

Understanding is living: pathways to Indigenous laws



PRESENTED BY

Aimée Craft, Professor, Faculty of Law – Common Law Section

University of Ottawa

Aimée Craft examines ways to learn about law, and more specifically how to learn about law from the land from the Anishinaabe standpoint. She distinguishes between various sources of law, and the ways in which we structure law to learn and apply it. Craft takes as her starting point John Borrows' most recent book, *Law's Indigenous Ethics*. Chapter 5 deals with wisdom and addresses the themes of outdoor education, law and Indigenous land, while Chapter 6 looks at honesty and legal training, and the way in which Indigenous law can be organized through the characters of hero, trickster, monster and custodian used to teach it.

Some thoughts on John Borrows' recent book *Law's Indigenous Ethics*

Aimée Craft points out that Borrows' comments in these chapters are based on Anishinaabe teaching: the notion of wisdom is understood and taught as a way of seeing that is fuller and more enlightened, and the concept of honesty is perceived as a lifestyle or the character of a person or action that is just and correct. Together, these two concepts apply to the idea of learning from the land and with the land. Territory, water and land provide both a pedagogical platform and preliminary instruction in the practice of Anishinaabe law.

Land as a source of law, learning through observation

Through their observations of and interactions with the world around them, the Anishinaabe derive instructions about the way in which they should live. By establishing analogies based on their environment, and by applying and distinguishing appropriately between what they observe, they can learn how to live on their land. Teaching and learning occur through observation of the land and of the human and non-human beings around them. This method is essential to the understanding and practice of Anishinaabe law, and allows the Anishinaabe to regulate their behaviour with respect to each other, but also more broadly with respect to the environment. John Borrows attempts to capture this idea through the prism of outdoor education. He explains that Indigenous law was historically taught on land and on water, as it still is today. Demonstration, observation and practice are at the heart of this active approach to learning and applying Indigenous law. According to Aimée Craft, Anishinaabe law does not consist primarily of laws made by human beings, as in most Western legal systems. The land reveals the law, and the law itself is generated by the territories from which the Anishinaabe originate. This legal system depends on two sources that are separate from human creation of the law: sacred laws, and the laws of Nature. Over time, these forms of law have been transformed into customary laws and positive and deliberative laws through the human deliberative process.

Sacred laws and laws of Nature

Craft points out that Anishinaabe law is generated, in large part, by Nature and the spirit of the territories to which the Anishinaabe belong and that this is partly why they hesitate to apply their law outside their own territories. The learning of law comes from the relationship one has with a given territory. Craft notes that this can teach us something important about the way in which non-Indigenous people living in Indigenous territories could begin their work to understand, learn about, apply and experience the Indigenous legal orders in those territories. An understanding of the law through sacred and natural sources and sources derived from human actions leads to various ways of explaining or organizing Anishinaabe law. John Borrows calls this process superposition. He highlights the existence of various ways of organizing, explaining and interacting with Indigenous law which are not mutually exclusive, but superposed.

In conclusion, Aimée Craft emphasizes the importance of agentivity and a capacity for personal interpretation in observing the land. This interpretation, by each individual, may be based on the mnemonic educational tools used by the Anishinaabe: ceremonies, songs, teaching, a descriptive language, etc. This approach to learning, and learning from the land, takes time and is not a linear process.



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