Migration Law's Place in Sovereign Times

El lugar del derecho migratorio en tiempos de soberanía

O lugar da lei de migração em tempos de soberania

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ABSTRACT

This conceptual article interrogates the role of migration law within the Euro-modern legal order, exposing its entrenchment in state sovereignty. Drawing on Indigenous legal thought, poststructuralism, and post-anarchist theory, it challenges the naturalization of borders, citizenship, and territorial sovereignty, proposing alternative place-based and relational legalities. The analysis critiques the epistemological dominance of Euro-modern law in framing irregular migration and migrant labor, highlighting how temporal and spatial controls reproduce exclusion. Through the concepts of relational accountability (from Indigenous legal thought), ecotechnics (from post-structuralism), and collective sight (from post-anarchism), this article argues for a decolonial praxis grounded in place-based, relational, and lived legality, rather than in a state-centric legal form. This work contributes to critical legal scholarship by theorizing migration law beyond sovereignty, towards an ontology of law rooted in place, community, and lived experience.

Keywords: migration law; state sovereignty; decolonial praxis; indigenous legal thought; structural exclusion.

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RESUMEN

Este artículo conceptual cuestiona el papel del derecho migratorio dentro del orden jurídico euromoderno, exponiendo su arraigo en la soberanía estatal. Basándose en el pensamiento jurídico indígena, el postestructuralismo y la teoría postanarquista, el texto desafía la naturalización de las fronteras, la ciudadanía y la soberanía territorial, proponiendo legalidades alternativas relacionales y basadas en el lugar (*place-based*). El análisis critica la dominancia epistemológica del derecho euromoderno al encuadrar la migración irregular y el trabajo migrante, destacando cómo los controles temporales y espaciales reproducen la exclusión. A través de los conceptos de responsabilidad relacional (del pensamiento jurídico indígena), ecotécnica (del postestructuralismo) y visión colectiva (del postanarquismo), el artículo aboga por una praxis decolonial fundamentada en una legalidad vivida, relacional y situada, en lugar de una forma jurídica estadocéntrica. Este trabajo contribuye a la academia jurídica crítica al teorizar el derecho migratorio más allá de la soberanía, hacia una ontología del derecho arraigada en el lugar, la comunidad y la experiencia vivida.

Palabras clave: derecho migratorio; soberanía estatal; praxis decolonial; pensamiento jurídico indígena; exclusión estructural.

RESUMO

Este artigo conceitual interroga o papel do direito migratório dentro da ordem jurídica europeia moderna, expondo seu enraizamento na soberania estatal. Com base no pensamento jurídico indígena, no pós-estruturalismo e na teoria pós-anarquista, este trabalho desafia a naturalização das fronteiras, a cidadania e a soberania territorial, e propõe legalidades alternativas locais e relacionais. A análise critica o domínio epistemológico do direito europeu moderno na definição da migração irregular e do trabalho migrante, destacando como os controles temporais e espaciais reproduzem a exclusão. Por meio dos conceitos de responsabilidade relacional (do pensamento jurídico indígena), ecotécnica (do pós-estruturalismo) e visão coletiva (do pós-anarquismo), o artigo defende uma práxis decolonial fundamentada baseada na legalidade local, relacional e vivida, em vez de uma forma jurídica centrada no Estado. Este trabalho contribui para a pesquisa jurídica crítica ao teorizar o direito migratório além da soberania, em direção a uma ontologia do direito enraizada no local, na comunidade e na experiência vivida.

Palavras-chave: direito migratório; soberania estatal; práxis decolonial; pensamento jurídico indígena; exclusão estrutural.

The world has high expectations for law. Non-professionals and professionals alike imbue law with a mystical quality (Fitzpatrick, 1992), often idealizing its potency above politics and economics. It is not uncommon to hear people speak about law as something that requires expert interpretation, reinforcing an assumption that a lay person lacks the ability to understand law's force and possibility. However, in 2025 and into 2026, the world has dramatically witnessed the limits of international law and the domestic rule of law in resisting tyranny, genocide, and rising authoritarianism.

Internationally, people who had until then believed in the power of law watched in stunned disbelief its impotence in the face of determined unlawful actors: Trump, Netanyahu, and Putin rank at the top of this list. Yet law's fallibility has been observed, analyzed, deconstructed, and known for centuries. An analysis of law's constructed nature and its historical specificity lays bare its limitation of law and 'challenges the notion of law as a perspective from nowhere' (Adébísí & Russell, 2024, p. 259, citing Crenshaw, 1988; Williams, 1991). Euro-modern law is a term used throughout this article to refer to the geographical and temporal specificity of normative, mainstream Western legal epistemology: the way of knowing and framing law that is state-centric, based on common or civil legal traditions. Modern law, emerging from modernity, is a European creation (Fitzpatrick, 1992). Modern law emerged from 18th century thought, forming 19th and 20th century legal rules and processes. These rules and processes historically emerged together with colonial, capitalist and patriarchal philosophical thought (Adébísí, 2023; Fitzpatrick, 1992). Understanding law as a specific artefact of European (colonial, capitalist, patriarchal) origins, rather than as an omnipotent, neutral force, contributes to explanations of law's failures.

Delinking, to use Mignolo's (2007) term, law from its Euro-modern frame is a multi-faceted project of decolonization that has and is being carried out in various intellectual and activist spaces (Adébísí 2023; Adébísí et al., 2024; Xavier et al., 2021). The following article offers a conceptual-theoretical intervention in socio-legal scholarship drawing from critical Indigenous legal theory, post-structuralism, and post-anarchist thought to think of borders, sovereignty, and nation-state centric law differently. Mindful of approaching fundamental framings differently, the

writing of this article employs both a scholarly and reflective personal form, putting into practice Walsh's call that the work of decoloniality must be 'conceptual, epistemological, and personal (Walsh, 2023). The three critical legal knowledges engaged with in this article are considered specifically in relation to the concept and framework of migration law. An interrogation of migration law calls into question the prominence of state sovereignty. The aim of this article is not to propose a doctrinal legal framework or policy proposal. Instead, the very starting point of the legal framing of migration law is questioned through these 'alternative' (meaning that they seek a different foundational approach and reference from the mainstream, standard, Euro-modern socio-legal-political framework) critical legal knowledges.

Migration law struggles with how to address migration —namely, movement across territorial borders— that is considered 'irregular', or 'illegal' for failing to comply with the specific immigration requirements of nation-states. 'Irregular' migration refers to migration across territorial borders that may be in grey areas of legal definitions and status: for example, a person who is in limbo awaiting a decision on an asylum claim, or an individual who has legal employment, but whose work permit has expired during a change in government. The label 'illegal' is used to criminalize non-citizens that may be in a territory without regular secure legal status. An individual may be considered 'illegal' in a country when they do not have permission to enter, to stay or to remain in a country.

Migration law struggles to address migration because the categories of legal versus illegal, or regular versus irregular, are unable to capture the fluid and dynamic nature of human mobility with the precision that law purports to offer (Anderson, 2013; Tataryn, 2021). The nuance and lived experience that needs to be considered when creating remedies and approaches to migration is, ultimately, impossible within a normative Euro-modern framework. As such, a truly alternative, decolonial, thinking is needed to breathe new life into law and legal subjectivity, not only on colonial law as many Indigenous scholars are fighting for, but on the construction of borders, sovereignty, and citizenship.

Indigenous legal thought, poststructuralism, and post-anarchist thought shed light on Euro-modern law's singularity as an interpretation

of what law is, albeit one with far-reaching temporal and spatial force and power. Efforts and actions to decolonize law may join with deep epistemological and ontological critiques of contemporary legal issues, such as migration, that reveal Euro-modern law's failure and bring us towards founding law in place-based, relational, and lived legality, rather than a state-centered legal form.

