

## MEMORANDUM

To: Theresa McClenaghan  
From: Amanda McAleer  
Date: June 7<sup>th</sup>, 2021  
Re: Who is writing about Indigenous law?

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### **Introduction**

The purpose of this legal memorandum is to provide an overview of notable legal scholars who are currently focused on researching strategies for integrating Indigenous legal principles into the traditional Western legal landscape. The selected researchers include well-known Indigenous scholar Dr. John Borrows, as well as three other lesser-known researchers who are working on unique projects of interest, including Aimée Craft, Danika Littlechild, and Dr. Deborah McGregor. The research included in this paper focuses on the importance of and how to incorporate Indigenous legal perspectives into water regulation and conservation efforts, which will serve as a baseline for establishing the methodology of a Rights of Rivers project in Ontario.

### **Notable Canadian Scholars**

#### **(A) John Borrows**

##### **(i) Professional Background**

Dr. John Borrows is a law professor at the University of Victoria and serves as the Canadian Research Chair in Indigenous Law. Borrows has received international recognition as being the leading authority on Canadian Indigenous law and comparative constitutional law, and his current work focuses on how to effectively integrate Indigenous and non-Indigenous law to allow for the co-existence of both systems harmoniously. Borrows is Anishinaabe, from the Chippewas of Nawash First Nation, and is known to write many of his books and articles through an Anishinaabe lens. Through his involvement with projects such as the *Indigenous*

*Human Rights Law Project* and the *Transforming Indian Act Governance Research Project*, Borrows provides support for Indigenous peoples on their road to reclaiming their right to self-governance, with the broader goal of addressing systemic injustices and helping to build healthier and safer communities.<sup>1</sup> Borrows has received numerous awards for his contributions as a professor and as a valued researcher, and his work is fundamental for forging a deep understanding of Indigenous laws and customs within the Western legal landscape.

(ii) Current Research

In 2010, John Borrows published his novel *Canada's Indigenous Constitution*, which is often regarded as one of his greatest contributions to the field of Indigenous law.<sup>2</sup> As a whole, Borrows argued that Indigenous legal traditions should be recognized as a third source of law in Canada, bearing equal force as the common and civil law, and that the current legal system has failed to adequately reflect Canada's legal foundations, which resulted in an unfavourable constitutional structure that cannot provide equality or security for the Indigenous people.<sup>3</sup> The novel provided a thorough overview of Indigenous legal traditions, with a specific focus on strategies that could be used to integrate Indigenous customs into Western legal principles to allow for improved methods of reconciliation. Borrows supported the proposition of a tri-jurisdictional legal system by identifying the existing benefits of a multi-jurisdictional system, and how the Canadian landscape is capable of facilitating the integration of Indigenous law alongside the current common and civil law systems.<sup>4</sup> In addition, Borrows provided suggestions for how to harmonize the legal systems, first through the enactment of legislation that would recognize

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<sup>1</sup> "Dr. John Borrows - Reconciliation Through Indigenous Law" (13 November 2020), online: *Governor General's Innovation Awards* <<https://innovation.gg.ca/winner/dr-john-borrows-reconciliation-through-indigenous-law/>>.

<sup>2</sup> John Borrows, *Canada's Indigenous Constitution* (Toronto: University of Toronto Press, 2010) 427 pages.

<sup>3</sup> *Ibid* at 15.

<sup>4</sup> *Ibid* at 125.

“Indigenous law as a primary source of regulation, decision-making, and dispute-resolution powers”, followed by statute amendments to signal the altered relationship between Indigenous law with common and civil law.<sup>5</sup> Beyond judicial recognition, Burrows stated that true cooperation between Indigenous and Western law would require enhanced legal education for lawmakers, with a focus on deepening their understanding of Indigenous law, as well as the development of legal societies that would act to promote and uphold the integration of Indigenous customs into existing legal procedures. *Canada’s Indigenous Constitution* is one of the most well-known pieces of literature within the field of Indigenous law, and should not be overlooked today just because of its notoriety. The novel serves as a foundational work for developing a deeper understanding of the constitutional and legislative avenues available for recognizing Indigenous laws in Canada, and the insightful propositions provided by Borrows can be useful for inspiring other projects of reconciliation in the future.

