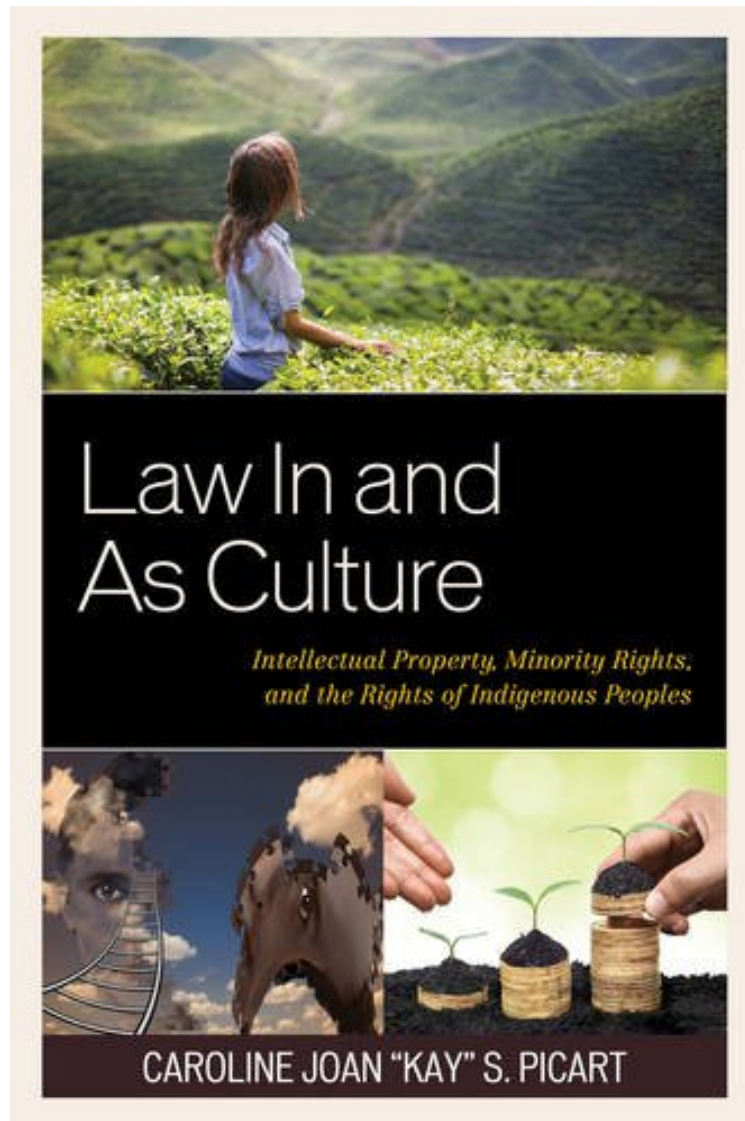


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Law In and As Culture: Intellectual Property, Minority Rights, and the Rights of Indigenous Peoples (Law, Culture, and the Humanities Series)

Caroline Joan S. Picart

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#3595580 in Books 2016-03-03Original language:EnglishPDF # 1 9.46 x .65 x 6.201, .0 #File Name: 1611477212198 pages | File size: 38.Mb

Caroline Joan S. Picart : Law In and As Culture: Intellectual Property, Minority Rights, and the Rights of Indigenous Peoples (Law, Culture, and the Humanities Series) before purchasing it in order to gage whether or not it would be worth my time, and all praised Law In and As Culture: Intellectual Property, Minority Rights, and the

Rights of Indigenous Peoples (Law, Culture, and the Humanities Series):

There are two oppositional narratives in relation to telling the story of indigenous peoples and minorities in relation to globalization and intellectual property rights. The first, the narrative of Optimism, is a story of the triumphant opening of brave new worlds of commercial integration and cultural inclusion. The second, the narrative of Fear, is a story of the endangerment, mourning, and loss of a traditional culture. While the story of Optimism deploys a rhetoric of commercial mobilization and innovation, the story of Fear emphasizes the rhetoric of preserving something pure and traditional that is dying. Both narratives have compelling rhetorical force, and actually need each other, in order to move their opposing audiences into action. However, as Picart shows, the realities behind these rhetorically framed political parables are more complex than a simple binary. Hence, the book steers a careful path between hope rather than unbounded Optimism, and caution, rather than Fear, in exploring how law functions in and as culture as it contours the landscape of intellectual property rights, as experienced by indigenous peoples and minorities. Picart uses, among a variety of tools derived from law, critical and cultural studies, anthropology and communication, case studies to illustrate this approach. She tracks the fascinating stories of the controversies surrounding the ownership of a Taiwanese folk song; the struggle over control of the Mapuches traditional land in Chile against the backdrop of Chile's drive towards modernization; the collaboration between the Kani tribe in India and a multinational corporation to patent an anti-fatigue chemical agent; the drive for respect and recognition by Australian Aboriginal artists for their visual expressions of folklore; and the challenges American women of color such as Josephine Baker and Katherine Dunham faced in relation to the evolving issues of choreography, improvisation and copyright. The book also analyzes the cultural conflicts that result from these encounters between indigenous populations or minorities and majority groups, reflects upon the ways in which these conflicts were negotiated or resolved, both nationally and internationally, and carefully explores proposals to mediate such conflicts.

