

Learning Anishinaabe Law from the Earth

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This article considers the Earth as an important source of Anishinaabe law. In this work, I assume what I consider to be a non-controversial point: that humans are obviously a proximate and immediate source of identifying, creating, discovering, transmitting, interpreting and translating, applying, and revising Anishinaabe laws. Yet, there are also broader forces that underlie and influence our legal agency. In recognition of this truth, this article also discusses the Earth as a key participant in Anishinaabe law, and by the Earth I mean all our relations, nindinawemaganidook: the air, water, fire, rocks, plants, insects, fish, birds, animals, and other more-than-human forces which animate the world. In developing this proposition, I first illustrate Anishinaabe law's more-than-human sources by discussing preparations to enter into treaties in the early 1760s. Second, I examine how Anishinaabe creation and clan stories place more-than-humans at the centre of Anishinaabe constitutionalism. Third, I discuss my own practices of Anishinaabe law, through experiences with birds, fish, otters, and plants; alongside family, community, friends, and others. My thesis is that Anishinaabe law is learned and practiced socially, and that our sociality must more intentionally and explicitly build social systems and frameworks to draw us closer to the more-than-human world. As we revitalize these practices in our everyday experiences, this will allow us to

Cet article considère la Terre comme une source importante du droit Anishinaabe. Ici, j'assume ce que je considère comme un point non-controversé: que les êtres humains sont évidemment une source proche et immédiate d'identification, de création, de découverte, de transmission, d'interprétation et de traduction, d'application et de révision des lois Anishinaabe. Pourtant, il y a aussi des forces plus larges qui sous-tendent et influencent notre agence juridique. En reconnaissance de cette vérité, cet article traite également la Terre comme un participant principal dans le droit Anishinaabe – et par la Terre, je veux dire toutes nos relations, nindinawemaganidook: l'air, l'eau, le feu, les roches, les plantes, les insectes, les poissons, les oiseaux, les animaux et autre forces plus-qu'humaines qui animent le monde. En développant cette proposition, j'illustre d'abord les sources plus-qu'humaines du droit Anishinaabe en discutant des préparations pour conclure les traités au début des années 1760. Deuxièmement, j'examine comment les histoires de création et des clans Anishinaabe placent les plus-qu'humains au centre du constitutionnalisme Anishinaabe. Troisièmement, je partage mes pratiques du droit Anishinaabe en parlant de mes expériences avec des oiseaux, des poissons, des loutres et des plantes; et avec la famille, la communauté, les amis et d'autres personnes. Ma thèse est que le droit Anishinaabe est appris et pratiqué socialement et que notre

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1 For citation practices for all our relations, see Amy Shawanda, "Nda-nwendaaganag (All My Relations): A Relational Approach to Citation Practices" (2023) 1:3 Turtle Island J Indigenous Health.

more effectively embed them in our formal and informal institutions across our lands.

socialité doit construire en manière plus intentionnelle et explicite des systèmes et des cadres sociaux pour nous rapprocher au monde plus-qu’humain. En revitalisant ces pratiques dans nos expériences quotidiennes, cela nous permettra de les intégrer plus efficacement dans nos institutions formelles et informelles à travers de nos territoires.

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I. Introduction: Turtles, Snakes, and Treaties

In the summer of 1763, Indigenous peoples around the North American Great Lakes were invited to make peace with Great Britain as the Seven Years War concluded.² The British proposed meetings during the following year, at Niagara, to affirm “a Treaty of Offensive & Defensive Alliance” with First Nations in the region.³ In preparing for peace, Anishinaabe people sought assurances that they would be safe when meeting the British, their former enemies. In seeking such assurances, the Anishinaabe turned to “more-than-human knowledge and discretion” to help them make decisions.⁴

In seeking guidance about whether to go to Niagara, Anishinaabe leaders gave large quantities of asemaa, or tobacco, to a turtle spirit in ceremony.⁵ Asemaa is a sacred plant for the Anishinaabe, and its offering often precedes action.⁶ In this instance, tobacco was placed in a “shake tent,”⁷ of a medicine person who would communicate with the turtle who receives messages from others through the water, earth, and sky.⁸ The tent also incorporated the more-

2 One reported account of the invitation to Niagara goes as follows: “My friends and brothers, I am come, with this belt, from our great father, Sir William Johnson. He desired me to come to you, as his ambassador, and tell you, that he is making a great feast at Fort Niagara; that his kettles are all ready, and his fires lit. He invites you to partake of the feast, in common with your friends, the Six Nations, which have all made peace with the English.” See Alexander Henry, *Travels & Adventures in Canada and the Indian Territories Between the Years 1760 and 1776*, new ed by James Bain (Boston: Little, Brown, & Company, 1901) at 157. See also EB O’Callaghan, ed, *Documents Relative to the Colonial History of the State of New-York: Procured in Holland, England, and France by John Romeyn Brodhead, Agent*, vol 7 (Albany: Weed, Parsons and Co, 1856) at 542–45. See also Alan Ojiiig Corbiere, *Anishinaabe Treaty-Making in the 18th-and-19th-Century Northern Great Lakes: From Shared Meanings to Epistemological Chasms* (PhD Dissertation, York University, 2019) [unpublished] at 289–333; John Borrows, “Wampum at Niagara: The Royal Proclamation, Canadian Legal History, and Self-Government” in Michael Asch, ed, *Aboriginal and Treaty Rights in Canada: Essays on Law, Equality, and Respect for Difference* (Vancouver: University of British Columbia Press, 1997) 155.

3 Letter from Johnson Hall to General Thomas Gage (19 February 1764) in Alexander Flick, ed, *The Papers of Sir William Johnson*, vol 4 (Albany: University of the State of New York, 1925) 328 at 331.

4 Henry, *supra* note 2 at 158.

5 An enterprising trader Alexander Henry travelled with a number of Anishinaabe people at the time of their journey to Niagara and he recorded Anishinaabe inquiries through a Jiisikii-inini (a shake-tent medicine man), and his interaction with the GREAT TURTLE, who was considered “the spirit that never lied.” See Henry, *supra* note 2 at 159–64.

6 Jessie Clark, “An Indian Always Uses Tobacco”, transcribed by Rick Gresczyk (2011) 8:1 Oshkaabewis Native Journal at 71–73. For a discussion of the animate nature of asemaa, see Wendy Makoons Geniusz, *Our knowledge is Not Primitive: Decolonizing Botanical Anishinaabe Teachings*, 1st ed (Syracuse: Syracuse University Press, 2009).

7 The shaking tent ceremony is described in Christopher Vecsey, *Traditional Ojibwa Religion and Its Historical Changes* (Philadelphia: American Philosophical Society, 1983) at 103–106, 118–120.

8 The turtle is often regarded as a messenger, and not the source of messages received. See Michael Angel, *Preserving the Sacred: Historical Perspectives on the Ojibwa Midewiwin* (Winnipeg: University of Manitoba Press, 2002) at 31. Basil Johnston illustrates this view in reciting a prayer song, “The Great

than-human world, being made of moose hide which covered the lodge poles of five different kinds of trees.⁹ Once the tobacco was offered, the turtle answered the Anishinaabe through the medicine person's voice, and told them that the English would give gifts and receive them as friends. Upon hearing that the British would treat them well, the Anishinaabe resolved to visit Niagara. The intervention of tobacco, trees, moose, and turtles combined in unique ways to prepare the Anishinaabe people's search for peace.

Thus, with the turtle's encouraging message, the Anishinaabe travelled towards Niagara. As they trekked, they continued to watch and listen to one another and the broader world. Communication was an ongoing and not a singular event. The dynamic nature of their interactions with the more-than-human world is illustrated by what happened next.

On June 15, 1764, as the group continued towards their destination, the wind picked up and they were forced to seek shelter on the eastern shores of Georgian Bay, in an area now called the Thirty Thousand Islands, in Ontario. As one of their party was building a fire along the shore, they discovered a rattle-snake, ready to strike, with "its head raised considerably above its body." Alexander Henry, an English trader travelling with the group who encountered the rattlesnake, wrote: "Had I advanced another step before my discovery, I must have trodden upon it."¹⁰

As Henry hastily retreated to his canoe to retrieve his gun and shoot the snake, his Anishinaabe companions intervened. Henry writes, the "Indians ... begged me to desist," even as "they followed me to the spot, with their pipes and tobacco-pouches in their hands."¹¹ Upon seeing the snake, the Anishinaabe encircled it in a pipe ceremony. This caused them to slow the pace of their activities to match the presence of the snake, who eventually uncoiled to its four or five foot length. As they blew smoke towards snake, the Anishinaabe addressed it as grandfather and they asked for help along their journey. In particular, their address included petitions to watch over their families, open their former enemies' hearts, and forgive the Anishinaabe travellers for Henry's insult — in intending to kill the snake.¹²

Mystery is generous with you Through the Turtle you will speak." See Basil Johnston, *Ojibway Heritage* (Toronto: McClelland and Stewart, 1976) at 51.

