Challenges in Gendering Indigenous Legal Education: Insights from Professors Teaching about Indigenous Laws

Emily Snyder*

Abstract

In the past decade there has been a distinct increase in literature on Indigenous laws. Calls to teach about Indigenous laws in postsecondary institutions in Canada have also intensified. This growth and these calls are significant, yet as with all fields of inquiry and teaching, there are also gaps. Gender continues to be underaddressed in work on Indigenous legal education. Drawing on interviews with twenty-three professors who teach about Indigenous law at postsecondary institutions in Canada, I examine the challenges in gendering Indigenous legal education. The professors all expressed that it is important to engage with gender when teaching, but the majority were experiencing significant challenges in actually doing so in practice. It is essential to understand how these challenges are entangled with gendered power dynamics and broader structural barriers, as they will continue to limit Indigenous legal education if not directly deconstructed and changed. Overall, the interviews signal the need for increased institutional support and change, more educational resources, eliminating discrimination, and ongoing discussion about gender and Indigenous law.

Keywords: Indigenous law, gender, Indigenous feminisms, legal education

Résumé

Au cours de la dernière décennie, il y a eu une augmentation significative des écrits traitant des lois autochtones. Les appels à enseigner les lois et le droit autochtones dans les établissements d'enseignement postsecondaire canadiens se sont eux aussi intensifiés. Comme dans tous les domaines de recherche et d'enseignement, ces écrits et ces appels, bien que significatifs, ne sont toutefois pas exempts de lacunes. En effet, le genre continue d'être un sujet sous-traité dans les travaux sur l'enseignement du droit autochtone. En me basant sur des entrevues avec vingt-trois professeurs qui enseignent le droit autochtone dans des établissements d'enseignement postsecondaire canadiens, j'examine les défis de la genrisation de ce champ d'enseignement. De manière unanime, ces professeurs ont déclaré qu'il s'avérait important de considérer le genre lors de l'enseignement. Or, la majorité d'entre eux ont rencontré des difficultés dans la mise en œuvre de cette pratique. Il s'avère essentiel de comprendre comment ces difficultés sont enchevêtrées dans

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une dynamique de pouvoir genrée et dans des obstacles structurels plus larges, et ce, dans la mesure où cette dynamique et ces obstacles continueront de limiter l'enseignement des lois autochtones s'ils ne sont pas directement déconstruits et modifiés.

Mots clés : droit autochtone, genre, féminisme autochtone, éducation juridique, enseignement

Introduction

Emily: And why do you think it's important to talk about gender?

Margaret: Because Indigenous women and transgender people are half the Indigenous population.

Emily: […] what challenges do you think there are when trying to talk about gender and Indigenous law?

Margaret: I think that it's still not taken seriously. […] at a recent meeting that I was at […] one of the young women got up and asked about gender and women in the community that was supposedly economically so healthy. And [a male leader] said, "Gender? We don't have to think about gender. We don't have any problem with gender. Why would we think about gender?"[1]

Indigenous laws, like other systems of law, are gendered in that gender cannot be removed from socio-legal experiences.[2] Yet too often, Indigenous women and people with gender identities not reflected in the gender binary are overlooked in discussions about Indigenous law, while cisgender men are centred as seemingly genderless subjects.[3] Approaching Indigenous laws as gendered entails not only understanding how power dynamics can play out in legal interpretations and practice, but also how they are part of what happens in educational contexts. One of the challenging, but also vital, complexities of gendering Indigenous legal education is attending to gender norms and power dynamics as they operate within specific Indigenous legal orders, within state laws, and within academic work, including in the classroom.[4]

Indigenous laws are increasingly taught in law school and socio-legal curricula in Canada. Calls for understanding the multi-juridical nature of law on these lands and nation-to-nation relations, as well as engaging with Indigenous laws on their own terms are not only gaining momentum but are being taken up in practice by

1 Margaret [pseudonym] is an Indigenous woman who was one of the participants in this research.

2 I use "Indigenous law" to refer to Indigenous peoples' own legal orders and "Aboriginal law" to refer to state laws about Indigenous peoples.

3 "Cisgender" describes a person whose gender identity (e.g., a woman) lines up with their sex (e.g., female), as purported through the gender binary. The gender binary is not reflective of the depth and complexities of sex and gender, it imposes heteronormative expectations, it is hierarchical (maleness, boys, men, and masculinity are attributed positive characteristics), and it is upheld through heteropatriarchy and colonialism.

4 I use "gendering" and "gender" (i.e., the need to "gender" law) to refer to actively being attentive to gender where it is otherwise being overlooked. I use "gendered" to refer to the realities in which experiences are shaped by gender.

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a number of faculty and institutions.[5] The recent creation of an Indigenous law degree program at the University of Victoria is of historic significance.[6] The Truth and Reconciliation Commission of Canada has also contributed to these increased calls, especially through Call to Action 28, which urges law schools to engage with Indigenous laws.[7] Indigenous legal scholars and practitioners have been doing this work of teaching about Indigenous laws and advocating for understanding of them for a very long time, yet it is evident that there has been a significant shift in terms of settler institutions' reception to this work. When reflecting on our current time, Rebecca Johnson and Lori Groft state, "[w]e are at what seems to be a moment of change in our history."[8]

About ten years earlier, Natasha Bakht *et al.* published research results that raised concerns about decreasing interest in "outsider" courses in Canadian law schools. "Outsider" courses centre on topics such as racism, colonialism, Indigenous legal issues, gender, sexuality, poverty, disability—topics that are otherwise largely peripheral to legal education that normalizes settler laws and white, heterosexual, able-bodied men's experiences. They noted that courses dealing with Aboriginal rights increased in enrolment in the 1980s,[9] and it is evident that Indigenous law courses have also recently increased. Yet there is a tension in that not all outsider courses are increasing in popularity. For instance, Bakht *et al.* and Susan Boyd raise concerns about decreasing enrolment in feminist legal studies courses.[10] Where, then, does this leave intersectional Indigenous legal education? And of particular focus here, what about Indigenous laws *and* gender?

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5 For example, Indigenous law programming exists at the University of Victoria, University of British Columbia, University of Alberta, Lakehead University, Osgoode Hall Law School, University of Windsor, and University of Ottawa. For a discussion about programs see: John Borrows, "Outsider Education: Indigenous Law and Land-Based Learning," *Windsor Yearbook Access to Justice* 33 (2016): 1–27; Hanna Askew, "Learning from Bear-Walker: Indigenous Legal Orders and Intercultural Legal Education in Canadian Law Schools," *Windsor Yearbook Access to Justice* 33 (2016): 29–46. Overall, the number of faculty working in this area, while growing through graduate student training, is still relatively small.

6 In fall 2018, the Faculty of Law at the University of Victoria began offering a law degree (JID) in Indigenous laws—the first program of this kind worldwide. "Joint Degree Program in Canadian Common Law and Indigenous Legal Orders JD/JID," University of Victoria, accessed 8 August 2018, https://www.uvic.ca/law/about/indigenous/jid/index.php. Given the scholars who are leading and supporting the development of that program, it is promising that gender will be taken seriously and centred in the work of the JID.

7 "Truth and Reconciliation Commission of Canada: Calls to Action," Truth and Reconciliation Commission of Canada, 2015, accessed 8 August 2018, http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls_to_Action_English2.pdf at 3. The interviews on which this research is based were done before the calls to action were released. Critical conversations are necessary regarding why people, particularly settlers, have been more willing to hear these calls for Indigenous law once framed through the Truth and Reconciliation Commission. For an analysis of reconciliation and legal education see Jeffery G. Hewitt, "Decolonizing and Indigenizing: Some Considerations for Law Schools," *Windsor Yearbook Access to Justice* 33 (2016): 65–84.