Migration, and subsequent migration 'crises,' are a phenomenon that absorbs vast amounts of political and legal attention. Movement across territorial borders, whether legal or illicit, is defined by a fundamental tenant of Euro-modern legal and political order: state sovereignty. The principle of sovereign statehood means that each individual nation-state designs and implements its own immigration laws and policies. These laws, policies, and practices determine which non-citizen migrants are 'desired' versus those who are 'undesired', the latter deemed illegal through restrictive laws and policies. Legal principles and mechanisms reinforce the sanctity of sovereignty, to the extent that when people fall into the gaps of the law —by lacking requisite immigration documents or in 'irregular' situations such as in limbo awaiting immigration, refugee/asylum decisions— the law does not, and within its existing Euro-modern frame cannot, recognize them. Euro-modernity capitalizes law and law's potential to reproduce an epistemological hegemony in legal pedagogy and practice (Adébísí et al., 2024). Consequently, state sovereignty, a foundation of the international legal regime, prevents us from imagining law and its borders —international, constitutional, immigration— differently. As a result of the monopoly that 'modern states have […] over the legitimate means of movement' (Torpey, 1999, in Anderson 2025, p. 8), we are 'poorly equipped to understand mobilities and how they enrich and impoverish our lives' (Anderson, 2025, p. 1).

To actively question state sovereignty and mobility, I begin by turning to the place from which I write and the intellectual relationships I have formed, throughout my research, with theories of decoloniality and alternatives to Euro-modernity. I then consider what we can learn from conceptual alternatives to state-sovereignty. State sovereignty is the bedrock framing legal concepts and approaches. Therefore, to think of alternatives is to seek out different bedrocks for different frames for our concepts and approaches. Considered below, in this order, are

post-anarchist thought (Newman, 2019; Martel, 2022), poststructuralism (Jean-Luc Nancy, 1993; Tataryn, 2021), and critical Indigenous legal theory (Borrows, 2020; Napolean, 2016; Wilson, 2018) as methodological approaches to migration law.

These three approaches are linked: post-anarchist thought brings attention to the collective, to the materially happening and embodied, as a challenge to the pre-determination forced in what Martel (2022) identifies as 'archism.' Archism is characterized by hierarchical, patriarchal power, dominion, and control—elements that were central to the colonial project, which oppressed and attempted to annihilate Indigenous knowledges and peoples. Power and domination are reflective of the way decolonial thinkers Quijano, Lugones, Mignolo, and Walsh have explored coloniality as intrinsically linked to modernity (Quijano, 2007) and perpetuated through the colonial matrix of power (Mignolo & Walsh 2018). Archism, like the Master Narratives of colonial modernity (Walsh, 2023), is deeply rooted into the philosophy of Euro-modern law such that often we fail to recognize and question its domination. Questioning the structures of domination is central to the work of post-structuralism.

The sovereign nation-state is an archic artifact of Euro-modern law. As Adébísí writes, there is a 'not-so-hidden covenant between Euro-modern legal knowledge and many forms of power' (Adébísí, 2023, p. 6), namely race, class, and patriarchy. Euro-modern law, founded in principles of modernity (Shah, 2021) is built from colonial modernity: there is no modernity without coloniality (Quijano, 2007). Anibal Quijano unearthed modernity's basis in coloniality through the colonial matrix of power (Quijano, 2007). Coloniality is what Walter Mignolo refers to as the 'darker side of Western modernity' (Mignolo, 2011). Maria Lugones expanded Quijano's colonial matrix of power to include patriarchy ('the coloniality of gender') as elemental to the exercise of colonial power (Lugones 2010, p. 745). The hegemonic epistemology that these scholars recognized as coloniality and modernity/rationality is perpetuated in Euro-modern law, particularly as law continues to privilege subjects according to intersecting forces of colonialism, capitalism, and patriarchy. Law's materiality is denied, ignored, obstructed, and convoluted in the Master Narratives of colonial modernity and

colonial matrices of power (Quijano, 2007; Mignolo & Walsh, 2018; Walsh, 2023).

Relationship and relational accountability (Wilson, 2008; Napolean & Friedland, 2016) contrast Euro-modern law. Euro-modern law posits itself as objective and neutral. Meanwhile, the relational accountability that arguably underpins Indigenous conceptions and practices of law is incompatible with aspirations to neutrality and objectivity (Wilson, 2008, p. 101). To challenge law's pretence of neutrality therefore, I therefore draw on approaches that attend to law as embodied in relationality (Walsh, 2023; Napolean, 2014), happening within 'collective sight' (Martel, 2022), here and now. Thinking of an alternative to sovereignty in studies of migration law is not a search for a neat resolution or replacement. Rather, together with Haraway (2016, p. 10), this is a pursuit of vision in the messiness—about surviving and living better in common.

Weaving together these intellectual contributions, I ask what it would mean to conceive of place —of the land— as the site where beings come together, and as the starting point for migration law. What would it mean to understand law as formed, and informed, by the 'relationships between things, not on the things themselves' (Wilson, 2008, p. 74)? Alternative sovereignties —though being an alternative might in itself preclude the very term "sovereignty"— could bring the focus of migration from movement to arrival: the presence and relationality of being in place. Reaffirming a connection to place grounds law's materiality in place, creating legal relations based on who is present, rather than on who is recognized by law (in Canada, recognized by the Crown). As a starting point, this means relearning to understand law as relationships, responsibility, and obligation. An Indigenous research paradigm, according to Wilson, 'is relational and maintains relational accountability' (Wilson, 2008, p. 71). Law is central to sustaining relational accountability, as it is the 'intellectual process of deliberating and reasoning to apply rules according to context' (Napolean, 2014, p. 139). Context is embodied and material, context is the 'struggles of and for life… struggles resisting, existing, re-existing' (Walsh, 2023, p. 8). A relearning and reorientation of law as response-ability (Haraway, 2016, the ability to respond) and relationality can occur within critical legal theory, applied to contexts

of labor migration and contestations of sovereignty, just as it must also be recognized as unfolding within communities on the ground.

The following discussion will start from place. From there, I introduce my research background in precarious and so-called irregular labor migration. This work has prompted me to reflect deeply on what law is. Once we uproot Euro-modern law's foundation in colonial, capitalist, patriarchal ideologies and practices, where can we find forms of law that do not simply reproduce this trifecta of the colonial matrix of power? This leads me to consider sovereignty, as archic (Martel, 2022) and alchemy (Borrows, 1999). What would it mean to move away from this frame? Indigenous legal thought suggests sovereignty away from sovereignty, found in place, territory, land, and relationships. I examine what this approach to sovereignty might offer migration law and studies of irregular migration by juxtaposing place and time. Attention to presence and relationality offers a rich materiality to law that is absent in Euro-modern legal frameworks.

This article interrogates the ideological and historical specificity of Euro-modern law, rooted in colonial modernity, and its persistent role in shaping migration governance. Three critical theoretical lenses —Indigenous legal thought, post-anarchist theory, and poststructuralism— unsettle the naturalized boundaries of migration law. Drawing from these frameworks, this article examines the interplay of sovereignty, labor migration, and the legal categorization of "migrants," ultimately moving towards alternative imaginaries of law rooted in place, relationality, and lived presence.

