

**Indigenous Notions of Ownership and Libraries, Archives and Museums.** Camille Callison, Lorie Roy, and Gretchen Alice Lecheminant, eds. Berlin and Boston: DeGruyter, 2016. xi, 376 pp. ISBN 978-3-11-036299-2

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**Like many international bodies,** the International Federation of Library Associations and Institutions (IFLA) has a mandate to cover topics of contemporary interest to its constituents. So it is an indication of the progress Indigenous peoples have made toward cultural self-determination on an international stage to find that IFLA has devoted an entire monograph to ideas of possession, ownership, access, and use of materials of Indigenous heritage.

It would have been interesting to learn who initiated “IFLA’s request for a book on this topic” (p. 3). In the preface, the editors invoke a growing professional consciousness among museums, archives, and libraries in “support of Indigenous ways of knowing” (p. 3). The preface also notes that heritage professionals are struggling with questions of Indigenous knowledge and possession and that Indigenous communities are advocating Indigenous models of knowledge for control of their cultural heritage; however, the preface does not explain how this translated into the selection of the authors or the subjects of their articles. The only organizing principle offered is that Indigenous “understanding and preservation of ways of knowing can only truly be upheld with the ultimate aim to transfer the knowledge to the next generation in the proper cultural context” (p. 1). Since IFLA has a professional relationship with UNESCO and the World Intellectual Property Office, the preface might have explained how this book is an expression of IFLA’s approach to international advocacy and professional education on this topic.

The book also requires an introduction with a methodology and thematic overview. The authors could have discussed the political minefield of colonial cultural policies, the de-colonializing work of Indigenous self-determination, and the embedded statist programs of allied cultural institutions. The book contains 22 articles from global jurisdictions, arranged into three sections: “Notions of Traditional Knowledge,” “Notions of Ownership,” and “Notions of Libraries, Archives, and Museums.” The articles are relatively short, and they overlap the topic headings with a random feel. One has a sense that they may have been the result of conference proceedings, but this is never stated. Like the book, each section would also have benefited from an introductory thought piece. Given the profound paradigm shift in the relationship between allied heritage institutions and Indigenous societies, combined with IFLA’s stated advocacy mission, the introduction is a missed chance to make a statement on how this relationship is changing and to discuss the social, political, cultural, and professional implications.

The opening section, “Notions of Traditional Knowledge,” contains four articles that directly confront the concept of colonialism and its centuries of cultural appropriation. This section begins with Lorie Roy’s article “Who Is Indigenous?” The question is a useful entrée to the fundamental issues. As she notes, “the process of considering and offering a definition underlies the foundation for discussing aspects of the stewardship of indigenous cultural knowledge” (p. 9). Roy argues that this question can be viewed as “a kind of needs assessment for preparing to work with Native library clientele” (p. 9). She acknowledges that this is a colonial perspective and pivots to a review of the many colonial attempts to form a definition. She ends with an endorsement of the professional decolonization articulated in Linda Tuhiwai Smith’s *Decolonizing Methodologies*.<sup>1</sup> But Roy’s decolonization has limits: her article concludes with Indigenous perspectives, but they are referenced from the 1999 International Indigenous Librarians Forum, which defined Indigenous peoples as “those who have become minority peoples in their places of cultural origin.”<sup>2</sup> Quoting Sam Pack, Roy concludes that ultimately Indigenous peoples should answer the question.

1 Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London and New York: Zed Books; Dunedin, NZ: University of Otago Press, 1999).

2 Bernard Makoare and Chris Szekely, *International Indigenous Librarians’ Forum* [Preliminary Program] (Auckland, NZ: National Library of New Zealand, 1999), cited in Lorie Roy, “Who Is Indigenous?” in *Indigenous Notions of Ownership and Libraries, Archives and Museums*, ed. Camille Callison, Lorie Roy, and Gretchen Alic LeCheminant (Berlin and Boston: DeGruyter, 2016), 19.

