

so very little of southeastern North Carolina's Indian peoples and their efforts to maintain or resurrect long-lost Indian identities. The lack of background creates a thirst for some exposition into just how the original peoples' identities were lost, or transformed, over the course of 150 or more years.

As a general guide, though, there is no more informative introduction to the modern Waccamaw-Siouan Indian community than *Waccamaw Legacy*. Indeed, Lerch appears to be the only scholar to consider seriously the Waccamaws on their own terms and within their own contexts. The fact that this community has survived for so long, and has held onto its "Indian" identity, is all the more stimulating when one considers where the Waccamaws reside today, on the fringes of earliest European explorations and settlement in that part of North America that is now the United States. The book's subtitle asserts that these contemporary Indians "fight for survival." After reading *Waccamaw Legacy*, though, I would argue that they have already won that fight. Today the Waccamaws fight not for mere survival as Indians—they have successfully articulated—but for wider acceptance as a *tribe*, that is, as a distinct community of American Indian descendants. The Waccamaws fight for *recognition*.

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Who Owns Native Culture? By Michael F. Brown. Cambridge, MA: Harvard University Press, 2003. 315 pages. \$29.95 cloth; \$16.95 paper.

Cultural appropriation is a newly popular term referring to a process in which persons, agencies, and corporations of the world's dominant societies simply take and use the cultural content of indigenous societies without consulting, without asking, and without legal constraint. The process goes back centuries, but since the 1980s indigenous groups, particularly in North America, Australia, and New Zealand, have mounted highly visible protests against cultural appropriation, part of a remarkable resurgence of indigenous political assertiveness. One remedy that has been explored has been the feasibility of broadening international intellectual property instruments to provide to indigenous societies perpetual ownership of their cultural content. In 1998 Michael Brown published an extensive essay in *Current Anthropology* (vol. 39: 193–222) concerned with the troubling consequences if this solution were to succeed. Brown's book elaborates, extends, and deepens the argument he laid out in 1998.

Fundamentally, Brown argues that the indigenous effort to stop cultural appropriation attacks the world's already "impaired intellectual and artistic commons" (10). If indigenous societies control who may use their images, their art, their narratives, and their environmental knowledge, if they reclaim skeletal remains from museums and archaeological repositories, if they can limit public access to spiritually important localities on public lands, then, Brown argues, the great benefits that (primarily Western) civilization has gained from putting such resources in the public domain will be deeply

wounded. Providing indigenous societies with an enforceable right to regulate and prevent the use of their cultural content would, Brown argues, not just remove the indigenous contribution from the global knowledge commons. It would also encourage broader assaults by self-interested parties on the very foundation of our modern intellectual world. We will, he writes, "travel down a dangerous road—one that, among other things, invites similar demands from groups whose goals and values may be distasteful or destructive" (196).

For anthropologists the indigenous protest against appropriation poses a difficult choice. On the one hand, anthropology is indebted to indigenous societies and maintains an abiding identification with them. Indigenous societies birthed anthropology itself in the mid-1800s, and they continue to nourish our work today. These same indigenous societies are now fighting for their cultural survival. Ever under assault by a multitude of political, commercial, biological, and demographic realities, indigenous societies find themselves today placed in very precarious situations by a broad array of global and local forces: land pressures, population flows, globalized corporations, and the planetwide search for commercializable resources. Many anthropologists are inclined to lend support when indigenous leaders demand changes that would strengthen their survival prospects. Creating better tools to thwart cultural appropriation is one such demand. Indigenous leaders argue that the predatory and arrogant taking of their cultural information assaults the very basis of their existence; as Brown points out, appropriation "blurs the boundaries between native and non-native" (6).

On the other hand, anthropologists must also find troubling, on many levels, indigenous demands for controlling power over their cultural information. Anthropology and its sister social sciences shoulder a common effort to understand the nature and behavior of human beings, the results of which become part of a scholarly corpus available through print, the Internet, and oral presentations to the rest of the discipline and to the world in general. All scholarly disciplines depend on this. When the ethnographer, researching the cultural ways of an indigenous society, publishes a description of its features, the ethnographer moves that cultural information irretrievably into the public domain, beyond the control of the group whose ways have been described. Doing good anthropology can contribute to the appropriative process.

Our archaeologist colleagues face the same challenge: excavated remains are the data on which archaeology is built. Not surprisingly there is a widespread—though not universal—view among archaeologists that indigenous control of archaeological remains is a bad thing. For Brown the ethnologists' and archaeologists' concerns are specific reflections of a larger, overriding threat—the partitioning and destruction of an unimpeded global intellectual commons.

