

***Mana Tuturu: Maori Treasures and Intellectual Property Rights.* Barry Barclay. Honolulu: University of Hawai'i Press, 2005. 268 pp.<sup>1</sup>**

Reviewed by David Delgado Shorter

The mark of a significant contribution to scholarship is not that the work resolves long-standing debates. The debate often becomes more complex, entangling emotions, politics, ethics, legalities, and competing historical narratives. Rather than providing definitive answers, truly valuable research multiplies the questions, complicates the discussion, and demonstrates the stakes. Such are a few of the accomplishments of Barry Barclay's *Mana Tuturu: Maori Treasures and Intellectual Property Rights*. With extended discussions of indigenous intellectual property rights and the necessarily related issues of law, ownership, sovereignty, archiving, and art, Barclay's book offers much to an incredibly wide variety of audiences. And although the book and its arguments prove problematic in terms of widespread practical usage, Barclay effectively demonstrates that a middle ground can and must be forged between native and non-native notions of law.

Barclay begins with a lengthy Introduction, called "Before the Beginning," which exemplifies the type of thinking and writing substantiating the book as a whole. Academic readers might need to adjust their expectations because one does not confront footnotes, scholarly arguments, or ethnographic research. Rather, Barclay's gift is eloquence, at times to odic heights. Perhaps he is writing as best a filmmaker can: the narrative moves as a montage of scenes. Barclay imagines James Cook arriving to Turanga's east coast with a film crew, ready to film "first contacts." He further imagines the scripting of director's cues, camera shots, the signing of release forms, archiving the film, the film's viewings at lofty institutions of British art and science, even the relationship between such an imagined filming and tea-towel sets featuring images of exotic natives. Although fantastical, the introductory essay articulates most of the issues addressed in the following chapters and Barclay tallies them in a link between biodiversity and intellectual property: "This is extraordinary; it's likely nobody will ever see a moving image that was not, at conception, invested (via copyright) with market rights. Is every plum that grows 'owned?' Maybe most are. It is possible, nevertheless, that there is some place on the planet where a plum grows independently of ready-for-market ticketing. It is not possible that there is such a place for the moving image. There probably never was" (p. 14). And with these concerns over copyright, ownership, images, plants, and rights woven together, Barclay ends the introduction but begins the book.

The main content of *Mana Tuturu* consists of four parts that build upon each other incrementally, though each part offers mostly differing case studies. One could easily excerpt a part or two for a course reader without losing much of any sense of a larger argument. In fact, one of Barclay's strong suits is that each part seems to be a variation on a theme; and although that theme might shift between plants, art, film, archives, copyright, land rights, etc., the reader is gifted a rigorous, indigenously informed lens by which to examine the topic at hand. Because Barclay

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seamlessly ties the themes together across the parts, and because the issues organically overlap, I will address his central claim instead of surveying each part's sections.

Throughout the book, Barclay literally travels the world examining powerfully telling and often tragic incidents of where indigenous intellectual property rights (IIPR) fail to address the real, living relationships maintained by people with their land, arts, oral traditions, literatures, designs, fauna, flora, seeds, medicines, sciences, and technologies. Worse, Barclay successfully proves, that the IIPR language and standard was ostensibly created and mandated in order to serve the best interests of indigenous peoples. Not only do IIPR laws group together the thousands of indigenous life ways (Cree, Inuit, Kayapo, Maori, et al.), but they do so to universally rule how these diverse communities are to think of their own "natural" and man-made worlds. Land, seeds, paintings, genetic code, and dances are properties. And being property, they exist in a world of market relations, able to be owned, bought, sold, and valued according to the values of other "things." Among the many problems with this object-oriented view, one of Barclay's strongest arguments is that whereas copyrights expire over time, indigenous treasures grow more valuable. The net effect is that the World Intellectual Property Organization (WIPO), the World Trade Organization (WTO), various United Nations' agencies, and of course academics everywhere, are reproducing a legal and ethical framework that robs indigenous communities at the single instance they are seemingly giving them protection from theft. Barclay quotes himself sufficiently on this point: "Are not these things we value—concrete and abstract, ancient and modern—are they not called taonga by us? Treasures, in the English? Treasures, some of them, with a mauri . . . We once had taonga. We once had guardians. We once had keepers . . . What we have now—if we are to believe what we hear—are owners. What we have now are properties" (p. 65).