9 See Henry, *supra* note 2 at 159–64.

10 *Ibid* at 166.

11 *Ibid* at 168.

12 *Ibid* at 166–67.

The rattlesnake's actions were interpreted as a warning for the Anishinaabe to return home. This was a very different message from that received from the turtle. The snake and turtle apparently generated conflicting alternatives about the wisdom of meeting the British. Unlike the turtle spirit or manito, and speaking of the snake, the Anishinaabe believed "this *manito* had come, or been sent, on purpose to meet them; that his errand had been no other than to stop them on their way; and that consequently it would be most advisable to return to the point of departure."¹³ Despite this warning, the Anishinaabe continued on their journey, though it was marked by continuing anxiety, prompting them to give two dogs and some asemma to the "manito-kinibic" (rattlesnake spirit) to forgive them for Henry's earlier intentions to kill it. Henry next tells us that the storm abated, and the Anishinaabe continued on to Niagara, where they were received in peace.

Henry's Niagara journey provides important insights about Anishinaabe law. More-than-human kin were key participants in Anishinaabe decision-making in planning, preparing, and proceeding to meet the British. This allowed the Anishinaabe to consider different interpretations concerning their future. Encounters with turtle and snake revealed alternative pathways regarding treaties. More-than-humans did not speak with one voice; their messages were seemingly divergent. In such circumstances we might ask: is there any value in seeking guidance from the more-than-human world in the face of significant ambiguities? To answer this question, this article suggests Anishinaabe methods have considerable merit, despite the acute challenges they present.

One advantage in listening to the more-than-human world revolves around what some might consider its very weakness: the generation of alternative interpretations without an explicitly formal resolution of the ambiguities they reveal. Despite this challenge, there may be procedural benefits in considering different viewpoints which, in the journey to Niagara, slowed the pace of deci-

13 See Henry, *supra* note 2 at 168. Henry wrote, after returning from his canoe: "I found the snake still coiled. The Indians, on their part, surrounded it, all addressing it by turns, and calling it their *grand-father*; but yet keeping at some distance. During this part of the ceremony, they filled their pipes; and now each blew the smoke toward the snake, who, as it appeared to me, really received it with pleasure. In a word, after remaining coiled, and receiving incense, for the space of half an hour, it stretched itself along the ground, in visible good humour. Its length was between four and five feet. Having remained outstretched for some time, at last it moved slowly away, the Indians following it, and still addressing it by the title of grandfather, beseeching it to take care of their families during their absence, and to be pleased to open the heart of Sir William Johnson, so that he might show them charity, and fill their canoe with rum. One of the chiefs added a petition, that the snake would take no notice of the insult which had been offered him by the Englishman, who would even have put him to death, but for the interference of the Indians, to whom it was hoped he would impute no part of the offence." Henry, *supra* note 2 at 166–67

sion-making to consider the turtle's and snake's alternatives. Since there were similar fissures in the group's own views, these ceremonial encounters could have affirmed the range of opinions within the group. Slower decision-making might thus encourage deeper reflection and potentially relieve pressures to act hastily.

Another advantage of divergent visions from turtle and snake is that it helped the Anishinaabe recognize an initial judgement's subsequent contingencies, and the importance of revisiting conclusions, as circumstances shifted when decisions were put into action. Such dynamic flexibility could be helpful as more information was gained along the way.

It is also possible that the participatory nature of this kind of decision-making among the Anishinaabe and their more-than-human kin created a degree of unity which helped the parties better work towards their goals. For example, in the journey to Niagara, the group were attentive to changing conditions and continuously re-evaluated their choices. This approach may also have had the advantage of distributing a broader sense of responsibility amongst individual participants, encouraging them to remain open and vigilant in attending to the more-than-human world as they implemented ongoing decisions.

In this light, most everything in Alexander Henry's account of the Anishinaabe journey to Niagara in 1764 makes sense to me, to a degree. Respect for rattlesnakes is something I have been taught my entire life. There used to be hundreds of them in our territory when I was young, and they were always a welcome sight. My grandfather regularly pointed out how respectful they were in alerting us to their presence with their sound. He told me they were peaceful and non-aggressive. He said they would never strike unless, first, they were threatened and, second, gave audible warnings. Using old-fashioned words, he said they were "gentlemen," marked by the grace and consideration they showed for their fellow beings. My mother also repeatedly stressed to me the reverence and respect her family held for these beautiful beings. She said that shiishiigwe-ginebigooog (rattlesnakes) were regarded as messengers who told us about our environment's health and how we should relate to it in better ways, including between ourselves as humans.

Encounters with mikinaakwak (snapping turtles) and miskwaadesiwak (painted turtles) are also a deep part of my formative experiences. Throughout my childhood, I encountered them in ponds, shorelines, swamps, rivers, and other watery places. My mother would talk to them, and she would observe

their behaviour. She also saw them as messengers and would interpret their activities to help us see what they were doing. Along the way, we rescued them from busy roads, swam with them in deep waters, and watched them sun themselves on hot rocks. Moreover, I also have friends and colleagues who have gone to “shake tents” and received guidance from *jiisikii-ininiwag* (medicine men) through the turtle spirit’s intervention. These were singularly formative experiences in my friends’ lives. Thus, I understand why some Anishinaabe speak to the snake and turtle, asking for their care, direction, and aid.

At the same time, Henry’s account contains numerous challenges in listening to the more-than-human world which must also be highlighted. First, Henry’s views were recorded in English, when Anishinaabemowin would have been the language spoken amongst those travelling to Niagara. This means linguistic nuances, which Henry was not able to capture for his English-speaking readers, would have been lost in translation along the way. Furthermore, Henry brought different cultural perceptions to this experience when compared to his Anishinaabe companions; for example, Henry talked about Anishinaabe people making sacrifices to the turtle and snake, when it is more fitting to regard these actions as gifts of respect and reciprocity. Moreover, throughout these accounts, Anishinaabe people themselves were attempting to interpret more-than-human actions, which itself can test the limits of translation and intelligibility between worlds.

Thus, despite the salutary dimensions of seeking to listen to the more-than-human world when making decisions, we must consider the challenges presented by this approach. As Henry’s account makes clear, turning to the more-than-human world in regulating one’s affairs does not eliminate the need for interpretation in the face of parallel, contrasting, and contradictory points of view. This challenge is present in every legal system because humans interpret words, actions, symbols, or behavior in contexts that invariably contain more than one meaning. Among the Anishinaabe this has been called *percept ambiguity*.¹⁴ Since humans cannot escape ambiguity in practicing law, the question for this article is: how might Anishinaabe people work to enhance their laws’ procedural and consequential fairness, for all beings, including humans and their more-than-human kin.

14 Mary B Black, “Ojibwa Taxonomy and Percept Ambiguity” (1977) 5:1 *Ethos* 90. In this article, Rogers writes that Anishinaabe people’s tolerance for ambiguity is sometimes frustrating for other people, yet she notes that withholding categorization in a “wait and see” approach is an important part of appreciating Anishinaabe cognitive ethnography, at 103–104.

Despite genuinely legitimate challenges, this article nevertheless claims that valuable insights are available in attempting to learn how to act in relation to the more-than-human world. Anishinaabe engagement with fish, birds, animals, and plants can open further avenues for making decisions and regulating our affairs, even as we acknowledge the challenge in practicing law in these ways.

In the remainder of this article, I consider these issues in light of my own experience of learning of Anishinaabe law from the human and more-than-human worlds.¹⁵ I first discuss Anishinaabe creation and clan stories before recounting my experiences with birds, fish, otters, and plants, which help me learn and practice Anishinaabe law. In taking this approach, I must say that my views are formed as an Anishinaabe citizen of the Chippewa of the Nawash First Nation on the Saugeen Peninsula, who grew up off-reserve in southern Ontario.¹⁶ We are an Indigenous people who live in many communities, cities, and rural settings around the North American Great Lakes, woodlands, and prairies.¹⁷ Our perspectives related to our more-than-human relations are revealed in our origin stories, and in the presence of life's ongoing reproduction.

II. Anishinaabe Origins and More-Than-Human Teachers

Anishinaabe origin stories recognize more-than-humans as one of the active sources of life. I have long been taught that during an ancient flood, when the earth was covered with water, their actions brought life from the deep.¹⁸ During this period, it is said that the animals formed a council with the beaver, loon, otter, and others to determine how to survive the flood. Eventually, a small muskrat pulled soil from under the deep water, which was subsequently place on a turtle's back to form terrestrial life.¹⁹

15 As a methodological issue, you will notice that I cite a number of my prior works in this article. I do this, not because I consider my work to be any more authoritative in this field; I do not. Rather, I cite my prior work because this article attempts to build on research underlying previous arguments, which are cited in the references to these works throughout this article.