Readers of this book will find that the indigenous concern with appropriation involves an enormous array of claims. For example, vigorous indigenous protests are being lodged against the commercial patenting of indigenous crop varieties, against the use of nineteenth-century photographs of religious rituals, against the use of Indian monikers for sports teams, against the public's recreational use of national monuments having sacred associations, against the

use of petroglyph images in commercial products, and against anthropologists publishing ethnographic information not previously cleared with tribal authorities. Tribal groups also demand the "repatriation" of human bones and artifacts meticulously excavated and preserved by archaeologists, even when their age places them beyond any demonstrable link (that will satisfy non-Indians) with any living group. In many indigenous societies, before ethnographers may begin fieldwork, they are grilled about their intentions, have limits placed on what data they can collect, and sometimes must honor a demand that tribal authorities screen what can be published. While these diverse demands may look to be united only by indigenous petulance, in fact they all stem from a single frustration: the cultural behaviors and beliefs that make an indigenous people distinct from the peoples around them are being removed from their control. Brown's book leads the reader through a full tour of the many channels through which this struggle is now conducted.

Brown's presentational style may leave some of his readers frustrated. He selects a contested area, presents a mixed medley of examples and views advanced by (mostly) the indigenous side and their advocates, provides a variety of commentaries on those arguments, and then ends the discussion with his own position. His position, which ultimately favors preserving the universal cultural commons, tends to be placed on top of the previous discussion rather than being a conclusion that systematically emerges from the prior material.

A central feature of Brown's position is that if the dominant society accedes to indigenous demands, perhaps by inventing a new sort of intellectual property right, we will see voracious efforts by any number of other kinds of groups taking advantage of the opportunity to control information, to garner unjustified profit from perpetual monopoly ownership, to thwart innovation, to slow intellectual progress, and to take the global intellectual commons private. Therefore, while the indigenous claim may be meritorious, the eventual larger negative consequences are too grave. Brown negatively labels the indigenous project as "Total Heritage Protection." His "solution" is to promote negotiating the needs of indigenous groups on an issue-by-issue basis: as reflected in one of the issues he analyzes, "the best one can hope for is an imperfect, negotiated compromise based on common sense and some degree of mutual respect" (167).

One might ask, could the cultural rights of indigenous societies be met without incurring the larger, negative consequences Brown fears? Could a cultural right be crafted that would only apply to indigenous groups? This is a possibility that is quickly dismissed by Brown. He argues that *indigenous* is too ill-defined to be workable as a type of society to which an exclusive right can be applied. *Indigenous* is indeed difficult to define, but various international instruments in the United Nations and the Organization of American States, for instance, have established such a category. To be sure, borderline cases are contested, but the category is established in international agreements, and unique rights are being linked to it. The author also fears that if indigenous societies are given a particular intellectual property right, then other groups will also claim that right, and there is some substance to that concern. During the 1992 UN conference in Rio de Janeiro, which resulted in the Convention

on Biodiversity, indigenous groups made a successful case for rights and recognition for bioactive compounds arising from botanical investigations in their areas. Representatives of nonindigenous rural farmers vigorously demanded to be similarly eligible for such a provision. Yet it is difficult to argue that such me-too claims cannot be decided on their merits.

Realistically, what are the chances that some sort of general new indigenous cultural property right will be adopted, taking its place among the increasingly internationally standardized foursome of patents, copyrights, trademarks, and trade secrets? While the future can always provide surprises, it is hard to see any scenario in which global capitalism and powerful capitalist nations will support a new instrument that limits the potential commercialization of valuable resources, including indigenous cultural resources. Enormous political effort, led by the United States, is being invested in forcing all nations to embrace and enforce the existing intellectual property instruments, which facilitate global capitalism. While there are protective agreements on specific indigenous domains, such as labeling regimens for native arts and crafts, a broad new intellectual property that reduces the resources global corporations may tap seems at best very remote.

In the meantime, as Brown notes, in many quarters indigenous peoples believe their best—albeit imperfect—option is to close down access to outsiders. Secrecy that excludes outsiders from internal matters; efforts to recapture information, objects, and images that have been taken but not yet placed in the public domain; and imposing enforceable contracts on outsiders that retain indigenous control of the information gained are concomitants of the secrecy response. Of course, maintaining secrecy is not an easy option. Tribal members may not all agree. Many may live elsewhere and have attenuated loyalty to tribal leaders. Non-Indian spouses coming to live in the community pose an additional challenge to a secrecy policy. Tourism enterprises are impaired. But secrecy is, from the indigenous viewpoint, the best of a bad set of options.

Whether or not readers agree with Michael Brown's views, the book is a worthwhile contribution to this continuing, far-from-resolved, debate. He discusses the breadth of cultural property claims and includes much detailed information about specific, relevant cases. Even the reader who is well acquainted with these cases will find useful facts and sources not previously known—whether in the story of the collapse of ICBG-Maya, the disposition of the Voth photographs, the setbacks to Shaman Pharmaceuticals, the circumstances of Australia's Mabo ruling, or among the many other local controversies he deals with. A useful accompaniment to this volume, one that provides contrasting viewpoints to Brown's, is Mary Riley's edited volume *Indigenous Intellectual Property Rights: Legal Obstacles and Innovative Solutions* (2004). If indigenous cultural rights issues are of interest to you, both of these books should be on your shelf.

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