

STORIED COMMUNITIES

Narratives of Contact and Arrival in Constituting Political Community

Edited by Hester Lessard, Rebecca Johnson,
and Jeremy Webber



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PART 1

INTRODUCTION

1

Stories, Communities, and Their Contested Meanings

HESTER LESSARD, REBECCA JOHNSON,
AND JEREMY WEBBER

History is what happened and what continues to happen on and on through time. But it is also layered in strata that lie beneath the ground we walk upon, and the deeper the roots of our being reach down into those unfathomable layers of history – which lie beyond and below the fleshly confines of our ego and yet determine and nourish it ... – the more weighed down with meaning is our life and all the more dignity attaches to the soul of our flesh.

– Thomas Mann, *Joseph and His Brothers*

Communities are constituted partly through narratives about their origins. This is especially and most obviously true of national communities, which assemble stories as a means of consolidating a vision or “imagined community.”¹ These narratives position people in relation to each other, communities, and the state through discourses about citizenship, sovereignty, and belonging. The overarching purpose of *Storied Communities* is to examine the relation between two foundational sets of narratives that continue to shape settler societies – namely, narratives of contact and of arrival. In doing so, we aim to consider more deeply the role of narrative in defining community. The contributions in the volume draw on Canadian, Australian, Aotearoa/New Zealand, and American experiences to explore these questions.

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This book is the second produced under the umbrella of the Consortium on Democratic Constitutionalism (Demcon), an international and interdisciplinary network of scholars whose work engages with fundamental questions pertaining to constitutional theory, design, and practice.² The first volume, *Between Consenting Peoples: Political Community and the Meaning of Consent*, delves into the adequacy of consent as the foundation of political community and explores alternative ways in which “consent” might be conceived.³ This second book shifts the focus to the role of narrative, of storytelling, in the formation and shaping of political community. In doing so, it builds upon *Myth and Memory*, a collection of essays edited by historian John Lutz that examines accounts of “first contact” from indigenous and explorer perspectives.⁴ Our aspiration is to inquire into the nature and texture of the narratives that have shaped, sometimes clearly and sometimes in hidden or bewildering ways, understandings of political community in settler societies. Moreover, we have complicated the “nonindigenous” by foregrounding narratives of arrival and their uneasy positioning between those of the already settled and those of the indigen. This key juxtaposition, of narratives of contact with those of arrival, casts new light on the role of stories in shaping membership, belonging, inclusion, and collective self-definition. Too often, scholars of the transnational subject (the migrant, the refugee, the guest worker) and scholars of indigenous struggles operate in separate worlds despite sharing many of the same questions about the nature of political community – indeed, despite focusing on communities that are characterized by both indigenous presence and successive arrivals.

In juxtaposing these narratives, we do not aspire to create an overarching story to which we all agree. Rather, the aim is to complicate our purchase on the world by embarking on a project that entails not the erasure of histories, either indigenous or nonindigenous, but the recasting and repositioning of the stories that comprise our histories. Juxtaposition, we suggest, is illuminating, given that our current politics are simultaneously profoundly interconnected and profoundly fractured. As James Clifford, a practitioner of techniques of juxtaposition and collage in his work on indigeneity and modernity, observes,

[i]ntervening in an interconnected world, one is always to varying degrees, inauthentic: caught between cultures, implicated in others. Because discourse in global power systems is elaborated vis à vis, a sense of difference or distinctness can never be located solely in the continuity of a culture or tradition. Identity is conjunctural, not essential.⁵

And, we would add, the archetypal stories of contact and arrival that characterize the self-descriptions of settler societies are also “conjunctural, not essential,” and sustain multiple tellings and retellings to produce not an undecipherable jumble of competing claims but a conversation threaded with echoes, collisions, resonances, surprises, ironies, epiphanies, and invitations to rethink orthodoxies. This volume begins that conversation. We hope our readers will be impelled to continue our dual projects of attending to stories and of pulling accounts of contact and arrival into the same frame.

Stories: The Role and Method of Narrative Form

Over the past thirty years, “the narrative turn” has been extensive, and tools developed in the hermeneutic traditions have travelled across disciplinary boundaries.⁶ The term “narrative” now has a wide range of meanings and uses, some more and some less linked to questions of literary form.⁷ Certainly, it has become common to use “narrative” in discussions of individual and collective identity. Those discussions sometimes draw on theories of identity developed within psychology and pursued in philosophical and feminist literatures.⁸ We come into existence (so one argument goes) as embodied beings, processing the partial fragments of sensory experience (sounds, images, smells, touches), sorting them into patterns of consequence, patterns of meaning. Narrative – or “story” – is one of the primary vehicles through which we sort, arrange, and produce those patterns.⁹

Narrative is not, of course, the only form of discourse available for sorting experience. And yet storytelling, as Jerome Bruner notes, has a very real grip on the human imagination.¹⁰ Whether one begins from an indigenous or nonindigenous perspective, there seems to be widespread agreement that stories are central to the business of constituting both communities and self.

But what distinguishes a story from other kinds of telling? How do stories function to define communities, maintain them, specify the relationship of individuals and groups to them, determine who belongs and who does not, and shape the manner in which members interact? How do stories, storytellers, and conditions of storytelling embed or disrupt powerful conceptions of gender, race, or hierarchy?

In the tradition of European narratology, theorists have sometimes approached these questions by stripping stories down to core elements.¹¹ So, on Bruner’s account, drawing on Kenneth Burke – which may capture only a subset of stories – we expect to have an agent who, in a recognizable setting, performs an action to achieve a goal via the use of certain means.¹² One expects the story to be set in motion by “trouble”: something unforeseen

happens, and a cast of characters must work (or be pressed) toward a resolution. In its articulation of both “the trouble” and “the resolution,” a story weaves together an understanding of both “the established” (what is) and “the possible” (what might be). It is the violation of the canonical (“trouble”) that gives rise to the tale with its resolution, with all its order-maintaining and order-transforming potential.¹³

For all stories, the setting situates the narrative in time and place, giving them a concrete, lived character. This can give stories a naturalistic feel, one that seems to pattern individuals’ own lives. It also means that stories frequently cannot be reduced to a simple set of propositions. They remain open to multiple interpretations, to ambiguity, to reception as metaphor or allegory. They are, as J. Edward Chamberlin reminds us in Chapter 8, perennially unfinished, always awaiting the next retelling or the next response. At the same time, through selecting certain features in preference to other possibilities, stories affirm certain relations of cause and effect, and tend to privilege some interpretations over others.