Place

I write from land that forms part of the Treaty lands and territory of the Mississaugas of the Credit First Nation, and the traditional territory of the Huron-Wendat and Haudensaunee. The Mississaugas of the Credit First Nation are a sub-group of the Ojibwae Anishnabee First Nation, whose stewardship extended over approx. 3.9 million acres of lands, waters, and resources in Southern Ontario, including shorelines of Lake Erie, the Niagara River, and Lake Ontario. Approx three million acres

of land was ceded in the Between the Lakes Treaty, No. 3 (1792), with land granted back to the Six Nations extending six miles on both sides of the Grand River. I am part of a settler-colonial occupation of these lands and recognize a responsibility and obligation to learn about the history of this land, including the peoples, knowledges, and traditions that were forcibly removed or erased in the name of colonial settlement, nation-state development, and economic progress.

Acknowledging[1] the place from which I live, work and write ultimately means recognizing that I am more than my singular self. I am here because of everything that came before me and sustains me, including the 'coloniality that is a part of me' (Walsh, 2023, p. 25). I recognize the collective —historical, current, personal, and structural— that allows me to be here, writing, and thinking, that grants me the privilege of residence, property ownership, employment, financial means, and education. Notwithstanding how loudly socio-cultural ideals project otherwise I am not an atomized, individual subject. The 'bounded individualism' (Haraway, 2016, p. 5) heralded by modernity is an empty shell, our individualism is only singular insofar as we have others to recognize and share this singularity with (Nancy, 2000). I am part of the land, the geography and architecture that I live and work on; I am part of the histories of immigration to Canada from WW2 war-torn Ukraine via Stuttgart's Displaced Persons camps and Manchester UK. I am part of a family that has fought against the stigma and disabling forces of ableism and ideas of 'normalcy.' And I am part of the colonial matrices of power. I am educated and employed in settler colonial institutions. I own a bank account and have a mortgage; I use both physical and remote technologies. My work and lifestyle, however much I try to minimize their impact, participate in and are complicit with capitalist, extractivist economies. My access to financial and technological power benefits from the exploitation and subjugation of racialized, migrantized (Anderson, 2025) labor, as defined and permitted by state sovereignty.

[1] Such a territorial acknowledgement is a starting point. Canada's Truth and Reconciliation Commission (TRC) 2015 offered 94 vital action points to begin to address the relationship between Canada and Indigenous communities. https://www.reconciliationeducation.ca/what-are-truth-and-reconciliation-commission-94-calls-to-action

And my settlement in Canada is possible because of the legacy of settler colonialism on stolen Indigenous land.

Because of the place and relationships from which I work and write, I have an obligation and response-ability (Haraway, 2016) to think critically about the norms and institutions that have constructed what we understand as law, borders, and citizenship. I cannot accept the normative force of law that permits that some people are seen as deserving of law and legal protection, while others are seen as undeserving and 'illegal.' And I recognize a clear connection between the irregular status of the 'migrant' and the persistence of patriarchal, colonial, capitalist power in Euro-modern law and legal institutions.

Situating My Research

In my research elsewhere, I have explored how immigration and labor laws in the Global North are failing to protect foreign workers (temporary, or otherwise non-citizen foreign nationals), in lower-waged labor, considered 'low-skilled' (Tataryn, 2021; Tataryn, 2025). An informal, yet normalized, category of *irregular migrant laborer* identifies persons who exist in the gaps of labor protections, often with precarious immigration status. Precarious immigration status exacerbates labor market vulnerability when work is undocumented (meaning without a valid work permit AND valid immigration status), and workers are at the mercy of their employers to not report their precarious or irregular status. Some labor sectors infamously rely on foreign workers, for instance seasonal agricultural work, food processing, and hospitality (cleaning, security services), sometimes with special visa programs facilitating cross-border labor migration.[2] Labor migration in low-waged, 'low-skilled' sectors is not a new phenomenon. Indeed, certain labor sectors have come to depend on a steady supply of workers who are working for less than standard employment laws or contracts would offer: less protection,

[2] For example, the Seasonal Agricultural Worker Program Canada: https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/seasonal-agricultural.html

less money, and less security. The workers in these sectors work *as if* they were non-citizens or precarious (Anderson, 2013; 2025). These labor sectors are often racialized and precaritized but may be engaging second or third generation migrants alongside those with precarious or irregular immigration status. Racialization and precaritization exist alongside migrantization, which will be discussed in detail below. Anderson explores the relationship between the stigma and frenzy around the 'migrant' and the treatment of racialized or otherwise marginalized citizens. She observes, 'once migration is no longer at the border, it becomes 'race'' (Anderson, 2025, p. 10). For example, in Tataryn (2025), greenhouse laborers in Sicily are racialized as 'migrant laborers' despite these laborers not always, or not clearly, being legally defined as im/migrants; they may be second-generation migrants or European Union (EU) citizens.

Legal protection is failing workers in the 'apparently contradictory demands of sovereignty and capitalism, of supply chains and immigration controls' (Anderson, 2025, p. 1). Globalized labor markets demand increasingly mobile, adaptable, agile, and flexible workers, especially where labor needs cross jurisdictional and national borders. For instance, in outsourced manufacturing, tech (e.g. call centers, see Gray & Suri, 2019), and transnational corporations offering transportation (e.g. Uber), government services (e.g. SERCO), shopping (e.g. Amazon). The 'crisis' of labor (Standing, 2011; Peruli & Treu, 2025) and 'crisis' of migration (Anderson, 2025; Gill & Taylor, 2025) are played against one another: migration is portrayed as a threat to national labor and employment laws, and migrants are blamed for unemployment and lack of opportunity, or for 'stealing' local jobs. Distinctions of citizen and migrant, regular versus irregular labor, obscure the experience of place and work as well as how inclusions and exclusions operate formally as legal citizenship and informally within citizenship (Anderson, 2019; 2025).

The construction of migration as a basis for exclusion reaffirms the primacy of the nation-state through a 'methodological nationalism' (Wimmer & Glick Schiller, 2002). While methodological nationalism reinforces a distinction between migrant and citizen, in practice this distinction is less than clear. 'Migrant' is not a legally defined category, but a label that hosts a range of racial, socio-economic, linguistic, and

moral preconceptions of who is deserving of citizenship and who is undeserving. These cultural and social preconceptions operate beyond legal rules; people with legal citizenship often fail to meet the very criteria that 'migrants' are deemed to fall short of (Anderson, 2013).

A 'methodological de-nationalism', according to Anderson (2019), would involve 'migrantizing' the citizen. By deproblematizing the migrant as a category and identity and exposing what is common between the 'migrant' and the 'citizen,' we can, among other things, see how the migrantization of labor operates in tandem with the precarization and flexibilization of labor. Migrantization —denaturalizing the citizen and problematizing the normalcy of 'migrant'; precarization— lack of security, stability in work and income; flexibilization—trend towards non-standard working hours, casual contracts, on-call jobs, zero-hour contracts, under the guise of promoting flexibility for the worker while diluting labor protections and security. Anderson's call to 'migrantize the citizen' is not at the expense of recognizing the reality of immigration controls and the effects of irregular status or 'illegality' caused by immigration laws. Rather, methodological denationalism aims to 'recover relationalities and interdependencies' (Anderson, 2019), such as the effect of precarization and flexibilization of labor.

These three elements have come to characterize labor sectors around the world —migrantization, precarization, flexibilization— and ensure a supply of workers often working without formal employment status, without secure contractual work arrangements, and/or without the ability to advocate for minimum wage, working time protections or protection against sickness or disability. As employers, businesses, farmers, face rising costs, labor is the site for cost-cutting measures (Piro, 2021). Particularly, laborers who are already marginalized due to race, socio-economic status, education, dis/ability, and gender bear the brunt of labor exploitation.

