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## Indigenous Feminist Legal Pedagogies

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### Abstract

What does “Indigenous feminist legal pedagogy” mean? This article takes up this inquiry through an analysis of interviews that were done with twenty-three professors who teach in the area of Indigenous law (Indigenous peoples’ own laws) in Canada. Overwhelmingly, the professors were on board with the idea that gender matters and that it needs to be included in education about Indigenous laws, but how people were taking up gender, and the responses as they relate to Indigenous feminisms, varied. The interviews signal that there is a need for ongoing work in the area of gender and feminisms in the field of Indigenous law. This article illustrates why gendering Indigenous legal education is vital and argues for increased engagement with the idea and practice of Indigenous feminist legal pedagogies.

### Keywords

Legal education, Indigenous feminisms, Indigenous law

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## Indigenous Feminist Legal Pedagogies Emily Snyder\*

### Abstract

What does “Indigenous feminist legal pedagogy” mean? This article takes up this inquiry through an analysis of interviews that were done with twenty-three professors who teach in the area of Indigenous law (Indigenous peoples’ own laws) in Canada. Overwhelmingly, the professors were on board with the idea that gender matters and that it needs to be included in education about Indigenous laws, but how people were taking up gender, and the responses as they relate to Indigenous feminisms, varied. The interviews signal that there is a need for ongoing work in the area of gender and feminisms in the field of Indigenous law. This article illustrates why gendering Indigenous legal education is vital and argues for increased engagement with the idea and practice of Indigenous feminist legal pedagogies.

Indigenous legal education—that is, teaching about Indigenous peoples’ own laws—is inherently critical in orientation in that it draws attention to historical and contemporary power dynamics. Indigenous legal education challenges students, professors, universities, and the settler public to reimagine law in ways that are plural and that challenge the colonial myths that are told about law.<sup>1</sup> There has been a strong colonial hold over legal education. Indigenous legal scholars and allies have been challenging these boundaries—creatively and tenaciously navigating, dismantling, and recentring legal education in ways that validate and draw on Indigenous laws.<sup>2</sup> Indigenous legal

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<sup>1</sup> These myths include, for example, that state law is the only form of law, that state laws are superior, and that Indigenous laws are unsophisticated. For a discussion about myths, see *e.g.* Val Napoleon, “Thinking About Indigenous Legal Orders” [Napoleon, “Thinking About?”] in René Provost & Colleen Sheppard, eds, *Dialogues on Human Rights and Legal Pluralism* (Springer Netherlands, 2013) 229; Val Napoleon & Hadley Friedland, “Indigenous Legal Traditions: Roots to Renaissance” in Markus D Dubber & Tatjana Hörnle, eds, *The Oxford Handbook of Criminal Law* (Oxford University Press, 2014) 225; John Borrows, *Canada’s Indigenous Constitution* (University of Toronto Press, 2010); Hadley Louise Friedland, *Reclaiming the Language of Law: The Contemporary Articulation and Application of Cree Legal Principles in Canada* (PhD Thesis, University of Alberta Faculty of Law, 2016) [unpublished]. Settler educational institutions have been, and continue to be, central sites through which colonialism, patriarchy, heteronormativity, and other forms of oppression are operationalized and normalized. See *e.g.* Marie Battiste, *Decolonizing Education: Nourishing the Learning Spirit* (Purich Publishing, 2013); Blair Stonechild, *The New Buffalo: The Struggle for Aboriginal Post-Secondary Education in Canada* (University of Manitoba Press, 2006); Verna St Denis, “Silencing Aboriginal Curricular Content and Perspectives through Multiculturalism: ‘There Are Other Children Here’” (2011) 33 *Rev Educ Pedagogy & Cult Stud* 306. Legal education is also a site where oppression can be perpetuated and maintained, but it can be a site of challenge as well. See *e.g.* 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” (1997) 9 *CJWL* 301; Patricia A Monture, “Now That the Door Is Open: First Nations and the Law School Experience” (1990) 15 *Queen’s LJ* 179; Jeffery G Hewitt, “Decolonizing and Indigenizing: Some Considerations for Law Schools” (2016) 33 *Windsor YB Access Just* 65; Aaron Mills, “The Lifeworlds of Law: On Revitalizing Indigenous Legal Orders Today” (2016) 61 *McGill LJ* 847.

<sup>2</sup> See *e.g.* Mills, *supra* note 1; Kirsten Anker, “Teaching ‘Indigenous Peoples and the Law’: Whose Law?” (2008) 33 *Alternative LJ* 132; Hanna Askew, “Learning from Bear-Walker: Indigenous Legal Orders and Intercultural Legal Education in Canadian Law Schools” (2016) 33 *Windsor YB Access Just* 29; John Borrows, “Outsider Education: Indigenous Law and Land-Based Learning” (2016) 33 *Windsor YB Access Just* 1 [Borrows, “Outsider Education”]; John Borrows, “Heroes, Tricksters, Monsters, and Caretakers: Indigenous Law and Legal Education” (2016) 61

education treats Indigenous laws as intellectual and practical resources that are central to Indigenous nationhood. Yet it is imperative to be aware that, even within this invaluable body of work, which can certainly be labelled as falling under critical legal studies and deploying critical pedagogies, there can be omissions and exclusions—including, for example, overlooking (and worse yet perpetuating) sexism and heteronormativity.

Teaching about Indigenous law has increased exponentially over the past decade. Of the growing work on Indigenous legal education and pedagogies, gender has been largely absent. Indigenous feminist frameworks and intersectional approaches would encourage us to seriously consider that gender is a central part of Indigenous legal education.<sup>3</sup> This article takes up this work by examining what “Indigenous feminist legal pedagogy” might mean. As part of trying to understand the gaps with gender in this field, professors who teach about Indigenous law at the post-secondary level in Canada were invited to do an interview to discuss the ways that they include gender (or not) in their teaching and to comment on Indigenous feminist frameworks. The professors were all on board with the idea of gendering Indigenous legal education, but the practical aspects of how to actually teach about gender and Indigenous laws, and if or how Indigenous feminisms are a part of that work brought up tensions, hesitations, curiosities, contradictions, disagreement, and for some, excitement. When examining the interviews as a whole, the responses are quite messy. It is significant that the responses about Indigenous feminist legal pedagogy were messy because gender and feminisms are entangled with a multitude of legal orders in complicated ways. The interviews were also done with twenty-three professors and such a diverse group created a plurality of ideas. The responses serve as a reminder of the complexities of socio-legal relations. However, the interviews also signal the need for ongoing work in the area of gender. It is important to not romanticize the messiness of the responses because, while some of the confusion and disagreement that occurred is productive, other instances stem from generalizations about gender and misunderstandings about Indigenous feminisms (which are referred to in the plural in this article, to acknowledge different approaches to Indigenous feminism).

To be clear, I have a deep respect for the professors in this research. The participants are an incredibly accomplished group of scholars and their openness to do an interview about gender, when this is not an area of study for many of them, speaks to the ethics and care of work that many people are trying to foster in the field of Indigenous law. Critique in this article is approached as part of the work of law and as a necessary part of the field. While there certainly needs to be work done directly with those who specialise in the area of feminisms and Indigenous laws, the broad purpose of the interviews was to try to better understand how gender was being engaged by professors in the field of Indigenous law. Elsewhere, I have examined the issue of why there is a pronounced lack of engagement with gender in the field and what some of the challenges are in

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McGill LJ 795 [Borrows, “Heroes”]; Rebecca Johnson & Lori Groot, “Learning Indigenous Law: Reflections on Working with Western Inuit Stories” (2017) 2 Lakehead LJ 117; Irene Watson, “Some Reflections on Teaching Law: Whose Law, Yours or Mine?” (2005) 6 Indigenous L Bull 23.

<sup>3</sup> There are some exceptions in the Indigenous legal education literature, wherein gender is engaged (though is not the focus). See Hewitt, *supra* note 1; Borrows, “Heroes”, *supra* note 2; Borrows, “Outsider Education”, *supra* note 2; Askew, *supra* note 2; Anker, *supra* note 2; Loretta Kelly, “A Personal Reflection: On Being An Indigenous Law Academic” (2005) 6 Indigenous L Bull 19. Although not focused on the post-secondary context, Darcy Lindberg’s LLM thesis offers an insightful, deep analysis on the complexities of the gendered aspects of Cree law in relation to Cree ceremonial legal (and educational) practices. See Darcy Lindberg, *kihcitwâw kîkway meskocipayiwin (sacred changes): Transforming Gendered Protocols in Cree Ceremonies through Cree Law* (LLM Thesis, University of Victoria Faculty of Law, 2017) [unpublished].

gendering Indigenous legal education.<sup>4</sup> In this article the issue of challenges is still present, but I focus on the participants' reflections on Indigenous feminisms so as to understand the possibilities and importance of Indigenous feminist legal pedagogies for future work in Indigenous legal education. At the time of conducting the interviews I was a postdoctoral research fellow in a law school.<sup>5</sup> The analysis and writing for this research took place while working as an Assistant Professor in an Indigenous studies department and women's and gender studies program. I come to this research as a white settler cisgender woman who identifies as a feminist.

This article begins with an introduction to Indigenous feminisms. A brief discussion of the methods used in this research is then presented, followed by an examination of what the professors had to say about Indigenous feminisms, Indigenous feminist legal pedagogies, and who should be doing this work. Although few participants directly articulated a definition of Indigenous feminist legal pedagogy, and Indigenous feminisms were contested by some of the professors, this article presents a basic working definition of "Indigenous feminist legal pedagogy" to examine what this approach offers. I approach pedagogy here to include both theory and practice, examining how one conceptualises Indigenous legal education (*i.e.*, how knowledge about Indigenous law could be engaged in postsecondary contexts) and the place of gender in relation to it, as well as strategies for how to teach about Indigenous laws in ways that are meaningfully attentive to gender. Ultimately, this article argues for increased engagement with the idea and practice of Indigenous feminist legal pedagogies in Indigenous legal education.