Stories can be “real” or “imaginary.” Sometimes, the claim that the story is about real people and events is important to its reception; listeners attend to it because they want to understand persons or events to whom they consider themselves connected. On other occasions, such facticity does not matter, for the point is to enter into the world of the narrative, to be placed in a location where illustrative events unfold, to make sense of what does and does not happen, to assess, judge, or participate. And they are frequently transhistorical, drawing forms and patterns from past accounts, probing them for their insight, and then retelling them for contemporary purposes. Many of the stories considered in this book play with that relationship of old and new, commonplace and fantastic.

Indeed, stories often make connections between ordinary and exceptional, render comprehensible the norms and departures from them. A story is, on this account, much more than a description of events in a real or imagined world. It is a modelling of how to understand and interpret them – what to *make* of them. As Bruner puts it, “A narrative models not only a world but the minds seeking to give it meaning.”¹⁴ And the greater the range of interpretive possibility, the more power the narrative has.¹⁵ The power of the story as a form lies both in its particularity and its generalizability. Its particularity (of character, time, place, event) allows us to imagine ourselves into a concrete world that is different from our own, to imagine ourselves into the psyche, the body, the feelings and emotions of someone else.

Its generalizability enables the structure of a story to act as a template for organizing and understanding experiences. The narrative is a way of imagining the self and the world – which helps account for the sense of wonder that pervades the most significant of stories.¹⁶

Of course, as we explore in this volume, the blade of the story's constructive capacity cuts in at least two directions: it facilitates the building of community while denying that possibility to others. Storytelling itself may be something all cultures do, but there are huge differences of social location and, doubtless, of storytelling tradition and expectation. An encounter with those differences – an exploration of stories, counter-stories, and their interaction – is central to this book.

All stories are narrated – told from someone's perspective. They are also told to and for someone.¹⁷ As Julia Emberly points out, Canadian history is learned and taught from the perspective of competing national longings and belongings, and it reflects the attempt to remake the society in the image held by the storyteller, including the denial of Canada's identity as a colonial state (as indeed, Bain Attwood explores in Chapter 11, in relation to Australia).¹⁸ That often involves the denial of elements that are uncomfortable or disruptive.

How stories are received is also shaped by the desires, expectations, beliefs, and values of the hearer. Nonindigenous observers, professional and lay, have often reduced indigenous stories to pretty fables, which are stripped of their performative features and offered as bare diegetic summaries, unattached to context or audience.¹⁹ The argument here is not that stories cannot be heard and shared across communities. On the contrary, we recognize what is missing in past accounts precisely when we listen more attentively. But that listening must involve sensitivity to the different roles of stories. Storytelling fills multiple functions in all communities: stories may serve to teach, entertain, capture memory, forge identity, or just while away the hours. But, as Richard Van Camp and Blanca Schorcht remind us in Chapters 5 and 6, it can also be "medicine" or "law."²⁰ Stories can be vehicles for honouring. In stories, the aesthetic and the teaching aspects are often tightly bound together. Indeed, a focus on plot makes it easy to dismiss the importance of the language in which the story is told. We should remember Leslie Marmon Silko's assertion that, for many indigenous peoples, "language is story," and that the words themselves have their own stories.²¹ Or, as Jacinta Ruru points out in Chapter 12, we need to grapple with the fact that calling a mountain "an ancestor" is not simply an exercise in metaphor.

Many of the stories that concern us in this volume have entered the world of myth. Richard Slotkin has said that myths are “stories drawn from a society’s history that have acquired through persistent usage the power of symbolizing that society’s ideology and of dramatizing its moral consciousness – with all the complexities and contradictions that consciousness may contain.”²² The values and assumptions of a society – both those of which we are proud and those that we now wish were otherwise – are carried through narrative, with its “subjunctive” capacity: believe, and believing will make it so.

There can come a time, in the life of myths, when that belief begins to weaken. Bain Attwood explores this in Chapter 11. Slotkin has done so in the frontier myth of twentieth-century America. Settler society is, he argues, caught today in a liminal moment, “in the process of giving up a myth/ideology that no longer helps us see our way through the modern world, but lack[ing] a comparably authoritative system of beliefs to replace what we have lost.”²³ He concludes,

our choice is not between myth and a world without myth, but between productive revisions of myth – which open the system and permit it to adjust its beliefs (and the fictions that carry them) to changing realities – and the rigid defense of existing systems, the refusal of change, which binds us to dead or destructive patterns of action and belief that are out of phase with social and environmental reality. We require a myth that can help us make sense of the history we have lived and the place we are living in.²⁴

Many of the chapters in this volume embrace that aspiration. In Chapter 18, Martha Nandorfy reminds us of Thomas King’s insight into the serious business that is storytelling: “You have to be careful with the stories you tell. And you have to watch out for the stories you are told.”²⁵

Stories and the Constitution of Political Community

This book is especially concerned with the role of stories in defining and sustaining political communities. The idea for this volume arose at a conference in 2004, when Dawnis Kennedy, an Anishinabek scholar, spoke of the importance of stories to her people. A nonindigenous scholar responded by saying that Euro-Canadians had no such stories. To us his remark, though well meaning, was wrong.²⁶ Euro-Canadians do conceive of their collective identities in terms of stories. It is just that they call them history.

The histories out of which nations weave their identities share the characteristics of stories generally.²⁷ They recount events in time, in place, involving specific actors. Their specificity and localization are crucial to individuals' sense of recognition and identification. Histories are told as coherent narratives. They are emphatically selective, the historian determining what events are worth retelling. Histories are often about the experiences by which members have forged a sense of commonality. In choosing events, and describing who acted in those events, they implicitly define the members of the society; they tell us who counted, who belongs.

