Dalhousie Journal of Legal Studies

Volume 32 Article 7

6-1-2023

Book Review of John Borrows & Kent McNeil, eds, *Voicing Identity: Cultural Appropriation and Indigenous Issues* (Toronto: University of Toronto Press, 2022), 311pp.

Charlotte Connolly

Recommended Citation

Charlotte Connolly, Book Review of John Borrows & Kent McNeil, eds, *Voicing Identity: Cultural Appropriation and Indigenous Issues* (Toronto: University of Toronto Press, 2022), 311pp (2023) 32 Dal J Leg Stud 201.

This Book Review is brought to you for free and open access by the Journals at Schulich Law Scholars. It has been accepted for inclusion in Dalhousie Journal of Legal Studies by an authorized editor of Schulich Law Scholars. For more information, please contact hannah.steeves@dal.ca.

BOOK REVIEW OF JOHN BORROWS & KENT MCNEIL, EDS, *VOICING IDENTITY: CULTURAL APPROPRIATION AND INDIGENOUS ISSUES* (TORONTO: UNIVERSITY OF TORONTO PRESS, 2022), 311PP.

Charlotte Connolly*

Citation: (2023) 32 Dal J Leg Stud 201

INTRODUCTION

John Borrows and Kent McNeil's edited collection, *Voicing Identity: Cultural Appropriation and Indigenous Issues*, is a timely contribution amidst discussions about self-indigenization, cancel culture, and the role of non-Indigenous peoples in academia. The issue of "pretendians" received national attention when the former high-profile judge, Mary Ellen Turpel-Lafond, became the subject of an investigation into her false claims of Cree ancestry. Her misappropriation of Indigenous identity, as a member of the dominant culture, constitutes what Kent McNeil, Sákéj Henderson, and Michael Asch characterize as a wrongful and non-consensual taking of Indigenous peoples' inherent dignity and knowledge systems.[1]

It is not that non-Indigenous academics have no place researching, writing, and teaching about Indigenous issues and legal orders. Quite the contrary. Borrows and McNeil, among other contributors, make it clear that non-Indigenous peoples have a *responsibility* to teach Indigenous law in order to lessen the burden on Indigenous peoples, foster a multi-juridical legal culture, and restore treaty relationships.[2] As Borrows and McNeil put it, "…the more appropriate question may not be what is their *place*, but rather what are their *responsibilities*."[3] This edited collection attempts to answer this question by providing guidance on how to research, write about, and teach Indigenous issues in a respectful way.

---

* Charlotte Connolly will graduate from the Schulich School of Law at Dalhousie University in 2024.

[1] John Borrows & Kent McNeil, eds, *Voicing Indigenous Identity: Cultural Appropriation and Indigenous Issues* (Toronto: University of Toronto Press, 2022) at 6 (McNeil), 139-140 (Asch), 289 (Henderson).

[2] *Ibid* at "Introduction" 7–8 (McNeil & Borrows).

[3] *Ibid* at 10, emphasis in original.

The collection begins with an introduction by John Borrows and Kent McNeil, who first speak separately then come together to offer a shared reflection and summarize the individual chapters. This format is repeated by KQwa'st'not and Hannah Skew in Chapter 12, another pair of Indigenous and non-Indigenous authors who write about their experience facilitating the cross-cultural organizational transformation of the Sierra Club in British Columbia. The co-authors are not speaking *at, about,* or *for* another but speaking *with* another, much like the metaphor of the two-row wampum belt in which two vessels travel side-by-side down a river but do not interfere with each other.[4] This literary approach simultaneously promotes togetherness while holding space for difference and divergence.

There are a total of 15 free-standing chapters, most of which are written in a storytelling format and from a deeply personal perspective. Felix Hoehn in Chapter 6, for example, describes his discomfort participating in Indigenous ceremonies as a non-Indigenous scholar with a different belief system.[5] This openness, reflected in other chapters as well, demonstrates how vulnerability can contribute to the development of mutual trust between writer and reader. The chapters become more academic and philosophical as the book progresses, in particular the contributions of Karen Drake and Christian Airhart (Chapter 7), John Borrows (Chapter 9), and Joshua Nichols (Chapter 11). Most of the authors begin their essays by locating themselves in their work in accordance with decolonial research methodologies that emphasize relational approaches over objectifying ones.

Chapter 13 by Hamar Foster is somewhat of an outlier. Foster is concerned with the historical accuracy of the Benchers of the Law Society of British Columbia's portrayal of Sir Matthew Bailie Begbie as the "hanging judge."[6] Foster argues that Begbie, who played a role in the trials of six Tsilhqot'in leaders, did not have discretion respecting punishment where the jury convicted someone of murder.[7] Foster acknowledges the controversial nature of their discussion, which may challenge the belief that symbols of settler colonialism deny the humanity of Indigenous peoples. Controversies, however, "can themselves be useful for generating discussion and renegotiation of the borders between cultures," as Hoehn opines.[8] Overall, the non-Indigenous contributors are honest about their blind spots and cautious about making

[4] Felix Hoehn, "'How Can You Sleep When Beds are Burning? Cultural Appropriation and the Place of Non-Indigenous Academics" (Chapter 6) at 109.
[5] *Ibid.*
[6] Hamar Foster, "Sharp as a Knife: Judge Begbie and Reconciliation" (Chapter 13) at 209.
[7] *Ibid* at 213.
[8] *Ibid* at 111.