An original work of seminal scholarship, *Law In and As Culture: Intellectual Property, Minority Rights, and the Rights of Indigenous Peoples* is exceptionally well written, organized and presented. Enhanced with the inclusion of twenty-two pages of Notes, and an eight page Index, *Law In and As Culture* is very highly recommended for inclusion in academic library Legal Studies and Cultural Studies reference collections and university level supplemental curriculum reading lists. (Midwest Book)This is a thought-provoking and useful survey and analysis of law and culture as they relate to the fast-moving field of intellectual property. The illustrative cases selected by Picart delve into complex issues of indigenous property; they are telling, captivating, and highly readable examples that lead to a deeper understanding of the competing interests and viewpoints involved in these conflicts. Picart offers the reader creative and novel steps to move the field of intellectual property forward in just and nuanced, yet pragmatic, ways. (M C Mirow, Professor of Law, FIU College of Law, Miami) *Law In and As Culture* is a fascinating study of the porosity of traditional knowledge cultural identities, and legal protections. Weaving a complex tapestry of theory and knowledge, Picart explores the tensions between legal cultures of individualism and communitarianism, egalitarianism and hierarchy, in the law of intellectual property. Exploring how highly legalistic developed nations appropriate the signs and cultural knowledges of indigenous peoples, Picart is able to offer a nuanced and sensitive solution to the translation gap that characterizes the post-modern global consumer world. (Danaya C. Wright, Clarence J. TeSelle Professor of Law, University of Florida, Levin College of Law) Dr. Picart's book offers a unique and compelling analysis of indigenous peoples' rights in the context of intellectual property. This topic is gaining prominence in the scholarly literature in multiple contexts and is part of a growing call for legal recognition of and respect for indigenous culture and traditional knowledge. The book offers a valuable interdisciplinary analysis of key issues in this space, including the majoritarian cultural assumptions built into western intellectual property law and how this reality undermines effective legal protection of indigenous cultural practices. Dr. Picart effectively uses case studies of attempts to protect the intellectual property of indigenous peoples in different contexts to illustrate these challenges and the need for legal reform. This book is a tour de force that should be on the must read list of all who claim or aspire to be robust interdisciplinary scholars and care about the disciplines of law, culture, society, marginable populations, and attaining justice. Picart sophisticatedly deconstructs the often oppositional narratives about the intersection of indigenous peoples and minority populations interests on one side and the forces of globalization and intellectual property rights on the other. Recognizing that the narratives emerge from a much more complicated series of different realities and different voices, the author discredits the utility of deploying the binaries if one seeks to take a holistic look at all the energetics existing at the intersections. In one of the most efficient interdisciplinary approaches I have encountered, Picart utilizes theory and practice from various fields to unveil the flaws of the normative oppositional narratives and replaces these with the individualized complexity of a middle way one that rejects the normative assumptions of culture and hierarchy and provides the methodological tools necessary to resolve controversies by reflecting upon the real conflicts generated through the superimposition of formal law as a means to resolve tensions

that include deep cultural differences. As in prior work, her approach successfully and artfully debunks the myth that law is objective and neutral by showing how in instances of non-normative actors the law is structurally imbued with sex, race, gender, and cultural biases. (Berta Esperanza Hernandez-Truyol, Levin, Mabie Levin Professor of Law, University of Florida Fredric G. Levin College of Law) Through concise conceptual explanations and examinations of contemporary cases dealing with Intellectual Property Rights (IPR), Picart describes responses to cross-cultural conflicts in this field as well as the strategies adopted by individuals and communities in fighting for ownership of their IPR.... Her backgrounds and expertise as academic and practitioner contribute in providing a strong foundation for the book. (Anthropological Forum) About the Author Caroline Joan "Kay" S. Picart is a scholar-attorney practicing in federal and state appellate criminal law and who publishes peer reviewed journal articles and books principally on law, criminology, sociology, and film.