More recently, Borrows published a novel titled *Law’s Indigenous Ethics*, which focuses on the practical steps required to give Indigenous law greater effect in Canadian law.<sup>6</sup> The novel is unique from other legal scholarship as it is written from a storytelling perspective, which is used to illustrate the relevancy of incorporating Anishinaabe legal principles in contemporary Canadian jurisprudence, legal theory, and doctrine. Each chapter of the book focuses on one of the seven Anishinaabe grandmother and grandfather teachings – being love, truth, bravery, humility, wisdom, honesty, and respect – and how the integration of these traditional views within the Canadian legal and educational systems would allow for an enhanced understanding of treaty interpretation, as well as a more holistic recognition of Aboriginal rights and title. For Borrows, the law is fluid and should adapt to meet the evolving needs of society, which does not

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<sup>5</sup> *Ibid* at 181.

<sup>6</sup> John Borrows, *Law’s Indigenous Ethics* (Toronto: University of Toronto Press, 2019) 381 pages.

preclude the recognition of ancestral Indigenous laws, despite the historic suppression of the Indigenous peoples and their values. The novel serves as a key piece of literature for understanding the significance of revitalizing Indigenous legal traditions within the common law system, and provides insightful commentary on how non-Indigenous peoples have a responsibility to Indigenous peoples to ensure that the wrongs committed in the past are not continued in the future.

*Freedom & Indigenous Constitutionalism* is another interesting novel written by Borrows, which discusses the current disconnect between the Canadian legal system and traditional Indigenous customs, and identifies certain obstacles that exist for Indigenous peoples on their quest for freedom and a good life in Canada.<sup>7</sup> Borrows described “freedom” not as the “absence of coercion”, but as the ability to “choose, create, resist, reject, and change laws and policies that affect your life.”<sup>8</sup> Each chapter of the novel outlines specific barriers to freedom, such as the indifference of the Canadian legal system, followed by mechanisms for carving out space to allow for the co-existence of traditional Indigenous customs within the Western legal world. One interesting topic presented in the novel is the interconnectedness of mobility and physical freedom, and how the current method of recognizing Aboriginal rights and title can be highly restrictive on Indigenous peoples and their pursuit of freedom.<sup>9</sup> Borrows stated that because of the inconsistencies that exist between how different Indigenous groups have historically used their land, the legal system often uses the concept of mobility against Indigenous communities, which has made it difficult for certain groups to succeed in a claim for land title.<sup>10</sup> If the group is deemed too nomadic, their land title is often significantly confined and fails to reflect the group's

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<sup>7</sup> John Borrows, *Freedom & Indigenous Constitutionalism* (Toronto: University of Toronto Press, 2016) 382 pages.

<sup>8</sup> *Ibid* at 12.

<sup>9</sup> *Ibid* at 13.

<sup>10</sup> *Ibid*.

historical land ties, but if the group is highly mobile, they are not seen as having sufficient connection to the land throughout time to merit Aboriginal title.<sup>11</sup> Identifying barriers that exist between Indigenous peoples and their freedom is fundamental, as it allows for the adoption of reconciliation tactics that aim to fill the gaps between what is required and what is provided for constitutionally. In this novel, Borrows identifies specific strategies that can be used to bridge the gap between Indigenous customs and Canadian law, primarily focusing on constitutional and legislative mechanisms to achieve such a goal. While Parliamentary efforts would presumably bear the greatest influence on the legal landscape, several restrictions exist that limit their practical application. As such, there is room for other methods of reconciliation that are not solely focused on the recognition of Indigenous rights through legislative avenues, which may be more effective through the integration of actual Indigenous involvement.

