

**BOOK REVIEW**

**Indigenous Peoples As Subjects Of International Law**, Edited by Irene Watson, Abingdon and New York: Routledge, 2018, \$104 U.S., hardcover. ISBN: 978-1-138-64515-8. Pages: 1-226.

Reviewed by Aziz Choudry<sup>1</sup>

In her introduction, University of South Australia law professor Irene Watson (Tanganekald, Meintangk and Boandik) states that “[t]his volume is not about recycling old ideas because we have run out of new ones, but because nothing much has changed in the world of colonialism...What has been said and written before needs to be said again and again until we all understand the truth, beyond the myths and lies of colonialism” (p.1). Critical legal theory and international law are central to this collection, as are arguments about the validity of Indigenous laws, philosophy and knowledge and their contributions to challenge and transform dominant legal systems and state paradigms. As Watson contends in her chapter, “our laws have always been here” (p.96). This view is reaffirmed by other contributors to this collection as they seek to interrogate and reconstruct international law in ways that break it out from its colonial origins. Comprising eight chapters and an introduction, the book is both interdisciplinary and accessible to a range of audiences in the social sciences and humanities.

Centring on the legal systems of Aboriginal Nations of Australia, Ambellin Kwaymullina (Palyku) asks what norms might shape the international legal system were it to be based in Indigenous ways of knowing, being and doing, and the relevance of such norms to the international community today. Steven Newcomb (Shawnee/Lenape) focuses on the language of domination and political subordination, arguing that metaphors of domination are the imaginative (cognitive) means by which a dominating society – and the language of international law - is able to constitute and maintain a reality of domination and subordination over nations and peoples being dominated. He argues that this provides a vocabulary for dehumanizing Indigenous Peoples and entrenches state domination.

Marcelle Burns (Kamilaroi) interrogates the foundational work of Hugo Grotius and Francisco de Vitoria on the concept of society in the context of their contributions to shape an (Eurocentric) international legal order, and its use as a tool to exclude Indigenous Peoples from recognition as sovereign subjects within state regimes and international law. Ward Churchill revisits how the colonization of North America served as a blueprint for Hitler’s expansionist policies in Europe. Arguing for the resumption of genuine self-determination by internally colonized Indigenous Nations, Churchill contends that ‘[t]o locate genuinely liberatory alternatives to the continuation of business as usual, it is necessary to look outside the liberal paradigm altogether’ (p.89) and that this ‘entails the physical/jurisdictional deconstruction of the states themselves’ (pp.93-94).

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Roger Merino discusses tensions in Latin American nation-states' constitutions which recognize the right of self-determination or autonomy of Indigenous Peoples but without recognition of the self-determination of an Indigenous Nation with territorial rights that pursue their own models of development. Specifically he critiques Peru's Prior Consultation Law, arguing that it does not allow the exercise of Indigenous Peoples' self-determination, only permitting them to participate in the process but not oppose state decisions. Indigenous Peoples are conceived of "as minorities with proprietary entitlements that can 'participate' in the benefits of 'development'" but this means that "the liberal legal framework cannot contain the Indigenous cosmology and why Indigenous Peoples cannot use this legal system and move beyond it in a project of social emancipation that seeks to reinvent the state structure in order to recognize Indigenous territorial rights and self-determination." (p.140).

Sharon Venne (Cree) carefully considers the Canadian government's First Nations Financial Transparency Act, and how, internationally, state governments sought to undermine Indigenous nations within the United Nations, to illustrate and analyze how states 'manufacture consent' and manipulate Indigenous Peoples to access their lands and resources. I recently assigned Tamara Starblanket's chapter, "Kill the Indian in the child': genocide in international law", to a Bachelor of Education Global Education and Social Justice class. Her chapter is a powerful critique of how cultural genocide has been excluded from how genocide is defined in international law. This definition has serious consequences for Indigenous Peoples. Starblanket writes that '[g]iven the deliberate exclusion from international law of cultural genocide and forced assimilation measures by colonial settler states, it is nearly impossible to articulate a claim of this nature in international law' (p.192). Her chapter also identifies residential schools – and the ongoing widespread removals of Indigenous Peoples' children in the child welfare system in Canada - as an intrinsic part of colonization and genocide – to isolate children from their land, and destroy Indigenous Nations.

In the Canadian context, Venne and Starblanket's chapters are vital reading for anyone concerned with social justice and moving past narratives which even progressive academics and activists sometimes take for granted. Taken together, this book's chapters illustrate the ways in which state governments, particularly in the Americas and Australia have, as Kwaymullina puts it, led to Indigenous Peoples now being "nations existing within the nation-states that arose from, and inherited the benefits of, our dispossession. Further, the laws and legal institutions of these nation-states sprang from the lie of Indigenous inferiority required to claim our lands." (p.8).

Watson writes that "no major international research has attempted to evaluate how the exclusion of an Aboriginal knowledge-centred approach from international law has contributed to global injustices" (p.3). The book raises important challenges to move past liberal rhetorical gestures and notions of reconciliation and decolonization which fail to substantively challenge colonial power relations, and may even further entrench these under a veneer of concern. A number of chapters make good use, and analysis of primary sources such as official state and UN documents, as well as firsthand experience of state and intergovernmental processes to expose specific practices through which colonialism continues to operate alongside various official forms of 'recognition' of Indigenous Peoples.

This is a timely collection which makes a substantive, significant contribution to move thinking beyond understandings of rights that are imprisoned in a taken-for-granted framework of liberalism and colonialism (see also D'Souza, 2018, on this) and assimilationist models developed by colonial states like Australia, Canada and others to accommodate claims for 'recognition' and 'equality' of Indigenous Peoples' rights. This book brings together an impressive array of newer and established scholars and thinkers in a thought-provoking, insightful and challenging volume.

### References

D'Souza, R. (2018). *What's wrong with rights? Social movements, law and liberal imaginations*. London: Pluto Press.

Starblanket, T. (2016). *Suffer the little children: Genocide, Indigenous Nations and the Canadian state*. Atlanta, GA.: Clarity Press.