16 Our home is called Neyaashiinigmiiing, or portage point, and it lies between Lake Huron and Georgian Bay. I wrote about the community's legal history through my family history in John Borrows, "A Genealogy of Law: Inherent Sovereignty and First Nations Self-Government" (1992) 30:2 Osgoode Hall LJ 291.

17 Anishinaabe people are the fourth largest Indigenous Nation in North America, after the Navajo, Cherokee, and Lakota nations. They live within the Great Lakes watershed, surrounding, in large part, Lakes Superior, Huron, and Michigan and occupying the farmlands and woodlands north of Lake Ontario and Lake Erie. They also have reservations in the forests and prairies of Manitoba, northern Minnesota, and North Dakota. See Helen Hornbeck Tanner, *Atlas of Great Lakes Indian History*, cartography by Miklos Pinther (Norman, OK: University of Oklahoma Press, 1987) at 58–9.

18 Nicolas Perrot, "Memoir on the Manners, Customs, and Religion of the Savages of North America, Leipzig and Paris, 1864" in Emma Helen Blair, ed, *The Indian Tribes of the Upper Mississippi Valley and Regions of the Great Lakes*, vol 1 (Cleveland: Charles Scribner's Sons, 1911) at 37.

19 *Ibid.*

As I was taught, our creation story contains tenets which guide Anishinaabe people to ask for help, counsel together, dive deep to get grounded, respect the strength of the smallest among us, honour the dead through ceremony, and see the relationship between generation, decay, and regeneration. There are many other legal resources in this story which, for me, often seem as deep as the waters our ancestors first encountered.

Basil Johnston, a now deceased friend and elder from my reserve, would sometimes tell me parts of our creation story as we sat in his small cabin by the lake on our reserve. I treasured his words and I am grateful he left his impressions in books too. He spoke about *shkagamik-kwe*, and how the whole world was infused with life, as illustrated in our creation narratives. In his writings, Basil summarized the obligations attached to these teachings as follows:

Insects, birds and animals do their part in sustaining the act of Creation. In the bosom of Mother Earth they bury seeds which become trees, shrubs, plants and flowers. They, and we, take part in creation by creating and recreating. When things die, they become part of the earth, a sacred burial ground deserving of reverence. We are the earth, as are the eagles, wolves, ants and whitefish.²⁰

In these ways, summarized by Basil, Anishinaabe people identify more-than-humans as having a key role in bringing life to the Earth, and from them they learn how to participate in the Earth's ongoing re-creation.

The power of more-than-humans as life-givers and teachers provides a key insight into Anishinaabe legal commitments, and this knowledge can motivate how we act. Since more-than-human beings are regarded as ancestors, they should be given respect and deference as teachers, professors, and guides. Since they precede us, and we flow from their lineage, we should regard them as our elders, grandfathers, grandmothers, and leaders. One of the earliest European chroniclers of our views, Nicholas Perrot, also saw this principle:

After the creation of the earth, all the other animals withdrew into the places which each kind found most suitable for obtaining therein their pasture or their prey. When the first ones died, the Great Hare caused the birth of men from their corpses, as also from those of the fishes which were found along the shores of the rivers which he had formed in creating the land. Accordingly, some of [them] derive their origins from a bear, others from a moose, and others similarly from various kinds of animals. ... You will hear them say that their villages each bear the name of the

20 Basil H Johnston, *Honour Earth Mother: Mino-audjaudaub Mizzu-Kummik-Quae* (Warton: Kegedonce Press, 2003) at xii–xiii.

animal which has given its people their being — as that of the crane, or the bear, or of other animals.²¹

What Perrot highlighted in his account of Anishinaabe origins, is that Anishinaabe people regard their clans, or doodemag, as being traced to a literal ancestry with animal forebears. The Anishinaabe view has some interesting parallels with scientific facts concerning human origins: we come from the water, and we developed from genetic and environmental conditions that preceded us. Simultaneously, Anishinaabe people also have distinct ideas of what animates these connections that do not accord with evolutionary biology as we know it. For instance, people who are part of the otter clan could claim giant otter from the time of the flood as their direct kin. This would also be the case with loon, beaver, muskrat, and other doodemag, who would likewise claim ancestral descendancy from their giant animal kin.

As noted, one implication flowing from these creation and clan origin stories is that Anishinaabe people often look to animals as their elders, leaders, teachers, and guides. In this light, more-than-human behaviors provide humans with many of our most important lessons about how to live in their spaces. In fact, it has long been recognized that a primary unit of Anishinaabe law and governance flows through their doodemag, kin-based relations.²²

These ideas about Anishinaabe origins and their connections to their more-than-human clan-kin highlights our interdependence. For Anishinaabe people, these animals are us, and we are them. We are entangled.²³ Anishinaabe Professor Dollen Manning describes this as *gashka'ode*.²⁴ Professor Heidi Bohaker has written: “Anishinaabe use of doodem as a category of kinship is also an articulation of Anishinaabe philosophy and law — one that places humans in interdependent relationships with other-than-human beings, who are considered persons with a soul and also relatives to whom one owns a duty of care.”²⁵ Anishinaabe people teach that the souls of our clans are shared with

21 Nicolas Perrot, *supra* note 18 at 37.

22 William W Warren, *History of the Ojibways: Based upon Traditions and Oral Statements* (Saint Paul, Minnesota: Minnesota Historical Society, 1885) at 41–53. For a review of this work, see Theresa M Schenck, *William W. Warren: The Life, Letters, and Times of an Ojibwe Leader* (Lincoln: University of Nebraska Press, 2007).

23 John Borrows, *Law's Indigenous Ethics* (Toronto: University of Toronto Press, 2019) at 117–20 [J Borrows, *Law's Indigenous Ethics*].

24 Dolleen 'Tisawii'ashii Manning, *Mnidoo-Worlding: Merleau-Ponty and Anishinaabe Philosophical Translations* (PhD Dissertation, University of Western Ontario, 2017) [unpublished] at 32.

25 Heidi Bohaker, *Doodem and Council Fire: Anishinaabe Governance Through Alliance* (Toronto: University of Toronto Press, 2020) at xiv.

the souls of animals to whom we are related by these clans, which demonstrates our interdependence.²⁶

Since Anishinaabe people can regard themselves as related to their more-than-human kin through evolution, creation, clan affiliation, and metaphysical connection, this holds significance for the question of why we must respectfully and responsively listen to their needs.

III. Beyond Origins: Learning How to Listen to More-Than-Humans in the Present

While much can be learned from our origin stories, we must also acknowledge that Anishinaabe people do not only look to the past.²⁷ We are traditional, modern, and postmodern people.²⁸ We make decisions in contemporary contexts in ongoing ways. Like our treaties, Anishinaabe law is relevant in the present, and has significant implications for the future.

We must decolonize the idea and practice of law. We must wrestle it away from its Western contexts. Law is not merely the preserve of specialists who sit in legislatures, preside over courts, or are called to the bar. Law is something in which all humans participate, in different ways and forms across time, and in different spaces.²⁹ Law involves proximate decisions and actions in light of more general teachings, observations, principles, conditions, necessities, customs, and obligations.³⁰ In an Anishinaabe context, law is best described through verbs. We use words like *inaakonige*,³¹ *izhitwaawe*,³² *ginwezhiwe*,³³

26 *Ibid* at 55, 61.

27 I have discussed the importance of living constitutionalism and originalism as modes of legal interpretation in John Borrows, *Freedom and Indigenous Constitutionalism* (Toronto: University of Toronto Press, 2016) at 128–60 [J Borrows, *Freedom and Indigenous Constitutionalism*].

28 John Borrows, *Recovering Canada: The Resurgence of Indigenous Law* (Toronto: University of Toronto Press, 2002) at 148 [J Borrows, *Recovering Canada*].

29 Roderick Macdonald, *Lessons of Everyday Law* (Montreal: McGill-Queen's Press, 2002).

30 Freedom is exercised in the proximate actions we take, even as there are constraints surrounding the ultimate consequences of these choices, particularly when considering certain aspects of physics, chemistry, biology, and other physical sciences. This is the thesis developed in J Borrows, *Freedom and Indigenous Constitutionalism*, *supra* note 27.

31 John D Nichols et al, *The Ojibwe People's Dictionary* (University of Minnesota Department of American Indian Studies, University of Minnesota Libraries & Minnesota Historical Society, 2015) *sub verbo* “*inaakonige*”, online: <ojibwe.lib.umn.edu/main-entry/inaakonige-vai> [perma.cc/X3X4-9F5U] [Nichols, *The Ojibwe People's Dictionary*].

32 *Ibid*, *sub verbo* “*izhitwaawe*”, online: <ojibwe.lib.umn.edu/main-entry/izhitwaawin-ni> [perma.cc/C3V3-URXY].

