

Review Essay

PROTECTING CULTURES OR SUPPRESSING THEM?

Under the Palace Portal: Native American Artists in Santa Fe. By Karl A. Hoering. Albuquerque, NM: University of New Mexico Press, 2003. xvi + 261 pp. Illustrations, appendix, notes, bibliography and index. \$29.95.

Who Owns Native Culture? By Michael F. Brown. Cambridge, MA: Harvard University Press, 2003. xiii + 315 pp. Illustrations, notes, sources, and index. \$29.95.

Indigenous cultural property rights are a complicated issue with ramifications that continue to expand. It is not just an issue for anthropologists, museum staff, art dealers, and art collectors. The ethical and economic implications affect the work of environmental scientists, ethnobotanists, pharmaceutical companies, agribusinesses, product designers, public land managers, souvenir producers, and others. There is a clear need for literature to inform people about indigenous cultural property rights. Two recent publications on this issue use the effective case-study format but differ in degree of complexity and success. In *Under the Palace Portal*, anthropologist Karl Hoering presents an in-depth view of a museum program seeking to protect Native art by regulating the “authenticity” of artists’ work. Another anthropologist, Michael Brown, presents a variety of indigenous cultural property conflicts in *Who Owns Native Culture?* from which he addresses a range of arguments and potential solutions.

In *Under the Palace Portal*, Hoering’s subject is the Native arts market on the porch/Portal of the Museum of New Mexico’s history museum in Santa Fe. In order “to promote greater understanding of the program and its importance” (p. xi), he presents an historic and contemporary description of the Portal Program based on research, interviews and interaction with participants. Throughout his book, Hoering emphasizes its positive contributions. He describes its importance to Native communities in New Mexico as a much-needed income source. He states that it is a valuable alternative work environment more amenable to Native lifestyle in which artists have considerable say compared to ethnic tourism elsewhere. Hoering contends that the Program educates visitors

through contact with artist-vendors, countering Indian stereotypes while promoting “authentic” handmade art.

Museum staff involvement in the Portal market began in the early 1900s to promote the production of “traditional” pieces (pre-contact, tribally distinct and thereby “authentic”) and to ensure fair compensation for artists. Hoering explains the development of Portal Program between the Museum and market vendors and explains its current rules. The actual rules are in the appendix. In short, the Portal market allows approved New Mexico Native vendors to sell only handmade items with a maker’s mark produced by themselves or their household. Materials and techniques (basically “traditional”) for jewelry, beadwork, pottery, sandpainting, and leatherwork are also specified (presumably the types of art allowed for sale).

Before his brief conclusion, Hoering addresses the important issue of art vs. craft in support of Native art as more than merely ethnographic object, tourist souvenir or folk art. This is a well-covered subject in the literature on Native art but still relatively unfamiliar to the general public. Both Native and non-Native artists struggle with their status in the arts world, but, as Hoering points out, art perceived as “ethnic” is more often subject to de-valuation. Despite confronting this key issue, he does not examine how the Program’s requirement of “traditional” forms might stifle artistic expression, fail to expand visitor appreciation of what Native art might be, and contribute to the marginalization of Native art. While he explains that the strict Program rules are meant to protect vendors from cheaply-priced imitation work, which they surely do, he does not address the ramifications of restricting Native art to pre-contact-like materials and types when the Museum’s seeks to dispel visitors’ Indian stereotypes.

Overall, Hoering’s assessment of the Portal Program is weakened by a lack of critical attention to its restrictions and to participants’ criticisms. Despite the clear economic imperative for participants, the question remains unanswered of how much pressure artists feel to submit to Program rules in order to make a living, especially when only program participants affect its rules. Hoering briefly acknowledges non-participating artists and drop-outs but does not include their perspectives. He does not address the implications of requiring that artists be legally-recognized as Native Americans despite the reservation-period connotations. Nor does he consider the impact on vendors of recent Program changes such as prohibiting cooperative sales, prohibiting parents from bringing their small children, or a one space per household rule that has split up families. Hoering substantiates some of his claims with interview excerpts but from only sixteen different vendors with more than half of the comments from only five. Compared to over one thousand enrolled, very few participants are represented in Hoering’s text, which leads one to question his assessments of the Portal Program. The one-sidedness and narrow scope of his book makes it of limited value to anthropologists or museum staff.

In contrast to the limited context and rule-heavy program of *Palace Portal*, Brown addresses the complex issue of indigenous cultural property rights in *Who Owns Native Culture?* by critically analyzing multiple examples of conflicts and attempts at solutions. He rightly characterizes the protection of indigenous heritage—art, music, religion, ecological knowledge, and sacred sites—as a major social issue. He questions the moral and economic ethics of museums, anthropologists, new age religions, and media and biotechnology companies. He involves arguments for cultural re-appropriation and communal intellectual property rights.

After introducing the complexities of indigenous cultural property rights, Brown provides six case studies consisting of a main conflict and related incidents. The first addresses the right of indigenous peoples to control sensitive cultural information. As an effective course of action, Brown suggests developing respect for group cultural privacy, ethical codes for professionals and community-approved research and use of sensitive materials. Details of copyright-infringement lawsuits lead to a discussion of communal intellectual property rights as a means for indigenous peoples to control the use of their artistic heritage. In another case study, Brown addresses how copyright and trademark laws apply to the protection of indigenous iconography from outside political and commercial uses. Conflicts over ethnobotanical research and bioprospecting lead to a discussion of how to work with local communities in order to gain access to valuable traditional ecological knowledge and materials. As a solution to conflicts over the use of sacred sites on public lands, Brown emphasizes the long-term value of developing volunteerism to achieve behavior respectful of indigenous cultures.

Through these case studies and two others, Brown examines conflicts over indigenous cultural heritage rights from a range of perspectives and implications, then offers insightful, pragmatic strategies that emphasize moral over formal approaches to solutions applied on a case-to-case basis. He advocates both honoring indigenous authority and ensuring that different cultures can continue their long-held practice of exchanging cultural and intellectual ideas. Brown effectively argues for the need to negotiate a pragmatic middle ground characterized by dignity and balanced relationships and the need to avoid the loss of freedom from strictly legal regulation and the ineffectiveness of all-encompassing policy schemes. Based on his thorough research, he suggests that resolutions can be reached by promoting respectful treatment of indigenous heritage and flexible application of laws and policies meant to protect it. Brown's book is an essential resource on indigenous cultural property rights for a variety of audiences.

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