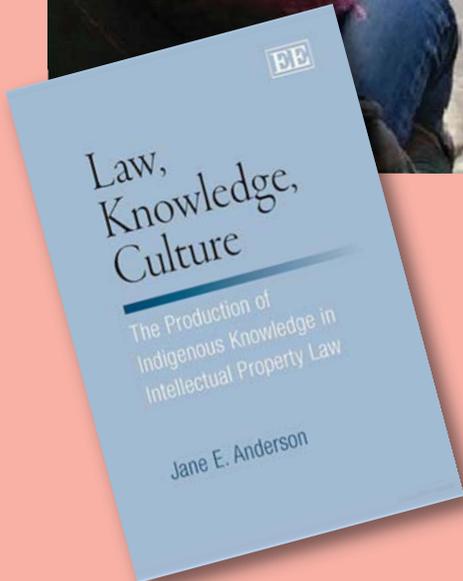
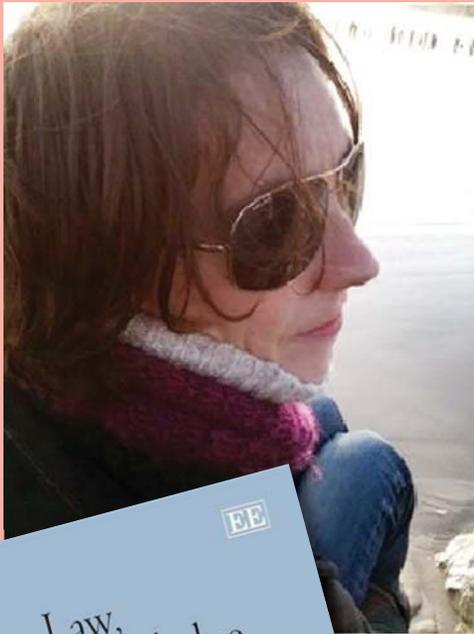


The American Folklife Center at the Library of Congress
presents
the Benjamin Botkin Folklife Lecture Series

AN ACQUISITIONS & PRESENTATION PROJECT

Anxieties of Authorship and Ownership: Intellectual Property, Indigenous Collections and Decolonial Futures



presented by **Jane Anderson**
Center for Heritage and Society
Department of Anthropology
University of Massachusetts

**WEDNESDAY
APRIL 3, 2013**

12:00 NOON - 1:00 PM

MARY PICKFORD THEATER

**THIRD FLOOR, JAMES MADISON BUILDING
LIBRARY OF CONGRESS**

**101 INDEPENDENCE AVENUE, SE
WASHINGTON, DC**

**FREE AND OPEN
TO THE PUBLIC**

Metro: Capitol South
First & C Streets, SE
(one block south of
Madison Building)

Request ADA accommodations five days in advance at (202) 707-6362 or ADA@loc.gov
For more information contact Thea Austen 202-707-1743

Anxieties of Authorship and Ownership: Intellectual Property, Indigenous Collections and Decolonial Futures

The significant work that has been done on the archive, both before and after Derrida's fevered turn, has greatly expanded understanding of the archive as more than a description of a physical space and location. Through the work of a range of scholars, it is possible to appreciate archives themselves, as well as the objects assembled within them, as sites of epistemological struggle. For what an archive holds, how knowledge objects are arranged, as well as what it makes available, are the very subject of politics always refracting colonial/modern power relations.

In 2002, Stoler argued for moving away from analyzing the content of archives, to looking more closely at archives' form and constitution. This archival turn was a radical effort to encourage scholars, particularly anthropologists, to reflect upon archives themselves as sites of interpretation and meaning making. Looking more closely at the way an archive makes possible and distributes central relationships between knowledge and power; a larger picture about archives as sites of knowledge production emerges. Stoler observes that "every document comes layered with the received account of earlier events and the cultural semantics of a political moment makes one point clear: What constitutes the archive, what form it takes, and *what systems of classification signal at specific times* are the very substance of colonial politics." (My emphasis, Stoler 2002:92)

