

INTRODUCTION

This issue of the Journal of Indigenous Policy brings together eight women's perspectives on ways in which Indigenous knowledge, Indigenous art, Indigenous heritage and Indigenous values may be protected and secured in the current legal and policy framework.

The articles traverse policies and laws relating to the arts, environment, ethics and science, but have a single strong common theme. They are all about how we carve out respect and protection for Indigenous arts and cultural objects, knowledge, knowledge systems and values in policy and law.

Nationally and internationally, there has been substantial work undertaken by academics, activists, lawyers and leaders which recognises and seeks to address the gaps in legal and policy protection for Indigenous arts, heritage and knowledge. Developments in science, the arts market, and changing land management practices have brought new challenges to this work. The women who have contributed to this edition of the Journal of Indigenous Policy bring insight, academic rigour, and a wealth of experience from their work participating in international forums, in legal practice, in Indigenous community organisations and non-government organisations.

The impact of new industries and the capacity of Indigenous peoples to protect Traditional Knowledge, at the local, national and global levels are questions raised by Sonia Smallacombe in her paper, *Think Global, Act Local: Protecting the Traditional Knowledge of Indigenous Peoples*. Sonia was born in Darwin and is a member of the Maramanindji people in the Daly River region of the Northern Territory, Australia. Sonia has a Bachelor of Arts, Diploma of Education and Masters in Arts (Political Science). She has worked at a number of universities in Australia as a lecturer and researcher. Sonia also worked in the international section of the former Aboriginal and Torres Strait Islander Commission for three years. During that time she contributed to monitoring, reporting and policy development in the international human rights area with a strong focus on the protection of Indigenous knowledge systems.

Since returning home to Darwin in May 2002, Sonia has worked as a Head of School and senior lecturer at the Charles Darwin University. Her main role is teaching in the Indigenous Studies area and researching issues related to protecting Indigenous knowledge systems. Sonia has now returned to her international work, taking up a position with a Secretariat of the United Nations Permanent Forum on Indigenous Issues in New York.

Sonia's article considers the effectiveness of measure such as intellectual property laws, the Convention on Biological Diversity and local measures including education on intellectual property systems and ways of protecting Traditional Knowledge, and the adoption of minimum standards with regard to agreement making.

Dr Cheryl Waerea-i-te-rangi Smith's article continues the theme of international developments and their impact at a local level, in the context of the protection of human remains, rights over human tissue and respect for Maori knowledge and knowledge systems, especially in relation to human

tissue. Dr Cheryl Waerea-i-te-rangi Smith is of Ngati Apa, Tumapuhiarangi and Te Aitanga A Hauiti descent. She is a Maori academic and researcher who lives in Whanganui, her mother's tribal area. She is on the executive of Te Waka Kai Ora, the national Maori organics association and also on the executive of Te Runanga o Ngati Apa. Her Ph.D was written on Maori Knowledge and the University and she has written and spoken to a wide range of audiences on the issues of genetic engineering since 1999. She is co-director and founder of Te Atawhai o te Ao Research Institute, an Indigenous Maori research institute that focuses on community based research projects.

Cherryl's work contributes to our understanding of the intrusive impact of biotechnology industries, especially those based on genetic technologies, into some of the most fundamental Maori cultural practices. She lays out the biotechnology terrain for the reader, describing some of the dynamics of the industry, the complexities of tracking the research and development of particular companies, and the difficult task of exposing unethical or inappropriate science without being labelled as opposed to progress and the common good. Like Sonia, Cherryl provides analysis of the big picture issues, the effects and implications for Indigenous people, and strategies for local action.

Debra Harry, is a Northern Paiute woman from Pyramid Lake, Nevada. Debra is internationally recognised for her work with Indigenous people throughout the world. Debra is Executive Director of Indigenous People's Council on Biocolonialism (IPCB)¹, which works to assist Indigenous people in the protection of genetic resources, traditional knowledge and cultural and human rights from the negative effects of biocolonialism. Debra Harry is also the producer of the documentary film, *The Leech and the Earthworm*, and a doctoral candidate at the University of Auckland.

Le'a Malia Kanehe, is a Kanaka Maoli lawyer from Honolulu. Le'a's work focuses on Indigenous traditional, customary rights, human rights and environmental law. She has worked with Hawaiian community-based organisations to raise awareness about the impacts of genetic technologies and Western intellectual property rights. Le'a has also advocated for the right of self-determination for Indigenous peoples at the United Nations Permanent Forum on Indigenous Issues and the Convention on Biological Diversity. She recently joined the Indigenous People's Council on Biocolonialism as a legal analyst.

Debra and Le'a provide recent international examples of biopiracy in which the sovereign rights of Indigenous peoples to their knowledge, sites, plants and the genetic resources derived from them, are infringed. They also set

¹The IPCB is a service-based organisation that provides community education and outreach to tribal governments, institutions, organisations, and individuals. The IPBC is based in the United States. It maintains an on-going research agenda of ethically questionable research happening within Indigenous communities, both nationally and internationally. The IPCB provides intervention and technical support to tribes who are negatively impacted by genetic research, as well as those tribes who are interested in proactive protection. Adapted from <www.ipcb.org>.

out strong arguments for recognition of, and implementation of human rights principles, including the right of self-determination in relation to the genetic resource and associated Traditional Knowledge of Indigenous peoples.

