Book Review – Indigenous Women's Writing and the Cultural Study of Law

Cheryl Suzack

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In *Indigenous Women's Writing and the Cultural Study of Law*, Cheryl Suzack makes a thought-provoking contribution to a growing critical field that studies the relationship between law, literature, and questions of social justice. At the foundation of Suzack's critique is the understanding that colonial legal systems have been, and continue to be, a source of oppression and injustice for Indigenous women.[1] In this book, Suzack employs a law-in-literature comparative approach to demonstrate the nature and extent of this oppression and injustice.

Indigenous Women's Writing is part of a trend of using a law-in-literature method to explore issues of Indigenous sovereignty,[2] colonialism,[3] and law's production of social meaning.[4] Suzack's work also participates in an expanding field of Canadian scholarship on Indigenous justice.[5] Although the cases that Suzack analyses are from the late 20th century, the critique is relevant, as North American and other postcolonial courts continue to suffer from the problems that Suzack identifies.[6]

Suzack foregrounds selected Canadian and American court cases that exemplify the failure of these legal systems to provide justice for Indigenous women**.** Suzack argues that the broader social effect and cultural meaning of these decisions can be better understood by examining literature written by Indigenous women that responds to and engages with the cases and their outcomes. The legal and literary stories are read together to uncover alternative accounts of the cases and alternative ways of conceptualising Indigenous justice.

This comparative method enables critique that 'reimagines' the outcome of legal decisions. In *Martinez,* a female member of the Santa Clara Pueblo

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[1] Cheryl Suzack, *Indigenous Women's Writing and the Cultural Study of Law* (University of Toronto Press, 2017) 5.
[2] David J Carlson, *Imagining Sovereignty: Self-Determination in American Indian Law and Literature* (University of Oklahoma Press, 2016).
[3] Stephen Morton, *States of Emergency: Colonialism, Literature and Law* (Liverpool University Press, 2013).
[4] Anne Quema, *Power and Legitimacy: Law, Culture, and Literature* (University of Toronto Press, 2015).
[5] See, eg, University of Victoria, *Indigenous Law Research Unit* (2018) <https://www.uvic.ca/law/about/indigenous/indigenouslawresearchunit/index.php>.
[6] See, eg, Canada, Truth and Reconciliation Commission of Canada, *Calls to Action* (Winnipeg, 2015) 27, 28, 50.

challenged a tribal ordinance that denied tribal membership to children of female members who married outside the tribe.[7] Martinez argued that because this tribal ordinance allowed Pueblo men who married outside the tribe to pass membership onto their children, the ordinance discriminated against her on the basis of sex and was a breach of the Indian Civil Rights Act.[8] The Supreme Court held that, because of tribal sovereignty, it was unable to review the ordinance, and thus denied tribal membership to Martinez's children.

Suzack engages with ongoing controversy around this case, arguing that the decision devalues Indigenous women's cultural contributions to their tribe, limits Indigenous women to traditional gender roles, and posits gender justice and tribal sovereignty as competing aims.[9] By reading Silko's novel *Ceremony*[10] that 'writes back' to the *Martinez* case, Suzack uncovers a narrative in which women are crucial to tribal well-being and their cultural contributions are valued. She also presents a powerful response to the tribal sovereignty/gender justice opposition by showing how the novel reimagines gender justice as crucial to a community's 'decolonising quest'.[11]

Suzack's comparative method also effectively reveals the omissions that the court enters into when creating a single 'official story'.[12] In *Racine,* the Supreme Court of Canada held that a child's need for connection to their heritage and culture abates over time and therefore takes on less importance when considering the 'best interests of the child.'[13] Suzack contrasts this decision with Mosionier's novel *In Search of April Raintree*,[14] a story that emphasizes the importance of connection to community for long term mental health and sense of identity.[15] This contrast reveals a contradictory narrative that is silenced or omitted by the singular legal test for 'best interests'.

Lastly, Suzack uses the law-in-literature method to highlight the limitations of legal systems to resolve disputes and to define political identity. The White Earth Land Claim involved the property rights of Indigenous people who received allotments of land that were held on trust by the United States government. A dispute arose over a number of allotments that were illegally transferred to non-Indians, polarizing the community. Suzack

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[7] *Santa Clara Pueblo v Martinez* 436 US 49 (1978).
[8] *Indian Civil Rights Act of 1968* 25 USC §§ 1301-1304.
[9] Suzack, above n 1, 21.
[10] Leslie Marmon Silko, *Ceremony* (Penguin, 1977).
[11] Suzack, above n 1, 25.
[12] Brook Thomas 'Reflections on the Law and Literature Revival' (1991) 17 *Critical Inquiry* 510, 583.
[13] *Racine v Woods* [1983] 2 SCR 173.
[14] Beatrice Mosionier, 'In Search of April Raintree' in Cheryl Suzack (ed), *In Search of April Raintree: Critical Edition* (Portage & Main, 1999).
[15] Suzack, above n 1, 52.

looks uses literary texts to show the inadequacy of legal accountability/liability to facilitate community recovery and healing,[16] and contrasts laws that define entitlement to tribal land through blood quantum with Indigenous people's spiritual connection with the land and their communities.[17]

These examples stand out at the clearest and most accessible connections that Suzack draws and also as the most useful points to begin important conversations about the shortcomings of both North American and other legal systems. Indeed, this critique may be applied to the Australian legal system. The foundation of Suzack's book – the disproportionate oppression and injustice that Indigenous women face at the hands of colonial legal systems – rings equally true in an Australian setting. In particular, Suzack looks to literature to show how the 'withering away' of Indigenous land bases through colonial mismanagement contributes to women's disempowerment and how landless status leads to socio-economic vulnerability.[18] This approach may be applied to discourse around Australian Native Title to better understand the particular gendered effects of the doctrine.

Suzack's text is broadly interdisciplinary, and could therefore speak to a diverse audience including literary critics, cultural scholars, judges, lawyers, and activists. However, the critique is couched in theoretical language which leaves some ideas and connections opaque and tenuous to an inexperienced reader. Ultimately, Suzack's book leaves open a question: if these literary texts provide a vision of what justice looks like for Indigenous women, and highlight the failures of the justice system to protect them, how do we address the insufficiencies of the court system to provide that justice? Susack's critical method offers a jumping off point identifying problems through the voices of those otherwise silenced by the legal system. The next step must be using this knowledge to educate practitioners, improve access to justice for Indigenous people, and recover Indigenous legal systems.

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[16] Ibid 85–7; Louise Erdrich, *The Antelope Wife* (Harper, 1998).
[17] Suzack, above n 1, 120; Winona LaDuke, *Last Standing Woman* (Rainforest Books, 1997).
[18] Suzack, above n 1, 12, 87.
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