33 Basil H Johnston, *Anishinaabae Thesaurus* (East Lansing: Michigan State University Press, 2007) at 161, *sub verbo* “*ginowaesh*.”

dibaakonige,³⁴ onaabanjige,³⁵ etc, which variously describe action in relation to other measures, indicia, or criteria.

Furthermore, for Anishinaabe people, law is something in which other living beings also participate in at least two ways. First, more-than-humans follow biological, chemical, physical, or other behavioral cues, necessities, and preferences as they take action in particular circumstances. For example, a caterpillar must build a cocoon, which is an obligation, responsibility, or essential part of their very being. Weaving a chrysalis is the more general requirement that can then be deployed in contingent ways. For example, it can be constructed inside an exposed water spout or nestled in a protected branch's fork. While caterpillars will invariably weave wombs of transformation, the cocoon's future opportunities and limitations will vary depending on their placement. There may be greater limits to future growth if the cocoon is built in, statistically, a more dangerous place. Behavioral life's order and patterns are generally structured through environmental factors, which influence genetic codes, ecological variations, and the opportunities available for growth, contraction, or stasis.³⁶

Secondly, more-than-humans also participate in law because humans create and impose their structures on them through anthropocentric laws. We conscript other beings into human legal systems for food, shelter, clothing, transportation, art, etc. Anishinaabe people are not an exception to this pattern: we force laws on others too, even as we aspire to live in respectful and harmonious relations with them. Despite our best efforts, we often fail them. Even legal systems which attempt to be sensitive to the more-than-human world don't sufficiently consider more-than-human needs.³⁷

In too many legal systems, more-than-human beings are not considered as having needs or agency on their own terms. Thus, when considering more-than-human constitutions (how life is constituted), we must acknowledge that more-than-human beings are strongly impacted by our legal actions. We have

34 *Ibid* at 74, *sub verbo* "dubauk-inigaewin."

35 Nichols, *The Ojibwe People's Dictionary*, *supra* note 31, *sub verbo* "onaabanjige", online: <ojibwe.lib.umn.edu/main-entry/onaabanjige-vai> [perma.cc/NW4K-GVLZ].

36 For another account of butterflies from a narrative perspective, see John Borrows (Kegedonce), *Drawing Out Law: A Spirit's Guide* (Toronto: University of Toronto Press, 2010) at 14–16 [J Borrows, *Drawing Out Law*]; John Borrows, "Creating an Indigenous Legal Community" (2005) 50:1 McGill LJ 153 at 166–68.

37 Human legal systems are often unresponsive to more-than-human needs except, perhaps, to the extent that a failure to address these needs may negatively impact humans. See Maneesha Deckha, *Animals as Legal Beings: Contesting Anthropocentric Legal Orders* (Toronto: University of Toronto Press, 2021).

formed systems that make other beings dependent on our conduct. This is ironically perverse, particularly when we know that humans are extremely dependent on more-than-humans for life's origins and ongoing sustenance. Humans would not exist without microbes, insects, birds, plants, and animals. They are the source of life, and are necessary to its ongoing replication.

Therefore, we must do better at learning how to respect more-than-human legal systems on their own terms, and we must treat them better when they are conscripted into human legal systems. This is a difficult task. Despite our interdependencies, there are significant difficulties in understanding and addressing more-than-human kin. Microbes, plants, insects, fish, birds, and animals do not use language in ways in which humans can construe its form, content, and use. More-than-humans perceive and act upon light, chemical signals, sound waves, water levels, humidity, seasonal changes, and other phenomena which are often outside human experience.³⁸ Interpretive problems abound since these needs are not expressed through syntax, morphology, phonology, semantics, or pragmatics.³⁹

Thus, the second half of this article considers how we might better understand more-than-human beings' laws when they cannot write statutes, pass judgments, initiate regulations, or persuade, deliberate, or build reasoning communities on our terms. I will continue to focus on Anishinaabe law in pursuing this objective. Since Anishinaabe people (like all other peoples of the world) can be as oblivious, neglectful, or deliberate in degrading or destroying our relationships with our more-than-human kin, it is necessary to mindfully reflect on how we can do better, and then act accordingly.⁴⁰

38 There are other significant ways humans are learning how to listen to more-than-humans: see Karen Bakker, *The Sounds of Life: How Digital Technology is Bringing Us Closer to the Worlds of Animals and Plants* (Princeton: Princeton University Press, 2022). For a discussion of human biases and heuristics, see Daniel Kahneman, *Thinking, Fast and Slow* (Toronto: Anchor, 2013).

39 For a hopeful discussion of understanding communication within the more-than-human world, in relation to plants, see Stefano Mancuso & Alessandra Viola, *Brilliant Green: The Surprising History and Science of Plant Intelligence*, translated by Joan Benham (Washington, DC: Island Press, 2015).

40 Indigenous peoples are not paragons in practicing more-than-human respect. This is why, like everyone else, Indigenous peoples must identify and apply healthy patterns, measures, standards, principles, criteria, precedent, tradition, signposts, benchmarks, tenets, procedures, conventions, and customs to guide their ideas and actions. While law may be generated by legislatures, and interpreted by courts, and enforced by police, from an Indigenous perspective law is a much broader phenomenon. Law engages patterns for decision-making to regulate our affairs and resolve disputes which emerge from our understanding of life's obligations, opportunities, privileges, and responsibilities to one another, including our more-than-human kin. Aaron Mills, "First Nations' Citizenship and Kinship Compared: Belonging's Stake in Legality" 72 Am J Comp L [forthcoming in 2024].

In considering Anishinaabe law, I recognize there are various interpretations and practices within this legal tradition.⁴¹ There are also many sources of law from which we can draw.⁴² Like many others, my own Anishinaabe legal practices do not isolate, essentialize, or separate Anishinaabe law from other influences.⁴³ At the same time, I would prefer to see Anishinaabe law applied on its own terms within its own frames,⁴⁴ even as I regret that these laws cannot always be applied within a more-than-human being's own terms or within its own frames.

Since it is not always possible to apply Anishinaabe law on its own terms, given our entanglements with others, I recognize that more-than-human and other legal systems have a place in pursuing a broader relationality. Furthermore, my own views of Anishinaabe law are partial and I find great benefits in learning from others. While great care must be taken to facilitate freedom and responsibility when Anishinaabe law interacts with other legal influences, my view is that Anishinaabe people can resiliently learn and apply the best insights from other legal and information systems.⁴⁵ Moreover, Anishinaabe law is not perfect and thus we can also find important opportunities for correction, modification, and improvement by learning from other traditions.

In this light, as one example, let me suggest that scientific methods could be compared and contrasted with Anishinaabe law, and add key insights to enhance our own views and lifeways.⁴⁶ Empirical studies could help us better understand (but not replace) more-than-human law and its vast web of intricacies.⁴⁷ We also need perspectives from other academic disciplines to chal-

41 For a variety of approaches to the application of Anishinaabe law see Aaron Mills, "The Lifeworlds of Law: On Revitalizing Indigenous Legal Orders Today" (2016) 61:4 McGill LJ 847; Kekek Jason Stark, "Anishinaabe Inaakonigewin: Principles for the Intergenerational Preservation of Mino-Bimaadiziwin" (2021) 82 Mont L Rev 293; Matthew LM Fletcher, "Restatement as Aadizookaan" (2022) 2 Wis L Rev 197.

42 John Borrows, *Canada's Indigenous Constitution* (Toronto: University of Toronto Press, 2010) at 23–58 [J Borrows, *Canada's Indigenous Constitution*].

43 My approach to the entangled nature of Indigenous law with other legal influences is found in all my books and is explicitly theorized in J Borrows, "Freedom and Indigenous Constitutionalism" *supra* note 27.

44 I have developed this theme in J Borrows, *Law's Indigenous Ethics*, *supra* note 23 at 176–215.

45 *Ibid.*

46 In particular, I am inspired by the work of Potawatomi biologist Robin Wall Kimmerer, *Braiding Sweetgrass: Indigenous Wisdom, Scientific Knowledge, and the Teachings of Plants* (Minneapolis: Milkweed Press, 2013). For an excellent discussion of the necessity of considering "whether we may move law between constitutional contexts without subjugating the law of one community to the lifeworld of another," see Mills, *supra* note 41.

47 A helpful example applying Indigenous knowledge alongside scientific observation is found in Razak Abu, Maureen G Reed & Timothy D Jardine, "Using Two-Eyed Seeing to Bridge Western Science and Indigenous Knowledge Systems and Understand Long-term Change in the Saskatchewan River Delta, Canada" (2020) 36:5 International Journal of Water Resources Development 757.

lenge anthropocentrism, and ways of incorporating them in our various legal systems, Anishinaabe systems included.⁴⁸ All legal communities need to find better ways of understanding, translating, and applying the research conclusions reached by biologists, physicists, chemists, geologists, zoologists, meteorologists, ecologists, geneticists, etc.