They also generally teach lessons, modelling conduct that today's citizens should emulate or cautioning against paths that lead to disaster.²⁸ Take, for example, accounts of the US Civil War. The war is often portrayed, within the United States, as a great moral struggle, in which the country fought to define the ideals proclaimed in the *Declaration of Independence*. It was a national tragedy, exposing divisions that should never be permitted to recur. It was a crucible of fire, forging the ultimate unity of the country. And from that crucible, historians extract lessons: the need to redouble one's commitment to racial equality or to set one's face against causes of division. Within the South, the war furnishes stories of resilience, unjust imposition, and an idealized vision of Southern society. The lessons are disparate, by no means concordant, and this too is characteristic of the way stories are told and morals ascribed.

There are good reasons why histories bulk large in the lives of nations. Although we often talk as though nations are held together by a set of agreed norms or shared values, that is not so. Any real society contains vigorous debates, even over fundamentals. Think, for example, of the fierce disagreements over the true meaning of equality, liberty, and republican democracy in the United States at the time of the Civil War and indeed today. The commonality of societies is better captured in the idea that they share a language of public discussion and decision, a public conversation, in which they draw upon a distinctive set of terms, a distinctive experience against which arguments are framed and evaluated, and a sense of how these debates relate to the conduct of daily life within the society – to economic relations, to social class, to gender.²⁹

Histories are interwoven throughout all this. The very openness of history to interpretation allows historical experience, taken as a whole, to ground a sense of belonging, even among people who disagree. The various elements of the national conversation come to members in the form of historical narratives. Members try to draw out their meaning by arguing over

their past and present deployment. They derive lessons about what was valuable and what was mistaken, what accounted for members' actions then, and what should direct their actions now. The stories are not entirely self-validating. They can be tested against the course of events, their judgments and interpretations challenged. But, almost always, historical experience comes to members partially digested and interpreted, in multiple accounts that weave together event, cause, effect, and explanation. It comes, in other words, already in the form of stories, so that a member is generally confronted with a web of narratives. We often find ourselves, then, manoeuvring among whole sets of stories, weighing them against each other and against our own interpretations, testing them against the course of events, and arguing how they should evolve in consequence.³⁰

The stories can have institutional consequences. Some provide the framework within which institutions are interpreted and deployed. One example, lying behind a number of chapters in this book, is that of Canada as the product of "two founding peoples," the English and the French. This account has often been translated into Canada as the product of a "compact" between those two peoples.³¹ These stories have been used to shape the interpretation of the constitutional order. The compact theory, for instance, was an important buttress for the autonomy of provincial governments.³² Nonetheless, it has had to contend with powerful competing narratives: one treats Canada as resulting from a top-down devolution of power, structured by the imperial government of Britain; another sees Canada as the product of a kind of founding convention of political leaders, through the Confederation conferences; and still another emphasizes the post-Confederation evolution of Canada toward "true" nationhood.³³ And, like all these stories, the invocation of "two founding peoples" is itself selective. Although it captures a dominating feature of the Canadian experience, it leaves out much, especially indigenous societies and their own agreements – treaties – with newcomers, or the role of immigrants from lands other than France and Britain (a lacuna that led to the development of "multiculturalism" in Canada, which itself has had constitutional impact).³⁴

These collective narratives may also play an important part in fashioning individuals' sense of themselves. Some psychologists have emphasized the role of narratives in maintaining individual well-being, a sense of meaning in a person's life.³⁵ Collective narratives too may provide a sense of belonging, of attachment, of agency through vicarious identification with the actions of one's forbears. Perhaps one identifies with a community precisely

through the weaving of stories, in which one finds a place within broader narratives of how one's relatives (by ancestry or circumstance) have acted. Those larger stories may assume moral significance, expressing members' aspirations and providing patterns, lessons, and a moral vocabulary (as one can see in the implicit appeal to mutual respect between English and French in the image of "two founding peoples").³⁶ Of course, the attribution of moral significance can be pernicious as well as revelatory. As Burke Hendrix reminds us (relying on Robert Sparrow),

getting the past wrong makes it dangerously easy to get the present wrong as well. If we are a nation with a history of brave and virtuous actions, it makes it hard to imagine that we would be engaged in serious injustices at the present moment – the stories tell us, after all, that we are "not that kind of people."³⁷

Stories – histories – are always open to contestation. Every story and every history represents a particular angle of vision, a specific field of view. They frequently reflect a set of purposes, explicit or implicit. They are partial, and that partiality is often related to the social position of the teller and, commonly, the hearer. They can exclude as well as include, confine as well as liberate, as many of this book's chapters make clear. Often, the response to social exclusion produces attempts to reconstruct the imagined environment. One tells stories and counter-stories to establish one's presence, to affirm entitlements, and to recast the definition of community. And thus we come to the politics of narrative.

The Politics of Narrative

Narrative is crucial to the constitution of political communities and therefore to our understanding of those communities. However, the pervasiveness of narrative and its significance to our political relations also pose dangers. Of particular concern is the subjunctive quality of stories, their capacity to change our frame of reference – to make it so by saying it is so – and the inevitable relationship, as a consequence, between narrative and judgment. As theorists of narrative have observed, "narrativity ... is intimately related to, if not a function of, the impulse to moralize reality, that is to identify it with the social system that is the source of any morality that we can imagine."³⁸ The configuration of events into a temporal frame with a beginning, middle, and end involves numerous acts of judgment, including the

translation of “difference into similarity” and the leaving out of some things and inclusion of others.³⁹ Paradoxically, for historians working within a modernist conception of history, narrative is both the “paradigm of the form which reality itself displays” and “an image of life that is and can only be imagined.”⁴⁰

The entwined relationship between the real and the imaginary and the obscured acts of judgment, both aesthetic and moral, involved in shaping “real” events into stories present specific challenges for historians aspiring to discover and represent the truth of the past.⁴¹ The challenges take on broader significance if we understand that stories are the medium of politics at both the foundational level of creating community and the personal level of identity formation. For narratives take on much of their power, much of their verisimilitude, to the extent that they are, themselves, deeply marked by the existing array of assumptions, value systems, practices, institutions, and material conditions.⁴² As Patricia Ewick and Susan Silbey argue, narratives take their political character from “the contextual features of their elicitation.”⁴³ Their success as stories inheres in their resonance with familial and religious values, and with prevailing assumptions about who belongs and who is a stranger. If narrative has this dual character in which it both makes sense of and is shaped by the world, it is important to be attentive to narrative processes – the slippage between the real and the imagined, the impossibility of unravelling aesthetic from moral judgments, the reliance on distinctions between the ordinary and the exceptional – as ideological processes.