8 Rebecca Johnson and Lori Groft, "Learning Indigenous Law: Reflections on Working with Western Inuit Stories," *Lakehead Law Journal* 2, no. 2 (2017): 117–44 at 118. See also Aaron Mills, "The Lifeworlds of Law: On Revitalizing Indigenous Legal Orders Today," *McGill Law Journal* 61, no. 4 (2016): 847–84 at 856.

9 Natasha Bakht *et al.*, "Counting Outsiders: A Critical Exploration of Outsider Course Enrollment in Canadian Legal Education," *Osgoode Hall Law Journal* 45, no. 4 (2007): 667–732 at 699–700.

10 Bakht *et al.*, "Counting Outsiders"; Susan Boyd, "Spaces and Challenges: Feminism in Legal Academia," *University of British Columbia Law Review* 44, no. 1 (2011): 205–20.

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Despite increasing literature and calls regarding the importance of teaching about Indigenous laws in postsecondary institutions, gender has remained under-addressed in these discussions. Wanting to better understand the persistence of these omissions, I invited professors teaching about Indigenous laws at postsecondary institutions in Canada to be interviewed about their teaching practices in relation to gender. A total of twenty-three interviews took place. All of the participants expressed that gender is important and that it is relevant to Indigenous law, yet significantly, there is a disconnect between these assertions and the reality that gender is seriously under-engaged not only in the literature but also in many of the professors' teaching practices. This issue of not including gender in sustained ways was directly stated by several participants but was also demonstrated through gaps in the interviews. Critical questions arise from these interviews: Why is there a lack of sustained engagement with gender when teaching about Indigenous laws? What challenges are people facing in gendering Indigenous legal education? Are these challenges constraining the possibilities of this field?

This article aims to bring gender to the forefront and to openly discuss what can be learned from the participants' struggles. This research sample is comprised of incredibly accomplished and thoughtful people, and their candid responses during the interviews are of value to ongoing and future work in Indigenous legal education. It is essential to understand how the challenges that professors are facing are personally experienced but are also entangled with gendered power dynamics and broader structural barriers, as these will, I argue, continue to limit Indigenous legal education if not directly deconstructed and changed. The interviews show that there is a need for increased institutional support and change, more intersectional educational resources, eliminating discrimination, and ongoing discussion about gender and Indigenous law.

This article is the first of two pieces in a series. The second article draws on the interviews to consider Indigenous feminist legal pedagogies. More specifically, that article expands on why it is important to include gender in Indigenous legal education, examines pedagogical strategies for doing so, and argues that Indigenous feminist legal pedagogies have much to offer for the future of Indigenous legal education. Because the interviews are analyzed across two articles, there are inevitably some limitations regarding the scope of each individual article.

Indigenous Legal Education

The legal landscape in Canada is complex; nevertheless, Indigenous laws are regularly overlooked and misunderstood by a majority of Canadians. These misunderstandings can be perpetuated in legal education. Colonial stereotypes treat Indigenous laws as simple, not adaptable, dysfunctional, and inferior to settler laws. Indigenous laws are also commonly described only as customary or as being more about culture than law.[11]

[11] See Val Napoleon, *Ayook: Gitksan Legal Order, Law, and Legal Theory*. Unpublished doctoral dissertation, University of Victoria, Victoria, Canada, 2009; John Borrows, *Canada's Indigenous Constitution* (Toronto: University of Toronto Press, 2010); Bruce Miller, "Justice, Law, and the Lens of Culture," *Wicazo Sa Review* 18, no. 2 (2003): 135–49; Hadley Friedland, "Reflective Frameworks: Methods for Accessing, Understanding and Applying Indigenous Laws," *Indigenous Law Journal* 11, no. 1 (2012): 1–40.

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However, scholars who specialize in Indigenous legal traditions and theories show that Indigenous laws are dynamic resources for social organization in Indigenous societies (and beyond). Indigenous laws, like any law, are comprised of complex intellectual and practical principles, reasoning, processes, and decisions.[12] Indigenous laws also involve conflicts and challenges, and can include interpretive disagreements.

I use "Indigenous legal education" in this article to refer specifically to the teaching of Indigenous laws. There were times in the interviews when participants would shift to talking about Aboriginal law (state laws about Indigenous people) when asked about Indigenous law. It can be difficult to only discuss Indigenous law given the dominance of state laws in our historical and current socio-legal context. The problem, however, is that Indigenous laws are too often not being talked about on their own terms.[13] Carwyn Jones suggests that there are three distinct ways that Indigenous content gets taken up in law curricula: through 1) Indigenous legal issues, 2) Indigenous perspectives, and/or 3) Indigenous laws.[14] He argues that "[s]ubstantive Indigenous law is perhaps the most difficult […] to incorporate into the LLB curriculum."[15]

The literature on Indigenous legal issues and law curricula in postsecondary education comes largely out of Canada, Australia, and New Zealand. Much has been published about Indigenous students' experiences in law school.[16] This research shows that Indigenous students are regularly marginalized in law school and that experiences of marginalization are exacerbated for Indigenous women.[17]

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12 See Napoleon, *Ayook*; Borrows, *Canada's Indigenous Constitution*; John Borrows, *Freedom and Indigenous Constitutionalism* (Toronto: University of Toronto Press, 2016); Hadley Friedland, *The* Wetiko *Legal Principles: Cree and Anishinabek Responses to Violence and Victimization* (Toronto: University of Toronto Press, 2018); Val Napoleon and Hadley Friedland, "An Inside Job: Engaging with Indigenous Legal Traditions through Stories" *McGill Law Journal* 61, no. 4 (2016): 725–54.

13 Regarding concerns raised about the conflation of Indigenous law with Aboriginal law, see also: Kirsten Anker, "Teaching 'Indigenous Peoples and the Law': Whose Law?" *Alternative Law Journal* 33, no. 3 (2008): 132–36 ; Nicole Graham, "Indigenous Property Matters in Real Property Courses at Australian Universities," *Legal Education Review* 19, no. 2 (2009): 289–304.

14 Carwyn Jones, "Indigenous Legal Issues, Indigenous Perspectives and Indigenous Law in The New Zealand LLB Curriculum," *Legal Education Review* 19, no. 2 (2009): 257–70 at 258.

15 Ibid at 266. See also Maguire and Young, who apply Jones' work: Amy Maguire and Tamara Young, "Indigenisation of Curricula: Current Teaching Practices in Law," *Legal Education Review* 25, no. 1 (2015): 95–119 at 110–111.

16 See: Mills, "Lifeworlds of Law"; Robert Yelkatte Clifford, "Listening to Law," *Windsor Yearbook Access to Justice* 33 (2016): 47–63; Maguire and Young, "Indigenisation of Curricula"; Asmi Wood, "Law Studies and Indigenous Students' Well-Being: *Closing the* (Many) *Gap*(s)," *Legal Education Review* 21, no. 2 (2011): 251–76; Irene Watson, "Some Reflections on Teaching Law: Whose Law, Yours or Mine?" *Indigenous Law Bulletin* 6, no. 8 (2005): 23–25; Nicole Watson, "Indigenous People in Legal Education: Staring into a Mirror Without Reflection," *Indigenous Law Bulletin* 6, no. 8 (2005): 4–7; Heather Douglas, "Indigenous Legal Education: Towards Indigenisation," *Indigenous Law Bulletin* 6, no. 8 (2005): 12–15; Phil Falk, "Law School and the Indigenous Student Experience," *Indigenous Law Bulletin* 6, no. 8 (2005): 8–11; Sean Brennan *et al*., "Indigenous Legal Education at UNSW: A Work in Progress," *Indigenous Law Bulletin* 6, no. 8 (2005): 26–29.