Despite broader scientific, cultural, and academic methods' importance, they will not be sufficient to help us understand more-than-human beings and laws on their own terms. Nor will they help us create better human laws if we are isolated from intimate, relational experiences with the more-than-human world. Further interpretation is required to address and mitigate our biases, heuristics, and arbitrary selection of ideas that over-estimate our own self-interest.⁴⁹ Thus, scientific and other knowledge must be supplemented by innovations in many legal systems to help us harmonize our lives with life's other forms. While more research is needed to understand how the common law or civil law might better respect more-than-human law, as you know, this article's goal is focused on how Anishinaabe law might be enhanced to meets these goals.

In pursuing this aim, in the remaining pages, I write in subjective, personal terms since Anishinaabe law is often best framed through experiential, perspectival, and phenomenological approaches to knowledge, though I acknowledge there are other epistemological perspectives. In taking this approach I am not suggesting Anishinaabe law is not socially formed and activated; it is. At the same time, it is important to note how individual agency is honoured within Anishinaabe lifeways, even as it exists in relationship with other views.⁵⁰ In this light, my experiences flow from what I learned on my own, and through others, including elders, family members, friends, community members, students, and the more-than-human teachers themselves.

48 For a discussion of the need for interspecies justice, and the importance of mitigating anthropocentrism, see Maneesha Deckha, "Unsettling Anthropocentric Legal Systems: Reconciliation, Indigenous Laws, and Animal Personhood" (2020) 41:1 *Journal of Intercultural Studies* 77. For a critique of anthropocentrism, see Helen Kopnina et al, "Anthropocentrism: More than Just a Misunderstood Problem" (2018) 31 *J Agricultural & Env'tl Ethics* 109.

49 George Marshall, *Don't Even Think About It: Why Our Brains Are Wired to Ignore Climate Change* (New York: Bloomsbury, 2015).

50 As Mary Black Rogers wrote in Black, *supra* note 14 at 101–102, when describing Anishinaabe relational views: "Concrete physical objects are perceived, in everyday experience, in terms of characteristics that *define them*, as unstable, changing, and inconsistent. The belief system allows the expectation that different individuals will 'see' different objects in the same landscape, will 'hear' different sounds; it also allows the expectation that the same entity may appear in different forms from one *time* to another; and it respects the individual's privacy and veracity as to what he has seen or heard and as to which of the entities has appeared to his senses alone and is thus in a certain class for him."

In line with Anishinaabe law's societal, group, and collective formation, Basil Johnson taught me that as an Anishinaabe person I must first speak my truth. Once this has occurred, my perspectives can later be measured in relation to others, through counseling together and taking account of different views. We need different angles of vision to effectively practice Anishinaabe law, as the turtle, snake, creation, and clan stories demonstrate. My own subjectivities cannot necessarily be generalized unless they are harmonized with our historic teachings, and correlated through others adding their ongoing, subsequent experiences, stories, research, and views. Analogizing or distinguishing from what we learn from the more-than-human world requires judgment, and exercising this power is both an individual and collective endeavor.

Anishinaabe legal methods demonstrate the importance of interdependent, experiential learning. Both the group and the individual must be respected in our legal practices. This creates an important place for individuals to express their truths. Basil explained that, in Anishinaabemowin, truth is expressed as debwewin, which is to "tell what one knows according to his/her fluency; to have the highest degree of accuracy; to be right; correct, to have truth."⁵¹ Therefore, in this article I attempt to write my truth by describing my experiences with birds, fish, otters, and plants, and their relevance to me in practicing Anishinaabe law.

In taking this path, I also follow the teachings of Nigikoonsiminikaaning Elder Ogimaawigwanebiik, Nancy Jones, who said: "Debwe, debwe iwe gaa-ikidod, gakina awiya debwe ... Endanakiiyan, mii omaa gegiin ezhi-gikinoo'amaageyan, ingojiwang ingoji waasaa. Awiya bizindaman booshke ingoding gii-ikobiiyaat gichi-ayaa'aag gakina bebikaan ikidowag akina ge-wi-inawaa ogikendaanaawaa wa'-izhi-gikinoo'amaagewaat." "The truth, he speaks the truth; everyone speaks his or her truth ... When you live in your community that is how you pass on the teachings. They all have their own stories as to how they pass on their teachings."⁵²

In this spirit, I now briefly pass along fragments of what I have learned about Anishinaabe law from our more-than-human kin.

51 Basil H Johnston, *Anishinaubae Thesaurus* (East Lansing: Michigan State University Press, 2007) at 73. Etymologically "Deb" means to a certain extent, "we" is a wave of sound, and "win" is a nominalizer and makes the verb into a noun.

52 Ogimaawigwanebiik (Nancy Jones), "Gakina Dibaajimowinan Gwayakwaawan (All Teachings Are Correct)" in H James St Arnold & Wesley Ballinger, eds, *Dibaajimowinan: Anishinaabe Stories of Culture and Respect* (Odanah, WI: Great Lakes Indian Fish and Wildlife Commission Press, 2013) at 9–12.

A. Bineshiyag: Birds

One of the earliest teachings I received that taught me how to listen to our more-than-human kin was given on the farm on which I was raised. The land was off-reserve but within my clan's traditional territories.⁵³ My mother would take us into the fields, along the hedgerows or into the bush to watch and listen to the swallows, sparrows, robins, doves, orioles, blue jays, cardinals, crows, and other birds. She would invite us to recount what we saw and heard. This pattern was frequently replicated. As a result, we noticed birds who were seeking mates, who were protecting territories, and who were feeling threatened by others in the area. In this ongoing practice, we saw and heard communities of life in the trees, air, and land around our home. We soon understood the birds' feeding habits and what they needed to survive and thrive. We noticed the flowering of plants, the production of seeds, and the availability of insects and other food. We also watched the birds come and go through the seasons. In fact, since we did this through the years, we witnessed the intergenerational transfer of life through the bird's children and children's children.

When I was 10 years old, my lessons from the birds deepened.⁵⁴ One day, while winding through the ravine, I paused under an old white pine tree. I saw something struggling at its base and I recognized it as kekek, a fledging red tail hawk. It had fallen and damaged its wing. Seeing the bird's trauma I ran to get my mother, who cautiously approached it when she arrived. When she found that the bird didn't resist, she quickly picked it up. She held it by the legs, with the talons away from her body, as she cradled it in her arms. We walked back to the barn. It wasn't long before she tenderly placed it in our empty chicken coop. With the hawk safely in the barn, my mother soon called an official from the Department of Natural Resources. She asked for help but it was a discouraging call; they were fairly pessimistic. They said the hawk's wing was likely broken and it would probably never fly. They said they couldn't care for it. They said we should dispose of it.

53 I recently discovered that the land on which I was raised, though off reserve, was nevertheless hunting grounds for members of my clan, the otter clan. I found this on a map in the Chippewa of the Rama Community Hall through a Map compiled by W. Woitowich, August 8, 1994, made for the United Indian Councils of the Mississauga, Chippewa, and Pottawatomi Nations. The information on the map outlines "Chippewa Family Hunting Territories, circa 1830, as described in evidence presented to the Williams Treaty Commissioners, 1923. The territory is marked as Aisance, who was otter clan, and who was a relation to my great-grandfathers.

54 This experience is told in another format in J. Borrows, *Drawing Out Law*, *supra* note 36 at 220–21. See also "The Old Barn" in John Borrows, *Life's Seven Cycles* [unpublished manuscript].

This is where my mother's resolve further strengthened. She didn't listen to the authorities. She sought to extend its' life and she did what she could to help. When the government's resources failed, and formal Canadian legal channels were ineffective, I learned that law's paths were not exhausted. Law, as practiced by my Anishinaabe mother, drew from stories, standards, principles, processes, criteria, measures, indicia, benchmarks, guides, and precedents to make decisions and facilitate order. I learned that law is not merely the preserve of specialists. So, when faced with the hawk's needs my mother drew on our traditions. She remembered our community's teachings. She talked to her family back home on the reserve. She read about the bird's dietary needs. She spoke to other people who knew something about red-tail hawks. Then, she took action to meet her obligations: every day she fed the hawk on cat food, mice, and water. She gave it care and space to heal.

I soon learned that when you entered the coop, the hawk would just stare at you. When you left, you could spy on it through the slats in the wall. You could watch it hop over to its meal. Through this experience, as the months passed, I watched the hawk as it seemed to get stronger. Eventually I noticed it was trying to fly to its food within the old abandoned coop. The bird's actions were awkward at first but it eventually succeeded. Through time we could see the bird was getting better, and with its health seemingly restored, mom made a plan to release it.