The ongoing fervor of political attention to migration spotlights the performance of nation-state sovereignty: 'undeserving bodies' are sacrificially excluded (Martel, 2022). Nation-state sovereignty exercises arbitrary (based on race, ethnicity and other conditions of 'desirability') exclusions, demonstrating what Borrows (1999) describes as sovereignty's alchemy, which will be discussed more below. The distinction between

citizen and non-citizen is, in practice, opaque, especially in higher waged or 'skilled' labor. Moreover, decades of border securitization have demonstrated that irregular movement and work will not stop if there is a labor demand for cheap, exploitable workers. By being rendered irregular, illegal, or illegalized, these persons are present and participate in the social, economic, and political life of many locales around the world; yet the structures and systems of modern law —sovereignty, citizenship, and doctrines of illegality— render them removeable, criminalized, and ultimately invisible (Tataryn, 2025).

The illegalization/criminalization of migration and labor begs the question, what is the responsibility of law? What is the responsibility of constitutionalism? Some would argue that the constitution is responsible to its citizens alone. But are citizens only those that have formal legal status, or are citizens those that are present and participating in the social, economic, political life of a given territory? The limitations of constitutional protections for non-citizens reflect the problem of law's entanglement/ embeddedness in the nation-state, founded in the principle of sovereignty.

What is law?

The history of Euro-American jurisprudence teaches us that the answer to the question of what law is has never been simple. Law is more than rules (Hart, 1961). Law is historically specific (Unger, 2001). Our current Euro-modern legal frame has been formed and informed by ideological and historical contexts that are based in colonialism, patriarchy and capitalism (Adebisi et al., 2024).

Ecotechnics

Critical thought teaches that 'it matters what ideas we use to think other ideas (with)' (Marilyn Strathern, quoted in Haraway, 2016, p. 12). Furthermore, 'it matters what stories make worlds, what worlds make stories' (Haraway 2016, p. 12). The ideas and stories that inform how we think of law matter. Law, in my work, has been defined as the limit

of beings coming together; the rules and order that bind a common within a limit (Tataryn, 2021; Nancy, 1993). The necessity of the limit, together with the necessity of the common to continually define and redefine that limit, creates a movement that is, to use post-structuralist philosopher Jean-Luc Nancy's word, *eco-techne*. Ecotechnics brings attention to the circulation of *techne*, the technologisation and fixing of life, simultaneous with the circulation of *eco*, the sense of being in relation to other beings. Eco, is the prefix to economy and ecology that refers to a 'home' (as in οἶκος) and moves parallel to the concrete, technologization of life. Eco refers to the sense of being *before* it is seized and translated into the modern legal form, or any legal form for that matter.

'Eco-techne' is a term that I have used (Tataryn, 2021) to examine how the law, through economic, political, and juridical norms, denies the full legal status of certain people who are deemed to be irregular, excluded from legal status. In the practice of labor and work, the undocumented or irregular nature of the work provided by people without legal status has become a regular feature of labor market practice, and a necessary support for the conceptual foundations of capitalist legality. Capitalist accumulation —the production and availability of cheap products to compete in a globalized economy— is made possible by the availability of cheap, undocumented labor.

Law enables, by privileging state sovereignty and formally denying legal recognition and protection, the existence of a precarious, illegalized labor force. Law is part of a capitalist legality within the Euro-modern legal structure and form. Within this form, a legally appointed sovereign nation-state decides on the limits and criteria of citizenship and permission to remain in a territory. The rules governing access to citizenship can be xenophobic: they can deny equal recognition of presence within a territory and participation in economic life, and they can reproduce colonial ideologies of racial superiority, denying rights, dignity, and humanity to those excluded from citizenship's fold. This is the sovereign prerogative. Seen through eco-technics, this sovereign prerogative is the action of *techne,* the technological subordination of life. Legal categories are imposed in a way that seems normal, if not natural, enabling the functional circulation of order, organization, and capital. Rather than uniting beings in common, Euro-modern law exacerbates difference and

sanctions the exploitation of those whose labor and/or land is extracted for the benefit of the Euro-modern liberal democratic system. This is a technical seizure of life made possible through law.

Technologically fueled expansion and growth is not a twenty-first century phenomenon. 'Development,' 'progress' and colonial expansion since the sixteenth and seventeenth centuries were similarly based on technical seizure of life: conquering nature (Quijano, 2010, 23) and seizing control of physical and epistemological being. Ecotechnics allow us to revisit historically conditioned onto-epistemological origins by reminding us that the techne —these technological processes of expansion and accumulation— is not total. There is life, embodied and experienced, that exceeds, happens in excess, of the techne. As philosopher Enrique Dussel's work explains, the international division of core and periphery territories and cultures ordered an epistemic (spiritual, linguistic, sexual) hierarchy that privileged European knowledge (Dussel, 2003; Grosfoguel, 2013). The Euro-centric production of knowledge 'made it possible to omit every reference to any other 'subject' outside the European context' (Quijano, 2007, p. 173). Through this production of knowledge, political philosophy centered the individual (man) as a participant in the city, a presupposed community, and the individual citizen as the origin of society. However, this is just one historically specific way of understanding being in a society or sociality. Other knowledge exists.

Existing legal and political vocabularies rely on outsider-characters —'migrants'— to give form to Euro-modern legal categories. The inclusion and exclusion that happens through these legal categories illustrates that there is an outside to this Euro-centric, Euro-modern, production of knowledge. Ecotechnics is a way of seeing what is happening in the global circulation of capital and of sense. Value or what holds value cannot be represented 'in simple equivalences of money and commodities' (Conely & Goh, 2014, 89). There is much more happening in the world, taking place and experienced in cross-border movements. For instance, beings-in-community constitute themselves and relate to one another, and through relationship creating accountability and, legal relationship.

Within eco-techne, a question remains as to how law can interact with eco if law's mandate to function as a limit on sociality inevitably entails being fixed into techne. Ecotechnics does not deny the happening

of techne, nor does it deny the emergence of eco. This means that legal categories, legal structures, and the law itself reflect and respond to what is actually happening. The questions to which law responds are grounded in experience: who is present, who is working, whose labor participates in capital accumulation, and how a collective or community relates to one another under practiced limits of order? This dynamic relationality is law.

Attention to ecotechnical circulation provides an alternative basis for reimagining our relationship not only with migration and labor itself, but ultimately with each other and the environments that we exist in. This alternative does not deny the dominance of capital, colonial and patriarchal norms that have guided Western epistemology for over 500 years. Rather, giving attention to the 'eco' that *is happening* within the gaps of law and legal structures, within the relationality of humans to non-human beings, within the circulation of sense in the world, shifts what is possible to understand within law rather than assume the rigidity and impossibility of recognition beyond our current legal form. This is a challenge not simply to reproduce borders of 'citizen' versus 'migrant' but to question the context and the practices on the ground that bring people from one place to another, in economic, social relationships that then form obligations, recognition and responsibility. The *happening* that is taking place is relationality, conflict, and the accountability that form law.

Relational Accountability

Indigenous legal scholar Val Napolean (2020) draws on Rundle to explore the 'centrality of relationships to a society's legal order and its constituting legalities' (Napolean, 2020, p. 14). Law is the stories of obligations and responsibilities that guide us to resolve conflicts and live together.

Who is 'us'? Who are 'the people'? These are not complicated questions; let us move away from *social contract, public political culture,* and *the polis*. Who are you in relationship with? Materially, embodied, who are you related to? Take a moment, even as you read this. Notice your breath. Inhale. Exhale. Notice your feet in contact with the floor.

Notice your arms, your hands, by your side, maybe holding something, maybe ready to type. What are you, physically, in relationship with? What is coming together to bring you to this place, here, now? Before your rational mind takes over, before your jaw tenses, before your eyes open and you shake off this exercise to force yourself back to 'real law' —to real, solid, discussions of international and constitutional law— feel your space. Feel yourself in this place. Where is law? Inhale, exhale. What is law?