17 Leah Whiu, "A Maori Woman's Experience of Feminist Legal Education in Aotearoa," *Waikato Law Review* 2 (1994): 161–69; Tracey Lindberg, "What Do You Call an Indian Woman with a Law Degree? Nine Aboriginal Women at the University of Saskatchewan College of Law Speak Out," *Canadian Journal of Women and the Law* 9 (1997): 301–35; Patricia A. Monture, "Now that the Door is Open: First Nations and the Law School Experience," *Queen's Law Journal* 15 (1990): 179–215.

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Indigenous law is at times excluded in this literature on student experiences.[18] Recently, the indigenization of law school curricula more broadly has been examined, with literature that focuses on particular Indigenous legal orders, how to bring Indigenous content into specific courses, and the Truth and Reconciliation Commission.[19] Much less has been written about how to actually teach about Indigenous laws.[20]

There are many ways to learn about Indigenous laws. When reflecting on his (and others') work at the University of Victoria, John Borrows cautions, "we do not aspire to make law schools' voices dominant in teaching Indigenous laws. In fact, such an outcome would be deeply disturbing. We aim to be a resource and aid to communities. Our goal is self-determination."[21] The current openness to Indigenous laws in postsecondary institutions is important but should not be overstated, as there are still *many* personal, institutional, and structural challenges to address, as is evident from the literature and from the research that I present here. Further, there are significant tensions regarding the acceptance of intersectional legal education, for example, on gender and Indigenous law.

Of the literature that exists on teaching about Indigenous laws in postsecondary contexts, with few exceptions, gender is notably absent.[22] Feminism is especially absent. These gaps in relation to legal education are not surprising, as much of the broader Indigenous law literature does not engage with gender studies, feminist legal theories, or Indigenous feminist theories.[23] Yet approaches from

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18 See for example: Douglas, "Indigenous Legal Education."

19 Regarding particular legal orders, see: John Borrows, "Heroes, Tricksters, Monsters, and Caretakers: Indigenous Law and Legal Education," *McGill Law Journal* 61, no. 4 (2016): 795–846; Mills, "Lifeworlds of Law"; Johnson and Groft, "Learning Indigenous Law." Regarding specific courses, see: Anna Lund *et al.*, "Reconciliation in The Corporate Commercial Classroom," *Lakehead Law Journal* 2, no. 1 (2016–2017): 49–63; Thalia Anthony and Melanie Schwartz, "Invoking Cultural Awareness through Teaching in Indigenous Issues in Criminal Law and Procedure," *Legal Education Review* 23, no. 1 (2013): 31–55; Nicole Graham, "Indigenous Property Matters"; Alexander Reilly, "Finding an Indigenous Perspective in Administrative Law," *Legal Education Review* 19, no. 2 (2009): 271–87; Anker, "Teaching 'Indigenous Peoples and the Law.'" Regarding the Truth and Reconciliation Commission, see: Hewitt, "Decolonizing and Indigenizing"; Askew, "Learning from Bear-Walker"; Kirsten Anker, "Reconciliation in Translation: Indigenous Legal Traditions and Canada's Truth and Reconciliation Commission," *Windsor Yearbook Access to Justice* 33 (2016): 15–43.

20 For exceptions, see: Borrows, "Heroes, Tricksters, Monsters, and Caretakers"; Mills, "Lifeworlds of Law."

21 Borrows, "Heroes, Tricksters, Monsters, and Caretakers," 804.

22 For exceptions see: Hewitt, "Decolonizing and Indigenizing"; Borrows, "Heroes, Tricksters, Monsters, and Caretakers"; Borrows, "Outsider Education"; Askew, "Learning from Bear-Walker"; Anker, "Teaching 'Indigenous Peoples and the Law'"; Loretta Kelly, "A Personal Reflection: On Being An Indigenous Law Academic," *Indigenous Law Bulletin* 6, no. 8 (2005): 19–22. It is noteworthy though, that gender is only briefly analyzed or mentioned in these pieces and is not the focus of the articles.

23 Emily Snyder, *Gender, Power, and Representations of Cree Law* (Vancouver: UBC Press, 2018); Emily Snyder, "Indigenous Feminist Legal Theory," *Canadian Journal of Women and the Law* 26, no. 2 (2014): 365–401. For exceptions see, for example: Val Napoleon, "Aboriginal Discourse: Gender, Identity, and Community," in *Indigenous Peoples and the Law: Comparative and Critical Perspectives*, ed. Benjamin J. Richardson, Shin Imai, and Kent McNeil (Oxford: Hart, 2009), 233; Sarah Deer, "Decolonizing Rape Law: A Native Feminist Synthesis of Safety and Sovereignty," *Wicazo Sa Review* 24 no. 2 (2009): 149–67; Isabel Altamirano-Jimenez, "Indigenous Law, Gender and Neoliberal State Restructuring in Oaxaca," in *Making Space for Indigenous Feminism, 2nd ed.*, ed. Joyce Green (Halifax: Fernwood, 2017); John Borrows, "Aboriginal and Treaty Rights and Violence Against Women," *Osgoode Hall Law Journal* 50, no. 3 (2013): 699–736.

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these latter fields are important, as they can be drawn on to promote intersectional legal analyses—indigeneity does not operate in isolation from gender and sexuality.[24] Colonial oppression is patriarchal (it impacts Indigenous people unevenly in relation to gender, and has worked to undermine Indigenous norms regarding gender and sexuality).[25] Moreover, a critically oriented analysis encourages considering gendered power dynamics within Indigenous societies—historically and today—in ways that do not romanticize the past but, rather, acknowledge the complexities of gender in Indigenous societies, as well as the significant impacts of colonialism.[26] Although not the focus of this particular article, Indigenous feminist legal frameworks make it clear that "gendering" does not mean talking only about Indigenous women; rather, it entails examining how gender is imagined (how it is personally, socially, culturally, and legally constructed) and asks who benefits from the most dominant interpretations. Gendering Indigenous laws and legal education, as the findings from the interviews reiterate, necessitates structural change for inclusive and intersectional education that embraces the complexities of gender and is attentive to power.

Methods

In 2014 and early 2015, twenty-three semi-structured interviews were conducted with professors who had taught or were currently teaching about Indigenous laws at the postsecondary level in Canada. Although some time has passed since these interviews, the insights from them remain pertinent—despite the growing literature on Indigenous legal education, the same gaps in relation to gender that existed at the onset of this research unfortunately remain. In terms of recruitment, people were invited to do an interview regardless of their knowledge of, and level of engagement with, gender and Indigenous feminisms, as I wanted to understand how professors were including gender (or not). Experience teaching in Indigenous law was the main requirement. Current teaching was not required, as I wanted the sample to reflect the realities of those employed through contract teaching in addition to tenure-track and tenured professors. "Professors" therefore is defined here as teaching in a postsecondary classroom and is applied regardless of rank, job title, or completion of PhD. Participants were at varied stages in their careers. Although not part of the selection criteria, all of the participants had taught or were teaching at universities. While both professors teaching in law schools and those in other disciplines were invited to participate, the majority of the participants (83%) were law school professors. Participants were recruited through targeted invitations to people working in the field of Indigenous law. Interviews were conducted by phone, Skype, and in person at various locations across Canada. The interviews ranged from twenty-five minutes to three hours.