## I. Indigenous Feminisms

Indigenous feminisms are approached and practiced in diverse ways; however, there are also core ideas and goals.<sup>6</sup> First and foremost, and as introduced above, Indigenous feminisms challenge the commonplace approach that Indigenous peoples' experiences are shaped only by indigeneity, race, and colonialism, and they put forth the call to think deeply about gender as something that also shapes Indigenous peoples' lives.<sup>7</sup> For example, Maile Arvin, Eve Tuck, and Angie Morrill explain that "settler colonialism has been and continues to be a gendered process" and emphasize "that attending to the links between heteropatriarchy and settler colonialism is intellectually and politically imperative."<sup>8</sup> In her outline of a genealogy of Indigenous feminisms, Sarah Nickel also reflects, "[u]nderstanding the unique ways Indigenous peoples experience gender and colonial bias provides the foundation for most discussions of Indigenous feminism and it therefore remains a

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<sup>4</sup> Emily Snyder, "Challenges in Gendering Indigenous Legal Education: Insights from Professors Teaching about Indigenous Laws" (2019) 34 *CJLS* 33 [Snyder, "Challenges in Gendering"]. These challenges included professors being uncomfortable with teaching about gender, concerns about a lack of resources, dealing with negative reactions from students—including discrimination from students, and institutional constraints (particularly in law schools) regarding the curriculum.

<sup>5</sup> I was a SSHRC Postdoctoral Fellow with the Indigenous Law Research Unit in the Faculty of Law at the University of Victoria.

<sup>6</sup> See *e.g.* Joyce Green, *Making Space for Indigenous Feminism*, 2nd (Fernwood, 2017) [Green, *Making Space*]; Cheryl Suzack et al, *Indigenous Women and Feminism: Politics, Activism, Culture* (UBC Press, 2010); Sarah Nickel & Amanda Fehr, eds, *In Good Relation: History, Gender, and Kinship in Indigenous Feminisms* (University of Manitoba Press, 2020) [Nickel & Fehr, *In Good Relation*].

<sup>7</sup> I am using "gender" throughout this article but understand it as necessarily entangled with sex and sexuality.

<sup>8</sup> Maile Arvin, Eve Tuck & Angie Morrill, "Decolonizing Feminism: Challenging Connections between Settler Colonialism and Heteropatriarchy" (2013) 25 *Feminist Formations* 8 at 9. They are writing here in the context of primarily putting forth these imperatives to women's and gender studies, however, the field of law also needs to work closely and seriously with Indigenous feminisms.

beneficial lens and set of experiences that can challenge assumptions about colonialism, sexism, identity, the gender binary, normative sexualities, and time and space.”<sup>9</sup> There are, unfortunately, a multitude of examples that make these connections between gender and colonialism clear: gendered stereotypes about Indigenous people;<sup>10</sup> discrimination in the workplace;<sup>11</sup> healthcare access and discrimination;<sup>12</sup> forced and coerced sterilization;<sup>13</sup> lengthy legal challenges regarding gendered racialized discrimination through the *Indian Act*;<sup>14</sup> economic disparities;<sup>15</sup> political marginalization;<sup>16</sup> gendered, racialized processes of criminalization;<sup>17</sup> and high rates of violence against Indigenous women, girls, and people who identify as 2SLGBTQQIA, which the National Inquiry into Missing and Murdered Indigenous Women and Girls has reiterated.<sup>18</sup> Although the interviews about pedagogy were done before the inquiry’s report there is an ongoing need for the information from the inquiry, and for other resources about gender, to be meaningfully and critically engaged in Indigenous legal education. Indigenous feminisms work to address gender-based oppression in settler society but also within Indigenous societies as well.<sup>19</sup>

Through the past decade (and beyond) of scholarship and activist interventions, Indigenous feminists have illustrated that decolonization cannot prioritize indigeneity and race with the logic

<sup>9</sup> Sarah Nickel, “Introduction” [Nickel, “Introduction”] in Nickel & Fehr, *In Good Relation*, *supra* note 6 at 3.

<sup>10</sup> Sam McKegney, “Warriors, Healers, Lovers, and Leaders: Colonial Impositions on Indigenous Male Roles and Responsibilities” in Jason A Laker, ed, *Canadian Perspectives on Men and Masculinities: An Interdisciplinary Reader* (Oxford University Press, 2011) 241; Kim Anderson, *A Recognition of Being: Reconstructing Native Womanhood*, 2nd (Women’s Press, 2016).

<sup>11</sup> See e.g. Frances Henry et al, *The Equity Myth: Racialization and Indigeneity at Canadian Universities* (UBC Press, 2017) [Henry et al, *The Equity Myth*].

<sup>12</sup> See e.g. Jo-Anne Fiske & Annette J Browne, “Aboriginal citizen, discredited medical subject: Paradoxical constructions of Aboriginal women’s subjectivity in Canadian health care policies” (2006) 39 *Policy Sciences* 91; Carrie Bourassa, Kim McKay-McNabb & Mary Hampton, “Racism, Sexism, and Colonialism: The Impact on the Health of Aboriginal Women in Canada” (2004) 24 *Can Woman Studies* 23.

<sup>13</sup> Karen Stote, *An Act of Genocide: Colonialism and the Sterilization of Aboriginal Women* (Fernwood, 2015); Yvonne Boyer & Judith Bartlett, “External Review: Tubal Ligation in the Saskatoon Health Region: The Lived Experience of Aboriginal Women” (22 July 2017), online (pdf) : *Saskatoon Health Region* <[www.saskatoonhealthregion.ca/DocumentsInternal/Tubal\\_Ligation\\_intheSaskatoonHealthRegion\\_the\\_Lived\\_Experience\\_of\\_Aboriginal\\_Women\\_BoyerandBartlett\\_July\\_22\\_2017.pdf](http://www.saskatoonhealthregion.ca/DocumentsInternal/Tubal_Ligation_intheSaskatoonHealthRegion_the_Lived_Experience_of_Aboriginal_Women_BoyerandBartlett_July_22_2017.pdf)>.

<sup>14</sup> A number of gender-based exclusions have happened through the *Indian Act* in relation to status, property, mobility, politics, and economics. See Sarah Carter, “First Nations Women of Prairie Canada in the Early Reserve Years, the 1870s to the 1920s: A Preliminary Inquiry” in Christine Miller & Patricia Chuchryk, eds, *Women of the First Nations: Power, Wisdom, and Strength* (University of Manitoba Press, 1996) 51.

<sup>15</sup> Linda M Gerber, “Education, Employment, and Income Polarization among Aboriginal Men and Women in Canada” (2014) 46 *Can Ethnic Studies* 121.

<sup>16</sup> See Joyce Green, “ReBalancing Strategies: Aboriginal Women and Constitutional Rights in Canada” in Green, *Making Space*, *supra* note 6, 166.

<sup>17</sup> See Elizabeth Comack, *Coming Back to Jail: Women, Trauma, and Criminalization* (Fernwood, 2018).

<sup>18</sup> 2SLGBTQQIA refers to Two-Spirit, lesbian, gay, bisexual, transgender, queer, questioning, intersex, and asexual. See National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (MMIWG, 2019).

<sup>19</sup> This issue of sexism within Indigenous societies is approached in different ways in the literature (and beyond). For many scholars, they frame sexism as stemming only from colonialism—that Indigenous societies had gender balance prior to contact and that the imposition of heteropatriarchal colonial norms and oppression cause sexism and homophobia to be internalized. While Indigenous gender norms have no doubt been impacted by settler gender norms, there are also scholars who caution against then suggesting that there were no issues with gender discrimination and violence prior to contact. See Napoleon, “Thinking About”, *supra* note 1; Emily Snyder, Val Napoleon & John Borrows, “Gender and Violence: Drawing on Indigenous Legal Resources” (2015) 48 *UBC L Rev* 593; Emma LaRocque, “Métis and Feminist: Contemplations on Feminism, Human Rights, Culture and Decolonization” [LaRocque, “Métis and Feminist”] in Green, *Making Space*, *supra* note 6, 122.

of getting to gender and sexuality later. Approaches that do not treat gender, sexuality, and indigeneity as entangled are incomplete. Crucially then, engaging with and learning from Indigenous feminisms is not only the realm of Indigenous women. There should be an intimate relationship between Indigenous feminisms and queer Indigenous studies;<sup>20</sup> Indigenous masculinities can be understood through Indigenous feminisms and in conversation with Indigenous masculinities studies;<sup>21</sup> and settlers can (and should) learn from Indigenous feminisms.

Cheryl Suzack emphasizes that Indigenous feminism “aspires to an intersectional framework that not only conceptualizes social justice as a goal of community empowerment, but also explains how gender relations matter to Indigenous emancipation and tribal sovereignty practice.”<sup>22</sup> Gina Starblanket illustrates that “Indigenous feminism has the potential to nuance and advance the ways that Indigenous peoples can participate in resurgence,” including resurgence as it relates to Indigenous legal and political orders.<sup>23</sup> Further, Joyce Green explains, “Indigenous feminism draws on core elements of Indigenous cultures—in particular, the nearly universal connection to land, to territory, through relationships framed as a sacred responsibility...predicated on reciprocity...and definitive of culture and identity.”<sup>24</sup> Indigenous feminisms also engage with nation-specific gender norms,<sup>25</sup> and value the inclusion, agency, and vivacity of all gendered Indigenous citizens as central to self-determination and well-being in Indigenous societies. So too do Indigenous laws work to support self-determination as well as individual and collective well-being in Indigenous societies (and inter-societally), yet too often in the field of Indigenous law there is still a disconnect between Indigenous laws and gender.<sup>26</sup>

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<sup>20</sup> See Chris Finley, “Decolonizing the Queer Native Body (and Recovering the Native Bull-Dyke): Bringing ‘Sexy Back’ and Out of Native Studies’ Closet” in Qwo-Li Driskill et al, eds, *Queer Indigenous Studies: Critical Interventions in Theory, Politics, and Literature* (University of Arizona Press, 2011) 31; Kai Pyle, “Reclaiming Traditional Gender Roles: A Two-Spirit Critique” in Nickel & Fehr, *In Good Relation*, *supra* note 6, 109; Ramona Beltrán, Antonia RG Alvarez & Miriam M Puga, “Morning Star, Sun, and Moon Share the Sky: (Re)membering Two-Spirit Identity through Culture-Centred HIV Prevention Curriculum for Indigenous Youth” in Nickel & Fehr, *In Good Relation*, *supra* note 6, 154; see generally Nickel, “Introduction”, *supra* note 9.