As Barclay constantly reminds us, the conundrum is global and civilizational: aboriginal vs. colonizer law (and already we fall into an overly simplistic binary). How do we conjoin disparate notions of right relationships, one object-orientated and market driven, the other intersubjective and based on kinship? One of my favorite aspects of this book is how Barclay reminds the reader again and again of the real emotional hurt and violence that comes from being dispossessed of one's animals, plants, land and even ceremonial art designs. In academic classrooms and museum exhibitions, we rarely talk about such pain and hurt resulting from completely legal dealings; though I imagine we do so in Indigenous Studies settings more so than elsewhere. Barclay proposes some interesting, though practically problematic, solutions. And to be sure, the worth of his book should not depend upon this criticism. That said, Barclay makes the claim that indigenous words and perspectives must be incorporated into the legal documents that structure copyright, ownership, and accessibility. He centers his argument on the Taonga Maori Deposit Agreement at The New Zealand Film Archive. When asked to modify the agreement to establish a "Maori marker stone" in the English-language legal landscape, Barclay finally decided upon "mana tuturu." For the purposes of the agreement, Barclay tells us, "mana tuturu" would be translated as "Maori spiritual guardianship" (p. 115).

As in his books and films, Barclay should be complimented for his insistence on the use of indigenous words in English works when the indigenous words best convey the reality being expressed. With "mana tuturu" Barclay spends some time expressing why "guardianship" is more appropriate than "ownership." And although he discusses to a lesser extent that "spiritual"

is to account for the ancestral guardians, his use of “spiritual” raises important questions that Barclay does not address. “Spiritual” carries with it a certain amount of colonial baggage to be sure. Following René Descartes, psychologists, physicists, theologians, legal scholars, indeed most of the Western world, has relied upon the binaries of mind and matter, body and spirit. As a scholar of indigenous religions, I can say that we rarely see such binaries at work in pre-colonial, indigenous worldviews. And while I have no basis for querying his translation of Maori words, I see a subtle but misleading possibility arising when we start using Cartesian notions of the world to make sense of indigenous lifeways. If this binary is organically Maori and not an adoption of Western categories, Barclay should have gone at least some distance in unpacking that worldview. Does Barclay’s understanding of Maori “spirituality” mean that Maori people think of the world as having spirits (bodiless beings)? Are Maori spirits the same as souls? Do these spirits experience reincarnation? I mean to be waggish here with very serious consequences. My concerns with Barclay’s semantic proposals are that such solutions sometimes reassert colonial ethics (Cartesian frameworks); sometimes they demonstrate the magnitude of the problem (international law applied broadly to disparate indigenes); or perhaps in Barclay’s case, they do both. Barclay simply could have done more to make sense of that very heavy concept, spiritual, since it pervades his entire book, starting with the title.

Born of Maori descent (Ngati Apa), Barclay grew up in Wairarapa. With training in radio and film (as well as the priesthood), Barclay’s earlier films covered topics such as energy conservation and the life of Indira Ghandi. Barclay then went on to work with Michael King on the watershed film series *Tangata Whenua* (1974), which focused on Maori culture and worldview. He wrote and directed a film on genetic resources, ownership, and erosion entitled *Neglected Miracles* (1985), which brought him popularity among the groups fighting over crop biodiversity. Only two years later, Barclay directed the film, *Ngati*, which was widely praised as being the first Maori directed dramatic feature. His next film, *Te Rua*, continued the focus on the Maori while also delving into art, ownership, and museums. Then, his film *Feathers of Peace* centered on the Moriori of Rekohu (The Chatham Islands). All considered I cannot imagine a more appropriate author than Barry Barclay for a book on “Maori treasures and intellectual property rights.” And judged by its contributions, I can see how *Mana Tuturu* was a lifetime in the making. This is a very smart, very relevant book. Barclay has produced a text that is hard to categorize, and harder to stop thinking about.

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