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Book Review: John Borrows, Law's Indigenous Ethics

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subsistence of the Native peoples of the Northwest Coast. The chapters are well written by experts in the field and, while directed at other archaeologists, are non-technical and easily understood.

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John Borrows, *Law's Indigenous Ethics*. Toronto: University of Toronto Press, 2019. 381 pages. ISBN 9781487523558. \$39.95 paperback.

Many Canadians will agree that Indigenous law should be given more prominence within Canadian law. But the question remains: How do we implement this vision on the ground? The notion that Indigenous law should influence the development of non-Indigenous law is persuasive enough in theory, but what does it look like in practice? *Law's Indigenous Ethics* offers some answers.

In each chapter, John Borrows uses a combination of story work methodology and exposition to illustrate how the seven grandmother and grandfather teachings can be instantiated within Canadian law and legal education. Chapter One explores an Anishinaabe understanding of *zaagi'idiwin* (love) and the role it can play in interpreting treaty and Aboriginal rights. In Chapter Two, Borrows draws on an Anishinaabe conception of *debwewin* (truth) as contextual to caution against an essentialized approach to treaty and Aboriginal rights interpretation which assumes the Crown is the foundational source of all legal authority. Chapter Three is an invitation to courts to exercise *ankode'win* or *zoon-gide'win* (bravery) to truly repudiate the doctrine of discovery. Chapter Four examines how private property interests within Aboriginal title territory can be protected under Indigenous jurisdiction, in the light of an Anishinaabe understanding of *dibaadendizowin* (humility). In Chapter Five, Borrows applies an Anishinaabe conception of *nibwaakaawin* (wisdom) to explore outdoor legal education that engages land-based learning. Chapter Six employs *gwayakwaadiziwin* (honesty) to consider various issues pertaining to teaching Indigenous law within a law school setting, with a focus on delineating the categories of Indigenous law. Finally, in Chapter Seven, Borrows discusses the meaning of *manaaji'idiwin* (respect) in Anishinaabemowin and how it supports the conclusion that Canadians bear responsibility today for residential school harms. Thus, *Law's Indigenous Ethics* serves as an application of the theme of greater recognition of Indigenous law within Canadian law, which was advanced in Borrows's earlier works, *Recovering Canada: The Resurgence of Indigenous Law* (UTP, 2002) and *Canada's Indigenous Constitution* (UTP, 2010).

Law's Indigenous Ethics also continues the anti-fundamentalism of Borrows's *Freedom and Indigenous Constitutionalism* (UTP, 2016). Borrows explains that he does not write from the perspective of any one school of legal theory (3). He critiques essentialized approaches that privilege reasoning from first-order principles (57, 66, 96, 118, 175, 192, 199, 205, 222). This position is consistent with Borrows's discussion of Anishinaabe ways of knowing, according to which truth is contextual, not absolute (87). These themes emerge throughout the book, but perhaps most pointedly in Borrows's retelling of the Anishinaabe creation story in Chapter Two. (Indigenous story spoiler alert: the following is merely my understanding of a part of this story. Those who want to experience the story without the imposition of my interpretation should skip the rest of this paragraph). In this version, while the animals are searching for truth, they find themselves surrounded not by water, but by a foul-smelling, brown sludge. Nanaboozhoo suspects that a foundational Truth might be found in a solid earth underlying the sludge, but instead of leading by example—or teaching by modeling—and diving first, Nanaboozhoo asks if anyone else wants to volunteer to try to swim to the bottom and get the Truth. No one does (52). It seems they each want the Truth to be delivered to them without braving the sludge—or doing the work—themselves. The story ends without confirming whether the hypothesized Truth at the bottom—underlying all things—even exists.

The book's themes produce a pragmatic, empirical approach which does not shy away from turning its critical lens on itself. In a world increasingly polarized by polemical discourse, Borrows's candid recognition of his arguments' limitations is a welcome respite. The result is a balanced, nuanced work that acknowledges the complexities of applying Indigenous legal norms in Canada today. Moreover, the book's summaries of Canadian doctrinal law are clear, accessible, and hence immensely useful.

Finally, *Law's Indigenous Ethics* makes a valuable contribution to the debate about whether Indigenous and non-Indigenous world views and laws are incommensurable.¹ If they are, the interaction among legal orders, and the influence of Indigenous law on non-Indigenous law for which Borrows advocates, will be at best compromised and at worst impossible. Throughout the book, Borrows denies the incommensurability of Indigenous and non-Indigenous world views and laws (23, 49, 65, 119, 146, 193) and yet he does not set out an explicit argument in support of this position. How can we be certain that Indigenous law is ever truly operative as such within Canadian law, as opposed to being distorted or consumed beyond recognition by the colonial system? From the perspective of Borrows's pragmatic and contextual approach, his lack of explicit argument on this topic is a strength, not a drawback. He cautions against legal reasoning built on *a priori* principles. Instead, the kind of evidence that resonates within his methodology is empirical

evidence. Borrows gives us the tools to generate this empirical evidence; he provides seven concrete proposals for how Indigenous legal norms could be employed within Canadian law and legal education. Now it is up to us to implement, assess, and continually improve these seven proposals for ourselves.

Note

1. For a recent defence of the incommensurability of Indigenous and non-Indigenous constitutionalism, see Aaron James (Waabishki Ma'iingan) Mills, *Miinigowiziwin: all that has been given for living well together: one vision of Anishinaabe constitutionalism* (PhD thesis, University of Victoria Faculty of Law, 2019).

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Jonathan Clapperton and Liza Piper (eds.), *Environmental Activism on the Ground: Small Green and Indigenous Organizing*. Calgary: University of Calgary Press, 2019. ISBN: 978-1-77385-004-7. \$39.99 paperback.

There is nothing small about the breadth, scope and aims of *Environmental Activism on the Ground*, despite the sub-title's emphasis on Small Green and Indigenous Organizing. In response to the pressing ecological challenges of our times, this collection of essays edited by Jonathan Clapperton and Liza Piper raise and respond to no small question: what hope is there for the future when ecological doom and gloom stories no longer spark the public interest? All too often, we are bombarded with the crisis narratives of our changing climate, which signal doom and corresponding gloom. The layered issues abound: rising seas, warming waters, melting ice, raging fires, climate change as a public health emergency, and so on. As a counter balance, we need stories that move people, capture imaginations, invite movements for solidarity and remind us just how entangled our cultural and ecological lives are.

Environmental Activism on the Ground: Small Green and Indigenous Organizing offers a compelling collection of thirteen case studies – or what I like to call “vignettes” – snapshots of local movements resisting extraction and generating meaningful intercultural and environmental relationships that rhizomatically cultivate connections across diverse sites to inspire broader actions. These vignettes zoom out from international global environmental activism and zoom in to the experiences of those intimately living with and responding to natural resource extraction on the ground, ranging from clear-cut logging to fossil fuel extraction to organizing for conservation and protected areas. Solidarity-building