<sup>21</sup> See Robert Alexander Innes & Kim Anderson, eds, *Indigenous Men and Masculinities: Legacies, Identities, Regeneration* (University of Manitoba Press, 2015).

<sup>22</sup> Cheryl Suzack, *Indigenous Women’s Writing and the Cultural Study of Law* (University of Toronto Press, 2017) at 12.

<sup>23</sup> Gina Starblanket, “Being Indigenous Feminists: Resurgences Against Contemporary Patriarchy” [Starblanket, “Being Indigenous”] in Green, *Making Space*, *supra* note 6, 21 at 21-22.

<sup>24</sup> Joyce Green, “Taking More Account of Indigenous Feminism: An Introduction” [Green, “Taking More Account”] in Green, *Making Space*, *supra* note 6, 1 at 4.

<sup>25</sup> Starblanket, “Being Indigenous”, *supra* note 23 at 24.

<sup>26</sup> For exceptions where Indigenous feminisms and Indigenous laws are brought together, see e.g. Sarah Deer, “(En)Gendering Indian Law: Indigenous Feminist Legal Theory in the United States” (2019) 31 *Yale JL & Feminism* 1 [Deer, “(En)Gendering Indian Law”]; Sarah Deer, *The Beginning and End of Rape: Confronting Sexual Violence in Native America* (University of Minnesota Press, 2015) [Deer, *The Beginning and End*]; Val Napoleon, “My Grandmothers’ Skin” in Shari Graydon, ed, *I Feel Great about My Hands: And Other Unexpected Joys of Aging* (Douglas & McIntyre, 2011) 81; Val Napoleon & Emily Snyder, “Housing on Reserve: Developing a Critical Indigenous Feminist Property Theory” in Angela Cameron, Sari Graben & Val Napoleon, eds, *Creating Indigenous Property: Power, Rights, and Relationships* (University of Toronto Press, 2020) 41; Snyder, Napoleon & Borrows, *supra* note 19; Isabel Altamirano-Jiménez, “The State is Not a Saviour: Indigenous Law, Gender and the Neoliberal State in Oaxaca” [Altamirano-Jiménez, “State is Not a Saviour”] in Green, *Making Space*, *supra* note 6, 215; Lindberg, *supra* note 3; Emily Snyder, *Gender, Power, and Representations of Cree Law* (UBC Press, 2018); Emily Snyder, “Indigenous Feminist Legal Theory” (2014) 26 *CJWL* 365 [Snyder, “Indigenous Feminist Legal Theory”]; Emily Snyder, “Indigenous Feminist Legal Theory: A Multi-Juridical Analysis of the Limits of Law on Indigenous Women’s Health in Relation to HIV in Canada” in Irehobhude O Iyioha, ed, *Women’s Health and the Limits of Law: Domestic and International Perspectives* (Routledge, 2020) 212.

Indigenous feminist legal studies encourage understanding Indigenous laws as gendered—that is, moving beyond identifying gender roles to also examining *how* gendered dynamics operate in legal interpretations and practices. Law, as a social enterprise, does not exist in isolation from gendered norms, and Indigenous laws (as with state laws) can be used in ways that reproduce harms *but can also challenge them*. As Isabel Altamirano-Jiménez highlights of the work to be undertaken: “As Indigenous peoples continue to revitalize their legal traditions, Indigenous feminist legal scholars and activists have insisted on the need to understand Indigenous law in relation to the social context in which it unfolds.”<sup>27</sup> Additionally, Sarah Deer has advocated the importance of further developing Indigenous feminist legal theories which have started to be articulated in Canada, including by myself,<sup>28</sup> but have been less engaged in the United States. She writes:

Because IFLT [Indigenous feminist legal theory] uses an intersectional framework, it offers a way to synthesize how and why Native women suffer multiple different kinds of oppression simultaneously. Native women in the United States experience structural discrimination in the forms of at least four ideologies: sexism, settler colonialism, classism, and racism. Two-Spirit Native people also suffer from insidious forms of homophobia and transphobia. IFLT allows us to see these intersections and begin to think of practical, creative solutions to intersecting oppressions. IFLT also allows us to view tribal sovereignty and gender equity as closely linked. Native women’s liberation is a key component of lasting change in Indian country.<sup>29</sup>

Indigenous feminist legal studies needs to include theory, methods and research, legal practice, and of focus here, pedagogy. While there are no doubt ways that Indigenous people have and continue to teach about Indigenous laws and gender on the ground, in terms of academic scholarship and teaching about Indigenous laws in post-secondary contexts, there is little work explicitly focusing on Indigenous feminist pedagogies.<sup>30</sup> In her work on language revitalization, Michelle M. Jacob identifies Indigenous feminist pedagogy as a central part of the success of the University of Oregon Northwest Indian Language Institute’s work.<sup>31</sup> She describes such a pedagogical approach for language teaching and learning as “guided by four primary values: (1) listening, (2) supporting grassroots efforts, (3) having a practical and applied focus, and (4) viewing work in spiritual terms.”<sup>32</sup> Jacob further explains that “[w]hat makes this pedagogy a distinctly indigenous feminist pedagogy is the emphasis on privileging tribal people’s perspectives, which inherently uphold core feminist values, including a commitment to the collective good and a preference for horizontal modes of leadership.”<sup>33</sup> Although she is not focused on law, and there would be Indigenous feminist interpretations and practices that differ from hers, her work highlights that there are important connections between Indigenous and feminist pedagogies, and she brings these together to think about Indigenous feminist pedagogies.<sup>34</sup> There

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<sup>27</sup> Altamirano-Jiménez, “State is Not a Saviour”, *supra* note 26 at 217.

<sup>28</sup> Snyder, “Indigenous Feminist Legal Theory”, *supra* note 26.

<sup>29</sup> Deer, “(En)Gendering Indian Law”, *supra* note 26 at 7.

<sup>30</sup> It is noteworthy that Indigenous people have done and continue to do, in varied ways, the work on the ground of teaching about gender, and about Indigenous laws and gender, regardless of the terminology that academics are using. It is important though to examine what terminology or frameworks are being used explicitly in academia and why. Similarly, it can be argued that “Indigenous feminisms” are new only in language but not in practice. See *e.g.* Sarah Nickel, “Introduction” in Nickel & Fehr, *In Good Relation*, *supra* note 6, 1 at 4-5.

<sup>31</sup> Michelle M Jacob, “‘We Really Listened’: Partnership Building, Indigenous Language Revitalization, and Civic Engagement” (2012) 22 *Fem Teacher* 181 at 183.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> Jacob, *supra* note 31.



are important resources on pedagogy in women's and gender studies, in Indigenous studies, and in critical race studies, that can be drawn upon to support intersectional and decolonial pedagogical strategies in law.<sup>35</sup> It is important, though, that there also be resources that directly support the development of Indigenous feminist legal studies and which discuss strategies for teaching in this area.

A number of teaching resources that centre Indigenous laws and Indigenous feminisms have been produced through the Indigenous Law Research Unit at the University of Victoria. These resources include graphic novels, a video series about Indigenous law, teaching guides to accompany these resources, a gender and Indigenous law toolkit and casebook, and an educational resource about skirts.<sup>36</sup> Some of these resources were created after the interviews for this research were completed. However, there is still an ongoing problem where Indigenous feminisms are often mentioned only in passing, or more commonly not at all, in the growing body of written academic work on Indigenous legal pedagogies and post-secondary education.<sup>37</sup> It is pertinent, then, to more closely examine what Indigenous feminist legal pedagogies might mean and do for the future of Indigenous legal education.

## II. Research Methods: Interviewing Professors

This research is based on interviews with twenty-three professors who had taught or were currently teaching in the area of Indigenous law in Canada.<sup>38</sup> Professors that I knew to be teaching about Indigenous law were invited, by email, 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 working in the field were engaging with gender and Indigenous feminisms in Indigenous legal education. These participants were key informants in the area of Indigenous law, but not necessarily key informants on Indigenous feminisms.<sup>39</sup> The recruitment was approached in this way as I was interested in learning about a range of experiences—learning from those whose knowledge of Indigenous feminisms can help to promote Indigenous feminist legal pedagogies, but also learning from those who are resistant to Indigenous feminist frameworks or struggling with the inclusion of gender in their teaching, as their experiences are important for understanding how to support intersectional Indigenous legal education.

<sup>35</sup> See e.g. Arvin, Tuck, & Morrill, *supra* note 8; bell hooks, *Teaching to Transgress: Education as the Practice of Freedom* (Routledge, 1994); Henry et al, *The Equity Myth*, *supra* note 11.

<sup>36</sup> Napoleon et al, *Mikomosis and the Wetiko* (Indigenous Law Research Unit, 2013); Emily Snyder et al, *Mikomosis and the Wetiko: A Teaching Guide for Youth, Community, and Post-Secondary Educators* (Indigenous Law Research Unit, 2014); UVic Indigenous Law Research Unit ILRU, "Indigenous Law Videos on Demand" (2014), online (video): [YouTube <www.youtube.com/playlist?list=PL76jl\\_4AtHOwohYjYsYSGVrbovBe4jz3g>](https://www.youtube.com/playlist?list=PL76jl_4AtHOwohYjYsYSGVrbovBe4jz3g); Indigenous Law Research Unit, *Gender Inside Indigenous Law Toolkit* (2016), online (pdf): [www.uvic.ca/law/assets/docs/ilru/Gender%20Inside%20Indigenous%20Law%20Toolkit%20October%202017.pdf](https://www.uvic.ca/law/assets/docs/ilru/Gender%20Inside%20Indigenous%20Law%20Toolkit%20October%202017.pdf) >; Indigenous Law Research Unit, *Gender Inside Indigenous Law Casebook* (2016), online (pdf): [www.uvic.ca/law/assets/docs/ilru/ILRU%20Gender%20Inside%20Indigenous%20Law%20Casebook.pdf](https://www.uvic.ca/law/assets/docs/ilru/ILRU%20Gender%20Inside%20Indigenous%20Law%20Casebook.pdf) >; TsimshianStorm, "Gender Project: Skirt Short" (29 July 2016), online (video): [YouTube <www.youtube.com/watch?v=pJiceA7HQPg&list=PLnv4-MGbmU3MFyWlss069RCdWg31shgCe>](https://www.youtube.com/watch?v=pJiceA7HQPg&list=PLnv4-MGbmU3MFyWlss069RCdWg31shgCe).