Narrative theory offers insights into the smoothness with which this ideological dimension of narrative operates. First, the structure of narrative is often hidden. The judgments on which stories rest must remain invisible in order to “feign to make the world speak itself and speak itself as a story.”⁴⁴ Furthermore, some argue that stories of origin, in particular, take a narrative form in order to cover over the impossibility of logically explaining the beginning point.⁴⁵ Several of the essays in this collection share this concern. They aim to uncover the illogic at the heart of the founding narratives that underpin assertions of sovereignty in settler societies – namely, narratives of first contact, discovery, arrival, belonging, and expulsion. In these stories, the “once upon a time” of the beginning negates, often with devastating and violent consequences, the rich histories of indigenous societies, and it produces borders and categories that divide us into members and strangers, citizens and security risks. In short, narratives contain and normalize “ambiguity, risk, and mystery within a familiar discursive form,” and the task of the

critical scholar is often to challenge and disrupt the “familiarity, pleasurable surprise, and emotional identification” that accounts for the grip these stories have on our imaginations.⁴⁶

In addition, narrative theorists point to the manner in which stories mediate between the individual and broader material and institutional features. Here, the argument is that the compelling character of group-defining narratives rests in part on their resonance with the autobiographical frame. Group narratives “are vehicles that both constitute the reality of the group, and, at the same time, constitute a way of thinking for each individual member.”⁴⁷ In this way, group narratives “go underground as cognition where they serve as mental equipment for the interpretation of events.”⁴⁸

It would appear, then, that the stories that affirm our location within a set of political relations are often constructed to evade contestation or challenge and to appear as commonsensical and defining features of both ourselves and our communities. Their success is premised on their ability to portray resistance to dominant norms and practices as a breach of all that is natural and true, or as Jerome Bruner would put it, as “trouble.”⁴⁹ Narratives of contact and arrival, in particular, have operated in this manner to insidious effect, sustaining erasures and exclusions. Indeed, some scholars would go further and suggest that there is in fact “a link between the structures of narrative and the structures of domination.”⁵⁰ In short, according to these theorists, the insight that political communities are imagined and nations narrated is likely to offer comfort only to those who are deeply invested in maintaining existing patterns of social and political relations.

The record with respect to the deployment of narrative strategies as strategies of resistance in both judicial and legislative arenas might seem to confirm this bleak view. For example, the doctrinal framework for much Aboriginal rights and title litigation in Canada seems to invite, if not require, narrative strategies and at the same time to ensure their ultimate rejection. Where historical evidence is pivotal to the legal claim, courts tend to “refract and splinter Aboriginal legal argument into western concepts.”⁵¹ In the legislative arena, the diagnosis is often much the same. Alice Feldman characterizes the barriers to listening to and understanding indigenous narratives in the legislative processes of the US Congress as “insurmountable and sometimes pathological.”⁵² In her study of one such narrative strategy pursued over fifteen years of congressional hearings, she argues that the depth of repudiation – its “near hysteria” – was rooted in the inability to confront the illegitimacy of colonial power. The urgent necessity of keeping

“secure the floodgates of Indian sovereignty” generated an insistence on “the *unknowability* of Indian peoples and their beliefs.”⁵³ In another example, an empirical study of narrative accounts of the civil rights movement by African American congressional representatives, the author concludes that the stories in question are constrained and ultimately deradicalized by “the institutional rules governing storytelling.”⁵⁴ They end up “strengthening the political establishment” and “reproducing the legislative institution by their very marginality.”⁵⁵

However, the conviction that narrative, more often than not, is a key feature of ideological processes that solidify rather than disrupt power has not deterred critical scholars and activists from invoking the progressive potential of outsider narratives to destabilize, challenge, and even shift political relations and consciousness.⁵⁶ Legal scholars have often been at the forefront of pursuing this mode of intervention, invoking the quintessentially narrative and interpretive character of law. They argue that outsider “narratives in legal settings can provide ways to subvert oppressive mindsets, legitimate subjugated knowledges, histories and identities, and create relationship-building opportunities which may then serve as means for expanding sociolegal imaginations and practices.”⁵⁷ This optimism persists despite apparent failures of such narrative-based strategies within both judicial and legislative arenas.⁵⁸

Perhaps the failures are partially due to the interest, by those in a privileged position, of excluding what dissenting narratives might let in and of insisting upon the impartiality and generality of their own assumptions. The answer may therefore be more and better narrative, rather than less. Alice Feldman, for example, although a harsh critic of legislative resistance to indigenous narratives, argues that Freirean notions of critical pedagogy can assist in challenging the “anti-dialogics” of the legislative process to develop “egalitarian forms of engagement and social relationship” in which previously excluded “Others” as well as dominant insiders participate fully as co-creators of social change.⁵⁹ Colleen Sheppard and Sarah Westphal, writing in the context of stories of violence in young women’s lives, explicitly confront and examine both the conventional and transformative dimensions of narrative, observing, moreover, that “narratives may be simultaneously hegemonic and subversive.”⁶⁰ They urge us to look beyond narratives to examine their effects on speakers and listeners. Only by doing so can we “determine whether [narrative] functions to reinforce or challenge the status quo.”⁶¹ Nevertheless, the authors emphasize that “[w]omen’s narratives are

rich with potential, vital sources of creative ideas on law and social policy, and necessary antidotes to the absence of women's voices in traditional academic scholarship."⁶²