This talk will explore the role of the author within colonial archives as a legal and cultural construct that maintains very specific exclusions and relations of power. Closer analysis of the author/archive/copyright nexus reveals how, in conjunction, they work to reinforce the operation of colonial projects of knowledge accumulation. If authors are privileged and recognized in archives, and the people subjected to colonial and colonizing projects are rarely named as authors—never given that status—yet are ostensibly the "subjects" of the documentation, then the archive, through the legal (and social) entitlements afforded authors, becomes a further site of colonial control and dispossession. This affects not only how historical meaning is made, but also how contemporary readings of the archive can proceed. Since the archive was a central locus in historical and contemporary projects of coloniality—from which knowledge about certain kinds of peoples was produced and served to justify how they were recognized and treated—reading it "along the grain" requires accounting for the *form and constitution* of the content.

Tensions over authorship and ownership are spilling out of archives across the world. These have emerged because the historical subjects of the archive are contesting their status within it, and making forceful demands to be recognized as the legitimate "owners" and "authors" of the materials that document their lives, families, languages, ceremonies and cultures. The challenge mounted reveals the cultural contingency of the category of authorship and, ironically, how it remains a tool to reinforce earlier exclusions and relations of power. There is no legal option for retroactively reasserting the "correct" authorship, even if this were desired or even possible for the millions of works currently held in archives across the globe.

The increased capacity to digitally circulate collections and thus also circulate artifacts of the colonial collecting condition actively re-evokes the author/archive legal legacy. In the same moment that "subjects" in the archive demand recognition as legitimate "authors" and "owners" of the documents that represent their cultures, the

contours of authorship are shifting. The struggle to own and control the legal entitlements that come with authorship again evades those "subjects," "informants," and "natives." This is because one part of the digitization agenda of archives has increasingly included the "digital repatriation" of Indigenous cultural materials from colonial archives. Digital "repatriation" initially offers the possibility for a renegotiation of the terms of authorship/ownership that historically inscribed the material now offered for return. Indeed, the very idea of return is itself a critique of the embedded social and legal relationships that fostered and enabled the collection of this material to start with. Yet, for both digitization and digital repatriation projects legal regimes of authorship are pre-supposed and maintained. Despite considerable effort on behalf of those working in these projects, legal regimes of copyright continue to marginalize Indigenous people from rights to fully determine culturally appropriate use, access and control of this material. Copyright still needs to be negotiated and public domain materials raise their own set of problems, which are also conditioned by the intellectual property regime that constitutes the foundation of the concept of the public domain to start with.

In exploring the legal contours producing the historical and contemporary anxieties of authorship and ownership for Indigenous collections, this talk unravels a different narrative of intellectual property law's history. Situated within the frame of larger national and international developments over intellectual property and Indigenous knowledge resources, the talk also, necessarily, confronts the challenge of what decolonial options for Indigenous collections can be imagined and activated.

Jane Anderson is Assistant Professor in the Center for Heritage and Society, Department of Anthropology, University of Massachusetts, and Adjunct Professor of Law at New York University School of Law. Her work is focused on the philosophical and practical problems for intellectual property law and the protection of Indigenous/traditional knowledge resources and cultural heritage. Since 2007 Anderson has worked as an Expert Consultant for the World Intellectual Property Organization on a number of policy proposals for the protection of traditional knowledge and cultural expressions. These include developing a framework for an international alternative dispute resolution/mediation service for intellectual property and Indigenous knowledge disputes, international guidelines for cultural institutions with Indigenous collections, and the development of site-specific intellectual property protocols. Anderson is currently working on a project with the Penobscot Nation; the development of the TK Licenses and Labels initiative; and, on her next book, *Legal Coloniality: Intellectual Property, Dispossession and the Search for Decolonial Knowledge Sharing Futures*.

The American Folklife Center was created by Congress in 1976 and placed at the Library of Congress to "preserve and present American Folklife" through programs of research, documentation, archival preservation, reference service, live performance, exhibition, public programs, and training. The Center includes the American Folklife Center Archive of folk culture, which was established in 1928 and is now one of the largest collections of ethnographic material from the United States and around the world. Please visit our web site: <http://www.loc.gov/folklife/>.