## **(B) Aimée Craft**

### **(i) Professional Background**

Aimée Craft is an Indigenous lawyer and associate professor at the University of Ottawa's Faculty of Law. Craft has received international recognition for her work in Indigenous law, treaty interpretation, and water protection, and was voted one of Canada's top 25 most influential lawyers in 2016<sup>12</sup>. Craft's current areas of research include the integration of Indigenous law into traditional Western principles, the Indigenous relationship with and responsibility to water, and decolonizing water governance. Craft's work is especially interesting as places an emphasis on incorporating Indigenous perspectives into her projects and is known for working directly with

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<sup>11</sup> *Ibid* at 21.

<sup>12</sup> Elizabeth Raymer, "Indigenous law expert Aimée Craft honoured by CBA", *Canadian Lawyer Magazine* (2 March 2021), online: <<https://www.canadianlawyermag.com/news/general/indigenous-law-expert-aimee-craft-honoured-by-cba/338311>>.

the Indigenous communities affected by her research to gain their insights and to provide a platform for their voices to be heard.

(ii) Current Research

Craft's article "Navigating Our Ongoing Sacred Relationship with *Nibi* (Water)" focuses on the implications of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in the context of the Anishinaabe groups legal and spiritual relationship with water.<sup>13</sup> Article 25 of the UNDRIP provides Indigenous peoples with "the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned...water", thereby recognizing the inherent right of Indigenous peoples to self-govern in accordance with their Indigenous systems of law.<sup>14</sup> Craft described article 25 as effecting a shift away from the view that water is a resource to be owned and managed, and instead, supports a "spiritually based legal relationship with water" that is based on historic Indigenous beliefs.<sup>15</sup> Craft proceeded to outline several international case studies that have used this interpretation of article 25 to grant legal rights and legal personhood status to water, which included the Whanganui River in New Zealand and the Atrato River in Columbia.<sup>16</sup> While Craft generally supports the rights of nature movement, she identified a key issue that exists when rights are provided through non-Indigenous legislative and constitutional efforts. Because the rights of water are being generated from the Indigenous peoples' relationship to water, the recognition of rights using Western legal tools will often fail to encompass the true relationship between the Indigenous peoples and water, and the use of non-Indigenous language to frame Indigenous spiritual beliefs can result in the loss of the true

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<sup>13</sup> Aimee Craft, "Navigating Our Ongoing Sacred Legal Relationship with *Nibi* (Water)" in John Borrows et al, eds, *Braiding Legal Orders: Implementing the United Nations Declaration on the Rights of Indigenous Peoples* (Centre for International Governance Innovation, 2019) 101 at 102.

<sup>14</sup> *Ibid* at 103.

<sup>15</sup> *Ibid*.

<sup>16</sup> *Ibid*.

spirit of the relationship.<sup>17</sup> To combat this issue, Craft suggested that the domestic application of article 25 should be formulated in the context of Indigenous law, using Indigenous laws as the method of recognition and as the source of the spiritual relationship, as opposed to recognizing the rights of water through legislative mechanisms, like Bill C-262.<sup>18</sup> Craft believes that a distinction should be drawn between the legal personhood status granted water versus other non-living entities, like corporations, because in Anishinaabe law, water is seen as a living being and therefore requires a different status of recognition based on the spiritual importance in Indigenous law.<sup>19</sup> Craft's suggested method of incorporating Indigenous law with Western law contrasts slightly with that of Borrows, with Craft seeking to move away from the legislative demand for coexistence in place of a system that leaves room for harmonious interplay between the two in a natural fashion. Taken together, the two scholars argue that the current efforts of reconciliation are wildly unsatisfactory, and extensive work is required to achieve the desired outcomes in practice.

