

“Culture” and Culture: Traditional Knowledge and Intellectual Rights. By Manuela Carneiro da Cunha. Chicago, Il. : Prickly Paradigm Press, 2009. 94 p. ISBN: 978-0-9761475-6-4 (Paperback) \$12.95.

This short little book is part of the Prickly Paradigm Press pamphlet series which is marketed and distributed by the University of Chicago Press. The author, Manuela Carneiro da Cunha, is an anthropology and social sciences professor teaching at the University of Chicago. It is therefore not surprising to find the discussion here framed in an anthropological rather than a legal context. However, da Cunha has experience as an activist for indigenous rights and has written about this subject in the past, including the history of Brazilian legislation and policy and its affect on indigenous peoples.

da Cunha traces the development of the law and how it has come to guide negotiations about traditional knowledge with indigenous peoples. She starts with the 1987 Brundtland Report, a report that firmly recommended traditional rights be recognized and that indigenous peoples play a “decisive” role in creating the policies that affect the development of their resources. That report was the inspiration for the Rio Earth Summit, held in Rio de Janeiro in 1989, which introduced the notion of “sustainable development” as a guiding principle going forward.

Shortly after the Rio Earth Summit the Convention on Biological Diversity (1992), the treaty that regulates access to genetic resources, was signed and ratified by almost 200 countries. da Cunha describes how this Convention has kept traditional knowledge on the international agenda expanding and capturing the attention of significant international institutions like UNESCO, the WHO, WIPO, the World Bank, and the WTO. She also mentions the difficulties present when trying to identify and speak with a unified “pan-indigenous” voice in places like Brazil where over 220 ethnic groups share their knowledge over a large geographic area. This situation can translate into a general lack of support from national governments and da Cunha explores this through the ideas of nationalism and traditional knowledge.

However, as the title suggests, da Cunha's main interest is the interpretation of culture and how that interpretation influences the relationships that emerge when negotiating intellectual property rights. She talks about the culture that indigenous people live compared to the “imported category of culture” brought to the table by those who live outside it. She poses a great question that addresses the unspoken assumptions that can exist in the negotiation process: “... what if our own constructs of society, representation, authority and their like have ... no equivalents among these [indigenous] people?” (p. 40) To some extent, she argues, all people are aware of their “culture” while they also live *in* their culture. And while the parties can hold these two different views of culture together in their imaginations she examines the possible contradictions that can exist and how they are reconciled and sometimes used by indigenous people as a conceptual tool to defend their rights.

Because the primary focus of this book is anthropological I hesitate to recommend it as a necessary addition to a general law library collection. However, the underlying legal question of “who owns knowledge?”, and more specifically, “who owns the 'indigenous intellectual rights in cultural items?'”, is an important one. This short book does provide a useful analysis and a valuable overview of the cultural issues and the assumptions at play when negotiating intellectual rights over traditional knowledge. And, for that reason, it is recommended for law libraries supporting practice and research in intellectual property rights especially within an international context.

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