

fundamentally, the spread of disease was facilitated by the ways in which South Carolinians transformed the land. Rice cultivation allowed parasite-carrying mosquitoes to proliferate, while continuous ship traffic carried new strains of malaria to a vulnerable enslaved population. Indentured servants fared poorly as well. For example, despite documentary evidence indicating that residents of Calvert County, Maryland, enjoyed plentiful food, skeletal remains of children indicate malnourishment. Such evidence bolsters Hutchinson's basic thesis that social and economic stratification played a determinative role in creating health disparities.

The final part of the book moves from the rural to the urban. Characterizing cities as "the ultimate reformation of the landscape," Hutchinson inventories the types of diseases that proliferated as "people and pathogens congregated" (154). The smallpox, measles, and other diseases that periodically struck indigenous communities and rural settlers became endemic in American cities, while in the eighteenth and nineteenth centuries yellow fever and cholera erupted into urban epidemics. Typhus and tuberculosis also became endemic and problematic but unequally, afflicting the impoverished and disenfranchised to a greater extent than the well-to-do. The author moves more fully into the nineteenth century but also carelessly crosses vast stretches of time, using evidence of 1850s animal wastes on New York City streets, for example, to illustrate problems that might have existed in the 1650s. However, his overall analysis is strongly supported as his discussion places health within the context of impoverishment and injustice.

In an epilogue on the 1918 influenza pandemic, Hutchinson brings home his central point: disease is a process, and in the story of health, therefore, human migration, construction of commercial networks, and transformation of landscapes must necessarily play central roles. Indeed, this book's sweeping overview provides a starting point for those beginning their study of human health in early America. Hutchinson's blend of documentary and archaeological evidence is commendable, and particularly when he shows how the latter exposes the weakness of the former.

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**Freedom and Indigenous Constitutionalism.** By John Borrows. Toronto: University of Toronto Press, 2016. 371 pages. \$79.65 cloth; \$34.95 paper and electronic.

This is the latest in a series of remarkable works in which John Borrows, a member of the Chippewa of Nawash First Nation and Canada research chair in indigenous law at the University of Victoria, presents eloquent accounts of the nature of indigenous legal systems and offers compelling, immensely creative arguments for their continued development and extension. Borrows notes in an earlier volume, *Canada's Indigenous Constitution*, that for all their ancient roots, these legal systems are neither confined to the past nor to indigenous peoples, but also "speak to the present and future needs of all Canadians . . . contain guidance about how to live peacefully in the present

world. . . . [and remain] relevant as long as there is discord and dissension in the world and the desire to address its consequences (10–11). While Borrows primarily addresses indigenous/nonindigenous relations north of the Canada/United States border, his insights and analyses reflect his law school appointments across North America and elsewhere: wide-ranging, they are laden with promising implications for indigenous/nonindigenous relations internationally.

In *Freedom and Indigenous Constitutionalism*, Borrows conducts an extended reflection on legal traditions both indigenous and nonindigenous. Although focusing on the former, his discussion is necessarily bound up with the story of Canadian legal traditions and their role in enabling and sustaining colonization. The richness of his work makes it difficult to summarize nonreductively, but it seems fair to say that two of his primary goals are to establish (1) that false traditions within both communities have inflicted grave harm upon indigenous nations; and (2) that emancipatory indigenous legal traditions can be drawn upon to enhance future indigenous/nonindigenous relations in significant ways.

Our pursuit of freedom and ability to live well in this world is, he contends, nurtured or undermined by legal traditions. More than the mere absence of coercion, freedom must be relationally enacted within indigenous contexts. To be free is to embrace and be responsible for the relationships that shape and constrain our interactions. Practically, this requires us to work cooperatively with others, determining the policies and laws that govern our lives. Emancipatory traditions enable us to live freely and well; they are *constitutional* because “they help us form a living relationship with the world around us” (9). This understanding of constitutionalism is at the heart of Borrows’s work.