Craft is also the co-lead of the Decolonizing Water Project (DWP), which is an Indigenous-led community-based research project and water monitoring initiative that is rooted in Indigenous laws and Indigenous water governance.<sup>20</sup> The DWP is run by five council members, which includes Craft and her co-lead Dr. Carrie Bourassa, who is a professor of community health and epidemiology at the University of Saskatchewan, as well as Dr. John Borrows and Dr. Deborah McGregor, a law professor at Osgoode Hall. The research project received funding support from the Social Sciences and Humanities Research Council (SSHRC) of Canada from 2016–2023 and is housed in the Department of Geography at the University of British Columbia (UBC). The

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<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid* at 102.

<sup>19</sup> *Ibid* at 104.

<sup>20</sup> “Decolonizing Water”, online: *Decolonizing Water* <<http://decolonizingwater.ca>>.

DWP is focused on improving water governance in Northern Canada, which is thought to be critical for several reasons, including the increased pressures on water resources due to climate change, the lack of robust water data, the influx of water-intensive energy industries, and the controversy over the transparency and public accountability of water regulation.<sup>21</sup> The long-term goal of the DWP is to create a self-sustaining water and ecological monitoring program that will enhance the protection of water resources and fulfill the promise of Indigenous water governance, which the project researchers are seeking to accomplish by engaging in interdisciplinary and Indigenous-led research related to the ecological, socio-economic, cultural, and spiritual dimensions of water.<sup>22</sup> Another key aspect of the project methodology was the commitment to Community-Based Research (CBR) through the observation of Ownership-Control-Access-Possession (OCAP) protocols, which are further informed by the concept of “Two-Eyed Seeing.” CBR is defined as research “rooted in community and fostered by sustained trust relationships”, which includes practices that are collaborative, action-oriented, equitable, and most importantly, are dependent on community trust and engagement.<sup>23</sup> The idea of CBR was developed in collaboration with UBC’s First Nations House of Learning and seeks to advance research activities that are mutually beneficial to all participants.<sup>24</sup> The OCAP protocol is commonly used in Canada when working with Indigenous communities and allows for the ownership, control, access and possession of any data acquired to remain with the respective community.<sup>25</sup> “Two-Eyed Seeing” means to “learn with one eye from Indigenous ways of knowing, and with the other eye from Western ways of knowing”, and essentially seeks to blend

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<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*

both perspectives in a complementary fashion while still recognizing the need for reconciliation between the asymmetrical influence of the Western and Indigenous legal systems.<sup>26</sup> The DWP is a highly beneficial resource for identifying potential methods of weaving together Indigenous and non-Indigenous communities, which has been supported by some of Canada's key Indigenous scholars. The project's primary council also receives strategic input from an advisory board, which is comprised of several Indigenous peoples, as well as additional external partners who have helped to guide the project design to achieve the greatest success possible. A common obstacle for initiatives that are aimed at effecting change to Indigenous lands is that they lack the Indigenous support required to sustain the project. Modelling a future water protection project after the reconciliation efforts established by the DWP may provide the opportunity for more widespread success, as the program will likely receive better community support when the affected Indigenous perspectives are heard throughout the entirety of the project planning and implementation.

### **(C) Danika Littlechild**

#### **(i) Professional Background**

Danika Littlechild is an Indigenous lawyer from the Ermineskin Cree Nation in Alberta and is also an assistant professor at Carleton University in the Department of Law and Legal Studies. Littlechild completed her LLM at the University of Victoria under the supervision of Dr. John Borrows, whose expertise and perspectives are somewhat mirrored in Littlechild's research and writing.<sup>27</sup> Littlechild has held various influential positions nationally and internationally, including the role of advisor and Indigenous Peoples Representative for the UN, and Vice-

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<sup>26</sup> *Ibid.*

<sup>27</sup> See Danika Billie Littlechild, *Transformation and Re-Formation: First Nations and Water in Canada* (LLM Thesis, University of Victoria, 2014) [unpublished].

President of the Canadian Commission for UNESCO. Littlechild's expertise is focused on Indigenous governance, Indigenous legal systems, the environment, and international law, and her current areas of research relate to water protection, climate change, sustainability, and the concept of "ethical space".