In Chapter 16 of this volume, Johnny Mack offers a crucial insight into the dilemma confronting critical scholars who seek to expand the epistemological and political space for indigenous and other subjugated knowledges that so often take an explicitly narrative form. Mack sees all too clearly the allure of pursuing indigenous claims in venues such as courtrooms and treaty tables that offer the promising language of rights, reconciliation, and justice. He also sees with similar sharp-edged clarity the institutional and ideological constraints that filter and reshape indigenous claims in these settings. Mack therefore turns to his community's traditions of feasting and storytelling that, unlike so many of the stories themselves, have survived colonial incursions. Here he finds a setting – the community itself, and practices rooted in historical approaches as well as contemporary experience – that can generate new narratives upon which to build an indigenous political future and within which to articulate an indigenous conception of post-colonial justice. Material and ideological factors may impede and deradicalize “outsider” narrative strategies within mainstream institutions and contexts, but such strategies can flourish in other locations and formats, such as the feast, in which political communities are constituted and nurtured. Might those reclaimed and reinvigorated stories subsequently have an impact upon mainstream institutions? The answer remains a matter of contention.

Some writers, although wary of the coercive and subordinating effects of narrative, observe that the alternative more propositional approach to understanding political and historical relations also stands in a problematic relationship to systems of oppression. In her exploration of Hannah Arendt's conception of political theory as storytelling, for example, Seyla Benhabib points to the profoundly normalizing effects of analogical thinking rooted in the dominant positivist paradigm of science. She observes that Arendt rejected the latter paradigm because its

search for nomological generalizations dulled one's appreciation for what was new and unprecedented, and thus failed to confront one with the task of thinking morally anew in the face of the unprecedented. Politically, this method also stultified one's capacity for resistance by making it seem that nothing was new and that everything had always already been.⁶³

Benhabib's articulation of Arendt's insight brings us back to the question of the relation between narrative and power, and the central role of judgment in narrative. Indeed, we might argue that storytelling, *because* of its intimate relation to moral judgment, is not only shaped and constrained by ideological and structural forces but is also a crucial space for political resistance, for naming and challenging "the unacceptable ... the unprecedented and the outrageous."⁶⁴

Overview of This Book

This volume is divided into seven parts. We begin with "Narratives of Contact and Arrival in the Canadian Political Space," in which the authors introduce the book's key themes. In Chapter 2, Michael Asch retells the origin story that characterizes many popular conceptions of the foundation of the Canadian state as well as their legal analogues, the doctrines of discovery and *terra nullius*. This is a story of arrival – namely, the arrival of Europeans in a land they considered vacant and unoccupied at law. As Asch points out, the land was not only populated with myriad indigenous political communities but densely overlaid with their stories. For Audrey Macklin, in Chapter 3, stories of arrival are similarly crucial in elucidating the nature of the Canadian political community. She focuses on the 1914 arrival of the *Komagata Maru* in Vancouver Harbour and on the legal proceedings this set in motion to determine whether the ship's 376 Indian passengers, who hoped to settle in Canada, were admissible – or not, as it turned out. The chapters by Asch and Macklin are rooted in the broader field of post-colonial critiques of sovereignty. Chapter 4, by Brenna Bhandar, finishes this part of the book with a direct confrontation of the paradox underlying this literature. Bhandar agrees with the argument that modernist conceptions of sovereignty and the sovereign subject have little purchase in a contemporary politics in which power is diffuse rather than centralized and in which property, resources, and even sovereignty itself are deterritorialized. However, she questions whether post-colonial critiques of sovereignty provide the conceptual ground for building a more just post-colonial order.

Part 3, "Narratives and Narrative Form," begins with a piece by Richard Van Camp, a storyteller and writer from the Dogrib (Tlicho) Nation whose work fuses Euro-Canadian literary conventions with the tropes and styles of indigenous oral traditions. This is followed, in Chapter 6, by a conversation between Blanca Schorcht and Van Camp in which Van Camp reflects on his craft and on the relation between the imaginary communities of his fictional work and the communities of the Northwest Territories in which he grew

up. Diasporic communities are the focus of Chapter 7. In it, Sneja Gunew brings our attention to the way in which traditional stories in such communities can imprison and confine marginalized members such as women. However, drawing on Freud's conception of the uncanny and Julia Kristeva's notion of abjection, Gunew explains that retelling and rethinking such stories through the medium of contemporary literature can be an act of resistance to the glorification of both the homeland and the "new" beginning. Chapter 8, by J. Edward Chamberlin, concludes Part 3 with an exploration of how language and stories grounded in the local simultaneously divide and connect us. By focusing on the ceremonial dimension of storytelling – and on the dimension of wonder – Chamberlin argues that stories can open up common ground rather than closing us off from each other.

Parts 4 and 5 examine narratives of contact and of arrival respectively. In Chapter 9, Anne Godlewska introduces the theme of Part 4 by juxtaposing seventeenth-century Jesuit accounts of eastern North American indigenous peoples with two contemporary works of fiction, one by Thomas King and the other by Daniel David Moses. Godlewska seeks to demonstrate how indigenous people "talked back" in the Jesuit accounts and how that "talking back" has been taken up and reinvigorated in the later stories, thereby disrupting imperial authority and offering a way to envision a future. In Chapter 10, Kim Anderson explores the often toxic intertwining of sexual violence and conquest expressed in shifting images of indigenous women's bodies in popularized narratives of contact. As an antidote, Anderson draws on traditional indigenous stories that centre the agency, creativity, and stewardship role of indigenous women. In Chapter 11, Bain Attwood examines contact narratives in the Australian context, focusing on how settler histories shift over time and are as much about forgetting as remembering. Attwood illustrates this by tracing the various iterations of a story about John Batman, his "treaty," and the foundation of Melbourne. Finally, in Chapter 12, Jacinta Ruru moves our focus to Aotearoa/New Zealand and the stories that layer the landscape, particularly mountainous landscapes. Through her discussion of narrative constructions of one particular mountain, Tongariro, Ruru concludes that, although contemporary legal stories attempt to retell the meaning of such landscapes in terms of a partnership, as yet this retelling has not been accompanied by a shift in power or the recognition of Maori claims.

