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Law's Indigenous Ethics. By John Borrows. Toronto: University of Toronto Press, 2019. 382 pages. $44.95 paper; $41.95 electronic.

John Borrows brings together in this volume a selection of his previous writings on the implications of "entanglement" of Indigenous and Canadian laws and societies. Indigenous peoples around the world are indeed entangled with nation-state claims of "sovereignty." These range from outright domination, to denials of self-determination via forms of "recognition," i.e., "tribal sovereignty," "Aboriginal title," and the like. *Entanglement* is thus a useful organizing concept. It is a historical fact and a legal condition. Entanglement allows Borrows to explore ways Indigenous peoples and the Canadian state exist as "partners" in a set of relationships that veer between outright hostility and "reconciliation." Questions arise when we ask about trajectory: where are we going? History shows entanglement violently imposed; law shows ongoing state administration of entanglement. Is entanglement undoable or is it a permanent situation? If the latter, does it continue as coerced entanglement, or can it become something akin to the natural entanglement of all life?

Borrows moves back and forth: Mostly, he argues that the coerced entanglement of history and law can become a natural entanglement of different people(s) sharing life in one country, through political and social "reconciliation." But he admits "reconciliation," as defined by Canada, is problematic—"It must be remembered that so-called reconciliation allows for the Crown's ultimate override" (59)— and pointedly, quotes *Tsilhqot'in Nation v. British Columbia* (2014 SCC 44, [2014] 2 S.C.R. 256): "Infringements of Aboriginal title can be justified . . . as a necessary part of the reconciliation of Aboriginal societies with the broader political community of which they are a part." As the author says, "While the *Tsilhqot'in* decision recognizes broad rights to land for the Indigenous group, it simultaneously subordinates Indigenous peoples in Canadian law" (19).

Borrows tries to resolve this conundrum by "acknowledging Canadian law's syncretic nature" and contending that "Canadians and Indigenous peoples possess great legal imagination and creativity" capable of solving the puzzle (20–21). He argues, using universal pronouns, "We have waited too long to draw upon Indigenous law in helping to solve our country's most pressing problems. We now have an opportunity to put those systems together with common and civil law systems in productive, synergistic ways." Borrows places faith in the possibility of Indigenous ethics infusing Canadian law so that it "renounces the old rules of the game" (145–46). In the end, however, it seems to me that his acceptance of entanglement as a given, coupled with appeals to state actors to change their conceptions, concedes the claim of domination that, present from the first, continues today.

First Nations blockades of tar sands oil extraction, Saik'uz and Stellat'en actions against the Kenney Dam constructed on the Nechako River by Alcan, Inc., and the interventions of Idle No More show that many Indigenous peoples (and people) are not so hopeful or patient. Others are moving to transform entanglement into interdependence, such as the Indigenous multinational Coastal Guardian Watchmen, which is implementing an Aboriginal Fisheries Strategy along the North Pacific having negotiated a "Fisheries Resources Reconciliation Agreement" with Canada. Intriguingly, the agreement simply sidesteps the historically and legally entangled definitions of "Aboriginal or Treaty rights of each of the Nations, or Crown rights or title," and pursues practical "collaborative stewardship and conservation" on the water (see https://www.haidanation.ca/wp-content/uploads/2021/12/2021-07-26-FULLY-EXECUTED-Fisheries-Resources-Reconciliation-Agreement-00691778-3xC6E53.pdf).

The fisheries agreement implements an Indigenous reading of what Borrows calls the "First Nations' Magna Carta," the 1763 Royal Proclamation, the 1764 Treaty of Niagara, and the wampum belts that were exchanged contemporaneously with the Treaty (109). In *The Terms of Our Surrender: Colonialism, Dispossession and the Resistance of the Innu* (2021), Elizabeth Cassell develops the argument in more detail: the wampum belts "embody the indigenous understanding of the terms of this Treaty—that settlers and indigenous peoples should live side by side, following parallel paths which preserve their respective cultures, joined in mutual respect, peace and friendship" (Cassell, 4). The fisheries stewardship serves as an example of Borrows's hoped-for renegotiation of the rules of the game: it embeds an Indigenous ethic of respect for humans' place amid all our relations, displacing the statist meaning of "sovereignty" that has undergirded destructive practices of "resource extraction." A similar rearrangement of entanglement based on infusion of Indigenous ethics into Canadian law has so far been entirely unobtainable in relation to petroleum, despite Canadian "environmental" regulations.

Having said all this, let me be clear that Borrows's theme remains powerful. It critiques the notion that "state-centric law [can be] the grand mediating force in human affairs" and insists that *negotiation*, the true meaning of "free and informed consent," is the only workable path toward "fair principles" of relationship among Indigenous peoples and states (84, 104). The title, *Law's Indigenous Ethics*, might well be altered to *Indigenous Law's Ethics*, for the core thesis is that the ancestor teachings of love, truth, bravery, humility, wisdom, honesty, and respect can become preeminent in law, displacing centuries of "sovereign" oppression. Borrows invokes tropes of law and literature to show how Indigenous law centers on community reconciliations, rather than statist impositions: "Instead of laws that are guidelines, our ancestors made up stories to guide us along on the right course" (5).

This, in turn, reminds us, as Eric Cheyfitz and Shari M. Huhndorf put it, that "What the West terms the law is one kind of story in Indigenous terms," adding, "Western law . . . distinguish[es] itself from literature by function more than form" ("Genocide by Other Means: US Federal Indian Law and Violence against Native Women in Louise Erdrich's *The Round House*," *New Directions in Law and Literature*, 2017, 264). For the crucial "function" of Western legal stories, we must look to the

famous words of Robert M. Cover in "Violence and the Word": "Literary interpretations [differ from] . . . legal interpretation [in that the latter] . . . is part of the practice of political violence" (95 *Yale Law Journal* 1601 (1986), 1606 n15). Borrows wants to deploy Indigenous law Teachings to replace the political violence of state law with a network of trustworthy, consensual, reciprocal relations. He has assembled a remarkably wide set of materials to point the way.

Peter d'Errico
University of Massachusetts Amherst