

Intellectual property in the Pacific

by Gordon Peake

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(Photo credit: Small Business Trends)

The most lingeringly poignant, almost elegiac sentences and paragraphs in Miranda Forsyth and Sue Farran's *Weaving intellectual property policy in small island developing states* relate to what the authors find when they go to visit the government offices responsible for administering this complex machinery of laws and frameworks. They find titles and nameplates but often not much more than that.

The book's argument is that what gleams as modernity and progress may not be as shiny and wonderful as it appears for the nations of the Pacific. By signing up for bilateral and multilateral free trade agreements, and joining bodies like the World Trade Organization, countries of the Pacific enrol themselves into a set of obligations vis-à-vis intellectual property that few understand, and which all struggle to adequately administer. The desire to be seen as important and legitimate, perceived to come from signing up to treaties or membership of international bodies, blinds governments to questions of whether what they are signing up to is feasible, affordable and appropriate. Moreover, these frameworks are – at least in their current form – limited in terms of their ability to protect 'traditional' knowledge, which is frequently cited by governments of the Pacific as their chief benefit. Worse still, clauses and consequences of many free trade agreements risk leaving countries worse off. The authors cite possible adverse consequences in terms of access to medicine. 'Never sign up to something you don't understand' is a good legal dictum but yet, writ large, this seems to be what many countries in the Pacific have done vis-à-vis intellectual property obligations. As I read the book, I wondered how many more instances of poorly understood and complex agreements there could be. Is knowledge of the detail of PACER Plus likely to be any deeper?

But this is not a book that focuses on deficit, but rather suggests that there are alternative, better, more grounded ways of thinking about intellectual property.

At its core, this involves thinking beyond the frame that the State is the quintessential solution each and every time. Instead, this involves blending better – or 'weaving' to use the authors' favoured metaphor – state and non-state methods of regulation. The book ends with three practical examples of 'doing intellectual property differently': sharing boat-building expertise, trademarking Pacific cultural

products, and regulating traditional medicinal knowledge. None of the stories are clear-cut or have the easy output indicator of a signing ceremony or a press release. They involve a multitude of actors and are all a bit messy, but demonstrate that it is possible to develop a more appropriate system of intellectual property regulation, one more likely to be built to last.

This is one of those sorts of books that all academics aspire to produce: it deals with complex subjects but is always clear, the writing is learned yet always accessible. The book made me think, made me question some of my assumptions and I learned a lot during the day I spent reading it. I think you will learn a lot too. There's a number of handy 'in-brief' summaries of the book's core arguments at various parts in the text. The main arguments of the book are conveniently summarised by [this table](#).

Now, full disclosure lest anyone accuse me of log-rolling. I know, like, and have tremendous respect for Miranda Forsyth, one of the book's co-authors. I've attended seminars where she talked about the topic over the years and it was nice to read the final product of her work.

Something Miranda said to me the last time I saw her was that the book – published in 2015 – is akin to a ship that is still out at sea trying find a port.

Perhaps this is just ill-luck; the sheer tide of publications is just so powerful that many books get lost in the flotsam. And, of course, it's hard to draw a straight line between the production of intellectual products such as a book and changes in institutional behaviour. But perhaps another reason for the relatively impassive reception is because a book like this is easier to shut one's eyes to than to engage with, because it politely raises so many difficult questions that go to the heart of how much of the development project is thought of and implemented.

The great thing about the Devpolicy Blog is that I know it is a platform with reach and currency. My hope in writing this review is that someone will pick up the book (abstract [here](#)) and give its respectful arguments the hearing they deserve.

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Link: <https://devpolicy.org/intellectual-property-in-the-pacific-20180910/>