Trying to resolve the question of who is Indigenous may not be the best approach to safeguarding Indigenous knowledge and traditional cultural expression. James Henderson and Marie Battiste have both observed how international debates over who is Indigenous became prominent as the UN Commission on Human Rights began to address the rights of Indigenous Peoples in the early 1980s.<sup>3</sup> As Henderson notes, for more than two decades, “international human rights experts, states, and Indigenous peoples debated the definition and status of Indigenous peoples in international law ... a legalistic, positivistic, and heartless quibble over categories and terminology.”<sup>4</sup> He dryly concludes, “Since cultural diversity has become the defining characteristic of humanity, no universal, unambiguous definition of the concept of ‘Indigenous peoples’ exists in international law.”<sup>5</sup> Those attempting to define Indigenous peoples have struggled with the fact that relationships between Indigenous communities and a dominant settler society will change over time, just as Indigenous communities will continue to evolve and self-determine. Therefore, “no single accepted definition captures the diversity of Indigenous heritages, cultures, histories, and current circumstances.”<sup>6</sup> The best that can be done is to acknowledge the unique, dynamic, and reciprocal relationships interrelating land, culture, and peoples, both settler and Indigenous.

There is another problem in attempting to formulate a general definition of Indigenous: it perpetuates the modernist, Eurocentric, grand social theory approach that envelops community groups, assigning to them particular char-

3 See James (Sa’ke’j) Youngblood Henderson, *Indigenous Diplomacy and the Rights of Peoples: Achieving UN Recognition* (Saskatoon: Purich Publishing, 2008); and Marie Battiste and James (Sa’ke’j) Youngblood Henderson, *Protecting Indigenous Knowledge and Heritage* (Saskatoon: Purich Publishing, 2000).

4 Henderson, *Indigenous Diplomacy and the Rights of Peoples*, 42.

5 *Ibid.*, 46.

6 *Ibid.* On the concept of “Indigenous people,” see, for example, Erica-Irene A. Daes, “Working Paper by the Chairperson-Rapporteur on the Concept of Indigenous People,” UN Doc. E/CN.4/Sub.2/AC.4/1996/2 (10 June 1996). More recently the UN Special Rapporteur on the Rights of Indigenous Peoples reiterated this position: “As is often repeated in the literature on the subject, no such definition exists. *The United Nations Declaration on the Rights of Indigenous Peoples* does not attempt to provide one, although it does affirm that indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions” (art. 33). Human Rights Council Twenty-seventh session, Agenda item 3, “Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development,” *Report of the Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli Corpuz United Nations General Assembly, A /HRC/27/52*, 11 August 2014, 6.

acteristics, strengths, and vulnerabilities in order to formulate universal laws of behaviour and social control. The historic result has been catastrophic social programs such as Canadian residential schools. As Sébastien Grammond recently wrote, “ethnicity is a descriptive concept carrying no inherent normative value, so it needs to be assessed against a moral standard.”<sup>7</sup> All of the heritage professions still need to thoroughly work through these fundamental concepts of homeland, belonging, and identity. Roy’s article is the first step on a very long conceptual journey.

Building on Roy’s question, the next three articles effectively situate the question of traditional knowledge in a space of contemporary community and environmental context. As Wendy Peters writes, “the embodiment of indigenous knowledge has always been a very literal factor in the survival, sustainability and continued existence of Indigenous people” (p. 26). For Peters an important connective thread is the oral histories that perpetuate the wisdom of Elders. She argues that the perseverance of these customs is testimony of their utility. She cites Indigenous knowledge practices in Hawaii, Alaska, and New Zealand, which are rooted in community relationships with the local environment; the holistic quality of these practices contributes to their endurance. Darren Courchene, in his chapter “Anishinaabe *Dibendaagoziwin* (Ownership) and *Ganawenindiwin* (Protection),” offers by far the deepest understanding of an intricate and holistic Indigenous traditional justice system capable of functioning alongside Canadian domestic common law. Courchene outlines the Anishinaabe legal constructs and places them within their context of community and environment. He argues that a revitalized Anishinaabe worldview is needed to better manage the ownership, control, and access of materials embodying traditional cultural expression. In one of the book’s most useful passages he writes,

*Onaakonigewinan* (laws) in the Anishinaabe worldview are not written. They are intrinsic. *Onaakonigewinan* are embedded in Anishinaabe languages, sacred narratives, personal reminiscences, and ceremonies. *Onaakonigewinan* were not prohibitive but rather instructive in nature. (p. 44)

7 Sébastien Grammond, *Identity Captured by Law: Membership in Canada’s Indigenous Peoples and Linguistic Minorities* (Montreal and Kingston, ON: McGill-Queen’s University Press, 2009), 15.

