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‘Emily Grafton, Divided Power: How Federalism Undermines Reconciliation’

Jatinder Mann

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Emily Grafton, *Divided Power: How Federalism Undermines Reconciliation* (Fernwood Press, 2025), 174pp. Paperback. C\$32. ISBN: 978-1-7736-3772-3.

This extremely thought-provoking book by Emily Grafton is based on her Ph.D. thesis. The latter must have been equally impressive. The book tackles head on a very difficult and complicated subject: how federalism undermines reconciliation between Indigenous Peoples (First Nations, Metis, and Inuit) in what is now known as Canada and the settler-colonial Canadian state. Grafton seems to effortlessly draw on the existing literature to support her argument. As a reviewer of over one hundred books I do not think I have ever seen anyone else do this so impressively. To say that Grafton masters the key arguments of major thinkers on the subject of her book would be an understatement.

The book firstly situates its subject in the context of the Truth and Reconciliation Commission (TRC) in Canada. Grafton outlines the depth of testimony the commission bore witness to, not only from Indigenous survivors of the Residential School System in Canada but also their descendants which illustrates the intergenerational trauma of the devastating system, which was essentially aimed at the cultural genocide of Indigenous Peoples in Canada, and in practice genocide. All of this represented the truth dimension of the commission's work. On the reconciliation front the TRC produced 94 Calls for Action. But as Grafton quite rightly points out, despite being elected to a majority government partly on its commitment to implementing the Calls for Action, the Trudeau Liberal government's actual performance on this when in office was extremely disappointing.

The book also explores the judicial dimension of how Indigenous Peoples relate to the Canadian federal system as courts have emphasised that Indigenous Peoples rights to govern themselves are *sui generis*, i.e. in a class of their own. Therefore, they are not derived from the Crown, but in fact predate European settlement in what is now known as Canada. Talking about the judicial system in Canada, Grafton highlights that although the courts at times have appeared to support Indigenous Peoples' struggle for their rights (like above) the context in which they ultimately operate is very much the propagation of the settler-colonial state in Canada, which manifests itself in the federal political system that operates there. Namely the federal government and the governments of the ten provinces holding all the political power in the country and both exercising jurisdiction over Indigenous Peoples, who have no distinct position of their own in the system and are subject to the mercies of both sets of political actors.

So, the book details several potential ways that Canadian federalism could be changed to much better accommodate Indigenous Peoples' rights and political aspirations. One idea is developing a municipal level of First Nations representation. However, this would still be subject to the control of provincial and federal governments. Another possibility is the creation of a separate province or territory in Canada exclusively for Indigenous Peoples. However, the proportion of Indigenous Peoples in Canada is relatively quite small and they are dispersed across the country. One other suggestion is the creation of a third house of Parliament for Indigenous Peoples. But this would be difficult to accommodate in the existing federal structure in Canada, i.e. the provinces and Ottawa.

Grafton thus suggests a different approach: Treaty federalism. This would involve the recognition of Indigenous Peoples' sovereignty alongside that of provincial and federal governments. The book is quick to point out that this suggestion is not as radical as it appears as Canadian federalism has not been

unchanged since it was first introduced in the country in 1867. On the contrary it has been adapted on numerous occasions to meet changing circumstances. Grafton argues she does not see why this can also not take place on Treaty federalism. All it requires is strong political will from both federal and provincial governments. The lack of this so far only demonstrates the lack of authenticity in her opinion when it comes to reconciliation between Indigenous Peoples and the settler-colonial Canadian state. It is all very well to speak the language of reconciliation but without concrete action to back it up, it is all just performative.

I really enjoyed reading this book. One of its greatest strengths is explaining quite a complex subject in relatively plain language and offering very practical suggestions on how the situation can be improved. In this sense it is not only an academic book but an extremely useful guide for policymakers. I wholeheartedly recommend the book to readers, both general and specialist.

Jatinder Mann, University of Reading