(ii) Current Research

Littlechild was the co-author of a recent research paper titled "Key information needs to move from knowledge to action for biodiversity conservation in Canada", which focused on the ongoing global biodiversity crisis and the critical role of Indigenous peoples in guiding conservation efforts in Canada.<sup>28</sup> The research project consisted of a survey, which asked conservation experts what they thought was required to advance policy and management actions in biodiversity conservation. The results established that the majority of experts believed that the lack of progress in conservation efforts was not due to a lack of knowledge, but rather, was due to the absence of a mechanism that could translate said information into sustained action.<sup>29</sup> The researchers concluded that sustained action could be accomplished on a national level through the incorporation of Indigenous knowledge systems alongside traditional scientific and socio-economic approaches, which would blend the key areas of understanding held by each group.<sup>30</sup> Researchers defined Indigenous knowledge as "diverse ideas, beliefs, concepts, and perceptions of Indigenous peoples shaped by cultural heritage, traditions, values, and history, influencing a community's relationship with the surrounding environment."<sup>31</sup> The identification of Indigenous knowledge systems as having a central role in conservation efforts is fundamental not only for

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<sup>28</sup> Rachel Buxton et al, "Key information needs to move from knowledge to action for biodiversity conservation in Canada" (2021) 256 *Biol Conserv* 108983 at 2.

<sup>29</sup> *Ibid* at 3.

<sup>30</sup> *Ibid*.

<sup>31</sup> *Ibid* at 2.

this research but for subsequent research as well, promoting the importance of Indigenous perspectives and expertise in conversations where they are often excluded. Another key conclusion of the project was that for proper integration of Indigenous knowledge, Indigenous leadership must be given equal respect and recognition as their non-Indigenous counterparts, and effective conservation efforts will rely on co-creating solutions alongside the Indigenous peoples. Though this is a seemingly straightforward concept, Indigenous perspectives are often perceived as being of lesser value in comparison with traditional Western science or law, which is a functionally flawed method of thinking based on ancient colonial conceptions. This research supports the proposition that Indigenous peoples deserve to have a stronger influence in environmental initiatives and beyond, and further, that this concept is not a feigned attempt at reconciliation, but is truly required to achieve desired outcomes. The researchers identified two pathways to allow for the co-creation of solutions: the first being the creation of “ethical space”, which is a partnership between Indigenous peoples and Western institutions where their opposing world views can interact respectfully, or Two-Eyed Seeing, which was previously discussed.<sup>32</sup> While both pathways had been previously recognized, their actual execution has been limited due to confusion surrounding the functional implementation of cooperation, which has ultimately led to a prevailing Western approach to conservation. To surpass this obstacle, Indigenous knowledge holders must be truly identified as equal partners in the establishment of conservation efforts, with their realm of knowledge being considered on par with traditional empirical evidence and data.<sup>33</sup> While the paper is focused on improving conservation efforts in Canada, it provides a good discussion surrounding the importance of Indigenous perspectives in Western law and environmental protection. Further, it discusses the current obstacles that exist

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<sup>32</sup> *Ibid* at 4.

<sup>33</sup> *Ibid* at 7.

for the practical incorporation of Indigenous voices in conservation projects and provides reasonable methods for altering this trajectory in the future. This paper emphasizes the importance of communication and collaboration between Indigenous peoples and non-Indigenous community members, which can be applied both to environmental law and the Canadian legal system as a whole, further promoting the importance of cooperation between members of both unique legal systems.