claims to authority to speak on Indigenous issues. Robert Hamilton wisely writes that, "when taking up legal or academic arguments that feel 'neutral,' 'abstract,' or 'academic,' we should think carefully about what responding to those arguments asks of others."[9] In this regard, Asch advises that there may be times where it is appropriate for allies to limit self-expression to ensure cultural safety.[10] Emma Feltes challenges non-Indigenous academics to decenter "'the settler gaze' by recentering the settler gaze upon ourselves," an approach adopted by Hamilton in Chapter 10.[11] The writings of the non-Indigenous contributors reveal a palpable tension between the need to clear the ground for exercises of Indigenous law and jurisdiction, on the one hand, and the desire to find common ground, on the other.[12]

The contributors offer varying definitions of cultural appropriation, a concept that is admittedly ambiguous and amorphous. Cultural appropriation can refer to the derogatory use of Indigenous cultural imagery and objects by settlers, commonly reflected in sports team's names and mascots,[13] but it can also involve researching and writing about Indigenous communities and Indigenous laws without Indigenous peoples' leadership and meaningful participation.[14] The contributors position the fostering of meaningful relationships as central to ethical engagement since they provide a framework for accountability. Principles such as respect, reciprocity and humility are discussed by Lindsay Borrows, Sara Morales, and Aimée Craft as critical to fostering "cultural collaboration" as opposed to "cultural appropriation."[15] At the same time, Karen Drake and A Christian Airhart acknowledge the limited ability of non-Indigenous peoples to grasp the lifeways and laws of various Indigenous communities, which can be based in not only intellectual, but also physical, emotional, and spiritual ways of knowing.[16] Indigenous knowledge is not a possession to be consumed, but a lived experience that is deeply rooted in cultural practices and

---

[9] Robert Hamilton, "Writing on Indigenous Rights from a Non-Indigenous Perspective" (Chapter 10) at 181.
[10] Michael Asch, "Reflections on Cultural Appropriation" (Chapter 8) at 85.
[11] *Ibid* at 255.
[12] Hamilton at 176.
[13] Sa'ke'j Henderson, "Confronting Dignity Injustices" (Chapter 15) at 275.
[14] Aimée Craft, "Look at Your 'Pantses': The Art of Wearing and Representing Indigenous Culture as Performative Relationship" (Chapter 3) at 57.
[15] *Ibid* at 62; Sarah Morales, "*Su-taxqiye:* Keeping My Name Clean (Chapter 1) at 21, Lindsay Borrows, "Mino-audjiwaewin: Choosing Respect, Even in Times of Conflict" (Chapter 5) at 77.
[16] Karen Drake & A Christian Airhart, "Who Should Teach Indigenous Law?" (Chapter 7) at 123.

systems of governance.[17] Whether settlers can authentically engage with the spiritual, ceremonial, and sacred aspects of Indigenous legal traditions is a question left open for the reader to consider.[18]

Nine of the 18 authors identify as Indigenous and most have a disciplinary background in Aboriginal and Indigenous law. The authors write from across Turtle Island, including the homelands of the Coast Salish, Lekwungen, Cree, Blackfoot, Métis, Nakota Sioux, Iroquois, Dene, Ojibway, Saulteaux, Anishinaabe, Huron-Wendat, and Haudenosaunee peoples. Many authors emphasize the importance of avoiding a pan-Indigenous approach that homogenizes and essentializes distinct peoples, instead recognizing the plurality within and between communities. Joshua Nichols further cautions against relying on the Aboriginal and non-Aboriginal dichotomy, which perpetuates racist assumptions about Indigeneity baked into Supreme Court of Canada jurisprudence.[19] Borrows similarly worries about relying on court-derived markers of 'Aboriginal-ness' to define membership in Indigenous communities. In discussing the citizenship rules of the Métis Nation Council and Qalipu Mi'kmaq band, both of which rely on the *Powley* test, Borrows argues that, "[a]ppropriating Canadian frameworks for patrolling cultural boundaries reinforces the state's appropriation of Indigenous culture."[20] While acknowledging the dangers of self-indigenization, Borrows and Nichols both agree that colonial frameworks deny Indigenous peoples their right to self-definition and thus self-determination, perpetuating processes of marginalization and assimilation.

The collection may have benefited from a conclusion bringing together the contributions and reflecting on the agreements and disagreements between them. By having the essays speak to one another, the editors could promote dialogue and facilitate further learning. The editors could have also grouped the various chapters according to shared themes. The index is helpful, although it does not bring the same coherence or connectivity as a concluding chapter would. Interestingly, there is no attribution or explanation of the cover art, which features Mona Lisa with long black hair, dressed in the robe of a Supreme Court Justice, surrounded by birds and an eagle swooping down against a colourful backdrop. Whether the lack of attribution is an

---

[17] Craft at 61.
[18] Hadley Friedland, "Indigenous Legal Traditions: De-sacralization, Re-sacralization and the Space for Not-Knowing" (Chapter 4) at 69.
[19] Joshua Ben David Nichols, "Guided by Voices? Perspective and Pluralism in the Constitutional Order" (Chapter 11) at 185.
[20] John Borrows, "Turning Away from the State: Cultural Appropriation in the Shadow of the Courts" (Chapter 9) at 166.

intentional metaphor for appropriation reflecting the title of the collection is left unexplained.

Overall, this edited collection is a necessary read for any person seeking to learn, research, write and teach about Canadian-Indigenous issues, particularly those seeking to promote transsystemic models of education. It tackles difficult conversations, furthers cross-cultural understanding, and provides guidance for Indigenous peoples and settlers seeking to restore treaty relations and implement Indigenous constitutional orders.