Through presence, here, now, how can our ability to think and see law expand?

As we bring attention to your experience of law in this moment, how is coloniality present in your mind? What might it mean to become aware of the coloniality within you? Phrased another way, Newman writes of the anarchic subject as hybrid subjectivity, resisting or at least taking account of, our 'enigmatic problem of voluntary servitude, the desire for one's own domination, our psychic and subjective attachment to power' (Newman, 2019, p. 85). Our own attachment to power, to structures and systems of power, including 'our internalization of fear, our relative hatred of difference, and our desire for security' (Newman, 2019, p. 86) go beyond false consciousness; it is, I suggest, the coloniality within each of us.

This calls us here, now, to question differently. What can shake the coloniality within each of us as we read this?

Inhale, exhale. Notice the air on your skin. Notice the sounds around you. Feel yourself in this space, before worrying this is taking too long or frantically placing this within the vocabulary of legal analysis.

Collective Sight

Martel (2022) explores anarchist thought as present in what he terms 'collective sight.' What is it that we already experience, do, feel, and know? Martel writes of a 'prophetic' movement that 'entails the two-fold operation of failing to see the false projection of state power and authority that we are otherwise told is really there even as it is also a means to pay attention to collective decisions about reality that a community is always engaged with' (Martel, 2022, p. 54). The 'false

projection of state power and authority' is false in its assertion of totalizing power and authority, but not false in its effect and proclaimed presence. Borders exist. Colonial laws exist. What is not real, however, is their inevitability and their self-proclaimed authority. The prophetic movement that comes from collective sight is when beings move from the experience of relationships that create a basis for truth that comes from real day to day life, not from hierarchical proclamation.

At the time of writing, the United States (US) Immigration and Customs Enforcement (ICE) is carrying out raids throughout the US, indiscriminately targeting people suspected of being undocumented or present in the US in contravention of US immigration law, whether legally true or not. This exercise of state power and authority is not only terrifying but has seen thousands of people disappeared from their jobs, homes, and city streets. In archism, there is force, vision, and aspiration, that is the search for security, the seeming safety in authority, hierarchy, tradition and universalism. Archism promises the resolution expected in and from the law, *if* and *when* applied correctly. In the context of migration, immigration law presumes to have a resolution e.g. if migrants simply followed the rules, then problems of irregular migration would be solved. In the US there are still MAGA supporters who claim that despite the ICE raids affecting their lives, in some cases even detaining loved ones or themselves, they continue to support Trump's crack down on 'violent criminal' migrants (Morris, 2025). This faith in the promise of security and stability, despite reality proving otherwise, demonstrates archism's power.

Archism, when threatened, becomes more violent. This is evident in the 2025 ICE raids and Trump's anti-migrant (anti-difference, anti-opposition) policies and practices. Archism is ultimately 'a nothingness that poses as something' (Martel, 2022, p. 133). The emptiness of archic power compels a violent frenzy to assert power and maintain control through the negation and delegitimization of community knowledge and responses. Yet there are collective decisions being made in the communities of people that resist the authority and totalizing force of ICE. According to a June 12, 2025, report, social media and messaging networks have been created in Los Angeles to alert about ICE operations:

> In general, users are asked for basic data such as time, date, city, state, and exact location of the operation, as well as photographs or videos when it is possible to document them. In addition to issuing real-time alerts, many of these pages offer free legal guidance, not only on migration issues, but also on labor rights, access to health, education, and other key services'. (González, 2025)

LA street vendor solidarity fund raised $158, 685 USD as of 16 July 2025 to support street vendors that must stay home for fear of ICE raids. Mutual aid networks have mobilized to provide support including food delivery and information on how to interact with law enforcement agents (Beckett & Singh, 2025). This is not power measurable to the force of the state, but it is powerful, nonetheless. Collective sight must be valued and highlighted rather than critiqued as insufficient; to claim it is insufficient as resistance to archism is to give archism more power. 'Collective forms of sight go on all the time' (Martel, 2022, p. 7), not only in times of disaster and tyranny. We must be cautious and recognize that archism benefits from diminishing or discounting these collective forms of sight as insignificant, chaotic, idealistic, or impossible. Archism 'exploits and preys upon the world [that is formed through collective vision] for its own purposes' (Martel, 2022, p. 7), existing as if it were 'prior and superior to our own collective forms of sight' (Martel, 2022, p. 7). For example, the suggestion of finding power and law somewhere other than within the statist configuration of nation-state sovereignty, such as explored through Indigenous legal knowledge below, is readily discounted as catastrophic or entirely impossible even by well-intentioned scholars and leaders. And yet, alternatives are not only possible, they are happening; they exist.

The 2025 experiences of anti-immigrant raids in the US provide a stark example of archism and its resistant anarchic responses. Parallels can also be drawn to the archic power of the Master Narratives of the colonial matrix of power and resistance through collective knowledge and *other* stories.

When sovereignty and territorial borders are threatened, the law legitimizes itself through responses that prioritize economic 'development' and selective entry of 'desirable bodies' over humanitarian

responsibilities or addressing colonial violence. The presumed necessity of protecting citizenship, sovereignty, and borders is proffered as natural; how else would populations be organized and secure? Again, the suggestion of organizing populations —communities, beings coming together in common— differently seems impossible given the supremacy of Euro-modern, archic thought rooted in the colonial matrix of power. Suggestions of anarchic thinking elicit responses fearful of chaos and violent disorder, as if this were not already the reality under archic, colonial, capitalist, patriarchal leadership. The presumed resolution promised by archism, as discussed above in the context of migration, renders any failure to be recognized within the 'deserving' legal norm as the fault of the individual or marginalized group, not the structure of Euro-modern law itself. Indigenous communities seeking recognition of their own non-Euro-modern sovereignty are often blamed for their situation, as if they were not using law correctly or well enough. The neutrality and supremacy of Euro-modern law suggests that if Indigenous communities simply participated in the processes offered to them, issues like Indigenous recognition would cease to be a problem.

State sovereignty and bounded, bordered territories are an archic creation. The act of questioning state sovereignty and questioning the necessity of bounded bordered territories challenges the dominance assumed by archism. The act of questioning is often silenced, through negation, discreditation (reduced as naivety), or violence: a lack of strong borders would invite chaos, questioning sovereignty threatens the stability and security of our world and so on. But our collective sight, which is our experience of being in the world in relation to others, on a very mundane level, may illustrate that state sovereignty and bordered territories are not tangible material things. The experience of sovereignty and borders is much more malleable and context-specific than the Master Narratives would like us to believe.

The experiences of anti-immigrant raids in the US provide a stark example of archism and its resistant, anarchic responses. Looking beyond the US to Canada, when the Master Narrative of sovereignty and territorial borders are threatened, the law legitimizes itself through responses that prioritize economic 'development' and selective entry of 'desirable bodies' over humanitarian responsibilities or addressing

colonial violence. Indigenous legal knowledges are subordinated to the self-affirmed dominance of Euro-modern law, as if it were neutral, necessary, and natural. So, what is state sovereignty? What is its presence and place?

Sovereignty

State sovereignty defines nation-states. State sovereignty is the justification for borders, border control, visas, and conditional entries. State sovereignty is the foundation of citizenship and select legal recognition of people living and working in each territory. State sovereignty prohibits freedom of movement. Border control, used to define sovereign territory, limits entry to the state as if such qualified, arbitrary, privilege was not only normal, but natural. The prerogative to control borders shows the 'uncontested authority of the colonial state' (Coulthard, 2014, p. 21) against a backdrop of normality; few imagine law or democracy to be organized otherwise. This is colonial domination: 'more subtle, less bloody' (Coulthard, 2014, quoting Fanon, p. 113). The ostensible universalism of the nation-state —sovereignty, citizenship, and property— constructs the experience of migration as in conflict with the 'normal', 'natural', statist citizenship-bound legal recognition. Notably the Canadian Supreme Court declared, "The most fundamental principle of immigration law is that non-citizens do not have an unqualified right to enter or remain in the country. In common law an alien has no right to enter or remain in the country" (Canada, Minister of Employment and Immigration v. Chiarelli, 1992, 1 SCR 711, at 733).

