

***First Nations Cultural Heritage and Law: Case Studies, Voices and Perspectives.* Catherine Bell and Val Napoleon, eds. Vancouver: University of British Columbia Press, 2008. 521 pp.\***

Reviewed By Gerald T. Conaty

Twenty years ago, the socio-political developments of the previous decades (Belanger et al. 2008; Thomas 2000) precipitated significant realignment of the relationships between museums and indigenous peoples. Museums Australia (then called the Council of Australian Museums) published “Previous Possessions, New Obligations: A Commitment by Australian Museums,” a program for enhancing cooperation between museums and Aboriginal and Torres Strait Island people (Griffin 1996; see Sullivan et al. 2003 for a review of progress). The enactment of the Native American Graves Protection and Repatriation Act (NAGPRA) in the United States altered the ways in which U.S. museums understood their collections. The Canadian Museums Association and the Assembly of First Nations sponsored a joint task force that explored ways of enhancing First Peoples voices within museums as well as increasing access to museum collections (Hill and Nicks 1992). In *First Nations Cultural Heritage and the Law: Case Studies, Voices and Perspectives*, Catherine Bell and Val Napoleon are, in part concerned with how these relate to the position of First Peoples within Canadian society.

This is the first of a two volume set that considers the type of law reform that is necessary for First Peoples to find an equitable place in Canadian society, as far as the protection of cultural heritage can contribute to that equality. A team of researchers (primarily legal experts) interviewed people from First Nations communities on the Northwest Coast, the interior of British Columbia, and southern Alberta. The research methodology is rigorously scientific, providing sound evidence for future academic and legal arguments. At the same time, ample opportunity is given for individual voices to be heard, to translate the discussion into first-person narratives, and to minimize the amount of researcher-biased interpretation.

In their introduction, Bell and Napoleon identify a number of challenges presented by the research methodology. First, there is the expectation by academic-based researchers that conclusions reached by the investigators will be “objective” and not altered or influenced by the research subjects (i.e., the First Nations people who were interviewed). Yet, First Nations people know that, all too frequently, the results of such “objective” research have led to pejorative policies that determined their fate. Second, there is the question of who owns the research results. Most often these rights would rest with the researcher or his/her institution and the published results would be copyrighted by the publisher. This contravenes the protocols of many First Nations where the knowledge is held communally by all of society, but the rights to speak about that knowledge may reside within a more narrowly defined group. Moreover, governing bodies, such as band councils, may assert proprietary rights over research done within their jurisdiction. These conflicting research protocols are harbingers of broader issues that arise in the studies and reflect the gulf between a First Nations perspective and Western scientific and legal paradigms.

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A number of key issues arise from these case studies. First is the repatriation of important cultural material. The most accessible of these items is held by museums and there is a clarion call to find ways of returning this material to its proper place. However, there is also recognition that the commercial trade of cultural material also circulates sacred material. The barrier to retrieving this material is primarily financial and a need is identified for public funds to help purchase these items.

Second, First Nations decry the loss of control over their important sites including the damage done when archaeologists intrude on ancient sites. To the scientist, these artifacts are fragmentary evidence of long-forgotten lifeways. Many of the First Nations who have contributed to this book describe these sites as cemeteries of their ancestors and the “artifacts” as objects that help their forbearers in their other lives. Disturbances by researchers affect not only those who have gone before; it alters the lives of those who are alive today.

Third, intellectual property rights are a growing concern, not only for the First Nations represented in this work, but for indigenous peoples worldwide (Smith and Akagawa, eds. 2009). People are concerned that images and motifs from their art work will be borrowed by other Native and non-Native artists. The point is made that these “designs” are complex expressions of lineage, property rights, ceremonial rights, and much, much more. Moreover, these rights may be held collectively, rather than owned (in a western, legal sense) by individuals.

Fourth is the concern about the inappropriate use and even the destruction of important natural resources. When knowledge about these resources (e.g., medicinal plants) is divulged, they may become the focus of commercial harvesting. When the knowledge is kept private, habitat destruction resulting from development may render the plants extinct. It is a conundrum that often places First Nations at odds with regulatory agencies.

At the heart of all these issues is the importance—the necessity—of preserving language. Linguistic structure is the key to understanding worldview, sacred objects, landscape, and intellectual property. Language is vital for preserving traditions that have, since time immemorial, defined human beings’ relationship with all of the universe.

These issues are elucidated most powerfully by the personal accounts and reflections of First Nations people, themselves. Through the long quotations, we are drawn into first-hand experiences of residential schools. We learn of how the removal of a physical item can negatively affect not only a ceremony, but also a community and a belief system. In case study after case study we are told of the complexity and interrelatedness of all parts of a culture. I was struck by some of the different ways of understanding what is in a museum collection. The compilation of these discussions is a valuable contribution to the discourse of repatriation and cultural interpretation.

The analysis of these testimonials succeeds to varying degrees. In some cases, the project researchers chose to add minimal comments to the words of their First Nations partners. This is not the usual approach one finds in such works and I feel that it enhances these already powerful statements. In some instances, however, the researchers enter into the project with extended

analyses of the community discussion. Occasionally this analysis is so extensive that the work is transformed into an anthropological treatise rather than a first-hand account of the importance of preserving cultural heritage in all of its complexity.

The case studies included here all speak to a great loss and a struggle to regain physical items, protect cultural places and preserve languages. Each of the First Nations is a minority within a largely non-Native province. A short chapter (chapter 8) summarizing issues and projects across Canada suggests that a variety of resolutions of these concerns are now being tried throughout the nation. It may have been instructive to consider some of these positive solutions in more detail, thereby learning how we might move past the current inequitable situations.

This work is focused on legal issues that have confined and threatened First Nations cultural heritage. While museums figure prominently in many discussions of repatriation struggles, they are not well represented as participants in the study. Many museum professionals may feel excluded from a conversation in which they have a significant interest. However, the view from the sidelines is very enlightening and we should consider it seriously if we are to ever understand our work and its effects on others. This is a very important book, not only for Canadians, but for everyone who is concerned about the future of First Nations people. And that should be all of us.

## **References Cited**

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