When the day came for the hawk's liberation we opened the barn's main doors, and did the same with the interior door of the chicken coop. We then placed some food in a row, Hansel-and-Gretel style, to tempt the bird outside. At first the hawk was content to sit amongst the bales of hay. Its movements were tentative, so we began making noise, waving our arms and yelling for it to leave. In time, our actions shook its complacency and it jumped to the door's edge and peered out over the barnyard and ravine. At this threshold, the hawk once again stood, stock-still. It seemed hesitant to leave. Finally, something sparked the hawk's intuition. It suddenly sprang from its perch and glided across the barnyard. It landed on the old hand-pump near the well house and looked back towards the open door.

It sat there for ages. Then, abruptly, with massive force, the bird sprang into the air, testing its wings and catching the currents. It slowly gained altitude, circling the barn and looking down on us below. For five to ten minutes, it gently rose through the air before heading out over the fields in complete freedom. The image is forever etched in my mind.

This experience also helped me experience learning from the more-than-human world, and Anishinaabe law's potential role in this process; though I didn't realize many of these lessons until years later. In this case, these principles included: identifying trauma, seeking guidance from parents, holding those who are harmed firmly and with love, seeking to learn from and yet recognize Canadian law's limits, consulting with family and other Anishinaabe kin, the need for research, creating safe spaces, providing daily ongoing physical care and nourishment, watchful monitoring, observation, rehabilitation, restoration, and the necessity of facilitating the other's freedom.

B. Giigooyag: Fish

These learning methods, and practices of listening to our more-than-human kin, were also transferred to other species. Methodologies of attentiveness and engagement can be helpful in various settings through, and with, other expressions of the Earth's animating life forces: *maanidoog*.

For example, when I was aged 10 to 19, when I was not in school or working, I spent most of my waking hours on the land. As a 10-to-14-year-old, I would explore our farm. From age 14 onwards, for an hour most every morning, I ran along the country roads surrounding our farm. I would watch life's ebbs and flows through the spring, summer, fall, and winter. On these forays I encountered bobcats, racoons, skunks, deer, fox, wolves, mice, bats, moles, squirrels, chipmunks, woodchucks, rabbits, porcupines, bears, fishers, otters, cows, horses, and a variety of other mammals. The same thing held for the variety of plants, birds, and insects that surrounded our farm. I also paused to watch the fish. Creeks, streams, and rivers flowed through the land, and my friends or family would visit them in different seasons to marvel at their beauty.

As farmers, we monitored changes in water levels through each season. The fish were always an important measure of the water's health. We would see their numbers fluctuate from year to year. We saw them seek safety — hiding in the shadows or deeper pools in their attempts to swim without detection. We watched how they parried with racoons, eagles, and anglers to survive their journeys. Every April, when the ice began to melt, my friend and I would wade through the water in our thick rubber boots alongside the returning fish. They carried thousands of eggs and deposited them in the cold spring streams, and we admired their strength and agility, jumping over and pushing through obstacles along the way. Mostly, we appreciated their beauty. We also saw how their lives brought other lives into being as they died, were eaten, or were successful in spawning along the way. It was easy to see how their bodies fed, and

would be transformed, into the marsh marigolds, red willows, and thick sedges that lined the stream. The line between fish and plant life is exceedingly thin at the water's edge.

The same goes for what appears to be air, trees, and birds. Life ceremonially smudges the boundaries when it's in motion. Distinctions between such beings seem apparent in a particular moment, but if you have a time-depth of experience in such places, you see how they form part of a greater whole. The air, trees, insects, birds, fish, and other more-than-human beings share their proteins, energies, and substance in a generational sense. If you had a time-lapse camera, it would be easy to see how the decaying fish carcasses, feasted on by maggots, eventually turn into soil, which nourishes the plants, while the larvae transform into flies and take flight, only to be eaten by a bird or fish to begin another cycle. Anishinaabe law also sees these connections in other-than-human forces which mingle with the physical world.

Watching, listening, and learning from these experiences makes it easy to see how the Earth imparts lessons of reciprocity and renewal — two principles Anishinaabe people embed in their treaties with their more-than-human and human relatives.⁵⁵ When my ancestors made treaties, they sought guidance from the more-than-human world and sought to live in relation to this greater whole. To illustrate, they put their doodem markers on treaty documents to share life's possibilities with people coming from other parts of the world.⁵⁶ In marking our participation as otters, bears, pike, eagles, and other ancestral relatives, we were inviting people from other parts of the world to live in accordance with both more-than-human law and Anishinaabe law. We wanted to teach our laws to people coming from other parts of the world, so they would see the rivers as truly fluid and see the plants, insects, birds, and fish as our teachers, and our kin. As we entered into treaties with one another, we extended a governance pattern that would protect the environment and thus pass along our experiences regarding the land, water, and air's dynamic climate. We wanted to communicate that we cannot live without our more-than-human relatives, and that our life is, in fact, a patterned reproduction of their ways and being.

55 Heidi Stark, "Respect, Responsibility, and Renewal: The Foundations of Anishinaabe Treaty Making with the United States and Canada" (2010) 34:2 *Am Indian Culture & Research J* 145.

56 This sentence, along with the next three sentences, are drawn and paraphrased from John Borrows, "Indigenous Law and Canadian Climate Governance" in Fenner Stewart & Janis Sarra, eds, *Reflections on Connecting Canada's Climate Policy Network* (Vancouver: Canada Climate Law Initiative, 2023).

C. Nigigwak: Otters

I am from the otter clan: Nigig indoodem. As noted earlier, this more-than-human relative is my ancestor and kin. I came to this relationship through my family. Anishinaabe clans are usually, but not exclusively, passed from father to son, and they ensure that people seek relationships beyond their immediate biological kin.⁵⁷ However, with my grandfather's encouragement, my mother adopted my sister and myself into the otter clan, since she married someone from outside North America, who carried no doodem. While she did this as a practical matter, so we would not date or marry another otter, she also did this as an act of resilience and cultural change, to ensure that her clan teachings would continue through another generation. She also did this in refusal of the *Indian Act's* patrilineal and misogynist exclusions.⁵⁸

As part of this transmission and act of resistance, my mother taught us how to listen to, and learn from, otter. In turn, I passed along this clan and many lessons about otter to my children, and grandchildren. My daughter wrote a book about her own experiences as part of this clan.⁵⁹ These teachings are now nascent in another generation as I adopted my own grandchildren as part of the otter clan since my daughter's partner is not part of an Anishinaabe clan. We did this through ceremony on the reserve when my granddaughters received their spirit names, odoodeman, and other gifts during their first summers, in their first year of life.

Through time, I have learned from otters through direct experience along river banks and lake shores. I have also appreciated reading other's experiences with them, including Anishinaabe teachings regarding their role in ceremonies, stories, language, law, and other activities. In his book *Living with Animals: Ojibwe Spirit Powers*, Michael Pomedli identifies many things Anishinaabe people learned from otters, including protectiveness, resourcefulness, versatility, playfulness, and creativity.⁶⁰ In *Keewaydinoquay: Stories from My Youth*, Keewaydinoquay describes her relationship with the otter, which includes an

57 I have been taught that there are *at least* seven ways to receive a clan: father; mother; adoption; from wen'eniyag in naming ceremonies; dreams; in shaking tent ceremonies; putting out tobacco, fasting, prayer and research. Anishinaabe kinship systems are complex and meant to create relations across a vast web of beings.

58 Martin J Cannon, *Men, Masculinity, and the Indian Act* (Vancouver: UBC Press, 2019); Pamela D Palmater, *Beyond Blood: Rethinking Indigenous Identity* (Saskatoon: Purich Publishing, 2011).

59 Lindsay Keegitah Borrows, *Otter's Journeys through Indigenous Languages and Laws* (Vancouver: University of British Columbia Press, 2018).

60 Michael Pomedli, *Living with Animals: Ojibwe Spirit Powers* (Toronto: University of Toronto Press, 2014) at 81–85.

otter responding to her play, and sharing fish with her as part of their time together.⁶¹ Through many years, at different times and places, I have also been in the presence of Little Boy Water drums and medicine bags, made from otter skins, which communicate with humans through their varied uses.

One of my most recent experiences listening to otters occurred when I was co-teaching a land-based course in W̱SÁNEĆ with my friend and colleague Robert Clifford. The course was called *ĆELÁNENEŁ: A Field Course in the Re-emergence of W̱SÁNEĆ Law*. It is focused on W̱SÁNEĆ People's own laws, which understand land, water, and more-than-human beings in relational, kin-centric terms. In the process, this legal tradition also rejects binaries between nature and society along with distinctions between environmental and social justice.