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24 See broader literature on Indigenous feminisms, for example: Joyce Green, ed., *Making Space for Indigenous Feminism, 2nd ed.* (Halifax: Fernwood, 2017); Cheryl Suzack *et al.* (eds.), *Indigenous Women and Feminism: Politics, Activism, Culture* (Vancouver: UBC Press, 2010).

25 See Green, *Making Space*; Suzack *et al.*, *Indigenous Women and Feminism*.

26 See Emily Snyder, Val Napoleon, and John Borrows, "Gender and Violence: Drawing on Indigenous Legal Resources," *UBC Law Review* 48, no. 2 (2015): 593–654.

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Of the twenty-three participants, 70 percent (sixteen participants) were Indigenous. Non-Indigenous people were also invited to participate, given that they also teach in the area of Indigenous law and contribute to research in this field. I myself am a white settler who works in this area.[27] It is significant to centre insights from Indigenous people working in this field. It is also instructive to examine how non-Indigenous people are engaging with Indigenous law and gender. Regarding gender, 52 percent of participants identified as women, 44 percent identified as men, and 4 percent did not want their gender identified for purposes related to anonymity. The interviews included seven Indigenous women, eight Indigenous men, one Indigenous person who did not identify a gender, five non-Indigenous women, and two non-Indigenous men. The majority of the non-Indigenous participants are white. Throughout this article, participants are introduced and described in the way that they self-identified in the interview.

The sample was not created in a way that is precisely representative of the field; however, it is comprised of a large number of the people working in this small field in Canada. Pseudonyms have been used for participants, though doing so raised some methodological and ethical challenges. This group of participants actively publishes and presents their ideas, and not only is it difficult to completely anonymize such data, there are additional broader issues regarding intellectual property and attribution of ideas when pseudonyms are applied. Further, in order to maintain confidentiality, a pan-Indigenous approach had to be taken when discussing the interviews. Participants regularly spoke about their specific identity, communities, and about particular Indigenous legal orders that they are knowledgeable about, yet to include such specifics could reveal a participant's identity. It is noteworthy, then, that while I am speaking broadly in this article, these broad reflections are derived from discussions rooted in particular Indigenous legal orders and communities. A related concern was raised by one of the participants, who questioned the use of pseudonyms because she wanted to be accountable to her community when speaking about Indigenous law.[28] All of these issues raise questions, then, about why pseudonyms were used. Pseudonyms were employed to safeguard those in precarious labour and pre-tenure positions. Because of the small sample size, pseudonyms were used for everyone, as having some participants opt to use their actual name

27 I currently work in an Indigenous Studies department and a Women's and Gender Studies program. I have previously worked in Sociology and Legal Studies, and my work falls within critical socio-legal studies. Disciplinary contexts aside, there are many complex issues concerning white settlers working in the field of Indigenous law. I come to this work through a belief that settlers have responsibilities to learn about and engage with Indigenous laws, and to actively challenge the ways that colonialism (and related forms of oppression) operates through settler institutions. Those discussions are much larger than what can be addressed here and it is noteworthy that discussions about the role of non-Indigenous people in the future of Indigenous legal education are discussed in the companion article on Indigenous feminist legal pedagogies that is noted above.

28 As with all participants, when questions came up about methods, these issues and the reasons behind the structure of the methodological approach were openly discussed. We discussed ways to ensure anonymity and protection of those who felt vulnerable, while also trying to mitigate compromising the complexities of Indigenous laws and what participants were communicating. I am appreciative of the individual feedback and hope to have honoured the nuances from the interviews.

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could quickly reveal the pool of people who wanted anonymity. Pseudonyms were also used to encourage open dialogue where people could speak about institutional problems, raise criticisms about the field, and speak frankly about gender.

Challenges in Gendering

Everyone interviewed expressed that it is important to include gender when teaching about Indigenous laws. It is difficult to definitively categorize and compare how much each professor is actually teaching about gender, as participants understood gender and its inclusion in varied ways, and also assessed their own teaching differently. A few participants were focused on gender in their teaching, many only somewhat included gender, some were surprised that they included gender more than they imagined, while others expressed concern about their lack of engagement. All of the participants discussed challenges to some degree, and several stated that they wanted to do better. Curtis, an Indigenous man who works in the area of a specific Indigenous legal order, reflected, “I think I do feel a little bit—I wouldn’t say guilty—but maybe I feel a bit of shame I guess, I would say, not to have integrated [gender] more into my reading, basically.” Chloe, a non-Indigenous woman, remarked about gender, “[y]es, yes, I need help.” Margaret, a feminist academic and Indigenous woman, raised concerns about consistency when asked about how she includes gender in her teaching. She reflected, “it’s a hard question, because I always want to. And it’s easier said than done. […] Though I think it’s really important, I guess I wonder how consistent I am in doing it.” Margaret’s reflections of her own teaching point to broader patterns throughout the interviews—that people believe that gender is important but are facing challenges in incorporating it into their teaching, including problems with consistency.

When participants spoke about challenges in their teaching, they often spoke about general challenges in teaching about Indigenous laws, in addition to reflecting on gender. The general challenges that were noted are for the most part also reflected in the literature on Indigenous legal education.[29] Curiously, though, the specific reflections about challenges related to gender have not really made their way into the literature yet, despite it being evident that participants have reflected on gender and believe it to be important. This article will focus on the specific challenges related to gender. There were five main themes that emerged from the interviews: 1) instructor discomfort with teaching about gender; 2) lack of educational resources; 3) negative reactions from students; 4) experiencing discrimination; and 5) institutional constraints. All of these issues are interconnected.

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[29] For example: racism and colonialism leading to misunderstandings about Indigenous laws from students, faculty, and staff; *how* to teach about Indigenous laws in universities (what methods to use, where to teach, language issues, who should be teaching); institutional barriers. See: Anker, “Teaching ‘Indigenous Peoples and the Law’”; Watson, “Some Reflections on Teaching Law”; Borrows, “Heroes, Tricksters, Monsters, and Caretakers”; Johnson and Groft, “Learning Indigenous Law”; Lund *et al.*, “Reconciliation”; Maguire and Young, “Indigenisation of Curricula”; John Borrows, “Seven Gifts: Revitalizing Living Laws Through Indigenous Legal Practice,” *Lakehead Law Journal* 2, no. 1 (2016–2017): 2–14; Borrows, “Outsider Education”; Anker, “Reconciliation in Translation”; Askew, “Learning from Bear-Walker”; Hewitt, “Decolonizing and Indigenizing”; Mills, “Lifeworlds of Law.”

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1 Instructor Discomfort with Teaching About Gender

One of the challenges raised by several professors was feeling ill-equipped to teach about gender. Elaine, an Indigenous scholar, mother, and community member, commented, "my impression is that some colleagues have stayed away from covering Indigenous issues or Indigenous feminist issues because they don't think they can do it or they're afraid of making a mistake." Chloe remarked of her own teaching, "I don't really understand the concepts [in gender studies] greatly. So, I think I [include gender] in a simple way." Jessica, a non-Indigenous woman and law professor concluded, "I need some guidance" and "I feel like I need a refresher" in gender studies. Julie, a non-Indigenous woman, noted that her approach was one of bringing in gender "through the back door" because she does not "feel equipped to tackle it directly" over several classes or an entire course. Further, Jamie, who is Indigenous, also commented, "I guess, for me, I just don't have enough knowledge of it yet." Likewise, Curtis was concerned about including gender in a way that would accidentally cause harm or undermine the importance of gender—"I guess I want to deal with it more explicitly. […] I want to make sure that I have the tools to do it properly."

