

Book Reviews

Michael F. Brown. *Who Owns Native Culture?* Cambridge, MA and London: Harvard University Press, 2003. Pp.xiii + 315, photos, notes, references, index. US\$29.95 (Hc.), ISBN 0-67401-171-6; US\$11.53 (Pb), ISBN 0-67401-633-5.

David Trigger

Anthropology, University of Western Australia

This book presents a considered discussion of Indigenous assertions of ownership of cultural information, assertions which can be in tension with the claims of non-Indigenous people. The latter may wish to access particular sites and land areas, reproduce traditional Indigenous images for economic or other purposes, or discuss certain areas of Indigenous knowledge without being censored. Michael Brown shows how this conflict is more complex than it might seem at first glance. Early in the book, he asks why the incorporation of native cultural forms should be defined as theft, when native peoples themselves (as with all societies) have selectively appropriated Christian and other symbols and religious practices. How does the ownership claim over usage of Indigenous cultural ideas and designs sit with the creative mixing of cultures often termed 'hybridity' or 'creolisation' by scholars? Are New Age adherents, for example, really guilty of 'blasphemy and cultural aggression' (p.6), when embracing their own versions of such rituals as sweat-lodges (derived from certain North American Indian cultures)? Thus, this book is ultimately interested in the extent to which the law might appropriately and practically control the movement of ideas and cultural forms. Michael Brown seeks a balance between 'the interests of indigenous groups and the requirements of liberal democracy' (p.9).

Discussed early on is the case of Hopi Indians in Arizona. While photographs and artefacts depicting Hopi life are treasured by curators in various museums as exemplars of a rich non-Western culture, the Hopi today wish to put such religious objects back to use, until worn out and discarded. As with other Indian tribes, the Hopi do not wish non-Indians who are attracted to their religion to use the objects (or copies of them), or even the ideas. Brown is sympathetic to the position of Hopi people, but also raises some difficulties with this form of assertion of what he terms cultural privacy. Does it raise the spectre of censorship in the marketplace of ideas? How much participation in everyday Indigenous life will be required by individuals if they are to be recognised as appropriately deciding which Indigenous ideas or aspects of knowledge may be used and reproduced by others? Will non-Indigenous people insist on a similar right of control such that those defined as 'other' cannot make use of certain cultural forms? Is there a risk that policies of cultural privacy will be used to shield governing factions in Indigenous communities from much needed scrutiny over abusive conditions, corruption or oppression of community members? Brown also takes us to the matter of academic studies. Will Indigenous groups' power to edit research findings be such that the truth-standards of scholarship will be compromised by a group's desire to see its culture presented in a favourable light?

Amidst a wealth of material throughout the book, we are taken to an Australian case to illustrate issues about copyrighting culture. In 1997 Johnny Bulun Bulun (together with a clan leader) from Arnhem Land brought a case against a manufacturer of textiles for using an image derived from one of his paintings. One part of the argument was about whether communal ownership in the form of legally recognised copyright exists in such clan designs. Brown asks us to ponder significant questions. If there is communal ownership of 'culture', can a company enter into a licensing arrangement with an artist without first communicating with the traditional leadership of that person's group? How might an

Indigenous artist's 'community' be defined? The author provides an interesting discussion about the conceptual origins and logic of copyright law. In particular, how does the issue of free speech sit against authorial claims of ownership over images and ideas. If you can only copyright the expression of an idea (as in a painting), not the idea itself, where does this leave traditional Aboriginal communities with oral traditions, as in Australia?

In the *Bulun Bulun* case, the appropriateness of an artist pursuing wrongful reproduction of his design was accepted, but the Judge did not find that this right (as in an 'equitable interest', p.64) could legally belong to the artist's community. Indeed, Brown finds 'troubling possibilities' raised by claims for collective Indigenous ownership of cultural forms, claims that he says rest on the questionable notion of 'impermeable boundaries between native and non-native societies' (p.63). Would the emergence of communal intellectual property be limited to aboriginal communities or would other ethnic groups also assert it? Would urban Indigenous individuals have to also negotiate with clan elders to use designs when developing their own artistic and commercial enterprises?

In the USA, the New Mexico State flag contains a Zia Pueblo Indian sun symbol, which is thereby used to frame State identity. Can this symbol, and its associated traditional knowledge, be owned such that others cannot use it? Such cases, he says, are 'less about intellectual property than about resistance to the uncontrolled proliferation of [copies of culturally significant] signs' (p.86). The problem is not that copyright or its equivalent cannot be found among native peoples, but rather that such rules are hard to reconcile with Western practices, and especially with replicative technologies. The author points out, furthermore, that there is no uniform Indigenous position on these matters. Apache religious leaders, for example, turned out in 1997 to bless enthusiastically and with pride the latest model of what is named the Apache Longbow military helicopter. The painting of several Qantas planes with Aboriginal images in Australia might be a similar example; though it is worth noting that individual Indigenous business people and artists can at times be fiercely criticised from within their own communities for such public usage of traditional symbols.