State sovereignty, a foundational concept of Euro-modern law, upholds an incontrovertible right to border control and limited, qualified, entry into, or membership in, a nation-state. State sovereignty was asserted in the act of colonization. On the land that is now Canada, the British proclaimed their sovereignty over the territory through what Borrows refers to as 'raw assertion' (Borrows, 1999). Time was re-set to begin from that sovereign claim, relegating any previous land use or 'occupation' as pre-historical and pre-sovereign.

According to Borrows, 'sovereignty's incantation is like magic. [In Canada it was asserted] that Aboriginal title is a burden on the Crown's underlying title, thereby displacing all previous assertions of land title and subjecting them [Indigenous people and land claims] to the Crown' (Borrows, 1999, p. 12). The sovereign control by the Crown —(British) sovereignty over all the territory that is now Canada— was never ceded. Individual treaties negotiated some transfers of title, but Crown rule is and continues to place the Canadian sovereign prerogative, the Crown, above the rule of law (Borrows, 1999, p. 20). The Crown stands above the rule of law insofar as it controls the Master Narrative that subjugates all persons, communities, and forms of knowledge under the rule of law that the Crown ultimately defines and controls.

In its seizure of territory, proclaiming supreme authority over the land and forcing its settler legal system on everyone and everything within its stolen territory, the Crown structured dispossession (Coulthard, 2014, p. 7). The Crown imposed Indigenous legal subjectivity, as subjects under the settler-colonial law, through the creation of Indian Status in the Indian Act 1876. Indian status further dispossessed Indigenous people from their land, causing a vital, violent, rupture with their knowledge base. As Patrick Wolfe stated, 'the prime motive to settler-colonialism is control over and access to territory' (Wolfe, 2006, quoted in Coulthard, 2014, p. 7).

Consequently, sovereignty is highly contested in the land that is now Canada. Arguably, the Canadian government does not acknowledge the depth of this contestation; the sovereignty in question is not a battle between colonial powers or their offspring, for instance Quebec's sovereignty movement. Rather, it is a reckoning with the colonial seizure of power, the 'raw assertion' of sovereignty (Borrows, 1999). Sovereignty was asserted with the Royal Proclamation of 1763 and continued in the actions —Acts of Sovereignty and material settlement— of the British, and French. The colonial settlement of Canada happened as if the clock of history began with the Crown; the Crown's claim to sovereignty being a 'nothingness posing as something' and precipitating the full-scale destruction of Indigenous knowledge, tradition and people.

Since the assertion and settlement of the British dominion of Canada, the colonial claim to sovereignty has been resisted. Yet the

machinations of the colonial empire were legally enacted through the Indian Act 1876, the creation of reserves, the forced re-education of children in Residential Schools, the controlled and limited access to waged labor, and the imposition of governance through an Indian Agent and elected band councils to replace traditional governance (see Bhatia, 2021, p. 42). The ramifications of the nineteenth century law continue in the ongoing poverty, malnutrition, lack of access to safe drinking water, and despair manifest through substance abuse in Indigenous communities, especially in Canada's north. This history and current reality have structurally attempted to obfuscate Indigenous resistance. Nevertheless, this resistance survives and coalesces in the determination to assert and affirm Indigenous sovereignty as Indigenous resurgence (Simpson, 2017; 'prefigurative politics' Coulthard, 2014, p. 159). It is a resurgence of sovereignty not under, but parallel to, the sovereignty asserted by the Crown.

While the epistemological foundations of Euro-modern law, rooted as they are in colonial modernity, prevent or at least block comprehension of parallel sovereignty (Indigenous sovereignty parallel to Crown sovereignty), parallel sovereignty brings into relief the artifice of the state. A parallel sovereignty would involve a reckoning with the limits of state sovereignty, opening possibilities to re-think borders and bordered nation-states 'along the lines of place-based citizenship, founded on values of stewardship and collective participation' (Bhatia, 2021, p. 39, citing: Fulfilling the Covenant Report Saskatoon: FSIN 2007).

Re-thinking bordered nation-states is becoming an increasingly necessary conceptual exercise given the global contestations over citizenship, territory, and authority. When state authority is imposed without any responsiveness or attentiveness to the population within its territory, the archic nature of state sovereignty is exposed: state sovereignty assumes supremacy and necessity prior to experience. Sovereignty ideologically operates as a (false) necessity (Marks, discussing Unger, 2009). Sovereignty as a concept and legal principle commands itself as the only possible way to organize populations and territory. This primacy prevents legal creativity and collective imagination from extending towards other possibilities. State sovereignty, and the organization of the world into nation-states, originating in the Treaty of Westphalia, exists

as if it were not only a normal way to organize populations, but the only way. The pervasiveness of the state creates false contingency in immigration policy and law. False contingency (Marks, 2009, p. 14) in immigration policy and law appears when (a) state sovereignty makes immigration policy and law necessary, as regulations and rules at the territorial border, and then (b) restrictive immigration controls seem to be the only contingent possibility to ensure that citizenship is protected and preserved for those deemed worthy and acceptable to be inside the nation-state. 'False' here refers to what is excluded: 'it is false because it is misleading: it skews understanding, stunts enquiry and dazzles analysis' (Marks, 2009, p. 17). Due to the ideology of state sovereignty, immigration is often viewed as in crisis, and the territorial border under threat. Anti-immigration sentiment that seeks to protect against migration deemed undesirable lives in tension with humanitarianism that may see a reason for citizenship to be expanded or entry into the state facilitated. Marks explores how, because of false contingencies, the 'injustices of the present order are made to appear as though they were random, accidental and arbitrary' rather than a consequence of structural, historically specific, ideology and decision-making (Marks, 2009, p. 20). The 'migration crisis' is a crisis, an injustice, insofar as it performs state sovereignty at the border of the nation-state.

Place is central to both the act of migration and the perceived threat it poses. Migration occurs in a place; it is an action on land and territory. What is *irregular* migration, if not an act to occupy place, to make a place one's own, notwithstanding permission from those that have claimed sovereignty over it. Does this sound familiar? A basic tenant of colonialism is 'the settlement of foreign populations to support the expansion of non-Indigenous societies' (Borrows, 1999, p. 15). The nation-state as a product of colonial modernity is built from the migration of colonial power onto land that was previously occupied by humans, living beings and ecosystems.

However, as explained above, the colonial seizure of territory restarted the clock of history; time began with the assertion of sovereignty. The colonial matrix of power privileges time: its own version of time. By framing Indigenous presence as pre-historical and settlement a precursor to modernity, time has been constructed in a way that further

privileges the Master Narratives of the colonial matrix of power and Euro-modern law. What came 'before' Euro-modern law is primitive in comparison to modernity's progressive, neutral, and objective truth. Coulthard, citing Deloria, has identified a fundamental contrast between Indigenous place-based orientation versus Western time-based orientation (Coulthard, 2014, p. 60). Considering the effect of privileging place over time demonstrates a radical difference between the Euro-modern legal form and alternatives such as those stemming from critical Indigenous legal knowledges.