Littlechild also co-authored another recent publication titled “‘Reconciliation’ in undergraduate education in Canada: the application of Indigenous knowledge in conservation”, which explores how University professors can better address the Truth and Reconciliation Commission (TRC) and the National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG) in their teachings.<sup>34</sup> The paper focuses on the institutional changes required within Universities that will better prepare students for the task of building and maintaining reconciliatory relationships with Indigenous peoples, and how to respect and understand Indigenous knowledge, laws, rights, culture, and visions.<sup>35</sup> The perspective provided in the paper is unique, as it suggests that true progress should not be focused on educating current researchers on how to best integrate Indigenous communities into biodiversity and conservation efforts, and instead, focuses on how to evoke fundamental change from the bottom, teaching students early on about the importance of reconciliation before they come into these fundamental positions. The authors criticized the sparse integration of Aboriginal teachings in biological conservation courses, which is a field of study closely linked to the Indigenous communities in practice, and how academia, a predominantly White and colonial space, requires more Indigenous content and Indigenous

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<sup>34</sup> Danika Littlechild, Chance Finegan & Deborah McGregor, “‘Reconciliation’ in undergraduate education in Canada: the application of Indigenous knowledge in conservation” (2021) 6 FACETS 665 at 665.

<sup>35</sup> *Ibid* at 666.

faculty members to better convey Aboriginal teachings.<sup>36</sup> Though this is not a novel idea, it is important to identify the lack of an Indigenous presence in most academic institutions and to recognize the gaps that may subsist in their absence. Implementing a stronger core of Indigenous law in all realms of academia, but notably in conservation studies, is fundamental for instilling students with a greater understanding of and respect for Indigenous peoples as they progress through their lives. Conservation studies are moving away from an exclusive focus on Western science and towards the adoption of cooperative schemes that better integrate Indigenous perspectives into initiatives. As such, properly educating future scientists on how to interact with Indigenous communities in a respectful and meaningful way is crucial for the establishment of effective conservation efforts.

Littlechild is currently leading the Ethical Space Research Stream of the Conservation through Reconciliation Project, which is a program that works to integrate Indigenous leaders, scholars, and conservation organizations to support Indigenous-led conservation efforts in Canada.<sup>37</sup>

Ethical space is described as “a venue for collaboration and advice, sharing and cross-validation”, and focuses on creating a space where all knowledge systems are treated equally and are viewed with respect and kindness.<sup>38</sup> The focus of the Ethical Space Stream is to explore how ethical space can be used to improve conservation efforts through the facilitation of communication and collaboration between Indigenous peoples and their non-Indigenous partners.<sup>39</sup> Littlechild’s project is the first research program focused on the integration of ethical space in conservation, and is expected to contribute significant research and analysis regarding

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<sup>36</sup> *Ibid* at 679.

<sup>37</sup> “Ethical Space Stream”, online: *Conservation through Reconciliation Partnership* < <https://conservation-reconciliation.ca/ethical-space>>.

<sup>38</sup> *Ibid*.

<sup>39</sup> *Ibid*.

its effectiveness in creating co-creating conservation efforts and in the establishment of Indigenous Protected and Conserved Areas.<sup>40</sup> Littlechild's leadership reflects the future direction of legal cooperation, providing specific methods to better integrate the Indigenous perspectives into Western law, while still recognizing the distinct and unique character of its contents. As a whole, ethical space promotes the idea that Indigenous law should and can be weaved into traditional common law discussions. Rather than viewing the Indigenous and common law systems in isolation, a cooperative system would allow for the existence of both simultaneously, with the creation of ethical space as an avenue for upholding mutual respect between members of both systems. Littlechild, along with Craft and Borrows, each supports the notion that Indigenous law deserves a greater space in Western law, especially when it comes to precipitating a change in the field of environmental protection.

#### **(D) Deborah McGregor**

##### **(i) Professional Background**

Dr. Deborah McGregor is an associate professor at Osgoode Hall law school and serves as the Canadian Research Chair in Indigenous Environmental Justice. McGregor is Anishinaabe from Whitefish River First Nation, and is the Primary Investigator (PI) on two current SSHRC-funded projects. Her research has received national and international recognition, and her current focuses on Indigenous knowledge systems and their applications in a variety of contexts, including water and environmental governance, environmental justice, forest policy and management, and sustainable development.<sup>41</sup>

##### **(ii) Current Research**

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<sup>40</sup> *Ibid.*

<sup>41</sup> "Deborah McGregor" (2020), online: *Osgoode Hall Law School* < <https://www.osgoode.yorku.ca/faculty-and-staff/mcgregor-deborah/>>.