The *ĆELÁNENEŁ* course was offered in partnership with the W̱SÁNEĆ Nation, and the Faculty of Law at the University of Victoria. Throughout the course, the students learned about *ĆELÁNEN*, which is the term for “ancestry or birthright,” and *ĆELÁNENEŁ*, which means “of the ancestor's cultural ways” or “of the birthrights.” This intensive place-based course was taught outside, in the W̱SÁNEĆ traditional territory, on what is now called southern Vancouver Island in the province of British Columbia. Over a four-month period, students would spend time with human and more-than-human teachers on the mountains, fields, beaches, and rivers of what is now called the Saanich Peninsula, which is immediately north of Victoria, British Columbia. Along the way, the class also spent time on the lands and waters surrounding W̱SÁNEĆ ancestors, TETÁCES, which are also known as the Gulf Islands in the Salish Sea.

It was on one of these field trips through the Gulf Islands to STÁUTW̱ (Tsawout) — a First Nation reserve called W̱EN,NÁ,NEĆ (“Facing Towards Saanich”) on Salt Spring Island — that I was once again reminded of my doo-demic, clan-based relations. Each day during the field school, we would search for good sites to set up camp for the evening. The reserve at W̱EN,NÁ,NEĆ had many excellent places to set up tents. The place we chose was south-facing and it would get direct sunlight in the morning. But what made the location ideal was its adjacency to the shores of Fulford Harbour, which has some of the prettiest views in the area.

As I searched for a spot under Douglas Firs and Arbutus trees, I eyed the high tideline, and estimated its distance to where the forest began, which was

61 Keewaydinoquay, *Keewaydinoquay: Stories from My Youth* (Ann Arbor: University of Michigan Press, 2006).

around 20 feet in front of me. I thought about setting my tent on the flat sand and gravel in this transition zone. I imagined waking up in the morning just beyond the edge of the trees, under the open skies, with the ocean twenty feet from my door. With excitement mounting, I began to unpack my bags and started to lay out my gear. Then I suddenly stopped. I felt something was not right. I looked around. I began to second guess my selection. I couldn't put my finger on why I hesitated but I knew I had to change locations.

So, I picked up my stuff, moving it back another thirty feet into the forest and setting up my tent under the canopy of giant trees. It was a good site too.

A few hours later, after time spent with the students roasting clams and telling stories, it was time to turn in for the evening. The sun had set, and boats were returning to home base in Fulford Harbour. The sound of their motors produced a constant din. Nevertheless, it was peaceful enough and I lay down in my tent as I considered the day and enjoyed the warm September evening.

After about fifteen minutes the boat traffic ceased and all was quiet, except the sound of waves gently lapping against the rocks. I began to fall asleep when I was roused by what sounded like singing. In my torpor, it took me a while to fully register what I was hearing.

The otters were singing. Their harmonization was perfect. I have never heard anything as exquisite. Their calls and responses were mere feet away. I felt so close to them at that moment, and it wasn't merely the short distance. These were my people. As I lay listening to their calls, coos, hums, haahs, chirps, whistles, and purrs, I reflected on my earlier decision to change where I camped that night. I now understood my prior hesitancy and why I changed locations. I remembered the smells on the beach from where the otters were vocalizing. I also recalled the marks on the sand, and the arrangement of logs and stones on the shore. I had seen these signs before but at the time, a few hours earlier, I could not have put my finger on the reasons I moved from the shore to the bush.

I reflected on what prepared me for this experience. How did I learn I needed to move? As I continue to process this question, I see that my mother helped to seed it many years before. She did this through the lessons we experienced with the birds, fish, plants, and other parts of the world to whom she introduced us. I had somehow learned something about otters before they began singing because she taught me to slow down and look around.

While most North Americans no longer live in rural settings, the opportunity and ability to learn from our more-than-human relatives is not necessarily remote. Although there are not the same varieties of more-than-human life in cities, they can still be rich places to learn to listen.

In my first book, *Recovering Canada: The Resurgence of Indigenous Law*, I discussed the profusion of life and Anishinaabe legal traditions around the University of Toronto's campus, downtown in this densely peopled city. In that book, I briefly wrote what I learned about Anishinaabe law from a robin who built a nest outside my window.⁶²

In more recent years, I have also taught Anishinaabe law courses at the University of Toronto Law School. One of these classes was a land-based course taught outdoors, around campus. We first visited the site of an ancient stream, beside the Law School, and buried under what is now called Philosophers' Walk.⁶³ In this setting we talked about more-than-human relationships to water throughout the city, and what happens when water is degraded, diminished, or withdrawn.

Next, I taught Anishinaabe kinship principles and processes related to the cedar and maple trees in the Indigenous garden outside of the Hart House Student Centre.⁶⁴ We subsequently visited the anthropology building and viewed the material evidence of the Haudenosaunee and the Anishinaabe's relationship with the natural world, which drew our attention to the more-than-human references on the shards, pipes, pots, and other items present there.⁶⁵ Afterwards, we visited the Royal Ontario Museum and further discussed this issue by reference to plants, fish, birds, and animals within the exhibit.⁶⁶

During this course, we also visited Massey College's Gi-Chi-Twaa Gimaa Nini Mississauga Anishinaabek AName Amik (The King's Anishinaabek

62 J Borrows, *Recovering Canada*, *supra* note 28 at 161.

63 For further discussion of this site see J Borrows, *Recovering Canada*, *supra* note 28 at ix–xii, 159–62.

64 The garden is replanted each year. See, for example, Hannah James, "U of T Opens Traditional Medicine Garden for the Summer" (16 June 2017), online: *U of T News* <utoronto.ca/news/u-t-opens-traditional-medicine-garden-summer> [perma.cc/8BML-R2VN]. Further insight on Indigenous law and plant knowledge is found in Nancy J Turner, ed, *Plants, People, and Places: The Roles of Ethnobotany and Ethnoecology in Indigenous Peoples' Land Rights in Canada and Beyond* (Montreal: McGill-Queen's University Press, 2020).

65 Haudenosaunee & Anishinaabe, *First Nations in Toronto: Permanent Exhibit*, (circa 8,000 to 4,000 BCE) held at University of Toronto Department of Anthropology Building Lobby [*Historical artifacts*], online: <anthropology.utoronto.ca/about-us/our-department/first-nations-toronto-exhibit > [perma.cc/65PX-V9BK].

66 For a discussion of Anishinaabe art at the Royal Ontario Museum, see Ruth B Phillips, "The Issue is Moot: Decolonizing Art/Artifact" (2021) 27:1 *Journal of Material Culture* at 48.

Sacred Place), or Chapel Royal, which is a Chapel of the Queen in the middle of the city, dedicated to reconciliation between the Crown and Indigenous Peoples.⁶⁷ A few of our wampum belts are housed there and we discussed the laws we advanced to attend to the more-than-human world as Indigenous peoples and Europeans formed agreements. This course was partially designed to help the students see that you do not require so-called pristine spaces to understand how we might continue to learn from the more-than-human world.

D. Mashkikiig: Plants

I have also taught classes about Anishinaabe law and the more-than-human world on my reserve, Neyaashiinigmiing, about three hours from Toronto on the south-western shores of Georgian Bay.⁶⁸ When I asked the elders from the Language Committee at home to identify a name for the Camp, they selected Anishinaabe Naakinagewin Gabeshiwin, which simply means Anishinaabe Law Camp. Fortunately, through study and further offerings, they also gave the class a motto, which is Pii dash Shkakimi-kwe giigidid aabdeg gbiz-indawaamin: When the earth speaks we will listen.⁶⁹ I deeply appreciated the elders' direction. The motto was what we needed. I hoped that by listening to those who taught, participants would hear echoes of Anishinaabe law from the more-than-human world. As we teach these courses, students are introduced to the legal lifeways of turtles, birds, otters, plants, and other more-than-human beings.

The importance of this approach was indelibly impressed on me when I began teaching approximately thirty years ago. During the summer, I had been invited back to the reserve for a conference on Anishinaabe constitutionalism. The event was held at the Maadookii Seniors Centre, and the elders were invited to introduce the topic. As an assistant law professor and newly minted PhD graduate who taught Aboriginal and treaty rights cases within section 35(1) of Canada's Constitution, I thought I understood constitutionalism.

Imagine my initial confusion when we spent hours and hours discussing Anishinaabe creation and clan stories, and our teachings regarding air, water, fire, rocks, plants, insects, fish, birds, and animals as Anishinaabe constitution-

67 See the Brochure for The Chapel Royal at Massey College, Gi-Chi-Twaa Gimaa Kwe Mississauga Anishinaabek AName Amik: The Queen's Anishinaabek Sacred Place, St. Catherine's Chapel, online (pdf): <masseycollege.ca/wp-content/uploads/2020/11/MASSEY-CHAPEL-Art-Booklet-v6-7inch-spreads-web-email.pdf> [perma.cc/U69M-MDDJ].

68 My experiences teaching on my reserve are discussed in J Borrows, *Law's Indigenous Ethics*, *supra* note 23 at 149–75.