Several of the men discussed discomfort about their own social locations and teaching about gender. Fred, an Indigenous man from a First Nation on the prairies, remarked, that he "would feel really unqualified" to teach about gender and that "students might also think it was… I mean, it's not as weird as a white guy teaching about Indigenous feminist perspectives but I think that, in some ways, people would like that to be taught by a woman… an Indigenous woman." He went on to say, however, that the idea "that people might be leery of a man teaching about Indigenous feminism is, in some ways, I think kind of silly. I mean, it is sort of just course material, right? […] I'm sensitive to the fact that it would likely be an issue, but I don't think it has to be or really should be an issue." Mel, a Plains Indigenous man who grew up on reserve and has a strong connection with that community, discussed feelings of discomfort but also a desire to better understand how to ethically and responsibly include gender:

> I'm not an expert in issues of gender […] I try my best and I do that by trying to think about those issues and reading about them. I put work and time into it, right? I prioritize it within my research efforts. But I think this thing that I really struggle with and that I felt uncomfortable and I wasn't sure how to go about it, was talking about issues of violence and gender. […] it's one thing to kind of be able to lay out a landscape of how sexism and patriarchy is infused within society. But then to have discussions about its effects […] ...was more difficult than... like, as a man, trying to discuss that with a roomful of, a big class of a majority full of women, and Indigenous women at that. […] I think that for me that's one thing I would really flag as something that I would like to improve on.

Several of the men were grappling with how to include gender in their teaching because of their own gender identity.

A number of participants other than Mel also emphasized the need for professors in the field to be purposeful in their inclusion of gender and in their efforts to learn more about gender and feminisms. Steve, an Indigenous man and academic, reflected,

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> I think there's a tendency that people fall into—and myself […] included—to generalize and act as if and practice as if you don't need to pay attention to context and particularities. And I think if we don't look at the particularities, then we could generalize in ways that would be damaging […] we would cut ourselves off from understanding if we didn't interrogate gender as well.

Much more directly, Rhoda, a non-Indigenous white woman, stated that "I think it's really bad teaching not to" include gender. Likewise, Chris, an Indigenous male academic with relationships with his community, remarked, "I don't think you can be a credible scholar working in the field and not take seriously the contributions of Indigenous feminism. If it's not engaged with substantively, then you're not doing your job right." These latter interview excerpts are firm in their convictions, but I contend that they should not be read as treating gendering Indigenous legal education as a comfortable or straightforward task, as is evident from their interviews, and is also detailed in the following sections.

2 Lack of Educational Resources

Participants were asked whether they would like to have more resources and curricular materials about gender, Indigenous feminisms, and Indigenous laws. Regardless of comfort level with the topic and how much they currently include gender in their teaching, all participants wanted more resources about gender (though there was less enthusiasm from some participants for feminist resources). Part of the challenge expressed by several participants is that they were unsure of how to include gender in their teaching because of uncertainties about what resources to draw on, as well as a lack of available resources. Chloe commented, "if I have a framework to rely on, I [won't] have to be like, 'I have to be an expert on feminist-type terminology in order to integrate [gender].'" Alison, an Indigenous woman and academic from prairie communities, emphasized that she hopes that "us having more knowledge about two-spiritedness becomes more and more part of what all of us get exposed to. We are behind, though." Similarly, Connie, an Indigenous legal scholar and woman with ties to multiple Indigenous communities, wanted more resources that complexly engage with gender—ones that examine gender roles but are also "critical of bright lines drawn between male and female roles." She emphasized, instead,

> the reasoning behind those distinctions and differentiations […] not just simply listing them and freezing those roles […]. But saying, […] "why, on some issues and some questions and some processes, do we have these distinct roles, and then others, it's blended? And why have we held onto some of them? […] And are they informed by our own systems of law and governance or are they imposed?"

Alex, a white male, commented that "there's still not a lot of publications" about gender and Indigenous law and that "[w]e don't have a lot of teaching materials." He suggested that one way forward (in addition to having more publications directly about Indigenous law and gender) is to also "work out ways in which we can deal with each other's academic backgrounds to find value in them." It seems that this interdisciplinary approach was more of a struggle for the professors in law

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school, who were concerned about what materials to use and how students would perceive those materials. The need for introductory resources was emphasized. Fred also commented, "[i]t's hard to gain source material." As well, Elaine reflected:

> I'm not sure I'd even know how to set out a framework… like, I always work with something, so I work with a case or with a statute. And I'm not sure sort of at a theoretical level… unless the course is meant to be specifically about Indigenous feminism and the law, yeah, I can only really imagine myself working with cases and reports.

Elaine pointed out an additional problem with historical resources—Indigenous women are often erased by the men who produced those materials. Eva, a white settler Canadian, who described herself as a cisgender woman, expressed this concern as well in her course on Indigenous issues—"and maybe it was my challenge more than the challenge of the materials—but it was easier to access materials produced by men about men's experience where women are a sidebar, or they're essential to the story but they're not the main character." She further reflected,

> I guess […] one of the interesting challenges is trying to figure out… not just assume too quickly that there aren't materials available, but to think about where one goes to access the range of materials that give sufficient nuance and attention to a wide range of women's experiences as opposed to the rich body of texts that do give a wide attention to a wide variety of men's experiences.

Rhoda reflected on this problem in terms of the materials that are being produced today:

> this is not in any way a criticism of the amazing work that's out there—but it seems to me that the literature on [Indigenous law] is much more… there are more men writing in this area and working in this area than women […] that's how it seems… I have to scramble a bit more to find the writings of Indigenous women to bring into the class.

Steve also noted this issue: "there's not a lot of great materials that will be more flexible in relationship to gender. A lot of the stuff that was written has been written with a pretty male-dominated approach."

Since the interviews, teaching resources that focus on gender have been created through the Indigenous Law Research Unit at the University of Victoria.[30] These resources centre questions about gender and power, engage Indigenous feminisms in their analyses, and direct readers/users to additional resources about gender and Indigenous laws. In addition to providing resources for an

[30] Indigenous Law Research Unit (ILRU), *Gender Inside Indigenous Law Toolkit*, University of Victoria, https://www.uvic.ca/law/assets/docs/ilru/Gender%20Inside%20Indigenous%20Law%20Toolkit%20October%202017.pdf; ILRU, *Gender Inside Indigenous Law Casebook*, University of Victoria, https://www.uvic.ca/law/assets/docs/ilru/ILRU%20Gender%20Inside%20Indigenous%20Law%20Casebook.pdf; ILRU Gender Project: Skirt Short, https://www.youtube.com/watch?v=pJiceA7HQPg&list=PLnv4-MGbmu3MFyWlss069RCdWg31shgCe; to access the Indigenous Law Video on Demand links and teaching guide go to, https://www.uvic.ca/law/about/indigenous/indigenouslawresearchunit/videoondemand.php (online resources accessed 31 August 2018); Val Napoleon, *Mikomosis and the Wetiko* (Victoria: Indigenous Law Research Unit, 2013); Emily Snyder *et al.*, *Mikomosis and the Wetiko: A Teaching Guide for Youth, Community, and Post-Secondary Educators* (Victoria: Indigenous Law Research Unit, 2014).