McGregor is currently working on numerous research projects, one of which being the Decolonizing Water Project alongside Aimée Craft and John Borrows. McGregor is also working as the PI for the Indigenous Environmental Justice Project (IEJP), a 5-year SSHRC-funded initiative based out of York University, which focuses on the inequitable distribution of the costs and benefits of environmental degradation for people of colour and poor communities.<sup>42</sup> The IEJP is based on the theory that environmental injustice is a common underpinning of the majority of the environmental challenges faced by Indigenous peoples, and aims to develop a framework informed by Indigenous knowledge systems, laws, concepts of justice, and lived experiences to address the key environmental issues affecting Indigenous peoples today.<sup>43</sup> The IEJP framework is intended to address three goals: offering support to communities currently fighting environmental injustice, providing resources to teachers and schools that are interested in educating their students about Indigenous environmental justice, and creating opportunities for inclusive dialogue on how to move toward greater justice.<sup>44</sup> As a whole, the project addresses the injustices that exist in conservation efforts, and how to properly integrate the Indigenous perspective to allow for the adoption of policies that will allow for improved environmental and socioeconomic conditions in the affected communities.<sup>45</sup> McGregor often incorporates her unique lived experiences in her work, especially when writing about the integration of Indigenous law in the field of environmental law. One of McGregor's most well-known papers is "Traditional Knowledge: Considerations for Protecting Water in Ontario", which addresses the impact of the global water crisis on small Indigenous

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<sup>42</sup> "Indigenous Environmental Justice Project" (2016), online: *York University* < <https://iejproject.info.yorku.ca>>.

<sup>43</sup> *Ibid.*

<sup>44</sup> *Ibid.*

<sup>45</sup> For further insights on the IEJP, see Deborah McGregor et al, "Indigenous Environmental Justice Annotated Bibliography" (July 2020), online (pdf): *York University* < <https://iejproject.info.yorku.ca/files/2020/08/IEJ-Project-Annotated-Bibliography2020.pdf?x32797>>.

communities.<sup>46</sup> McGregor stated that the issues with water security experienced by Indigenous communities stems from the ongoing struggle to have their perspectives heard in decision-making processes that critically affect their lives, lands, and waters.<sup>47</sup> The article discusses the role of Traditional Knowledge (TK) in protecting Ontario's water sources, which relates to the Indigenous people's responsibility to care for the waters that they depend on for survival, and that TK should work collaboratively with Western science to resolve the water crisis. McGregor further highlights the meaning of water for the Anishinabek people, drawing from lessons and teachings of Elders, knowledge holders, practitioners, and scholars, and discusses the health consequences for First Nations communities who are frequently subject to inaccessible or unsafe water supplies. The paper also provides a good overview as to why federal legislative efforts have been ineffective in improving water conditions for Indigenous communities, and how the collaboration between Indigenous TK and Western science is necessary to achieved improved environmental and health outcomes for Indigenous communities.

## **Conclusion**

The Canadian legal field is comprised of many reputable scholars who specialize in Indigenous law reconciliation efforts. The unique views of the selected scholars in this paper provide a brief overview of current legal scholarship as it relates to topics such as water conservation, Indigenous law, and how to best incorporate Indigenous perspectives with traditional Western law. The identified research projects can be used in the future for establishing the methodology of the rights of rivers project, as they provide thoughtful recommendations for achieving Indigenous support, as well as different methods of legal recognition available when it comes to

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<sup>46</sup> Deborah McGregor, "Traditional Knowledge: Considerations for Protecting Water in Ontario" (2012) 3:3 Int Indig Policy J 1.

<sup>47</sup> *Ibid* at 2.

the rights of nature. Further research should be conducted to identify the practical outcomes of the listed projects, and how their methods of reconciliation could or could not be applied in the context of a rights of rivers project.