<sup>37</sup> For exceptions see *supra* note 3.

<sup>38</sup> The interviews in this study were transcribed to account for pauses and breaks in speech. "..." is used to indicate when those pauses and breaks happen, while "[...]" denotes where information has been removed by the researcher either to shorten a quote or to remove identifying information.

<sup>39</sup> There are few people working in the area of Indigenous laws and Indigenous feminisms.

“Professor” was defined as someone who is teaching at a post-secondary institution, regardless of official rank. This broad definition was used so that teachers from various backgrounds and training were involved. While it was not a requirement that professors be associated with law schools, the majority (83 per cent) of participants were working in law schools. In terms of academic rank, there was a wide range of career levels represented though specific information about rank is not disclosed here.

The interviews were conducted from 2014 to early 2015, via phone, Skype, and in person at various locations across Canada. A semi-structured approach was taken, and I maintained the use of an interview guide to ensure that all participants were being asked about similar issues. The lengths of the interviews ranged from twenty-five minutes to three hours, depending on the length of responses. Indigenous and non-Indigenous people were invited to participate, given that they both teach, research, and contribute to this field. However, it was important that the sample did not become primarily non-Indigenous participants. Seventy per cent (sixteen participants) of the professors were Indigenous. Regarding gender, 52 per cent identified as women, 44 per cent identified as men, and 4 per cent (one participant) did not want their gender identified for purposes related to confidentiality. Overall, the interviews included seven Indigenous women, eight Indigenous men, one Indigenous person who did not identify their gender, five non-Indigenous women, and two non-Indigenous men. Of the non-Indigenous participants, the majority were white. Pseudonyms were used and participants are introduced here in the way that they self-described in the interview. An exception to this self-identification is that, when participants noted their specific Indigenous nations and communities that they are from, I “pan-indigenized” the data for confidentiality purposes. It is noteworthy then that while the information in this article is presented as broadly “Indigenous,” it was derived from discussions about specific Indigenous nations’ legal orders. Pseudonyms have been used so that participants could speak openly, and out of respect for those who were pre-tenure.<sup>40</sup> Overall, it is pertinent to note that the sample is not a representative one. However, the number of participants involved shows a critical mass of people willing to talk about gender.<sup>41</sup>

It is noteworthy that my own disciplinary training is in socio-legal studies (I have a Ph.D. in sociology), and that I work as a professor in Indigenous studies and women’s and gender studies. This interdisciplinary training has much to offer for critical socio-legal analysis, however I am also an “outsider” in terms of law schools and I am not Indigenous. I have previously written about Indigenous feminist legal theory and taken up Indigenous feminisms, as I understand them to be frameworks that encourage a deep commitment to thinking about power and practicing ethical relationality which includes grappling with one’s own social location. My experiences as a woman have been shaped by gendered oppressions but are also heavily shaped by white privilege. I grew up in Haudenosaunee and Anishinaabe territory, and now live in Treaty 6 territory and the homeland of the Métis.

I come to this work of learning about Indigenous laws as I believe that settlers have a responsibility to ensure that, when we are teaching and researching about law (and more generally, living with Indigenous people in their territories), a decolonial approach is taken. As discussed in

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<sup>40</sup> For a more detailed discussion about the use of pseudonyms in research, see Snyder, “Challenges in Gendering”, *supra* note 4 at 40-41.

<sup>41</sup> In terms of methods, I used discourse analysis when going through the transcripts and thematically coded using NVivo. Throughout the discussion that follows, I take a qualitative approach focused on key moments and provocations in the interviews from the data coded in relation to Indigenous feminisms rather than offering a quantified representation of how Indigenous feminisms were discussed. See Jessica Ringrose & Emma Renold, “F\*\*k Rape!': Exploring Affective Intensities in a Feminist Research Assemblage” (2014) 20 *Qualitative Inquiry* 772.

the preceding section on Indigenous feminisms, this work must be attentive to gender and sexuality and must work to deconstruct heteropatriarchy so as to not further perpetuate oppression. My analysis of the interviews is woven throughout the text that follows. This analysis is shaped by my experiences and is just one perspective, but I return later to the complexities surrounding the lingering question of who should be doing this work on Indigenous law.

### **III. What the Professors Said about Indigenous Feminisms**

#### **A. Grappling with What Indigenous Feminisms Mean**

Participants, unsurprisingly, approached gender in different ways. Some of the professors grappled with what “gender” means, while others talked about it in relation only to women (masculinities and gender diversity were discussed by only a few).<sup>42</sup> For the most part, the majority of the professors were not satisfied with how they were including gender in their teaching (they wanted to include it more or were reflecting on ways to revise their current approach) and expressed that they needed to do more work in this area. During the interviews, many (though not all) of the professors were searching for moments when they included gender in their classes, rather than being able to say definitively that they teach Indigenous laws as gendered. Further, as the discussion that follows shows, few participants explicitly described their teaching as being grounded in Indigenous feminisms.

Many of the professors were not clear on what “Indigenous feminism” means, which certainly created challenges for trying to get into direct conversations about Indigenous feminist legal pedagogies. Yet the discussions were still productive for identifying the issues and questions that the professors were trying to work through. Several of the participants openly discussed their confusion about Indigenous feminisms. Julie, a non-Indigenous woman, reflected:

I don’t have a clear sense of what “Indigenous” feminisms are, what makes them Indigenous. [...] I would like to understand that characterization in a way that makes sense to me, you know...to be able to understand what it is about the cultural lens of feminism there, that really like, distinguishes it from the lens that I have.

Alison, an Indigenous woman and academic from prairie communities, responded to the questions about Indigenous feminism by saying, “[y]ou’ve put two words together...that I think are dynamic and important and scary for me because I don’t quite know what’ll come out of me if I try to be an Indigenous feminist.” She further explained:

I sort of feel like I’m lagging behind in that area, but every once in a while might be doing it and not even realize it. And so I think...I’d say I find myself wondering what that concept could be—if I call it a concept, I guess—what that concept can be because of when some circles of feminism have let me down...to make sure that I’m not letting those feelings impact how I think the term “Indigenous feminist” can mean...or what it can mean. [...]

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<sup>42</sup> Across the interviews, gender was referred to through various topics: gender balance, gender roles, moon time, motherhood and babies, skirts, 2SLGTBQQIA issues, gender as socially constructed, a male-centred focus in Indigenous law, male privilege, masculinities, the gender of authors and researchers in the field, the gender of students, governance, restorative justice, language, Aboriginal rights and title, environment and land, family law, child welfare, the impacts of state laws on Indigenous women, the Native Women’s Association of Canada, women as leaders, feminisms, sexism, how colonialism is gendered, and gendered violence. It is noteworthy that gender was most often discussed in relation to gendered violence, the impact of state laws on Indigenous women, and gender roles.

The shift from “feminism” to “Indigenous feminism” was clearly causing Alison (and others) to contemplate. Similarly, Eva, a white settler Canadian who described herself as a cisgender woman, dwelled with concepts and pushed herself to reflect on assumptions that she might be making:

Interesting to think...trying to identify for myself what is an Indigenous feminist framework [...]. I find myself pushing all the time, on the theory front, trying to identify feminist theorizing or making feminist theorizing visible all the time. [...]

It’s hard for me not to just sort of think “If I’ve got an Indigenous woman [in her course readings], that she’s...that it is Indigenous feminism.” But I know that’s as contested as it is in, you know, in the other mainstream [discussions about feminism]. But yeah, that’s an open challenge to me.

Eva also discussed the tensions that she feels as a non-Indigenous woman trying to find and access Indigenous feminist resources while not burdening others with the learning that she needs to do.

When asked about Indigenous feminisms, many of the professors responded instead by talking about “feminism.” Several of the professors took an approach of trying to explain to me (and also to their students) that gender roles are different in Indigenous societies compared to Western societies and to then illustrate that “feminism” is a mismatch. For instance, Ross, an Indigenous man and scholar who specializes in Indigenous legal issues, explained of his teaching approach that he includes multiple perspectives, including feminist perspectives; however, his framing of feminism problematically treats it as oppositional to indigeneity. At one point in his interview, he said:

Sometimes I actually do bring up that sometimes feminism isn’t always especially relevant to the concerns of Aboriginal women. I mean, for example, I bring up in the colonial past...you know, in pre-contact societies, men had their roles and women had their roles, and they weren’t more valued—one against the other. They were...truly were separate-equal, and it worked for pre-contact societies. And another thing I point out is that a lot of mainstream feminists...I mean, they’re concerned with equal pay in the workplace and that sort of thing. But that sort of thing isn’t necessarily as meaningful to Aboriginal women who, you know, are getting beaten up in their own homes and that sort of thing.