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intersectional approach to the University of Victoria's degree in Indigenous laws, these materials can be of use for teaching law and socio-legal issues in a range of contexts. Although speaking generally about Indigenous legal resources, in the interview with Jamie, it was emphasized, "it's not like Psychology, right, where there's literally hundreds of textbooks to choose from."

3 Negative Reactions from Students

Another significant challenge noted by many participants, regardless of their level of familiarity with gender and feminist studies, was misunderstandings, hostility, and pushback from students. Gender, and especially feminisms, are politically contentious, and there are additional and specific ways that they are contentious in relation to Indigenous laws. Elaine spoke about students perceiving her as biased because she is Indigenous, and she felt that those perceptions would worsen and male students would feel attacked if she included feminism in her teaching. Several participants (women and men) talked about pushback from men in the classroom when teaching about gender. Alison recalled an Indigenous student making homophobic comments before class; she told him that "if he expects people to be welcoming about Indigenous issues in general, he also has to be welcoming about sexuality issues." Curtis also struggled with pushback from women observing that women students who "have very clearly feminist ideas don't want to be labelled a 'feminist.'" Shannon, an Indigenous woman and educator, talked about how feminisms, 2LGBTQ issues, and Indigenous issues are all very loaded and are perceived by many law students as not being the serious work of law. Ross, an Indigenous man and scholar who specializes in Indigenous legal issues, was in the minority when he expressed that he has only had the "odd student who might be unsympathetic" and that "it's not as much of a challenge as some people might think." It is noteworthy that he spoke of students as self-selecting and taking his course because of already existing interests in the area.

Many participants also raised concerns about how students might react to *what* they teach about gender. A noticeable tension emerged in the interviews concerning approaches to tradition and gender roles. Some participants were very matter-of-fact in saying that there are certain traditional gender roles and their primary concern in including these in their teaching was that non-Indigenous students would not have the cultural contexts to understand why these traditions are the way that they are. Fred, for example, commented, "in my community we have fairly specific [gender] roles [...] and I think that some people would be perhaps offended by that, if there wasn't time to put that discussion in a much larger context about culture and community." Several participants were concerned about how to be respectful of Indigenous gender norms but did not address the lived complexities of gender nor the reality that tradition and gender roles can include interpretive disagreements. An exception to this was Alison, who candidly struggled with wanting to learn about her own traditions while also being attentive to exclusions and power. She reflected, "I think in the Indigenous circles I was part of when I was growing up, acknowledgement and support of LGBT issues was not there. And in fact, the reverse was happening a little bit." She later goes on to say:

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> I know I struggle when I think of how to get to know my own Indigenous heritage and I'm just like, "Oh, my… so what do I do when it's an old person who's saying things to me that, under every other circumstance I'd say was homophobic?" […] What am I… how do I take all the other knowledge they've given to me, which just seems so on cue, and then decide… like, how do I use it after I find out there's sort of this thread or sort of attitude of exclusion […] one of the challenges is questioning our own… ourselves, right, and our own communities, and questioning the legitimacy of existing structures and, especially, leadership.

Other participants spoke of similar concerns regarding how to teach about power dynamics and sexism in Indigenous communities. Chloe raised questions with respect to teaching about gendered violence given that "some people in the classroom may have had a deeply-lived, horrendous, traumatic, stigmatized experience of this, or have lost a loved one… it's so personal and emotional […] and then some people in the class are discussing it on a totally abstract, intellectual basis." She asked, "how do you teach it, being sensitive to those experiences […] and making sure you don't lose one group or hurt one group?" Other participants were concerned about what students might do with that information about sexism and gendered violence if they could not adequately contextualize and explain the complexities of gendered power dynamics within Indigenous communities. Curtis, for instance, was worried that because so many students are already on the fence about accepting Indigenous laws, they might then disregard Indigenous laws as having little value if sexism is discussed. Shannon also wanted to engage with the realities of sexism but was worried about how students might then stereotype Indigenous communities. Although not framed in the interviews as such, the harsh colonial double standard here is that Canadian law (and society) is *rife* with sexism and other violent forms of oppression, yet so many people still embrace Canadian law and work to understand and challenge discrimination. Indigenous laws and gender relations are too often treated as though they have to be perfect in order to be legitimate. Such an approach undermines the dynamic, lived, usefulness of law.[31] Regarding these idealized approaches to Indigenous law, Margaret noted, "if people are going to study and work with Indigenous law, they need to be able to disagree with one another about interpretations, and they also need to be able to disagree with community members about interpretations. And they need to be able to say when there's a power imbalance or when something's oppressive. And that's really hard for anybody to do and I think it's particularly hard for students."

Several participants mentioned the challenge of students romanticizing and perpetuating essentialisms and fundamentalisms about gender and Indigenous laws. Chloe discussed the polarized perceptions that students can have about Indigenous laws—that "everything's utopia or everything's horrible." When reflecting on including gender, she aptly described that "when you start bringing in gender, it's like you pour gasoline on the fire of those beliefs… it's hard to imagine

[31] Snyder, *Gender, Power, and Representations*; Snyder, Napoleon, and Borrows, "Gender and Violence."

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them getting worse, but they do." Steve noted concerns about students essentializing gender roles and entrenching the gender binary. He explained that "you lose the possibilities, the spectrum, the gradations, the subtleties, the transformations that could occur" with Indigenous law and self-determination when such an approach is taken. Tamara, an Indigenous woman and legal scholar, discussed the need to challenge stereotypes while teaching:

> So you get all those sort of usual things, like, "Aboriginal people aren't homophobic, they hold concepts of two-spirited," those kind of ideas have come up. Or ideas of tradition and gender roles as being talked about in very pan-Aboriginal ways and fixed ways. [...] "Traditionally, women were respected," or, you know, "had strong roles," or, all those sorts of stereotypes that also then don't talk about, "Were they ever really like that and are they like that today?"

Similarly, Connie reflected on how people and laws change over time: "I think one of the challenges, too, is being too rigid in understanding roles and interpreting particular roles to the genders."

Chris also talked about this kind of resistance from students:

> [...] resistance in the classroom based on kind of real antiquated theories of gender relations in Indigenous societies. The other fact is that there's been a century or so heaped up of kind of assumptions about Indigenous women and the role in our communities, our queer folks in our communities, that have been propagated through churches, through residential schools... have been beaten into us juridically and legally through the coerciveness of the Indian Act.

Margaret told a story about a time when she was teaching and was examining stereotypical ways that Indigenous women can be categorized. She recalled, "there was this young Indigenous guy who said, 'And what's wrong with that? Maybe we wouldn't have so many problems in our communities if women did their jobs. Like, if women would take up the roles that they're supposed to take up in the communities, maybe our communities wouldn't be so messed up.'" Reflecting on his comments she said, "I think that the kinder, gentler versions of that are out there all the time, any time there's a limited imagination for the roles of Aboriginal women, when it's imagined that we're only mothers or whatever." It is clear from the interviews that these experiences with students can be challenging in relation to teaching and can also perpetuate discrimination in the classroom.

4 *Experiencing Discrimination*

There are numerous ways that participants were experiencing some or multiple forms of discrimination and/or privilege in relation to gender, sexuality, race, indigeneity, age, ability, and class. It was especially evident that Indigenous women's experiences with discrimination in the classroom and in their careers are distinct and that ageism is also a problem. Margaret observed, "I think that I would be taken much more seriously if I were an Indigenous man." Gertrude, an Indigenous woman scholar, concluded of her own experiences, "it definitely impacts some students that I am a woman and that I am Indigenous [...] negatively and positively."