Part 5 picks up the theme of the doctrine of discovery with Chapter 13, in which Patricia Tuitt reveals how the old modes of colonial governance and assumptions about "civilized" and "backward" polities have shaped the

development of the European Union. Tuitt argues that invocations of the “new” Europe cast the refugee in the role of the outsider who is too contaminated by antecedent (and despised) conceptions of political community to be included in the “new” European Union. The uneasy positioning of the migrant subject is also the focus of Chapter 14, by Susan Bibler Coutin. Drawing on a series of interviews, she examines the insider/outsider status of El Salvadorans who moved to the United States as small children and spent the bulk of their lives there. In doing so, Coutin sheds light on the complexities of conceptions of citizen, self, and state produced through emigration.

Part 6 of the volume is titled “Institutional Implications: How Would We Do Things Differently If We Took Narrative Seriously?” It opens with Chapter 15 in which S. Ronald Stevenson takes up this issue in relation to Aboriginal rights. He examines the Supreme Court of Canada’s Aboriginal rights jurisprudence. Although much work remains to be done, Stevenson sees the encounter with narratives playing a productive role here. In Chapter 16, Johnny Mack also centres on indigenous rights but is more skeptical in his assessment of current institutional responses. Mack draws on an extended conversation with Wickaninnish, a senior member of the Nuu-chah-nulth people, to reflect upon the limited political and legal responses available to indigenous peoples with respect to the current treaty process in British Columbia. Indeed, faced with the bleakness of the options offered by these conventional arenas of struggle, Mack turns to the regenerative practices of Nuu-chah-nulth feasting and storytelling. Part 6 closes with Chapter 17, by Donald Galloway, who shifts focus to the current immigration and refugee regime in Canada. Galloway parses transformations in the refugee determination process that fail to understand the distinction between the oral and the written, between stories about experiences and stories that are recitals of key events and dates, and the contradiction between the demand for such “incident reports” and credibility determinations that view resemblances to previous claims with suspicion.

Part 7, “Theoretical Implications: Where Do We Go from Here?” consists of an essay by Martha Nandorfy that reflects on the themes of the volume and some of the key questions raised. Nandorfy contrasts indigenous and nonindigenous modes of storytelling, urging us to resist the idea that there is a “level playing field” for narrative. Rather, narrative can be deployed to reinforce domination or as a counter-hegemonic, liberatory act. Nandorfy explains her choice and argues that we should listen more carefully to indigenous stories.

Nandorfy's reflections echo Boaventura de Sousa Santos' emphasis on the importance of taking seriously, and carefully attending to, the ways of knowing of indigenous peoples and the global South, including the genres and styles through which that knowing is expressed. The alternative, the "abyssal thinking" of Western modernity and dominant conceptions of law, is premised on the assumption that nonindigenous Western knowledge is the only true knowledge, thereby erasing, by definition, all that exists on the other side of the line. De Sousa Santos' analysis was pivotal in the conversations out of which this volume emerged. We therefore give him the last word, in which he urges us to embrace "post-abyssal thinking," including an ecology of knowledges:

It is in the nature of the ecology of knowledges to establish itself through constant questioning and incomplete answers. This is what makes it a prudent knowledge. The ecology of knowledges enables us to have a much broader vision of what we do not know, as well as of what we do know, and also to be aware that what we do not know is our own ignorance, not a general ignorance.⁶⁵

On that note, we leave our readers to take up the constant questioning and always incomplete answers provided in the following pages.

NOTES

- 1 Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, rev. ed. (London: Verso, 1991); Homi K. Bhabha, *Nation and Narration* (London: Routledge, 1990).
- 2 For more information, see the Demcon website at <<http://www.law.uvic.ca/demcon>>.
- 3 Jeremy Webber and Colin M. Macleod, eds., *Between Consenting Peoples: Political Community and the Meaning of Consent* (Vancouver: UBC Press, 2010).
- 4 John Sutton Lutz, ed., *Myth and Memory: Stories of Indigenous-European Contact* (Vancouver: UBC Press, 2007).
- 5 James Clifford, *The Predicament of Culture: Twentieth Century Ethnography, Literature, and Art* (Cambridge, MA: Harvard University Press, 1988) at 11.
- 6 Barbara Czarniawska-Joerges, *Narratives in Social Science Research* (London: Sage, 2004).
- 7 Roland Barthes sees narrative as a "prodigious variety of genres" carried in any material "fit to receive man's stories." Barthes goes on to assert that "narrative is international, transhistorical, transcultural: it is simply there, like life itself." See Roland Barthes, "Introduction to the Structural Analysis of Narratives" in Susan Sontag, ed., *A Barthes Reader* (New York: Hill and Wang, 1982) 251 at 251-52. Alasdair MacIntyre, moving in the direction of ethics, speaks of "enacted narrative" to describe