Place versus Time

State sovereignty and its gatekeeper, immigration law, relies on a sense of time: time of entry into a nation-state, time of birth in a nation-state, timely application for immigration status or visa permission. Time is also a factor in the control of the state over citizenship and the differentiation of deserving versus undeserving citizen. 'Qualifying periods and temporal controls' are also a factor in state controls on welfare (Anderson, 2019). Based on the timing of one's application or assessment for state support the state differentiates 'deserving' from 'undeserving' citizens.

The law, through the legal system, exercises control through the seizure of time over place, creating temporal limits on access to legal status, citizenship, rights, and recognition. Anderson suggests, 'we can think of migrants as at the sharpest end of the temporal restrictions that surround access to many rights for citizens as well as foreigners' (Anderson, 2019; see also Sharma, 2020, p. 223). Like sovereignty, temporal controls are made to seem normal if not natural. This denies the historical and cultural specificity of contemporary immigration law and policies; modern nation-state immigration controls, including passports and border security, emerged by the end of WWII 'as a permanent, necessary, and even "timeless" feature of state sovereignty' (Sharma, 2020, p. 114). In the post-war world, 'spatial and temporal limits to the "nation" helped define *where* the national society belonged, *who* belonged in any given national homeland, and who they ought to be

with when they were there. For each "nation," separation became both a necessity and a virtue (Sharma, 2020, p. 114). This separation allowed nation-state sovereignty to be reinforced as a necessary pillar of legal, political, and economic organization.

That time is vital to one's legal status and access to legal rights 'is a result of particular forms of social regulation and law, not the other way around' (Grabham, 2016, referencing Greenhouse, p. 47). The 'idea of time passing irreversibly is, as such, a technique of modernity' (Grabham, 2016, referencing Latour, p. 23). Importantly, temporality is not homogenously experienced. In fact, the multiplicity of temporalities and the different, dynamic experiences of temporalities form a 'web of practices incompatible with modern national citizenship' (Tomba, 2022, p. 128). According to Tomba (2019), the temporality of the nation-state is an example of how the state tries to neutralize friction. Friction, nevertheless, exists. Conflict, as Borrows and Martel both distinctly describe below, is constitutive of community and law. While Euro-modern law and the nation-state through sovereignty and security ostensibly resist friction, or project a promise to end conflict, alternative approaches to law start from the tension. Tension, like difference, is generative for resistant thinking (Tomba, 2019, p. 10).

Flipping the script from avoiding friction to embracing it returns us to Haraway's reminder that 'it matters what stories make worlds, what worlds make stories' (Haraway, 2016, p. 12). Rather than think of borders, relational thinking focuses on the 'multiplication of relations in an uncircumscribed space' (Tomba, 2019, p. 25) that allows for the expression of different temporalities, and their responses to a common problem (e.g. politics/democracy, capitalism/economy, property relations). While the *techne* of law seeks a limit that is secure and even predictable, the *eco* constantly re-awakens the new creation, re-constitution, of community and meaning because of the friction, the conflict, that *is* beings coming together.

The materiality of law has been explored by legal scholars as 'beyond human relating as the basis for social existence' (Grabham, 2016, p. 484). Law's materiality involves understanding how legal objects and techniques, such as borders and immigration control, themselves create legal norms rather than are created by pre-existing legal norms. Placing

this in the context of Indigenous research, legal objects and techniques need to be understood not only as carriers of legal normativity but demystified through understanding that 'an object or a thing is not as important as one's relationship to it' (Wilson, 2008, p. 73). Alternatives to state sovereignty, drawn from Indigenous legal theories, originate from the experience of beings coming together as material, embodied reckoning in place and presence.

Learning: Material and Embodied

What I refer to as Indigenous legal theories of alternative sovereignty involve a material, embodied reckoning in and on the land and territory. Under alternative sovereignties, that by nature of their being an alternative would not be called sovereignty, the focus of migration would not be on the movement, but on the arrival: the presence of being in relationship with place and life in that place. Reaffirming a connection to place would ground law's materiality to place, creating legal relations from the base of who is present, rather than who is recognized by the law of the state: in Canada, the Crown. Coulthard has argued that Indigenous movements, such as claiming sovereignty by demanding land back, resist a 'politics of recognition in contemporary liberal form [that] promises to reproduce the very configurations of colonialist, racist, patriarchal state power that Indigenous peoples demand for recognition have historically sought to transcend' (Coulthard, 2014, p. 3). Legal relations stemming from presence and relationality experienced from that presence (of beings coming together in common, as above) are radically different from seeking recognition in a pre-figured (archic) form.

Parallel sovereignties therefore originate from the communities themselves. There is no framework to fit into like there is in a statist governance structure. For Richmond, sovereignty is 'vernacular sovereignty in everyday' (2024, p. 44). It is lived and alive: 'everyday activities revitalize kindship in all its meanings, which may be the most important carrier of Indigenous influence into the future' (Richmond, 2024, citing Daigle, 2019, p. 45). Importantly, the everyday does not shy away from conflict and disagreement. Indeed, if one is honest about

their day-to-day life, one would know this to be true. When discussing Indigenous legal knowledge, Borrows emphasizes that 'law springs from conflict' (Borrows, 2019, p. 239.). Conflict is present not only in the human world, but in the living more-than-human world. Borrows describes the Anishinaabe law practice learning from the behavior of watersheds:

> The Anishinaabe word for this concept is gikinawaabiwin. The word akinoomaage is also used to describe this phenomenon. It is formed from two roots: aki and noomaage. "Aki" means earth and "noomaage" means to point towards and take direction from. The idea this word conveys is that analogies can be drawn from our natural surroundings and applied to, or distinguished from, human activity. This is the heart of Anishinaabe legal reasoning: parallel situations are correlated; dissimilar situations are distinguished. (Borrows, 2016, p. 13)

According to Borrows, included in 'principles of Anishinaabe citizenship law; one's choice to either take care of, or neglect, their relations either strengthen or weakens, respectively, one's sense of belonging with the Anishinaabe nation and the degree to which the nation claims them back' (Borrows, 2016, p. 16). Citizenship is vitally linked to the relationship that is cultivated and nurtured with the people and place; it is a living material citizenship rather than a legal document or legal idea.

Leanne Betasamosake Simpson:

> Our [Nishnaabeg] nationhood is based on the idea that the earth gives and sustains all life, that 'natural resources' are not 'natural resources' at all, but gifts from Aki, the land. Our nationhood is based on the foundational concept that we should give up what we can to support the integrity of our homelands for the coming generations. We should give more than we take. It is nationhood based on a series of radiating responsibilities (Simpson, 2017, p. 8-9)

Applied to rethinking the meaning of borders and migration, if there is relationship, there is recognition and accountability. Communities and the social, political, economic structures that organize people and living beings 'can only come into existence by actual conflict, actual political

expressions coming together and working things out (or not)' (Martel, 2022, p. 286). It is through tension, difference, and conflict that we know ourselves, as singular beings in a plurality of beings. This plurality of beings creates community, but community itself is a form that must always be responsive to the beings in plural. A community that is static, inviting others into a pre-existing form, denies the living, responsive activity to being in common (Nancy). Being in common, with other living beings, is response-ability. Thus, recognition of legal status and access to legal rights ought to come from being in relationship with others.

Relationships and relationality create the ability to respond: response-ability (Haraway, 2016).[3] One cannot prefigure or predetermine relationship; it must be experienced and *happening*. Relationships happen in the *eco* of eco-techne, the responsibility then becomes *techne* but, building an alternative approach to law, the *techne* can be law as formed by responsibility, not a predetermined capitalist form. As a non-Indigenous scholar working on migration law, listening to the refusal of Euro-modern law that comes from Indigenous scholarship urges me to truly think and respond 'outside the box' of Euro-modern law, to recognize where existing 'networks of reciprocal resurgent movements with other humans and nonhumans [are] radically imagining their ways out of domination' (Simpson, p. 10). The Euro-modern law is not total; it is its archic drive that captures narrative and contingency to make it seem *as if* this understanding of law (and with it sovereignty, borders, and citizenship) was the only possible form.