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Women (Indigenous and non-Indigenous) were more likely to raise the issue of ageism, no doubt because of the ways that dominant (Western) assumptions about age work to undermine younger and older women, whereas for men both their youth and their ageing are normatively read in positive ways.[32] Several women participants reflected that teaching is a bit easier now that they are older.[33] One of the women commented, "I feel like I have more power to do things or not to care so much about being challenged because I'm situated in a different position of power with respect to that." Younger women spoke about discrimination from students, and some mentioned strategies that they adopt to try and deflect it. For example, a young Indigenous woman mentioned wearing suits, regularly talking about work and her time at a prestigious firm, showing interests in core law school offerings in addition to Indigenous legal issues, and not disclosing too early on in a course that she is Indigenous.

When asked about her thoughts on student perceptions of her identity, another junior Indigenous woman commented:

> [A] question I choose not to think about… quite purposefully, because I can't handle thinking about it, I think. When I started, one of my […] colleagues who would, I think, be a self-declared feminist scholar […], she said, "You know, all of the students are going to sort of see you in that sort of sexual way. Or, you know, students will think about you." And she was like, "Or they'll see you as a mother. So you'll be the prof that students will have a crush on or they'll see you as a mother." And I was just like, "Whoa, I can't handle either of those ideas." […] And whether or not that perception is true, it's something that I've been I think hyper-aware of, particularly I would say in my first year […]. I think my students saw me as a young female, and then an Indigenous scholar teaching Aboriginal [legal issues]. And so clearly, I must be biased, right, and that I would have no authority to speak to these issues.

She further stated that she did not like thinking about all of this because "[i]n order for me to be able to keep doing this job, I need to not think about how students see my age or sexuality or race or gender." While some older women participants talked about how it was easier to speak more openly and authoritatively, it is noteworthy that some of those same participants also talked about student pushback and challenges in discussing difficult topics in the classroom. One of the older participants offered important insights regarding ageism: "I think it ends up being a no-win situation. You have young, Indigenous women who worry that they're not taken seriously because they're young. And then, as you age, there's all the ageist stereotypes that go on, and the invisibility that's accorded to older women, including older Indigenous women."

5 *Institutional Constraints*

Many participants felt supported by (at least some) administrators on their campuses, but it also did not take much prodding for people to note institutional problems.

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32 See for example, Colin Duncan and Wendy Loretto, "Never the Right Age? Gender and Age-Based Discrimination in Employment," *Gender, Work and Organization*, 11, no. 1 (2004): 95–115.

33 Pseudonyms are not being used here, as it could reveal the age of participants.

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It is evident from the interviews that professors in law schools in particular face unique challenges in regard to curriculum structures and professionalization goals. Chris, who does not work in a law school, raised questions about how much one could actually centre Indigenous self-determination and critical work in that context. Tamara conceded, "I'm actually extraordinarily hesitant about teaching Indigenous laws at the post-secondary level […]. Why would I teach students who are coming to get a Canadian law degree about Indigenous laws?" Many of the professors spoke about general institutional challenges in teaching "just" about Indigenous law—considering gender then introduced a host of additional challenges.

When reflecting on gendering Indigenous laws, Elaine commented,

> I can't imagine a "women in the law" sort of course being offered in first year. […] law schools generally have decided what's core, and so you need contracts, torts, property and constitutional law, criminal law. And if things could change so that gender was seen as something that had to be addressed […] there's just so much ghettoizing that happens with courses dealing with women and Aboriginal people.

Course content about gender and Indigenous law therefore can end up being relegated to upper-year electives with significantly lower enrolment and students who are self-selecting to learn about critical socio-legal issues. Several participants noted that it is difficult enough trying to include Indigenous law into the mandatory course offerings, and many were overwhelmed by the thought of then complexly bringing gender into that work. Curtis commented that when teaching about Indigenous law, "there's all these tons of dirt you've got to get out of the way before you can […] actually even… [get to talking about gender]. And then it's like my three weeks are over."

The challenges of gendering Indigenous law can be further pronounced for junior and Indigenous faculty members. For example, an Indigenous woman who was pre-tenure noted, "[I] still feel so overwhelmed at this early stage in my career that the thought of trying to do something else [including gender] is just overwhelming." She raised concerns about the disproportionate amount of service work that Indigenous faculty members do and noted that "Indigenous faculty are so overworked and have so many things, but I think where there was more resources, I think it would be very useful."

Reflections

Although Indigenous legal education is often not talked about as gendered, it is clear that gendered power dynamics are operating in this educational field (as with others)—the materials that professors include, the topics that get focused on, who is included, how students respond to topics and professors—these are all gendered. Indeed, as Alex remarked of gender in his interview, "it's constitutive of society. It's one of the ways in which human beings establish relations with each other." It is evident that there are numerous and interconnected challenges in gendering Indigenous legal education. Only three professors (one Indigenous woman and two Indigenous men) seemed to be satisfied with how they were approaching

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gender in their teaching. Moreover, an additional challenge that I observed with the interviews is that while different approaches to gender are important, too often gender is being treated just as a variable (e.g., including women but then not engaging in analysis about gender and power) or as something that gets added as an afterthought. One could be hopeful that there are opportunities in this current social climate to bring gender into the centre of the important work being done on Indigenous legal education, yet in order for this to happen, the interviews teach us that several changes need to occur. Some of these changes are personal, but overwhelmingly, what is required are changes at institutional and structural levels, including challenging some of the social and cultural norms within legal education.

For example, the interviews with the professors show that there are significant issues with law school curricula, where so little space and time is given for Indigenous laws that nuanced and complex approaches can be pushed to the margins or pushed out completely. There is a detrimental "logic" used in Indigenous politics—to decolonize first and to deal with gender later. This idea has been powerfully challenged by Indigenous feminist scholars and needs to also be challenged in Indigenous legal education.[34] This logic of treating gender as an afterthought is also popular in settler politics and it is important for university administrators to challenge institutional structures that constrain faculty to have to take this approach of "Indigenous laws first; gender later," as it is undermining the complexity of Indigenous legal education. Elsewhere, I consider the participants' ideas for what Indigenous feminist legal pedagogy might look like and be able to do. A consideration of Indigenous feminist legal pedagogy can be put into conversation with the ongoing discussions in the literature about re-imagining law school curricula.[35]

If gender is not being directly talked about, then it will also be difficult to seriously address the issues with discrimination that were noted in the interviews. Much of the literature on discrimination and education focuses on students. Student experiences with discrimination in the classroom can negatively impact their learning and well-being, and research in this area certainly needs to continue.[36] However, the interviews also emphasize the importance of seriously examining discrimination against professors, as that discrimination can create

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34 See for example: Luana Ross, "From the 'F' Word to Indigenous/Feminisms," *Wicazo Sa Review*, 24, no. 2, (2009): 39–52; Kim Anderson, "Affirmations of an Indigenous Feminist," in *Indigenous Women and Feminism: Politics, Activism, Culture*, ed. Cheryl Suzack *et al.*, (Vancouver: UBC Press, 2010), 81; Isabel Altamirano-Jiménez, "Nunavut: Whose Homeland, Whose Voices?" *Canadian Woman Studies* 26, no. 3,4 (2008): 128–34; Lisa Kahaleole Hall, "Navigating Our Own 'Sea of Islands': Remapping a Theoretical Space for Hawaiian Women and Indigenous Feminism," *Wicazo Sa Review* 24, no. 2 (2009): 15–38; Mishuana R. Goeman and Jennifer Nez Denetdale, "Native Feminisms: Legacies, Interventions, and Indigenous Sovereignties," *Wicazo Sa Review* 24, no. 2 (2009): 9–13; Kiera Ladner, "Gendering Decolonisation, Decolonising Gender," *Australian Indigenous Law Review*, 13 (2009): 62–77.