69 *Ibid* at 168.

alism. The elders were reminding me that we are “constituted” in relation to the more-than-human world. Law school had trained me to see constitutional law through the lens of federalism, rights, legislatures, Parliament, courts, and other government, and I was grateful for the elders’ gentle rebuke. They helped me recover what I had forgotten about law during my legal training in universities, and they encouraged me to reclaim and enhance my knowledge of Anishinaabe law.

As I was rediscovering these lessons, I was also a new father. My daughters would visit with extended family during these trips home, and they would play outside. Along the way, particularly with my mother, they would encounter the richness of the world of plants. She would show them their many varieties, and they would sing to the plants, tell stories about them, and watch them change through the seasons. In this way, my mother was teaching them about their own strength, along with the power which surrounds them. The Anishinaabe word for plants is *mashkikii*; *mash* means strength and (*a*)*kii* means Earth. Thus, plants are medicine because they are the strength of the Earth.⁷⁰

I also had a chance to write about these strengths as we explored the reserve. In my first book I recorded one of these experiences:

One July, a few years ago, I was walking along the shores of the reserve outside my home with my mother, my partner, and our two daughters. The rocky starkness of the ten foot wide beach stretched for miles before us. Nothing seemed to grow on the heaped stones by the water. Yet, our eyes were deeply filled with the immensity of blue from the sky and the bay. We didn’t notice when the laughter of delight first started. When it finally caught our attention, we saw that the girls had discovered the only plant that dared grow on the barren embankment.

The plant was slender, tall and green, with a bloom of beautiful, orange flowers. Behind the flowers was a large pouch. Without our knowledge, Meagan and Lindsay had realized that if you squeezed the pouch between your thumb and finger it would burst, explosively spreading seeds in all directions. Unfortunately, they had found the jewel weed. It is very rare. If you pop the seeds before they are ripe they will not germinate, and you lose the reproductive capacity of the plant. The plant is very beneficial in healing, and helps to cure poison ivy and rashes. As we told them the consequences of what they were doing they understood, and left the plant to grow to its future purpose.⁷¹

70 For a discussion of Anishinaabe plant knowledge, see Geniusz, *supra* note 6.

71 This experience was so memorable to me because it reminded me of a story my great-great-great-great-great grandmother has passed down to us. It is now recorded as “Jewel Weed” in Patronella Johnson, *Tales of Nokomis* (Don Mills, ONT: Musson Book Co, 1975) at 14–17.

From where we were standing, a mile across the water to the east stood Hay Island. One could not help but feel that something else was being pressured into existence. If the resort is built it may be of temporary beauty to watch the site explode with activity. The cottages will no doubt be very attractive, and the boats of the new marina will sparkle like the seeds floating in the summer sun. However, when everything is settled, will the environment be able to reproduce itself? Will we not only lose the healing plants like the jewel weed, but also the ability to restore the world of the fish, the deer, and the Anishinabek? Will the pressure of living between competing legal boundaries also erase the living space of the current generation of Neyaashingmiing? And what of those beings sleeping in the rocks on the beach, and the people buried by the lagoon on the shore. What of their participation? Will the stories their presence could tell to the seventh generation of my children be forever silenced? Will our participation, like theirs, be left to lie between the water and the rocks?⁷²

Over thirty years have now passed since this experience. My daughters are older than I was when these experiences first took place. My youngest is now an assistant professor herself, at Queen's Law School.⁷³ She is continuing to learn Anishinaabe law as she now passes along these lessons to her own daughters, students, colleagues, and the world more generally.

Throughout the years, I have also continued to write about Anishinaabe law and the more-than-human world, discussing lessons learned from Basil Johnston and others, including ma'iinganag, waawaashkeshiiwag miinawaa (deer and wolves),⁷⁴ waawaashkeshiiwag, aandegwag, Anishinaabe (deer, crows, and Anishinaabe),⁷⁵ kookooko'oo-minis (owl island),⁷⁶ Nanabush, zhiishiibag (Nanabush and the ducks),⁷⁷ waaboozoog, oginii-waabigwan miinawaa (rabbits and roses),⁷⁸ ziigwan, niibin, tagwaagin, biboon (spring, summer, winter, fall),⁷⁹ akiing (land),⁸⁰ mandaamin (corn),⁸¹ memengwaag (butterflies),⁸² mashkodens (little prairie),⁸³ pitchii (robin),⁸⁴ giizis, nibi, mashkikii (sun, water,

72 J Borrows, *Recovering Canada*, *supra* note 28 at 54–55.

73 Her work can be read in L Borrows, *supra* note 59.

74 J Borrows, *Recovering Canada*, *supra* note 28 at 16–18.

75 *Ibid* at 18–19.

76 *Ibid* at 41–42.

77 *Ibid* at 47–49.

78 *Ibid* at 49–50.

79 *Ibid* at 58–59, 66, 73.

80 *Ibid* at 139.

81 J Borrows, *Canada's Indigenous Constitution*, *supra* note 42 at 274–83.

82 *Ibid* at 30.

83 *Ibid* at 241–248.

84 *Ibid*, *supra* note 42 at 205–14.

plants),⁸⁵ nigigwak (otters),⁸⁶ zaagiing (river mouths),⁸⁷ zaagibagaa (budding leaves),⁸⁸ inini, ginebig, waagosh (man, snake, and fox),⁸⁹ makopinagaawanzh anangokwe, (water lily star woman),⁹⁰ makwa (bear),⁹¹ and others. I even wrote an entire book called *Drawing Out Law: A Spirit's Guide*, where I attempted to describe my Anishinaabe law experiences in relation to the more-than-human/other-than-human world.⁹²

I have no specialized training in ethnobotany, or any other scientific or academic discipline outside of law, related to the Earth. I have learned Anishinaabe law from my mother, grandfather, sister, friends, a few Neyaashiinigmiiing elders, and what I have read and taught, and the more-than-human world herself. In these experiences, I have understood that law is learned and practiced socially. Anishinaabe law, like other legal systems, requires social systems and frameworks to allow us to draw closer to what we might learn from the more-than-human world.⁹³ We will continue to forget, marginalize, or deny our more-than-human constitutionalism unless we revitalize these systems in our everyday experiences, and more fully embed them in our formal and informal institutions of governance across all domains.

IV. Conclusion

This article's opening references to turtle and rattlesnake reveal that they were key participants in Anishinaabe people's decisions to form treaties with the British. The Anishinaabe judged their actions by observing their more-than-human behaviors, and interpreting them through human intermediaries. While I acknowledge, support, and respect the views attributed to turtle, I also find great wisdom in the rattlesnake's intervention; ginebig had good reasons for being concerned and warning against the treaty. Turtle and rattlesnake have not benefitted from the treaties initiated with the British over 250 years ago.

85 John Borrows, "Earth Bound: Indigenous Resurgence and Environmental Reconciliation" in Michael Asch, John Borrows & James Tully, eds, *Resurgence and Reconciliation: Indigenous-Settler Relations and Earth Teachings* (Toronto: University of Toronto Press, 2018) at 53–56.

86 J Borrows, *Law's Indigenous Ethics*, *supra* note 23; J Borrows, *Canada's Indigenous Constitution*, *supra* note 42 at 3–5, 284–85.

87 *Ibid* at 39.

88 *Ibid* at 40.

89 *Ibid* at 88–92.

90 *Ibid* at 114–17, 146–48.

91 *Ibid* at 176–80.

92 J Borrows, *Drawing Out Law*, *supra* note 36.

93 A legal casebook, from a US legal systems perspective, devoted to helping students learn ecocentric law and jurisprudence, is found at Anthony Zelle et al, eds, *Earth Law: Emerging Ecocentric Law — A Guide for Practitioners* (Frederick, MD: Aspen Publishing, 2021).

Their homes have been decimated. All eight species of turtle are in danger of disappearing within what is now Ontario.⁹⁴ The rattlesnake also faces the same fate.

We have failed to implement laws, including treaties, in ways which honour, preserve, and sustain more-than-human beings. Moreover, it is of the gravest concern when the very species involved in making these agreements may soon vanish from territories in which they have long lived. Even humans have not benefitted equally from these agreements, considering how Anishinaabe and other Indigenous peoples have generally suffered in these territories since 1764, when our relationships with the Crown were first forming.

Anishinaabe and other laws should be revitalized in ways that place turtles, snakes, and other more-than-human beings at the heart of our decision-making.⁹⁵

94 “Endangered Species Act 2007, O Reg 230/08, schedules 1–3 “Species at Risk in Ontario List”

95 For a parallel discussion of issues raised in this article, from another disciplinary perspective, see Didier Zúñiga, *Pluralist Politics, Relational Worlds: Vulnerability and Care of the Earth* (Toronto: University of Toronto Press, 2023).