- human action. Alasdair MacIntyre, *After Virtue*, 2d ed. (Notre Dame: University of Notre Dame Press, 1984) at 211.
- 8 For psychology, see e.g. Jerome Bruner, "Life as Narrative" (1987) 54 *Social Research* 11; Jerome Bruner, *Acts of Meaning* (Cambridge, MA: Harvard University Press, 1990); Jerome Bruner, "The Narrative Construction of Reality" (1991) 18 *Critical Inquiry* 1; Mark Freeman, *Rewriting the Self: History, Memory, Narrative* (London: Routledge, 1993); Mark Freeman, "Mythical Time, Historical Time, and the Narrative Fabric of the Self" (1998) 8 *Narrative Inquiry* 27. For philosophical and feminist literatures, see David Carr, *Time, Narrative, and History* (Bloomington: Indiana University Press, 1986); Charles Taylor, *Sources of the Self: The Making of the Modern Identity* (Cambridge, MA: Harvard University Press, 1989); Elinor Ochs and Lisa Capps, "Narrating the Self" (1996) 25 *Annual Review of Anthropology* 19. On the role of narrative in consciousness raising in feminism, see Redstockings, *Feminist Revolution*, ed. by Kathie Sarachild (New York: Random House, 1979).
 - 9 See Bruner, *Acts of Meaning*, *ibid.*, particularly c. 8; see also W. Lance Bennett and Martha S. Feldman, *Reconstructing Reality in the Courtroom: Justice and Judgment in American Culture* (New Brunswick, NJ: Rutgers University Press, 1981).
 - 10 Bruner, *Acts of Meaning*, *ibid.* at 43.
 - 11 Seymour Chatman, *Reading Narrative Fiction* (New York: Macmillan, 1993) c. 4; Peter Brooks and Paul Gewirtz, eds., *Law's Stories: Narrative and Rhetoric in the Law* (New Haven: Yale University Press, 1996).
 - 12 Jerome Bruner, *Making Stories: Law, Literature, Life* (Cambridge, MA: Harvard University Press, 2003) at 24; Kenneth Burke, *A Grammar of Motives* (Berkeley: University of California Press, 1969).
 - 13 S.N. Eisenstadt, "The Order-Maintaining and Order-Transforming Dimensions of Culture" in Richard Münch and Neil J. Smelser, eds., *Theory of Culture* (Berkeley: University of California Press, 1992) 64.
 - 14 Bruner, *supra* note 12 at 27.
 - 15 Bruner, *ibid.* at 54, notes that subjunctive stories (those with a requisite amount of uncertainty) "are easier to enter into, easier to identify with" and "can be tried on for psychological size, get accepted if they fit, rejected if they pinch identity or compete with established commitments."
 - 16 James Boyd White, *The Edge of Meaning* (Chicago: University of Chicago Press, 2001) at 9.
 - 17 Chatman, *supra* note 11.
 - 18 Julia Emberly, *Defamiliarizing the Aboriginal: Cultural Practices and Decolonization in Canada* (Toronto: University of Toronto Press, 2007) at xiv.
 - 19 Barbara Belyea, *Dark Storm Moving West* (Calgary: University of Calgary Press, 2007) at 114.
 - 20 See also John Borrows, *Recovering Canada: The Resurgence of Indigenous Law* (Toronto: University of Toronto Press, 2002) especially at 13. For an account of the importance of a differential understanding of the role of stories in an 1872 dispute in Gitksan territory, see also Natalie Oman, "Paths to Intercultural Understanding: Feasting, Shared Horizons, and Unforced Consensus" in Catherine Bell and David

- Kahane, eds., *Intercultural Dispute Settlement in Aboriginal Contexts* (Vancouver: UBC Press, 2004) 70 at 71.
- 21 Leslie Marmon Silko, "Language and Literature from a Pueblo Indian Perspective" in Leslie Marmon Silko, *Yellow Woman and a Beauty of the Spirit* (New York: Touchstone, 1997) 48 at 50, quoted in Martha Nandorfy, c. 18 at 338-39.
 - 22 Richard Slotkin, *Gunfighter Nation: The Myth of the Frontier in Twentieth-Century America* (New York: Atheneum, 1992) at 5.
 - 23 *Ibid.* at 654.
 - 24 *Ibid.* at 654-55.
 - 25 Thomas King, *The Truth about Stories: A Native Narrative* (Toronto: House of Anansi Press, 2003) at 10, quoted in Nandorfy, c. 18 at 334.
 - 26 Compare J. Edward Chamberlin, *If This Is Your Land, Where Are Your Stories? Finding Common Ground* (Toronto: A.A. Knopf Canada, 2003).
 - 27 Bruner, *Acts of Meaning*, *supra* note 8 at 45, 52-55.
 - 28 For the ways in which stories can inform moral reasoning, see Alice Crary, *Beyond Moral Judgment* (Cambridge, MA: Harvard University Press, 2007).
 - 29 Jeremy Webber, *Reimagining Canada: Language, Culture, Community and the Canadian Constitution* (Montreal and Kingston: McGill-Queen's University Press, 1994) at 185-93.
 - 30 In emphasizing histories in the plural, we differ from Carr, whose exploration is otherwise very revealing. He insists upon consensus on a single story as the condition of a community's existence (*supra* note 8 at 155-56, 158, 163, 170). We ascribe this role to a complex of histories, interrelated in terms of their ground but often competing and even contradictory in their conclusions. For a similar emphasis on the plurality of narratives, this time in the context of the American constitutional tradition, see Robert Cover's influential "Foreword: *Nomos* and Narrative" (1983-84) 97 *Harvard Law Review* 4.
 - 31 See Canada, Royal Commission on Bilingualism and Biculturalism, *A Preliminary Report of the Royal Commission on Bilingualism and Biculturalism* (Ottawa: The Commission, 1965) at 46-48; Ramsay Cook, *Provincial Autonomy, Minority Rights and the Compact Theory, 1867-1921* (Ottawa: Queen's Printer, 1969); Roderick A. Macdonald, "... Meech Lake to the Contrary Notwithstanding (Part I)" (1991) 29 *Osgoode Hall Law Journal* 253 at 284-88; A.I. Silver, *The French-Canadian Idea of Confederation, 1864-1900*, 2d ed. (Toronto: University of Toronto Press, 1997).
 - 32 *Re Regulation and Control of Aeronautics in Canada*, [1932] A.C. 54 at 70; *Canada (A.G.) v. Ontario (A.G.) (Labour Conventions)*, [1937] A.C. 326 at 351-52.
 - 33 See Robert C. Vipond, *Liberty and Community: Canadian Federalism and the Failure of the Constitution* (Albany: SUNY Press, 1991).
 - 34 The omission was already acknowledged in Canada, *supra* note 31 at 49. For multiculturalism, see Webber, *supra* note 29 at 62-66. Section 27 of the *Canadian Charter of Rights and Freedoms* states that the *Charter* must be interpreted "in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians."
 - 35 See e.g. Carr, *supra* note 8 at 73-99; Bruner, *Acts of Meaning*, *supra* note 8 at 111-16. Carr discusses identification with collectivities through stories (at 122-85).