While there are certainly omissions in mainstream articulations of feminism (though I would caution that equal pay would be of concern to Indigenous women and that economic marginalization faced by Indigenous women can worsen situations with violence), he has unfortunately ignored Indigenous articulations of feminism and the contributions that they make—including the challenge of not romanticizing gender relations in the past.<sup>43</sup>

Reflections from Eric, an Indigenous male professor, conveyed a similar issue in the classroom:

Some of them are quite entrenched in feminist legal thought, even bef-...even if these are first-year students [...] And they may have not developed a vocabulary and the academic knowledge in the law, but they certainly hold strong views in that regard. And, yeah, it becomes a discussion. I don’t know...if we resolve anything. Others, especially the Aboriginal students, they tend to recognize the value of traditional role differences, recognizing that it doesn’t mean inequality. Yeah, but sometimes...you know, sometimes there are students that are strongly feminist and aren’t prepared to listen to an alternative view on the issue. But mostly it’s a good exchange; mostly there is hope in this...in exchange of thought on the issue.

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<sup>43</sup> For cautions against romanticizing gendered relations in the past, see *e.g.* Napoleon, “Thinking About”, *supra* note 1; Snyder, Napoleon & Borrows, *supra* note 19; LaRocque, “Métis and Feminist”, *supra* note 19.

Interestingly, he then talked about connections and overlaps between feminist and Indigenous approaches and noted how it is difficult to use the term feminism because of how people perceive it as being at odds with Indigenous approaches.

Generally speaking, white liberal practices of feminism are a mismatch with Indigenous law, and people should of course be free to choose the frameworks that they want to use. However, a broader problem of dismissing *Indigenous* feminisms on the basis of “mainstream” feminist practices was replicated in several of the interviews and pointed out by a couple of the professors. Ryan, an Indigenous man who spoke of his own nation throughout his interview, noted “a lot of folks never get past that word ‘feminism.’” Mel, a Plains Indigenous man who has a strong connection with his community, acknowledged that “feminism like other things can also interconnect with other forms of oppressive power and does things that are detrimental [...] But to throw out the entire body of thought just because it has a few regrettable aspects, it doesn’t make sense.” Reading Indigenous feminisms as white liberal feminism works to undermine the very challenges and Indigenous-centred analyses that Indigenous feminist frameworks necessitate. It also inadvertently marginalizes some Indigenous perspectives within broader discussions about Indigenous laws. This tension was evident in comments made by Tamara, an Indigenous woman and legal scholar, when she noted, “I am very uncomfortable with Indigenous feminism, and I think particularly if I go, ‘Indigenous legal feminism.’” She was grappling with the ways that liberalism has dominated in legal feminism, but also maintained an openness:

[W]here you can find good Indigenous legal feminism frameworks that are focused on an anti-oppression model, I think that would be helpful [...] not just liberal feminisms talking about indigeneity, and not just Indigenous scholars that then throw in gender, which is probably where I see myself and I’m not comfortable with that place. You know, I think, “*Yes, if I could find one [an Indigenous feminist legal framework] that I liked.*”<sup>44</sup>

## B. Using Indigenous Feminist Frameworks

Despite the shared sentiment that gender matters, there were clearly divergent and opposing ideas expressed about whether or not to use Indigenous feminist frameworks in one’s teaching. For example, Gertrude, an Indigenous woman and scholar, expressed that she was not interested in using Indigenous feminisms in the classroom because “it’s not part of the teaching”—referring here to teachings from Elders. She explained, “I don’t take control of what the teachings are about the law. I’m not a law knowledge keeper, and so I don’t put frameworks around the Elders.” She clarified that:

I respect that people identify as Indigenous feminists and that’s just not...that’s not my label, that’s not something I attach to myself. And, yeah, so I’m fine with other people identifying how they need to identify, but that’s not how I introduce any of the teachings, that’s not how I introduce Elders, that’s not the context in my head when I approach my Elders or learn from them. So it’s not my way, it’s not my language.

Regarding language and self-labeling, Connie, an Indigenous legal scholar and woman with ties to multiple Indigenous communities noted, “I don’t know if I want to say that it’s, you know, Indigenous feminist theory, but my practice...then I’ll just call it ‘practice.’” She also expressed that using an intersectional approach is sufficient—that one does not have to frame it as feminism per se. However, Eva struggled when asked if she would draw on other frameworks about gender

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<sup>44</sup> Emphasis added.

that are not labeled as feminist. She said, “I’m trying to imagine what is a gendered framework that’s not feminist. [...] Part of the challenge for me is not having a good sense of how that debate plays out internally.” She further considered that, “it may be that, for women in some contexts, that strategically, the language of feminism may not be the strategic language they want to use. Maybe there’s a way of describing the insights or the observations in the language of something other than feminism?”

Chris, an Indigenous male academic with relationships to his community, took a hard line on the issue: “I don’t care what you call yourself. If you are for a simultaneous liberation of Indigenous women from the domination and exploitation that they seek, and a defender of your land and sovereignty, then you’re an Indigenous feminist.” Elaine, an Indigenous scholar, mother, and community member, also remarked that “you can’t have your indigeneity without your gender, right” and noted that “there’s a pressure to express it in a non-gendered way.” This pressure was impacting not only her students’ perceptions, but what she was selecting to include in her teaching as well. She talked about how “one of the challenges kind of ironically is that some of the Indigenous women object...I don’t use the word *feminism* because I’ve had a lot of students say, ‘well, we’re not feminists.’” Her discussion in the legal education context mirrored debates in the literature on Indigenous feminisms, when she explained:

I think it’s very common for women to align themselves with what’s seen as the sort of *non-gendered collective Indigenous interest* [...] And that, by focusing on gender, you’re somehow separating yourself out and possibly calling your own people down, which is—or your men—which is seen as sort of being disloyal, or like you’re being taken up by white feminists, feminism, and using it against your own men.

Jessica, a non-Indigenous woman and law professor, also noted issues with perceptions about loyalties: “[W]hen it’s a case of empathy towards one oppressed group, it’s easy. But when you talk about intersections, like, I think students will get confused loyalties. And they don’t know what to do with it. Like, ‘which one trumps; who trumps who?’” Such misunderstandings about an intersectional approach are why it is so essential to teach intersectionality from a structural perspective, rather than focusing only on identity categories—it is not just that indigeneity is more important than gender (or vice versa), rather, the problem is that racism, colonialism, classism, sexism, and heteronormativity all operate together and shape people’s experiences.

Ryan noted that his students also had concerns, not about Indigenous feminisms in the classroom, but that they would say things like, “I can never take this to my community.” Similarly, Margaret, a feminist academic and Indigenous woman, talked about how “in some places [other educational institutions and communities], you know, there are some words we can’t use.” She explained that “they’re really interested in the content but not the word ‘feminist’ [...] You can do everything the same, but you can’t use the language.” She was frustrated that people were not more open to feminisms.

The debates that arise from the interviews have been previously articulated more broadly in the Indigenous feminisms literature. Mel even framed such debates as old news, saying “that debate’s over at [his own university]” and Indigenous feminisms are understood as legitimate.<sup>45</sup> Going even further, Chris noted how he takes “a pro-Indigenous-feminist analysis” and that he tells students that “[w]e’re not here to debate its merits. We’ve done that enough in the scholarship, and Indigenous women have done that enough, I think, that I don’t find it a useful enterprise anymore. It’s actually quite...it obfuscates issues.” Despite this stance taken by Mel and Chris,

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<sup>45</sup> This statement is interesting in that another participant from the same university was struggling significantly with embracing Indigenous feminisms.

that it is time to move on from the debates, it is evident that debates about Indigenous feminisms in the field of Indigenous law are new to some.

#### **IV. So ... What Does Indigenous Feminist Legal Pedagogy Mean?**

In her interview, Connie remarked:

there shouldn't be a unified Indigenous feminist theory, and there's a range, there's a spectrum [...] And the opportunity to explore that and simply identifying the questions that make up that range would be, I think, the work that is...I'm quite sure that would have to be collaborative work [...] I think that's really key.

While that collaborative element is not present in this article, in this Part, I bring together some of the professors' ideas about what Indigenous feminist legal pedagogies might mean. There was a strong interest across the sample to include gender in the discussion. Since many people were unsure of how to do this work, what follows is largely derived from articulated goals and hopes, and to a lesser extent is stemming from practice.<sup>46</sup>

##### **A. Shifting and Expanding Ideas**

One key shift for teaching Indigenous laws as gendered includes centring Indigenous understandings of gender. Such a shift recognises the impacts of settler gender norms while also engaging with nation-specific gender norms (Anishinaabe gender norms, for instance, are not the same as Inuit gender norms). I would caution, however, that such centring not only focus on culture and gender roles, but must also include debates about gender, dissent, and discussion about gender stereotypes within Indigenous nations. There was a tension in the interviews, as some professors treated gender roles as “matter of fact” and as something that (most often, settlers) just need to be more aware of, whereas others approached gender roles as important, but internally dynamic and contested. For example, Ryan reflected that

[w]e need to talk more deeply about what decolonization means from not just a male-female perspective, but from a gay-lesbian-queer—all those two-spirit people talk about it from a much deeper perspective. And talk about how those roles and responsibilities are inherent to who we are, but how they also need to be reinterpreted and challenged, especially if they're getting in the way of our actions, our discussions.

Jessica also emphasized the importance of “a sort of new language so that we don't slip into the tired dichotomy, a new language for thinking about gender and Indigenous peoples, not pitting the individual against the collective.” She did not treat Indigenous languages as “new,” rather her suggestion was to examine how Indigenous languages could provide a way into challenging binaries.

A key idea expressed in several of the interviews was that the inclusion of gender creates fuller and more accurate legal analyses. For instance, Jessica noted that it is important to teach about gender because “women have law as well.” Ross emphasized that it would be “neglectful not to talk about” gender in courses focused on topics such as child welfare or restorative justice. In his interview, he provided additional examples of how he discusses gender in relation to other

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<sup>46</sup> In the interviews, participants were asked: “When you imagine the field in 10 or 20 years from now—what are your hopes or what would you like to see?” If responses did not include direct engagement with gender, I then asked people to reflect specifically on what they would like to happen in relation to gender.

topics as well. The idea of a fuller analysis was also discussed in broader structural ways that emphasized intersectional pedagogical approaches. For example, Mel commented:

The thing that pops into my head right off the bat is thinking about power in an intersectional way. Gender doesn't oppress because it stands alone or stands outside of other forms of oppressions. It oppresses in the way in which it interlocks with other forms of oppression and the way in which people feel those kind[s] of interlocking circuits of oppressive power.