The book includes lengthy discussion of ethno-botanical studies and associated charges of bio-piracy. And two sacred site cases from the US State of Wyoming have particular resonance for Australia. As with places like Uluru in Central Australia, tourists flock to Bighorn Medicine Wheel in Wyoming, at times leaving their own offerings, many of which Indian tribe members regard as inappropriate. In the same State, the site known as Devils Tower is subject to contested claims from Indigenous tribes, climbers who wish to practice their sport, Christians who have long held services there on Sundays, and in 1996 a New Age group seeking permission to hold a large gathering to celebrate World Peace and Prayer Day. New Age devotees in various States in America also build their own medicine wheel stone arrangements, thereby copying Indian ones.

Brown compares the Australian Hindmarsh Island case with that of the now anthropologically well known Point Conception dispute in California. In both cases, he discusses polarised positions adopted in public discussion: on the one hand, awed support for the sacredness of the sites, from citizens who perhaps desire reinvigoration of their own spiritual lives; and, on the other hand, resentment driven by the view that Indigenous religion is given too much attention and protection. Although fulsome in his discussion of Indigenous perspectives in such conflicts, he is also wary of 'New Age emotivism' (p.195); this is not a book sympathetic to ideological denigration ('strategic Occidentalism', p.196) in relation to 'Western' culture, on the grounds that it somehow lacks the spirituality of Indigenous cultures. Indeed, while sympathetic to Indigenous desires not to have to demonstrate the intricacies of their culture to sustain every claim, Brown also believes in the necessity of empirical evaluation of cultural ownership arguments. Poorly documented assertions, he says, are no solution, and in fact risk

negative impacts on broader native rights. When groups make claims on 'public space' as part of their process of cultural revitalisation, 'basic fairness dictates that they bolster their assertions with evidence' (p.197).

Finally, finding 'justice in the global commons' is the last chapter. The author makes the point that outside the Indigenous-rights debate, progressive legal thinkers argue passionately for more freedom to borrow, blend and ultimately create new artistic and technological forms. These voices lament closure of 'the intellectual commons', albeit usually by powerful corporate interests, rather than the Indigenous groups discussed in this study. However, to the extent that traditional Indigenous knowledge is also argued to be subject to copyright and outside the public domain, Brown is not entirely comfortable with this view. At least, he cautions readers about what can be misguided sovereignty rhetoric, and the risks of taking too rigid a position on ownership of culture. For those interested in a provocative comparative discussion of the complex issues involved in legally regulating 'culture', this energetically written book should be read with interest.

Gillian Cowlshaw. *Blackfellas, Whitefellas and the Hidden Injuries of Race*. Oxford: Blackwell Publishing, 2004. Pp.288, bibliog., index. £55.00 (Hc.), ISBN 1-40511-404-5; £18.99 (Pb.), ISBN 1-40511-403-7.

Kirk Dombrowski

Anthropology, John Jay College, City University of New York

It is perhaps one of the great ironies of the early history of the discipline that while cultural anthropology set about to demonstrate that the world's various folk conceptual systems were on the whole reasonable, complex, and deeply interconnected, it simultaneously tried to talk people out of the idea of 'race' simply by pointing out that the categories of black or white or what-have-you were 'socially' rather than 'biologically' constructed. Ironic; or perhaps simply evidence of the sort of hubris that assumed that while others were still mired in the (admittedly interesting) cake of custom, 'reason' prevailed in the societies in which racism remained most problematic (!) and as such, it could be eliminated syllogistically. To date, this has worked exactly nowhere, yet surprisingly few alternative strategies have emerged. Seemingly without a logical leg to stand on, the 'fact of blackness'(p.10) remains despite decades of anthropological banishment.

Cowlshaw's revisiting of her earlier ethnographic work in Bourke (in northwestern New South Wales) aims at and achieves something of an alternative stance. *Blackfellas, Whitefellas* takes as its starting point the local departures from national discourses on race/racism—which make rural 'blackfellas' into helpless, abject Aboriginal victims and neighbouring 'whitefellas' into greedy, suspicious 'redneck' racists. In their place she focuses on actual performances of localised racial identities. The latter are neither independent of national discourses nor uncreative reproductions of them; neither innocent of the history that present times manifest nor purely manipulative of the other side; nor, and this perhaps most importantly, are these performances of a racialised identity ever limited to Whites. Murris (the local term of self-identification for Bourke's Aboriginal population) are invested in the persistence of blackness in part because it is testimony to an enduring (if unmarked) 'valued and partially voluntary categor[y] that no one wants to abandon, even though the inequalities and injustices' (p.4) intrinsic to racial division produce obvious pain and suffering.

The heart of Cowlshaw's book begins with a nuanced discussion of the interplay between stigma (from Goffman) and performativity (from Butler), and moves on to an ethnographically thick discussion of the 'riot' in Bourke that preceded her latest fieldwork. Dialogue about the event is spread over a series of fairly short chapters and serves to