Courchene further details “how these Anishinaabe *Onaakonigewinan* apply to intellectual property (IP) and Anishinaabe *gaagikidoo gaagii-bi-izhisemaagoowin* (oral history).” He notes,

Anishinaabe *gikendaasowin ju-dibenjigaadeg* (Ojibwe intellectual property) within Anishinaabe communities is complex.... there is the trunk of a tree named “Indigenous Knowledge ... which has branches such as “Traditional Ecological Knowledge,” ... “Traditional Knowledge,” “Oral History” ... “Oral Tradition.” (p. 44)

One reason he makes this detailed breakdown is to present a convincing and articulate argument that section 35 of schedule B of the Constitution Act (1982) provides for the cultural rights of Anishinaabe people: Anishinaabe *gaagikidoo gaagii-bi-izhisemaagoowin* qualifies as an “Aboriginal right” on a constitutional plane.<sup>8</sup> Courchene notes that international work on Indigenous rights has been much more progressive and successful than that of individual nation states in recognizing the cultural self-determination of Indigenous peoples. He cites articles 11, 13, 24, and 31 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) on the need to recognize greater Indigenous control over traditional cultural expression. Moving from the international stage, he concludes with a call for domestic collaboration: “We need to develop a middle ground where intercultural dialogue can fairly and honorably occur” (p. 54). In considering this, it is worth noting that Courchene’s is the only article to cite the First Nations’ Information Governance Programs’ OCAP (Ownership, Control, Access, and Possession) Principles for a self-determined Indigenous management of materials containing Indigenous Traditional Knowledge and cultural expression.

The book’s second section, “Notions of Ownership,” discusses a diversity of archival, museum, and library functions. Gregory Younging opens with a useful overview of what he calls “The Traditional Knowledge-Intellectual Property Interface” (p. 67). Younging’s is the first of three articles that discuss the relationship between traditional cultural expression and intellectual property law.

8 The relevant passage reads: “35(1) The existing aboriginal and Treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed; and 35(2) In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit, and Métis peoples of Canada.” Part 2 suggests that other names for “aboriginal peoples” are possible.

All three examine ways to bring together Western intellectual property-rights regimes and Indigenous traditional cultural expressions.

The next two articles – Jonathan Franklin’s “Traditional Cultural Expressions and Cultural Institutions” and Brigitte Vézina’s “Cultural Institutions and the Documentation of Indigenous Cultural Heritage” – are more detailed in their discussions of the “global intellectual property regime,” but all three authors agree that

cultural institutions lie at the tensed junction of various stakeholders’ needs and interests: on the one hand, creators, researchers, scholars, and the broader public wish to access, study, share, use, re-use, and re-create traditional cultural heritage held within the rich and varied collections of cultural institutions. On the other hand, indigenous peoples wish to prevent the misappropriation of their cultures. The difficulty for cultural institutions rests in finding an equitable balance between those eclectic and sometimes conflicting claims and interests. (p. 100)

But just as with definitions of the term “Indigenous,” the authors’ definitions of traditional knowledge and cultural expression set the problem’s interpretive parameters. The questions of cultural exploitation of Indigenous cultural expression must be understood in the context of colonialism. As observed in an often-cited World Intellectual Property Organization (WIPO) study from 2010,

a central problem is that indigenous peoples and traditional communities remain legally disenfranchised from their TCEs, while at the same time seeing themselves as their legitimate custodians, owners and managers. Furthermore, there is at present no clear international legislative framework to provide guidance over the management, access and use of expressions and manifestations of “traditional” cultures.<sup>9</sup>

9 Molly Torsen and Jane Anderson, *Intellectual Property and the Safeguarding of Traditional Cultures: Legal Issues and Practical Options for Museums, Libraries, and Archives* (Geneva: World Intellectual Property Organization, 2010), 5, accessed 31 January 2018, [http://www.wipo.int/edocs/pubdocs/en/tk/1023/wipo\\_pub\\_1023.pdf](http://www.wipo.int/edocs/pubdocs/en/tk/1023/wipo_pub_1023.pdf).