Rhoda, a non-Indigenous white woman, emphasized “[m]aking sure the complexity of [Indigenous] communities are represented [...] to not think that there may be gender or sexual orientation or disability questions at play as well seems to be not good teaching.” Likewise, Eva responded that

a robust description and understanding of the world takes account of the ways in which different bodies have different benefits and different disadvantages. If a person's trying to sort out what to do with a problem, it's really helpful to understand the larger ways in which people are connected to each other.

Gendering Indigenous law, for these professors, was about providing more accurate and inclusive education.

Indigenous feminist legal pedagogies would aim to make structures of sexism visible through Indigenous legal education. Several professors noted their hopes for sexism to be more constructively dealt with in the field of Indigenous law in the future. Julie, for example, reflected:

Well, I would really love to see the...*it feels like a pure dream question*. But I would love to see some of the effects of tackling the colonial, paternalistic and sexist power structures...I would love to see...to start seeing some of the effects of actually...what it does to that structure to bring to the fore the voices of...and the strategies and the frameworks of women who have been all the while developing their strengths against those odds and those oppressive frameworks.<sup>47</sup>

When Julie frames the future more as a dream than a possibility, it speaks volumes of the depths of the structural challenges that exist and the need for these power structures to be unsettled.

Reflecting on some of her hopes for the future, Alison noted, “I wish I had more role models who could talk to me about the role of women and men in communities, that sounded respectful and potentially historic, but crafted in a way that doesn't lead to sexism.” Tamara expressed, “I want it to be easier.” Further, Chloe, a non-Indigenous woman, reflected on people being able to more concretely draw on Indigenous laws in the future, to respond to harms. She recalled a meeting focused on Indigenous laws, where unfortunately, derogatory sexist comments were made about women in a room full of people. She reflected that

[y]ou go to [a meeting] where Elders say really, ugly, ugly things about women, and a group of [academics] sit there and smile and nod—male and female. And I think...I'd like to think in ten to twenty years, when people are more comfortable engaging with Indigenous laws and...basically where that room for debate is created and people are maybe less paralyzed by issues of identity [...] it'd be nice to see people not so paralyzed about it, I guess. It would be nice...to take that example at the [meeting], [to imagine if] three people stood up and said, ‘That's not okay and here's why it's not okay from this legal tradition. Here's why it's not okay from a Cree legal tradition. Here's why it's not okay from a Coast Salish legal tradition.’ And someone feels comfortable going up and saying, ‘I'm not comfortable with that and I'm white, middle-class, from [an urban centre]’ [...] That would be, I think, a healthier spot for everyone to be.

This passage is difficult and uncomfortable. It is worth reflecting on Chloe's comments for a future where everyone could respectfully engage with Indigenous laws to uphold the dignity of women

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<sup>47</sup> Emphasis added.



—that Indigenous and non-Indigenous people could draw on Indigenous legal resources to have conversations about harms perpetuated by Indigenous and non-Indigenous people and about living together. While there are likely different ideas that people might have about how the situation in the passage should be addressed, my interpretation of Chloe’s remarks is that she is concerned about the repercussions when people do not respond when harmful things are said about women. There are no doubt complex structural issues in relation to settler colonialism and heteropatriarchy that shape the scenario that she discussed; however, it is also important to consider how individuals could engage when sexist things are said or done in relation to Indigenous law (and beyond). It is deeply concerning that some of the responses regarding hopes for the future included comments such as Margaret’s, who remarked, “I hope that we can stop the violence against Indigenous women and girls. I hope that our communities can be safe places.” That comment is concerning because it is about such *basic* rights, and a viable and ethical approach to Indigenous laws and legal education must openly and persistently challenge sexism and the violence that stems from it.

The interviews also highlight that deep reflections need to take place regarding whose voices and experiences are prioritized in the field of Indigenous law. Tamara emphasized the importance of valuing the ideas and experiences of people other than men as “we’re not going to be able to do this work if women’s voices are still so marginalized in the communities...I guess I’m just talking about getting off the fringes.” Eva also discussed the importance of making visible the work on Indigenous feminism that *is* being done. Moreover, Chris emphasized:

We know that Indigenous women are the people who are teaching the importance of these perspectives in our communities. So, I would like to see that proliferate and see far more men support that through efforts of solidarity. They [Indigenous women] should shape the nature of our projects too [...] [T]hey’ve been neglected and cast aside too long, so they need their space and the support to flourish. And that might require us to abandon other projects for the time being.

Despite some of the professors not wanting to align with Indigenous feminist legal pedagogies in particular, and others sorting through what it might mean, several important insights were made about Indigenous feminisms in relation to the future of Indigenous legal education. Connie, for example, reflected that

the continuing development of an Indigenous legal feminist framework is important so we know which questions to start...and frameworks of thought we need to know to start feeding students who are not necessarily going to be academics or theorists, that are going to be lawyers and leaders in their community in their own ways. And what kind of knowledge do we need to give them? And what kind of knowledge do we need to impart upon men that are acting in a relationship to women...and not only Indigenous men. I think there’s a lot of work to be done there...like, sort of our own communities. But if we’re considering questions of ours, then we need to look at the ultimate end of the spectrum being the older white males and how they act in a relationship to Indigenous women in multiple contexts and settings.

The professors who articulated a future for Indigenous feminist legal pedagogies imagined diverse Indigenous feminist approaches in Indigenous legal education (and beyond). Margaret, for example, noted the importance of multiple Indigenous feminist legal pedagogies “so that we can have critical, comparative discussions from different points of view, different feminist points of view.” Steve, an Indigenous man and academic, imagined that in the future there could even be “competing schools” or “other kinds of waves of gendered analysis that will take place in teaching and practicing Indigenous law.” Connie, Margaret, and Steve (among a few others) were interested in constructive dialogue between multiple approaches.

Valuing courses that are focused on gender and sexuality, as well as mainstreaming analyses of them into Indigenous legal education, was emphasized by many of the professors. For example:

I imagine that we continue on from where we are, that there'll be courses in Indigenous feminist legal theory, but that also Indigenous feminist legal theory will be a part of traditional theory courses that people take [...] I want to see both mainstreaming and specializations available...and that there's big conferences where people are all working with each other on [...] whatever the legal issues of the day are that they involve insights from people situated within Indigenous communities and people situated in other...so, global centres...Yeah, that's what I fantasize, imagine. I think we're on the way. I feel hopeful today. (Eva)

If I had an ideal it would be nice to see it [gender] integrated. But I think in some ways the ideal would be...but this is not realistic, but where if it integrated to a point where maybe it wasn't particularly necessary anymore. Because there weren't the same type of issues. But that's pretty naive so I think I would just like to see it integrated at a comfortable part of it...I think, often, right now, it gets completely ignored, like, it's really ghettoized and people just won't go there. (Chloe)

[W]here I don't have to be reminded when I think about the field of Indigenous law to also think about gender and sexuality...where that sort of integration framework is there. Not where it's fully mainstream where you don't have to talk about it at all, but where we [...] [W]here that integration is automatic, and not like, "Oh, yeah, and we should think about gender." (Tamara)

Many of the professors emphasized the importance of not treating gender as an add-on, with Margaret remarking that "it should be constitutive of how we define Indigenous law." Further, Curtis, an Indigenous man who works in the area of a specific Indigenous legal order, reflected that gender needs to be present "right from the very beginning of the class [...] like, a feminist legal theory approach that goes across the whole course and isn't just a subject that gets presented at the end."<sup>48</sup>

Lastly, some important intellectual shifts concern a focus on strengths. For some, talking about gender is interpreted to mean gendered violence. Surely in whatever forms Indigenous feminist legal pedagogies take, gendered violence can be seriously engaged without siloing gender and undermining Indigenous women's lives. As Connie explained, issues such as missing and murdered Indigenous women and girls end up depicting vulnerabilities while overlooking strengths. Eva also expressed a hope "that we will see women present in all of the dimensions of their life and not only in the places where they experience the maximum trauma."

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<sup>48</sup> One way that Curtis suggested this could be done was to begin with kinship:

starting with the kinship system, is that women are there right from the very beginning and are even fundamental to it because of the...part of it's about the biological reproduction of the community. And of course, without women having children, it doesn't happen. And then, so women become central in that...and so it's a little bit easier.

While there is nothing necessarily wrong with beginning a course with kinship structures, and I do think that Curtis would expand well beyond this, questions should be raised about reasoning that centres around and includes Indigenous women based on their assumed ability and desire to birth children. Indigenous women should be included in a course on the grounds of all of their complexities, rather than biological reductions wherein motherhood is treated as an initial "in" for talking about gender and women (and kinship).

## B. Shifting and Growing Practices

The inclusion of gender was discussed by several of the participants as intimately related to practice. Both Margaret and Ryan, for example, expressed concerns about generalizations when teaching about Indigenous laws—in particular, concerns that professors can get too focused on principles and abstract ideas without examining lived realities. Mel also emphasized that patriarchy and sexism are “a lived reality, it’s present [...] And then, unless it’s dealt with in some sort of capacity in terms of just people’s everyday actions and orientations towards things, that represents a huge barrier to the practicing of Indigenous law.”

Julie discussed a gendered approach to Indigenous law as necessary for supporting self-determination that includes everyone within a community. She reflected, “I’m completely convinced that [gender] is tied to the assertion of self-government by native communities because I can see how saying, ‘We’re going to first assert ourselves and then we’ll deal with our...with questions of equality inside,’ is just a way of delaying the operation of law internally.” The importance of critically engaging with gender was also discussed as a way to challenge student assumptions. Margaret noted, “If we don’t provide resources that are intelligent, that make sense and are accessible and useful for students, then they’re going to leave the classroom without any sexist assumptions that they might have being challenged.”