False traditions, by contrast, fail to acknowledge their contingency, presenting themselves as immutable essences detached from the complexities of this world. Born as conceptual constructs, they are transformed into reified instruments of oppression and forced upon us with devastating impacts, facilitating inequitable distributions of power and the destruction of territorial and bodily freedoms. Whether they are spawned within nonindigenous or indigenous legal contexts, Borrows is particularly critical of how false traditions foster an absolutism that prevents us from considering diverse paths in our pursuit of freedom, and imposes “*imperialist* readings of political life, regardless of whether they are generated through colonial or *anti-colonial* rhetoric” (221).

One such false tradition is (Ab)originalism, an interpretive methodological inconsistency embedded within Canadian constitutionalism, rendering it discriminatory. As a mode of constitutional interpretation, originalism may be embraced by some in the United States, but the method receives little support in Canadian constitutional law and has been rejected by the Supreme Court. Instead, Canada attempts to accommodate contemporary social realities and progressively interpret the constitution to address them by adopting a future-oriented, living-tree methodology by which most constitutional rights are interpreted. Yet when the existence of Aboriginal rights is at issue, (Ab)originalist canons of construction and frozen-concepts reasoning come into decisive, and discriminatory, play. Claims are, for example, “limited by what was ‘integral to a distinctive culture’ prior to European contact or by the assertion of Crown

sovereignty” (156). This imposition of both an inconsistent interpretive methodology and false tradition frustrates indigenous peoples’ ability to live well and freely.

Another false tradition undermines indigenous self-determination by characterizing indigenous peoples as either too nomadic or too static to protect their most significant relationships. Under this “damned if we move, damned if we don’t” scenario, courts can deny indigenous peoples’ rights by finding that they move too much or too little. An analogous double bind applies to conceptual mobility, as seen in stereotypes that reduce indigenous peoples to past-tense peoples. That is, indigenous temporal mobility and freedom is limited and indigeneity, rights, and freedoms are lost over time “by construing Indigenous peoples as ‘pure’ on the moment of European arrival, with a consequent reduction of ‘purity’ as they travel beyond this point in time” (42).

Perpetrated by the state, these false, racist traditions are often reproduced within indigenous communities, conscripting indigenous peoples into “patrolling their own subordination, by fashioning distinctions between themselves and others on a racialized basis.” Such internalized colonialism, Borrows argues, must end: “race has been discredited as a marker of community boundaries and should be rejected as a maker for Indigeneity as well” (42). To accomplish this, the right of indigenous communities to integrate and regulate other peoples should be recognized and affirmed. Behaving as nations—as political societies rather than racialized, colonized groups—allows indigenous peoples to travel beyond the false, racialized borders established by colonialism and abandon “a priori ideas of racial ‘purity,’” which threaten to diminish the jurisdiction of indigenous communities (43).

Borrows explores various other strategies for enhancing indigenous freedom. These include: (1) the use of practices of direct action so as to safeguard, rather than undermine, broader relational concerns; (2) the development of Canadian legislation which promotes indigenous self-determination analogous to that of the United States; and (3) a sharing of constitutional responsibility for ending violence against women with indigenous governments as well as federal and provincial ones. Here, as elsewhere, Borrows’s analyses are animated by his deep familiarity with diverse legal systems, by a commitment to relationality as the touchstone of constitutionalism, and by the profound conviction that, despite the distortions of the colonial past and present, we must—and can—cultivate the common ground on which living freely and well depend. If Borrows is correct that indigenous freedom is enhanced “by pursuing brazenly pragmatic paths” (181), then it becomes vital to safeguard, and not prematurely foreclose, diverse possibilities for action. As he notes, this involves intermingling with, as well as separating from, other traditions. There is no external measure to guide us in this. It requires careful attention to context—the material, grounded conditions in which we find ourselves and others. This, as he observes, is the weakness, or strength, of his approach, one necessitated by the stubborn fact that “Paths to freedom and a good life traverse complex domains” (183).

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