Essentially “international IP law was born in a very specific cultural context, it does not recognize indigenous or traditional customary knowledge.”<sup>10</sup>

To be clear, Franklin cites the WIPO definitions for what he terms the “diplomatic discussion [of traditional knowledge] in the intellectual property community.”<sup>11</sup> This knowledge is open to patent laws and is therefore a kind of “positive protection” whereby Indigenous peoples can take out a patent and charge for the use of the traditional knowledge. Similar definitions do not exist in the global intellectual property regime for traditional cultural expression, primarily for reasons cited in Younging’s article. The result: copyright law applies, which permits multiple copies of a cultural expression. Cultural institutions and Indigenous communities cannot employ a “defensive protection” (i.e., no access/use) given the time-limited terms of copyright for works.<sup>12</sup>

As Franklin notes, since the 1990s the office of WIPO has met for 28 week-long sessions with no progress. There is an obvious need to look for alternatives beyond the current international intellectual property regime. Franklin, Younging, and Vézina all recognize that, at the very least, some kind of *sui generis* category within the *Copyright Act* might better serve Indigenous concerns to manage the ownership, control, access, and possession of traditional cultural expression (TCE).

Instead of a complex and time consuming process of having to clear rights item by item, a better approach would be an exception to copyright law that would permit indigenous peoples to include these works in their traditional digital library, regardless of the copyright holder.<sup>13</sup>

10 Ibid., 14.

11 Franklin quotes the following: “Traditional Knowledge includes awareness of and use of the environment, plant life, and agriculture in traditional life.... Genetic traits distinctive to the biological environment, including the DNA of the indigenous people themselves, are called “genetic resources” (p. 75).

12 Ibid., 78.

13 To illustrate the problem, Franklin cites the WIPO conceptualization of the properties of traditional cultural expression: the expression must be the concrete product of intellectual activity; it must be characteristic of the community’s social identity; and it must be part of the community’s heritage (p. 75). The *sui generis* approach is, in fact, the approach of the National Centre for Truth and Reconciliation (Winnipeg). The centre is submitting a proposal to the current copyright review process arguing for special recognition for material of Indigenous heritage.

Indigenous communities are looking at creating digital resources of TCE to better protect heritage. Vézina and Franklin both observe that “there is a current movement among many indigenous nations to document their laws around the usage of their knowledge in written and or digital format” (p. 69). A growing opinion maintains the digital environment can assert a more sophisticated management of TCE – management that might more effectively apply a diversity of access protocols sensitive to sacred values and a hierarchy of uses. The digital environment will provide a more dynamic solution to the fluid character of TCE, a way out of the entrapment of the 19th century’s textual/analog methods, which froze Indigenous cultural expressions in time.

All of this sounds positive; however, the fundamental interest of Indigenous communities for self-determination remains to be addressed. As Venessa Udy has noted,

expressions of cultural heritage are more than just property: they express the way of life and thought of a particular society, which are evidence of its intellectual and spiritual achievements.... Preservation is achieved through patterns of behaviour and knowledge embodied in skills, ceremonies, and rituals. Aboriginal peoples transfer their cultural heritage primarily through intangible means, such as songs, symbols, legends and ways of life, and in a manner that reflects their history, culture, ethics and creativity.<sup>14</sup>

Although the legal studies are useful for navigating current intellectual property regimes, they offer only vague speculation on ways forward. European models of modernity and positivism have shaped the dominant principles of the social production of knowledge and the public institutions that manage its sharing, storing, and representation. Allied heritage professions are beginning to recognize that such 19th-century concepts cannot accommodate Indigenous approaches to knowing and being.

14 Venessa Udy, “The Appropriation of Aboriginal Cultural Heritage: Examining the Uses and Pitfalls of the Canadian Intellectual Property Regime,” *IPinCH-Intellectual Issues in Cultural Heritage: Theory, Practise, Policy, Ethics*, 19 November 2015, <https://www.sfu.ca/ipinch/outputs/blog/canadian-intellectual-property-regime>.



Moving away from these studies of property regimes, in part 3, titled “Notions of Libraries, Archives, and Museums,” Alyce Sadongie and Jill M. Norwood expound on the nature of Indigenous cultural memory:

The concept of cultural practice is intuitive for many native people and, as such, its definition is laden with the intangible expressions of spirituality, values, respect, memory, reverence, worldview, and cosmology. It is manifested in community by religious practices, ceremonial ritual and observances, stories infused with moral guidance, using heritage language, and an understanding of the relational equity humans have with the natural world and all its elements including animals, plants, clouds, and stars. (pp. 194–95)

Responding to their observation, Sadongie and Norwood rightly ask, “[Why] would native peoples take a Western concept like a museum and work within its framework?” (p. 195).