Professors were using various (and divergent) strategies to bring the topics of gender and sexuality into their classrooms by: using stories; bringing in Elders; pushing students to ask about who is present in the course materials and in what ways (*e.g.*, is a given source that is being used about men and written by men?); asking about everyone’s roles in relation to law (*i.e.*, not just talking about men); changing genders (*i.e.*, if a legal issue is about a man, would that situation be experienced similarly by a woman?); emphasizing gender balance; discussing Indigenous gender norms prior to contact; taking one’s lead from women; challenging romanticisms; delivering the material in a non-judgmental and gentle way; and drawing on specific texts. Across the sample, it was overwhelmingly expressed that there is a need for more educational resources in this area, such as academic and non-academic sources; frameworks; celebratory work; sources that move beyond the gender binary; sources about substantive legal issues and practices; primary source materials; syllabi, lesson plans, and examples of assignments; creative sources like graphic novels; and more online sources. Since the interviews were completed, resources have been growing.<sup>49</sup> However, there are still noticeable gaps where gender is not being imagined, as Margaret said, as “*constitutive* of how we define Indigenous law.”<sup>50</sup>

## V. Who Should Be Doing This Work?

The question of what Indigenous feminist legal pedagogy means is certainly unresolved, as is the issue of who should be doing this work.<sup>51</sup> While a few of the men struggled with their role in relation to Indigenous feminisms, Mel maintained that

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<sup>49</sup> See *supra* note 36.

<sup>50</sup> Emphasis added.

<sup>51</sup> Less discussed was the issue of who should be taking courses on Indigenous laws. Curtis cautioned, “we’d have to come up with some kind of numbers too because we don’t want to necessarily exclude non-Indigenous people too. But we’d just want to have it so that, I don’t know, two-thirds of the students or something like that would be Indigenous.”

Indigenous masculinities really only make sense if they're feminist masculinities [...] we need to think about ways in which we avoid...using gender as a shorthand for talking about women and queer people and leaving out straight men [...] there is a requirement for Indigenous men to step up and do that kind of thinking and research and writing.

Another complicated and contentious issue relates to whether non-Indigenous people should be involved in teaching Indigenous laws.<sup>52</sup> While these debates appear often in the literature,<sup>53</sup> I briefly present some of the issues here as they have bearing on who might take up Indigenous feminist legal pedagogies. The majority of the professors expressed that non-Indigenous people do have a role, though for many of the professors, this idea was expressed with various caveats.<sup>54</sup> Curtis reflected that non-Indigenous people can learn about Indigenous law, but that it needs to be done in ways that are not about appropriation. Likewise, Chris commented that non-Indigenous people need to be “modest and humble enough to take a back seat in this, to truly learn.” Mel approached the issue in terms of a “division of labour”:

[T]hose questions of how Indigenous law is prevented or hindered and the role the Canadian state and society plays in causing the unfreedom of Indigenous peoples...those are big questions and they take a lot of work. And there's so much work to be done within our communities that Indigenous peoples aren't always going to get around to those sorts of questions.

Julie framed the role of non-Indigenous people as being “to perfect our skills describing what we see,” whereas Indigenous people would be more “proactive” and lead people on what should be done. Others imagined a more active role for settlers. For example, a non-Indigenous participant reflected on insights from a prior discussion with an Indigenous colleague regarding the trendiness of being an “ally,” stating that

[o]ne difficulty [...] is the kind of a hands-off attitude. Even if there's kind of like an overall attitude of respect towards Indigenous law sometimes that translates into an inability to be critical [...] And I think that's a very difficult challenge, ‘How to be respectful but also not take off your critical glasses.’

Respect and critique are too often polarized, but robust engagement with Indigenous laws arguably *is* respectful, even if it involves disagreement. Steve commented, “I see a huge role” for non-Indigenous people, and explained “one of the things that I've really hoped that people would see is this is a field of learning. It's not related to blood, it's not necessarily flowing from a knowledge of language, it doesn't just automatically become an inheritance because you're born on a piece of earth.” He also noted that “it's a long, arduous, challenging, rewarding, but...and, therefore open process, for non-Indigenous peoples to work in.” Likewise, Fred, an Indigenous man from a First Nation on the prairies, expressed expectations for settlers to engage seriously with Indigenous laws in an active way:

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<sup>52</sup> The following question was directly asked in the interviews: “What role (if any) do you see non-Indigenous teachers having in relation to the future of education in this field?”

<sup>53</sup> See *e.g.* Christine Zuni Cruz, “Toward a Pedagogy and Ethic of Law/Lawyering For Indigenous Peoples” (2006) 82 *NDL Rev* 863; Loretta Kelly, “A Personal Reflection on Being An Indigenous Law Academic” (2005) 6 *Indigenous L Bull* 19; Phil Falk, “Law School and the Indigenous Student Experience” (2005) 6 *Indigenous L Bull* 8.

<sup>54</sup> While concerns were definitely raised about non-Indigenous people teaching about Indigenous law, it is noteworthy that the composition of the “sample” could be skewing what is otherwise an overall openness towards non-Indigenous professors. The sample includes non-Indigenous people who have made decisions to work in this area of law (for various reasons) and so would be likely to try and justify their role in the field. It is possible that people who believe that non-Indigenous people have no place were also unwilling to participate or were disinterested in this project led by a non-Indigenous researcher.

I would like to live in a world where my non-Indigenous colleagues can teach Indigenous legal traditions, and in a world where men can teach about feminist Indigenous legal traditions because I think that this knowledge is just knowable and transmissible [...] There's nothing magic about my being [Indigenous] that makes me able to explain section 35 of the *Constitution*. And so, to the extent that Indigenous legal traditions are just legal traditions—I mean, we want people to be able to understand them as being on equal footing with common law traditions—then it follows that my white colleagues should be able to teach this stuff. Will they want to? Probably not because I think they're going to feel like no one will buy it from them [...] The same way that I have concerns about teaching Indigenous feminist legal traditions [...] I don't like that I feel that way.

Others were less optimistic and less interested in non-Indigenous people working in this field. Contrary to the ideas expressed above, Ross stated,

I think they can have a useful role. But at the same time, the...and sorry if this sounds racist, but I think their ability to contribute will always have a...while I'm not saying it's a non-existent contribution, it will always be limited in comparison to Aboriginal scholars because I don't see them as having had the lived experience.

Alison noted that she was “concerned with sort of the trendiness” of Indigenous law and she was angry about non-Indigenous people claiming interests and wanting to be “in some circles, but [they] just don't appreciate the background knowledge it would take to actually be foundational in it.” She was worried about “dabblers” and people claiming links to the area and then financially benefitting from that (*e.g.*, claiming to be able to practice law in certain ways) and reflected, “I'm getting more and more adamant that I don't think it's their place.” She emphasized the importance of community-based work, experiential learning, and contextual learning and engagement. Tamara also raised concerns about non-Indigenous experts, especially white men, being the “default” and felt “so conflicted” about non-Indigenous scholars working in this area because of the ways that their ideas are listened to and valued over Indigenous scholars. She commented,

[i]f in 20 years we can shift the dynamics so that Indigenous experts are recognized to be the experts and non-Indigenous experts and allies are seen to support that, then I can see that. But we have so much work to do in that middle ground [...] I feel like we need to go through a period of 10 to 15 years where there's no non-Indigenous experts [...] so that you can have that space and then you can properly be the allies.

There are no doubt complex identity politics when engaging in Indigenous legal education and research. My own subject position is part of the points of tension in this research, for both myself (in terms of how to ethically teach about Indigenous laws) and for some of the participants (*e.g.*, when Ross says, “sorry if this sounds racist” before expressing what he wanted to say). It is also possible that some individuals who were contacted about this research did not want to participate because of the various entanglements of identity politics present in this work.

## VI. Discussion

I add my voice to the collective call for renewal and rejuvenation in our teaching practices. Urging all of us to open our minds and hearts so that we can know beyond the boundaries of what is acceptable, so that we can think and rethink, so that we can create new visions. I celebrate teaching that enables transgressions—a movement against and beyond boundaries. It is that movement which makes education the practice of freedom.<sup>55</sup>

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<sup>55</sup> hooks, *supra* note 35 at 12.

Although she was writing about Black people's experiences with education in the US, bell hooks's conviction that education is a practice of freedom, and that critically oriented transgression is productive, resonates with the movements that have been taking place in regard to Indigenous legal education, and as I argue here, in relation to Indigenous feminist legal pedagogies. Although there were many different approaches, based on the interviews, I would suggest that a working definition of Indigenous feminist legal pedagogy includes diverse frameworks that advocate for the importance and deep inclusion of gender and sexuality in teaching about Indigenous laws. Such frameworks uphold Indigenous feminisms as valuable.

Upon reflecting on the interviews, particularly those in which strong statements were made about what Indigenous feminist legal pedagogies could mean and look like, several key ideas emerge. First, Indigenous approaches to gender need to be centred in this work. Second, intersectionality is key, and the inclusion of gender creates fuller and more accurate teaching and legal analyses. Third, sexism, as it operates outside of and in relation to Indigenous law (*and* in the teaching of Indigenous law) needs to be addressed and challenged. Fourth, gender cannot be an afterthought; people's experiences and interactions with law and legal education are gendered, therefore gender must be at the core of teaching about Indigenous law. Fifth, strengths and the work already undertaken need to be upheld. Sixth, Indigenous feminist legal pedagogies need to be critically oriented, diverse, and grown over time. Finally, this work is complicated and messy.