My own article follows on from these themes, tracking some of the ethical issues that arise for Indigenous Australians in the current environment of biotech boom. I am an Aboriginal lawyer, from the Vincent family of the Wiradjuri nation in central western New South Wales. I have worked as a solicitor and senior policy officer on issues including intellectual property, native title, biodiversity, Indigenous knowledge and human rights. I am very pleased to be able to have the opportunity to present some of my favourite authors in JIP 6, and believe their work makes an important contribution to increasing our understanding of the issues and keeping track of developments in a time of rapid change.

In the next article we move to issues of land and resource management. Neva Collings is an Aboriginal woman from New South Wales. She holds a Bachelor of Economics and Bachelor of Laws, and is currently completing a Master of Laws at Sydney University. Neva has worked for a number of Aboriginal organisations, including Gundjehmi Aboriginal Corporation, an Aboriginal non-government organisation (NGO) based in the remote community of Jabiru in the Northern Territory. Neva also worked as the Geneva-based International Project Officer for FAIRA² following international developments and advocating for Indigenous Australians on human rights and other issues. Neva continued working with FAIRA as national project officer for the repatriation of ancestral remains from overseas institutions. Neva continues to work on natural resource projects.

Neva's article takes us through an understanding of Indigenous cultural rights to water and the potential for the application of international human rights principles to achieve recognition of those cultural rights. Human rights instruments provide obligations on state parties to respect the cultural beliefs and practices of Indigenous peoples in relation to water. Neva's article places those obligations against current practice, and provides analysis of the shortfall in compliance.

The next two articles deal with one of the important expressions of Indigenous Knowledge – the arts. The first is an article by Terri Janke. Terri was born in North Queensland and has family connections to Cairns, the Torres Strait Islands (Meriam) and Cape York Peninsula (Wuthathi). Terri is solicitor/director of the firm Terri Janke and Company. She is regarded as a leading authority on Indigenous cultural and intellectual property rights (ICIP) for her groundbreaking work in this area. Terri has been working on Indigenous film protocols for the Australian Film Commission. This article outlines the importance of film as a record of Indigenous heritage, the shortcomings of the law and management systems in relation to Indigenous cultural and intellectual property, and flags some of the important issues for filmmakers and Indigenous people working with filmmakers.

² Foundation for Aboriginal and Islander Research Action.

The final article in this edition of JIP is by Tania Johnson. Tania recently graduated from the University of Technology, Sydney with Bachelor of Laws (First Class Honours). She has a strong interest in the administration of criminal justice and civil rights. She is currently employed as a solicitor at the NSW Office of the Director of Public Prosecutions. Tania's interest in criminal law and her passion for the Indigenous arts drew her to explore the problems with the prosecution of the alleged copying of well-known Aboriginal artist, the late Clifford Possum. Tania takes us through the facts of the case, the law, policy and aspects of the prosecution, concluding with some strong recommendations for law reform.

The last work presented in this Issue of the *Journal of Indigenous Policy* is the statement by the Indigenous Women's Biodiversity Network. The statement was presented at the Seventh Conference of the Parties to the Convention on Biological Diversity in 2004. The Statement sets out the biodiversity related issues of particular concern to Indigenous women, especially those relating to the use of Indigenous Knowledge, promotion of *sui generis* systems for Knowledge protection, genetic resources, healthy environments, protected areas and a strong participatory role in these important matters.

Finally, I would like to introduce the artist who created the painting on this issue's cover, Karen Mills. Karen is an Aboriginal woman, who was born in Katherine and grew up in the lower southeast of South Australia and Adelaide. Karen's family are from East Kimberley, and she has been based in Darwin for many years now. In 1998 she worked in Alice Springs as the trainee/guest curator of *Straight from the heart*, a national travelling exhibition of Central Australian Aboriginal art, organised by Desert and the Araluen Centre. In the same year a painting by Mills was hung in the 15th Telstra National Aboriginal and Torres Strait Islander Art Award. In 2001 Mills was selected in the influential Hatched, Healthway National Graduate Show at the Perth Institute for Contemporary Art. In 2002 she was included in the significant Five Darwin Painters exhibition at 24 HR Art, Northern Territory Centre for Contemporary Art. In 2003, Karen was one of eight Indigenous artists from Australia selected to attend the Communion and Other Conversations residency at the prestigious Banff Centre, in Banff, Alberta, Canada. Thirty-four Indigenous artists from Australia, Canada, Mexico, New Zealand and the United States gathered at the Centre to examine and explore the impact of Christianity and colonialism on contemporary Indigenous peoples and cultural practices. Karen Mills has been an individual member of ANKAAA since 1996 and is currently the ANKAAA Public Officer. She is the NT representative of the Australia Council Visual Arts & Craft Board and a member of the Indigenous Reference Group for the Art's Law Centre of Australia's Artists in the Black Project.³

Robynne Quiggin (Editor).

³ Adapted from ANKAAA *The Arts Backbone*, Vol 4, Issue 1, April 2004, 4.