Sadongie and Norwood are addressing the epistemological differences between the European and Indigenous views of caring for TCE. In “Preparing Entry-Level Information Professionals for Work with and for Indigenous Peoples,” Lorianne Roy and Ciaran B. Trace maintain a focus on the traditional library profession. They write:

The focus of this book is to provide background on issues related to Indigenous knowledge: its protection, ownership, and access. It is, in many ways, a professional course on the topic and serves to introduce the issues, key authors, and readings. (p. 157)

The authors call for “an indigenous library and information science [that] has not been framed” (p. 157). The article focuses on finding “both the baseline level of knowledge that LAM faculty say they possess about Indigenous lifeways, along with the amount of interest and basic awareness that recent graduates of their programmes demonstrate” (p. 157). Although the article begins with a commentary on the state of libraries, archives, and museums (LAMs), the study quickly pivots to graduate programs in library and information sciences. Archival concerns over social memory and the political economy of knowledge production and distribution are somewhat lost in the library profession’s concerns for

reorienting existing graduate LIS programs. In concluding, Roy and Trace do well to situate their survey as more of an initial study of the state of the library profession rather than opening required relationships with Indigenous communities. They acknowledge the “potential to perpetuate cultural imperialism and voyeurism, cultural homogeneity and ethnocentrism, outmoded charity perspectives and exoticism of other cultures” (p. 175). The study can be mistaken for tokenism if not used with caution. As Tamara Lincoln notes in the context of Alaskan Indigenous cultural re-appropriation, “we do not want to be perceived, as libraries often are, as a component of a white, European imperialist institution but rather as a supportive partner in this process of cultural reassertion” (p. 191).

This idea of reassertion is the main theme of the book’s last section. The articles are predominantly case studies illustrating the model of building new cultural programs within allied cultural institutions and informed by Indigenous cultural epistemologies. One of the most interesting themes is the impact of digital environments on reinventing Indigenous languages.

Many of the articles in the book discuss indigenizing cultural institutions without directly confronting the meaning of decolonization. This is likely owing to the fact that the book is focused more on the operations of allied cultural professions and less on cognitive ruptures from these. But given the global provenance of the articles, the book inescapably initiates a debate over the question of decolonization. Many Indigenous activists have highlighted the international rights regime. They argue that this is a means to escape from the demeaning colonial legal framework of civic rights expressed in local statutes and state policy. The articles do not strongly engage in the question of whether recognition of international rights is truly decolonizing. Many Indigenous activists argue that “the ultimate goal of Indigenous liberation [is] to dismantle settler states rather than to seek recognition from them, either domestically or internationally.”<sup>15</sup> But Andrea Smith asserts that rights recognition can be a means toward decolonization:

A wholesale rejection of human rights can presuppose that there is a “pure” alternative framework that is also not implicated in capitalism. It also presupposes that decolonization can happen tomorrow without

15 Andrea Smith, “Human Rights and Colonization,” in *Indivisible: Indigenous Human Rights*, ed. Joyce Green (Halifax and Winnipeg: Fernwood Publishing, 2014), 83.

short-term strategies to improve the current conditions under which Indigenous peoples live. [It also] presupposes that Indigenous peoples are not capable of violating human rights.<sup>16</sup>

In August 2016, Canada declared that it would support Bill-C262. The bill acknowledges the application of the UNDRIP in Canada. "It calls for the alignment of the laws of Canada with the UN declaration."<sup>17</sup> The bill passed second reading on 7 February 2018. A fundamental position of the UNDRIP is the cultural self-determination of Indigenous peoples. It remains to be seen whether this will translate into greater Crown support for Indigenous self-determination over the materials of their traditional cultural expressions.

The authors should be saluted for incorporating a high volume of Indigenous writers from across the globe. There is a particularly strong Canadian component. The book's best contribution is to highlight the current discourse in a variety of jurisdictions, professions, and cultural and political contexts. Without suggesting resolutions, it is a rich profile of cultural heritage professions and Indigenous representatives beginning to address the legacy of colonial control over Indigenous heritage. Archivists would benefit from this book if approaching as an anthology, consulting individual articles for singular concerns.

<sup>16</sup> *Ibid.*, 85.

<sup>17</sup> John Paul Tasker, "Liberal Government Backs Bill that Demands Full Implementation of UN Indigenous Rights Declaration," CBC News: Politics, 21 November 2017, <http://bit.ly/2Bb7MyV>.