One way in which Indigenous feminist legal pedagogies could grow is through broad discussion and nation-specific articulations of pedagogy and legal orders. Darcy Lindberg, for example, writes about Nêhiyaw (Cree) legal pedagogy.<sup>56</sup> Although that work is about aesthetics and ceremony as a site of law and teaching, rather than a focus on teaching in post-secondary contexts, he offers important cautions in relation to Cree law, gender, and pedagogy that are applicable here. He explains:

In spite of the evocative performance of Nêhiyaw law, there may be inequality, abuse of power, and continual contestation layered behind the performative aspect of Indigenous laws and legal principles. The protocols of many Nêhiyaw ceremonies require women to wear skirts during their participation. For some individuals, ribbon skirts form an integral part of their personal practice within the legal pedagogy involved in ceremony, but others contest these requirements. While ceremonial performance may colour the view of Nêhiyaw law as harmonious or balanced, inequities still exist in the beautiful performance of law. Aesthetics, in this manner, can be dangerous, as they can mask the contestation that is a necessary element of every legal system.<sup>57</sup>

Challenging questions about power, and how power is understood, also need to take place in relation to Indigenous feminist legal pedagogies. During one of the interviews, Connie remarked:

I know that your framework of understanding [gender and Indigenous law] deals a lot with, you know, power imbalance. And I don't think power is actually a driving, or a...I don't think it underlies [a specific Indigenous nation was noted] law [...] I'm just thinking through this [...] having come out of that ceremony. I think it's a misinterpretation and a misapplication to deal with...to adopt power structures flowing from existing roles. If, you know, a man were to think they were more powerful or that they would be given by someone else—including a woman or woman—more power because of their role, then that's actually dishonouring the essence of the role itself.

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<sup>56</sup> Darcy Lindberg, "Miyo Nêhiyawîwin (Beautiful Creeness): Ceremonial Aesthetics and Nêhiyaw Legal Pedagogy" (2018) 16/17 Indigenous LJ 51 [Lindberg, "Miyo Nêhiyawîwin"]. See also Lindberg, *supra* note 3. For work on a different legal order, see Borrows, "Heroes", *supra* note 2; Mills, *supra* note 1.

<sup>57</sup> Lindberg, "Miyo Nêhiyawîwin", *supra* note 55 at 65.

I believe that there is a distinction to be made in terms of how power is being approached by Connie and by Lindberg. Connie's response, importantly, highlights a refusal to accept abuse of power and that such abuse (and the idea of accruing power over others) would be considered unacceptable within the particular Indigenous legal order that she was talking about. I read Lindberg, instead, as speaking to how law can play out in practice. Perhaps each person will disagree with my interpretation, but herein lies the tension and possibilities with law—interpretation. Differing interpretations can help move conversations forward, but also hold them back, and interpretations are always living alongside existing power relations.

Upon reflecting on key points of tension from the interviews, one issue, then, is how to productively engage with multiple perspectives. Connie herself suggested that, as a starting point, identifying the diverse questions that people have could work well. Yet there is a tension in this article where I have kept the overall framing of Indigenous feminist legal pedagogies, even though there are clearly some professors who reject the label of Indigenous feminisms for describing their understanding of gender. I do not mean to be disrespectful of, or intellectually sloppy with, how people choose to label and self-define. The language of Indigenous feminist legal pedagogies is retained here because Indigenous feminisms should be a part of the work of centring gender in Indigenous legal education. It is a concept, even in a largely undefined state, that asks people to reflect on how gender and Indigenous feminisms relate to Indigenous laws and therefore should not be marginalized or ignored in teaching. As Green emphasized more broadly in her work on Indigenous feminisms, the “depth of the resistance” to Indigenous feminisms can certainly be appreciated (*e.g.*, given the harms that happen in the name of feminisms), but the refusal of Indigenous feminisms also has repercussions of “silencing analyses.”<sup>58</sup> The work of gendering Indigenous legal education entails examining pedagogy and Indigenous feminisms, as well as addressing the structural challenges that make it difficult to deploy Indigenous feminist legal pedagogies. It is important to understand multiple perspectives and to articulate other frameworks. However, there is also a point at which lines need to be drawn: when ideas and practices are anti-Indigenous feminist, perpetuate harm, or normalise oppression.

There was significant enthusiasm from the professors towards thoughtfully engaging with gender, though another tension also arises here, in that bringing gender into the field is being framed as new. There is a need for more work on gender, Indigenous feminisms, and Indigenous law. There is no academic work directly discussing what Indigenous feminist legal pedagogies might be or mean. Some of the professors expressed concerns that there is little work to turn to for learning and teaching about gender, Indigenous feminisms, and Indigenous law; but there is work that some people have been doing and have been asking people to listen to, and to consider, for years. Indigenous women have primarily done this largely overlooked work, so urgent questions need to be addressed about whose work is truly being valued in the field of Indigenous law and why. As Nicole Graham has written more broadly about Indigenous legal education (which certainly applies here in relation to gender):

The choice of materials in teaching any subject goes beyond the provision of information. The choice of materials reflects and indicates what information has been regarded as relevant and by implication, therefore, what has been regarded as less relevant or as irrelevant. Whether one selects a single or series of textbooks or alternatively prepares one's own course materials the outcome is

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<sup>58</sup> Green, “Taking More Account”, *supra* note 24 at 1.

the same from the perspective of the student: an indication of information that they are expected to engage with and understand.<sup>59</sup>

Malinda S. Smith, Kimberly Gamarro, and Mansharn Toor also highlight that, as research shows, discriminatory citation practices are a reality for racialized and Indigenous faculty in Canada, and they place this problem in their list of a “dirty dozen” unconscious biases about race and gender.<sup>60</sup> They emphasize that not only do such citation practices have real impacts on professors’ careers, but more broadly, “[c]itations are integral to the racial and gender orders, and maintenance of authoritative conceptions of the canon, disciplines, and the academy itself.”<sup>61</sup> Although focused on the need for decolonial approaches in women’s and gender studies, Arvin, Tuck, and Morrill’s work is insightful for thinking about an intersectional approach in Indigenous legal studies. Their work recognises that “one place to start is with the assigned curriculum of one’s department and individual courses. Take a hard look at how Indigenous peoples are represented in the materials used to teach undergraduates and graduate students about gender, race, sexuality, and nation.”<sup>62</sup>

There is an urgency to address the gaps with gender in the field of Indigenous law, but there is also a tension in that there is a need for space so that people can think deeply about the ideas with which they are grappling. Alison’s interview cautions to consider where people are at in their engagement with feminism (and to consider what the contextual reasons are for why they are where they are at). She noted of her own understanding of Indigenous feminisms that “[i]t’s just not quite coming to me that quickly yet,” but also said, “I’m not going to let that slow me down [...] figuring out what feminism was for me often slowed me down because I was feeling guilty that I wasn’t enough of whatever I thought it was.”

The purpose of the interviews was not to see who was doing Indigenous feminism “right” or not; rather, it was to understand where people are struggling and why that might be, and to examine what the possibilities are for Indigenous feminist legal pedagogies. Discussions about gender and Indigenous law are growing, and I believe that the interviews show many possibilities for the future. Having said that, there are still clear power imbalances in the field of Indigenous law that need to be addressed, and ongoing questions about power and politics in relation to feminisms.<sup>63</sup> It is noteworthy that, with only a few exceptions, the professors that spoke most knowledgeably about Indigenous feminisms were teaching about law outside of law schools. This pattern raises broader questions about the lack of space and validation that may come from law schools in regard to Indigenous feminisms and larger social issues that need to be addressed in legal education. It is important for those teaching Indigenous law to learn from resources available in other areas of study, such as Indigenous feminisms and Indigenous studies more broadly.

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<sup>59</sup> Nicole Graham, “Indigenous Property Matters in Real Property Courses at Australian Universities” (2009) 19 *Legal Educ Rev* 289 at 296.

<sup>60</sup> Malinda S Smith, Kimberly Gamarro & Mansharn Toor, “A Dirty Dozen: Unconscious Race and Gender Biases in the Academy” in Henry et al, *The Equity Myth*, *supra* note 11 at 274-76.

<sup>61</sup> *Ibid* at 275.

<sup>62</sup> Arvin, Tuck, & Morrill, *supra* note 8 at 25.

<sup>63</sup> For a discussion of these issues, see Val Napoleon, “Indigenous Women Talking” (Keynote address delivered at the Feminist Law Studies at Queen’s IWD 2020 conference, 6 March 2020), online: *Queen’s Law* <[law.queensu.ca/news/International-Womens-Day-conference-explores-Indigenous-law-and-gender-issues](http://law.queensu.ca/news/International-Womens-Day-conference-explores-Indigenous-law-and-gender-issues)>.



## VII. Conclusion

It is likely that at least some of the professors have revised and expanded their teaching practices since the interviews took place. However, the scholarship on Indigenous law still has pronounced gaps in relation to gender and sexuality, and there is an ongoing need for work directly focused on Indigenous feminist legal pedagogies. There have been some important interventions that directly centre Indigenous feminisms in conversation with Indigenous laws in ways that are challenging and messy. This critically oriented work by Indigenous scholars such as Val Napoleon, Darcy Lindberg, Isabel Altamirano-Jiménez, and Sarah Deer compel a commitment to seriously analysing power dynamics in the field of Indigenous law.<sup>64</sup> Although there is this new work emerging since the interviews, scholars are still having to make the case that gender and sexuality matter. It is important to reflect carefully on how pedagogy in Indigenous legal education can either be deployed to reproduce gendered erasures or used to imagine and promote a more inclusive future.

While this article has not offered a unified definition or vision of Indigenous feminist legal pedagogy (which, as highlighted, is not desirable), it has pointed to the need for frank and sometimes uncomfortable discussions about gender and sexuality, and it has argued that Indigenous feminist frameworks offer a way into these conversations. There are still many unresolved questions and issues that could not be covered in the space of this article. As noted, there is a need to better understand how to draw on work from other disciplines, in conversation with law, and how to approach such work (especially for scholars who are over-worked because of the structural realities created by settler colonialism and heteropatriarchy). While queer Indigenous theories were under-discussed—both by myself and the professors at the time of the interviews—queer Indigenous theories also need to be understood as central to the future of Indigenous legal education. Further, it could be useful to talk to students regarding their experiences in Indigenous legal education courses or programs with a focus on their perceptions of how gender is engaged. Overall, there is a need for further conversations about Indigenous feminist legal pedagogies, and for collaboratively created solutions for addressing the concerns raised in this article.

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<sup>64</sup> See Altamirano-Jiménez, “State is Not a Saviour”, *supra* note 26.