- 36 See also David Miller, *On Nationality* (Oxford: Clarendon Press, 1995) at 36.
- 37 Burke A. Hendrix, "Memory in Native American Land Claims" (2005) 33 *Political Theory* 763 at 774.
- 38 Hayden White, "The Value of Narrativity in the Representation of Reality" in W.J.T. Mitchell, ed., *On Narrative* (Chicago: University of Chicago Press, 1981) 1 at 14. Cover, *supra* note 30, emphasizes the converse: the way in which any normative order depends upon its connection with a web of stories.
- 39 White, *ibid.* at 15.
- 40 *Ibid.* at 23.
- 41 Hayden White ends his essay by asking whether our dismissal of some accounts of events has less to do with "their supposed want of objectivity, manifested in their failure to narrativize reality adequately" than "with their failure to represent the *moral* under the aspect of the *aesthetic*." *Ibid.* at 23 [emphasis in original].
- 42 Patricia Ewick and Susan Silbey, "Subversive Stories and Hegemonic Tales: Toward a Sociology of Narrative" (1995) 29 *Law and Society Review* 197. For the role of gendered and raced conceptions in narratives of the nation, see Alys Eve Weinbaum, *Wayward Reproductions: Genealogies of Race and Nation in Transatlantic Modern Thought* (Durham: Duke University Press, 2004). And for the implication of narrative in projects of empire, see Edward W. Said, *Culture and Imperialism* (New York: Vintage Books, 1994).
- 43 Ewick and Silbey, *ibid.* at 222.
- 44 Hayden White, *The Content of Form* (Baltimore: Johns Hopkins University Press, 1987) at 2.
- 45 Francesca Polletta, "Contending Stories: Narrative in Social Movements" (1998) 21 *Qualitative Sociology* 419 at 428-29; J.H. Miller, "Narrative" in F. Lentricchia and T. McLaughlin, eds., *Critical Terms for Literary Study* (Chicago: University of Chicago Press, 1990) 66.
- 46 Polletta, *ibid.* at 429, 425.
- 47 Carol Fleisher Feldman, "Narratives of National Identity as Group Narratives: Patterns of Interpretive Cognition" in J. Brockmeier and Donal Carbaugh, eds., *Narrative and Identity* (Amsterdam: John Benjamins Press, 2001) 129 at 132-33.
- 48 *Ibid.* at 129.
- 49 Bruner, *supra* note 12 at 34.
- 50 Ruthann Robson, *Sappho Goes to Law School: Fragments in Lesbian Legal Theory* (New York: Columbia University Press, 1998) at 102. A number of feminist theorists argue in this vein that the narrative form is "inescapably male and heterosexual." See *ibid.* at 100, citing Judith Roof and Teresa de Lauretis. The maleness of Western narrative traditions is a prominent theme in second-wave feminist literatures and French writings on "*l'écriture féminine*." See Toril Moi, *Sexual/Textual Politics: Feminist Literary Theory* (London: Routledge, 1985); Dale Spender, *Man Made Language*, 2d ed. (London: Routledge and Kegan Paul, 1985); Elaine Marks and Isabelle de Courtivron, eds., *New French Feminisms: An Anthology* (New York: Schocken Books, 1981). On strategies of resistance used by women of colour to racializing narratives, see Jacqueline Bobo, *Black Women as Cultural Readers* (New York: Columbia University Press, 1995); Cherrie Moraga and Gloria Anzaldúa, eds., *This*

Bridge Called My Back: Writing by Radical Women of Color (New York: Kitchen Table – Women of Color Press, 1981).

- 51 Shin Imai, "The Adjudication of Historical Evidence: A Comment and an Elaboration on a Proposal by Justice Lebel" (2006) 55 *University of New Brunswick Law Journal* 146 at 159. See also Val Napoleon, "A Legal Straightjacket for Oral Histories" (2005) 20 *Canadian Journal of Law and Society* 123. For a more hopeful view, see Dwight Newman, "*Tsilhqot'in Nation v. British Columbia* and Civil Justice: Analyzing the Procedural Interaction of Evidentiary Principles and Aboriginal Oral History" (2005) 43 *Alberta Law Review* 433.
- 52 Alice Feldman, "Othering Knowledge and Unknowing Law: Oppositional Narratives in the Struggle for American Indian Religious Freedom" (2000) 9 *Social and Legal Studies* 558 at 560.
- 53 *Ibid.* at 572 [emphasis in original].
- 54 Polletta, *supra* note 45 at 434.
- 55 *Ibid.* at 438.
- 56 See e.g. Lila Abu-Lughod, *Writing Women's Worlds: Bedouin Stories* (Berkeley: University of California Press, 1993); Charles Lawrence III, "The Word and the River: Pedagogy as Scholarship as Struggle" in K. Crenshaw *et al.*, eds., *Critical Race Theory: The Key Writings That Formed the Movement* (New York: New York Press, 1995) 336.
- 57 Feldman, *supra* note 52 at 558. See also Lawrence, *ibid.*; Robson, *supra* note 50; Kathryn Abrams, "Hearing the Call of Stories" (1991) 79 *California Law Review* 971.
- 58 Feldman, *ibid.* See also Polletta, *supra* note 45.
- 59 Feldman, *ibid.* at 574-75.
- 60 Colleen Sheppard and Sarah Westphal, "Narratives, Law and the Relational Context: Exploring Stories of Violence in Young Women's Lives" (2000) 15 *Wisconsin Women's Law Journal* 335 at 352. The authors refer to Alcoff and Gray's analysis of survivor narratives of sexual abuse as an example in which telling one's story can be simultaneously liberating and subordinating. Linda Alcoff and Laura Gray, "Survivor Discourse: Transgression or Recuperation?" (1993) 18 *Signs* 260 at 260-63, 278.
- 61 Sheppard and Westphal, *ibid.* at 351.
- 62 *Ibid.* at 336.
- 63 Seyla Benhabib, "Hannah Arendt and the Redemptive Power of Narrative" in Lewis P. Hinchman and Sandra K. Hinchman, eds., *Hannah Arendt: Critical Essays* (Albany: State University of New York Press, 1994) 111 at 122.
- 64 *Ibid.* at 123.
- 65 Boaventura de Sousa Santos, "Beyond Abyssal Thinking: From Global Lines to Ecologies of Knowledges" (2007) 30 *Review [a Journal of the Fernand Braudel Center]* 45 at 79.

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