The point is not that there is a new replacement law or legal system that will help 'migrants.' Rather, what stories we tell ourselves when addressing issues like the precarization, migrantization, and feminization of labor matters. These stories, whether Master Narratives or rooted in the culture and community of a given place, orient us to our starting point and expectation of law. For Val Napolean, 'law is the intellectual process of deliberating and reasoning to apply rules according to the context' (2014, p. 139). Context not only matters; it is vital to law. Thus, legal knowledge remembered and retold as stories provide grounding,

[3] From Haraway (2016). *Haraway asks 'How do we assume responsibility in the sense of accountability – and cultivate our capacity to respond?'*

context, for the challenges that require deliberation and reasoning. Stories, moreover, tell us who we are and tell us what law is beyond atomized liberal subjects of enlightenment/modernity. Rebecca Johnson writes of Indigenous legal knowledge as stories that have been shared with her, telling of the obligations that persons have to the creatures, the living world around them. As a non-Indigenous legal scholar, Johnson shares that these stories bring an awareness of law and legal creation happening around her and in her daily interactions. For example, when teaching business law, she incorporates storytelling and stories to teach about contracts and business regulation (Johnson, 2025).

Stories shape if and how state sovereignty is questioned and contested or whether it is assumed as normal and natural. It is vital that we reflect on the conditions of possibility that we deem acceptable, versus those that are assumed to be impossible or incorrect. These questions, and the stories that answer them, matter. They carry the potential to decolonize, epistemologically, ontologically and personally. Or they continue to repeat and refashion the colonial matrix of power.

Conclusion: Presence and Now-Time

Throughout history, a pervasive notion exists that either there is not enough space within the nation-state, or space can only be filled by specific, desirable people. Control and scarcity, including a scarcity of time, guides immigration policy. That people can fall into gaps, or more accurately the shadows of law, is a condition of Euro-modern law's specific frames of recognition. It is not accidental that membership in a nation-state is limited according to the individual states' criteria for citizenship or residency; rather, this is a condition of state sovereignty. Nevertheless, people who are present within a territory may still be living and working in that state regardless of recognized legal status. Their undocumented or irregular status, in the shadow of legality, serves a purpose within current legal-economic-political structures by tangibly providing cheap (informal, exploited) labor (Tataryn, 2021), as well as figuratively providing a 'foil' for the (Good) Citizen (Anderson, 2013).

It is not accidental that in the context of migration, 'undocumented' or 'irregular' people are most often bodies that are racialized and in low socio-economic positions. The labels *irregular migrant*, *undocumented migrant*, *illegal migrant* are commonly used to refer to people crossing territorial borders from the Global South to the Global North (or lower-income countries to higher-income countries, for example from Sudan to Egypt). These labels characterize people as desperate to the point of disregarding legal procedures and processes —in other words, desperate enough to engage in criminal behavior— in the hope of improving their life/economic conditions. These labels are rarely, if ever, used to refer to high-income, white European or North American persons living and working in a country where they do not hold citizenship and may have overstayed a tourist or work permit, or entered without proper documentation.[4] Migration and 'migrant' status have evolved not as accurate legal categories, but broadly capturing a specter of a racialized, poor, exploited, and exploitable class. A class of people whose presence is mobilized as if it posed a threat to the security and identity of the sovereign, law-abiding, nation-state.

The violence that is experienced both at territorial borders and internally within nation-states when one is labelled a 'migrant' —and due to this label, less deserving of rights recognition and legal protection— is embedded in the colonial matrix of power. State sovereignty has become a Master Narrative. It is, in Euro-modern legal theory and practice, the unquestioned way that populations and territory are organized and controlled. The organization of our political society depends on citizenship in a state, a nation-state, bounded to a territory over which a governance structure holds sovereignty. To disentangle us from the conceptual and structural dependence on state sovereignty as the

[4] Perhaps what has seemed so shocking about ICE detentions in the US between March-July 2025 has been that white European and North American persons have also been detained in the US alongside the 'usual suspects' of Latin American, Muslim, and otherwise racialised persons. https://www.theguardian.com/us-news/2025/mar/19/canadian-detained-us-immigration-jasmine-mooney; https://www.theguardian.com/us-news/2025/apr/05/i-was-a-british-tourist-trying-to-leave-america-then-i-was-detained-shackled-and-sent-to-an-immigration-detention-centre; https://www.theguardian.com/us-news/2025/may/01/trump-immigrants-federal-prisons; https://www.theguardian.com/us-news/2025/may/08/irish-woman-cliona-ward-detained-us-immigration-released-17-days-custody. See also, https://www.theguardian.com/commentisfree/2025/jun/19/ice-trump-supporters-crackdown

ostensibly only legitimate way to understand cross-border movement and citizenship involves work that is conceptual, epistemological, and personal (Walsh, 2023).

The call for No Borders, or imagining movement across borders with fewer, if any restrictions, shares with Indigenous methodologies of law a fundamental epistemological challenge to colonial matrices of power, specifically to state sovereignty. Decoloniality and decolonial praxis on migration means looking at movement —from one place to another place— not as legal or illegal, but as part of the circulation of being that takes place *somewhere,* on land. This is an approach that is ontological and epistemological, not intended to give policy or institutional guidelines, grounded in place-based, relational, and lived legality, rather than a state-centric legal form. Place-based knowledge involves community both as forming and being formed through the actual participation of people. I broaden this not just to compare and apply a form of epistemology from Indigenous scholars considering sovereignty and law, but to look at poststructuralism and post-anarchism's challenge to the hegemonic statist archist frame. It is through awareness of presence, collective experience in resolving conflict happening in the now-time (Martel, 2022), as we come together as beings in a common space and place, that we can begin to think of what law is, what law means, and what law can be and do to challenge colonial matrices of power and domination. Martel calls this 'now-time' which is 'accessed by stripping away false constructions of reality and 'trusting our own materiality' (Martel, 2022, p. 297).

Michi Saagiig Nishnaabeg scholar Leanne Betasamosake Simpson asks 'what does it mean to "prioritize being with each other, being with the work, being with the possibilities, more than they prioritize the gymnastics of trying to get it right in a structure built on wrongness?" (Simpson, 2017, p. 44). This calls on us —me as the author— to enact relational, grounded being within this very article. I recognized that saying yes to the invitation to participate in the workshop preceding this special issue and publication possibly reflected a colonial mindset: the motivation to continue my research despite the needs of my young family, the desire to engage in conversation with leading scholars and

'gain' a publication, once again navigating the 'gymnastics' of attempting to *make law better* within a structure —modern law— built on wrongness.

I have accepted that reality is much more complex. In resisting binary distinctions and predetermined categories, I recognize the relationality that is present as I have worked on this article, and the need to be with others, intellectually if not physically, to breathe life into my frustrations, my analysis, and the glimmers of alternatives that I hold onto even when they are contained as thoughts and intellectual insurgencies. I write with frustration and gratitude. Frustration at repetition; at the lack of *site,* lack of place for the crisis of epistemological frameworks of migration and labor. Frustration at the lack of attentiveness to our role in the perpetuation of coloniality in academic work as much as the praxis of decoloniality in our everyday lives as we relate to, interact with, and construct law, be it public, constitutional, and international, immigration, or labor. And gratitude for the intellectual energy that has been challenging colonial modernity, patriarchy, and capitalism for centuries. I write with profound gratitude for everyday spaces, presence, and life.

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