35 See for example: Anker, "Teaching 'Indigenous Peoples and the Law'"; Borrows, "Heroes, Tricksters, Monsters, and Caretakers"; Lund *et al.*, "Reconciliation"; Borrows, "Outsider Education"; Askew, "Learning from Bear-Walker"; Hewitt, "Decolonizing and Indigenizing"; Mills, "Lifeworlds of Law."

36 See for example, Lindberg, "What Do You Call."

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significant problems for supporting intersectional Indigenous legal education, for stability in one's career (including tenure and promotion), and for one's overall well-being.[37] It is crucial to understand that not only is the gendering of Indigenous legal education about curriculum content, but it also means speaking out against professors being undervalued and undermined because of their indigeneity, gender, sexuality, and age.

Frances Henry *et al.*, authors of *The Equity Myth,* argue that "[one] way in which systemic exclusions occur [in education] is in the availability of courses, or in finding faculty who are available to teach with authority about the issues and concerns that are fundamental to racialized and Indigenous peoples. They and their stories, particularly those of racialized and Indigenous women, are often written out of the curriculum, knowledge production, and dissemination."[38] The undermining and exclusion of Indigenous and racialized professors is more generally a problem at universities, though there is a particular gendered aspect to this problem that is also evident in Indigenous legal education. A few participants (all of whom were women) expressed frustration with the field of Indigenous legal studies, wherein non-Indigenous men's and Indigenous men's voices are repeatedly given prominence and Indigenous women are not cited more regularly for their work. The literature and research more broadly in Indigenous legal studies is still largely silent on male privilege, and unfortunately, the interviews reiterate this.[39] Some of the men who participated in the interviews thoughtfully challenged their own male privilege; however, other male participants did not show that they had given as much thought to their experience of gender-based privilege. Male privilege in Indigenous legal education therefore needs to be an ongoing and open conversation. Curtis candidly reflected:

> I think sometimes even men that tend to be—and I would include myself in that—that tend to be pro-feminist or more sensitive to issues and that, sometimes we forget that we are a man and we are privileged too. And just going back to the issue in the classroom, that when I speak in the classroom, that I necessarily have more authority than a woman would in the exact same circumstances, which might lead to… sort of going more directly to your question of why I don't get challenged a lot on things like that.

As was noted in the preceding sections, some participants challenged themselves and others to put more effort into finding and using resources by Indigenous women. There is also a need for additional resources about gender and Indigenous laws and for ways to connect people with these resources. When reflecting on challenges in feminist legal studies more generally, Boyd cautions, "[e]ven a course

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[37] Regarding discrimination against professors, see: Frances Henry *et al.*, *The Equity Myth: Racialization and Indigeneity at Canadian Universities* (Vancouver: UBC Press, 2017); Claudia Lampman, "Women Faculty at Risk: U.S. Professors Report on their Experiences with Student Incivility, Bullying, Aggression, and Sexual Attention," *NASPA Journal About Women in Higher Education*, 5, no. 2 (2012): 184–208.

[38] Henry *et al.*, *The Equity Myth*, 7.

[39] Hewitt also argues, "little space has been made within the academy for Indigenous legal research methodologies and scholars—particularly Indigenous women," "Decolonizing and Indigenizing," 72.

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in feminist legal theory barely scrapes the surface of this critical analysis. Expecting that complex feminist analysis that develops a nuanced mode of critique will be taught in courses such as Taxation, Evidence, or even Family Law (which involves many issues involving gender, race, and sexual orientation) is unrealistic."[40] While there are certainly limitations, I believe, as do many of the people interviewed, that resource development could help to make intersectional Indigenous legal education a more realistic possibility. But resource development and an interest in gendering Indigenous legal education can still end up constrained by the many structural challenges noted and people well beyond this group of participants need to contribute to dismantling these structures. It is especially pertinent for people in positions of privilege to be dismantling structures of oppression that they contribute to or benefit from.

Questions remained for some about how realistic it is for everyone to be gendering Indigenous legal education, and *who* should be responsible for doing this work. Sara Ahmed's work on diversity offers a valuable intervention here for reflecting on the racialized and gendered burdening and devaluing of labour at universities. She illustrates how the "responsibility for diversity and equality is unevenly distributed. It is also the case that the distribution of this work is political: if diversity and equality work is less valued by organizations, then to become responsible for this work can mean to inhabit institutional spaces that are also less valued."[41] Although there is not a simple way to address this problem, Daryan, a non-Indigenous man, raised important points about responsibility beyond universities (law schools in particular)—that educational institutions *and* law firms need to show support in terms of actually valuing Indigenous laws in order to unsettle these entrenched norms that create resistance to critical Indigenous legal education.

Not engaging with gender will constrain the possibilities in Indigenous legal education, as exclusions and omissions will occur not only in the classroom but in understandings of law. The interviews show that these omissions are not purely intellectual—they have real impacts on people, particularly those who are being overlooked. At the end of her interview, Margaret asked why so many people think that Indigenous women do not matter. When gender is overlooked, it sends a specific message that Indigenous women and Indigenous people with non-binary gender identities are not to be taken seriously. That message underlies a culture that enables and perpetuates violence against Indigenous women and girls, and against Indigenous people who are 2LGBTQ. It is clear that the professors interviewed are against gendered violence and harm, but those subtle yet deep connections between omissions and the valuing of some people over others needs to be actively addressed. In addition, it is important to heed further insights from Ahmed's work, that even when people *do* actively challenge inequalities such as racism and sexism, one must be attentive to how that work is then used within universities. She reminds us of "how power can be *redone* at the moment it is

40 Boyd, "Spaces and Challenges," 215.

41 Sara Ahmed, *On Being Included: Racism and Diversity in Institutional Life* (Durham: Duke University Press, 2012), at 4.

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imagined as *undone*"[42] and that "an equality regime *can be* an inequality regime given new form."[43] In the context of this article, "indigenizing," decolonizing, resurging, or revitalizing legal education—whichever language one takes—could reproduce additional harms if gender is not accounted for. Moreover, "gendering" can cause harms if not done in ways that engage with power and the complexities of Indigenous societies and laws.

Conclusion

When considering all of the challenges as a whole—student resistance, unsupportive or dismissive colleagues, program structures that centre particular kinds of knowledge and learning over others, and racism, sexism, and ageism towards professors—these are major problems that flourish in a colonial, heteropatriarchal context and which undermine the possibilities for Indigenous legal education. It is not surprising that it is difficult to include gender in this work. Although I have offered critiques in this article, my intention is to share what I witnessed across the interviews. It can be necessary to have confidential space to work through ideas. However, it would have also been beneficial to have group discussions. When reflecting on the future of Indigenous legal education, Julie remarked, "there's not one single school that can carry [the work on Indigenous law] for all of our students […] we need to have people everywhere working on this and we have to collaborate." It is evident from the interviews that collective and supportive work in relation to teaching about gender and Indigenous laws is largely missing. I hope that what was brought together in this article will be of value for collaborative work in the future.

Emily Snyder
Indigenous Studies; Women's and Gender Studies
University of Saskatchewan, Saskatoon, Saskatchewan
emily.snyder@usask.ca

42 *Ibid* at 13. Emphasis in original.
43 *Ibid* at 8. Emphasis in original.

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