

Cultural Appropriation in the Arts

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Examples and preliminary lessons

In today's common usage, the phrase "cultural appropriation" usually refers to *cross-cultural*¹ appropriation, rather than artistic appropriation between actors or artists *within* a culture. The Parthenon sculptures called the "Elgin Marbles." The Benin "bronzes." Picasso's paintings using African masks, rendered in a style new to both cultures. Harold Arlen and Ted Koehler's song "I Gotta Right to Sing the Blues."

If you're familiar with any of these cases, my mere mention of them may set your heart racing. If you're not familiar with this debate, my mere mention of it may set your heart racing.

Here's a passage from literary scholar Lauren Michelle Jackson's short article in *In These Times* [2019].

At the 2000 MTV Video Music Awards (or VMAs), the rapper Eminem, sporting close-cut bleached-blond hair, entered the theater ... trailed by dozens of white close-cut bleached-blond lookalikes. At the time, Eminem appeared to be the portent of hip-hop's future – artists, critics, and other protectors of the genre worried about the next coming of Elvis, worried that Eminem [by being a more acceptable face to a broad public] might catalyze a transformation of rap similar to what long ago happened to rock'n'roll, and to jazz before that. They weren't so wrong. Thirteen years later, the VMA for Best Hip-Hop Video was awarded to a white anti-hip-hop rap duo from Seattle named Macklemore and Ryan Lewis. Those same 2013 VMAs invited Robin Thicke and Miley Cyrus to jerk and jive to a riff of a song that would later incur payment of court-ordered royalties to Marvin Gaye's estate for borrowing without permission.

This passage spotlights a number of themes in this paper:

- 1) Artistic appropriation is recognition by one artist of something valuable in another artist's work, or in a whole genre of art.
- 2) Artistic appropriation across cultures can become lucrative when the importing artist is more acceptable to the "mainstream" public than the originators of a genre.
- 3) Artistic appropriation without permission may be a violation of legal protections, with recourse to the courts, but often occurs outside of any legal protection.
- 4) The title of Jackson's article is "When We Talk About Cultural Appropriation, We Should Be Talking About Power."

¹ I'll adopt the prefix "cross" rather than "inter," following the distinctions drawn among (a) multi-, (b) cross-, and (c) inter-cultural relationships: (a) cultures existing alongside one another, (b) interactions across cultures, and (c) deep engagement and understanding among members of each culture [Spring Institute 2020].

Categorizations (*though, as we shall see, categorizations are the source of much contradiction*)

Let me attempt to distinguish objects and types of cross-cultural appropriation, and the judgments for and against them. Refer to Table 1.

- 1) Cultural artifact (or *object*) appropriation can be defined in at least two ways or two degrees:
 - a) taking artifacts without compensation to the originator(s) – even if the current holder compensated *its* source. In the case of Lord Elgin’s very expensive early 19th century procurement of sculptures from the Acropolis, he paid the workers and the transporters, but certainly not the original artists, nor the Ottoman government in place at the time. During the late-19th century British attack on the Edo in present-day Nigeria, hundreds of royal sculptures were seized.² In the 20th century, Nazi officials seized artworks owned by Jews across Europe.
 - b) taking irreplaceable artifacts even *with* compensation, when the artifacts have ongoing significance in or to place.

Next, let me distinguish arguments against cross-cultural object appropriation, with much credit to philosopher and media-studies specialist Elizabeth Burns Coleman [2005].

- a) People have the right to possess collectively those artifacts that define, protect, or promote their cultural and historical identities.
 - b) Nations and national governments, as the institutional representatives of a people, have the right and responsibility to possess institutionally those artifacts that define, protect, or promote their cultural and historical identities.
 - c) Individuals and national governments have the right to artifacts that were taken *or purchased* during war or colonial occupation.
 - d) Cultural artifacts are best appreciated in their cultural and geographic contexts – not as displaced objects.
- 2) *Intangible* cross-cultural appropriation refers to an artist’s use of “artistic elements” from another culture – style, motifs, plot, characters. Philosopher James Young [2000; 2008] gives each a different name: “content,” “style,” “motif,” and “subject” appropriation across cultures. He and philosopher Elizabeth Coleman [2005] argue (see, e.g., Coleman: 17-22) that this is not *taking* in the usual sense. Intangible cross-cultural appropriation can take the forms of:
- a) copyright infringement, when the original work, under copyright, is copied in clearly recognizable form without permission from and payment to the copyright owner.
 - b) Short of copyright infringement, cross-cultural appropriation includes using ideas, images, styles, themes, tropes, characters, musical elements, that can be identified with a specific culture, in settings and by artists (or researchers) outside the culture. The broader “world” of culture is enriched, and the ideas, etc. remain available for use by members of the origin culture.

Generally, at least until the late 20th century, intangible cross-cultural appropriation was largely considered beneficial. It disseminates styles, stories, motifs, and lessons from one culture to

² Marshall [2020]; also described briefly by Young [2008: 19].

another, thereby increasing cross-cultural awareness and enriching the lives of everyone. However, writers and observers have increasingly voiced concerns.

- a) Using *other* cultures' images, stories, characters, or styles makes genuine depictions difficult or impossible. Presenting these elements out of context demeans the social or religious importance of the image or style. An example: the widespread use of those specific *kente* cloth patterns that had been reserved for Asante royalty. Something of great significance has been reduced to a traded commodity [Boateng 2011].
- b) In works by outsiders, representations of another culture can descend to caricature – even if well-meaning. Think of the concerns expressed over Edward Curtis's photographs of Native Americans, or the characterization of Cio-Cio San by librettists Giuseppe Illica and Luigi Giacosa in Puccini's *Madama Butterfly*. If someone's main exposure to traditional Japanese culture comes from opera, this is a pretty skewed representation.
- c) Using other cultures' images, stories, characters, or styles dilutes their power, as they become commonplace for everyone.
- d) In the marketplace, appropriating minority cultures' images, stories, characters, or styles can *displace* the artistic work produced by those within the minority culture – because writers, musicians, actors, painters from the majority have more acceptance by mainstream audiences and more access to mainstream distribution channels. Consider the white anthropologist's research career explicating the stories of other cultures, the white jazz or blues musician (especially in the first half of the 20th century), the already-famous and taste-making New York visual artist “discovering” themes and styles from other cultures.

In the realm of science, Coleman presents the case of the *neem* tree, in the mahogany family, native to the Indian subcontinent. There, Hindu and Muslim people have studied and used its pharmacological and agricultural benefits for millennia. In the twentieth century, Indian national laboratories developed scientific bases for these uses – but did not patent them “because under Indian law agricultural and medicinal products could not be patented” [18]. US and Japanese companies have used this research to patent products made from the *neem* tree. Their demand drove up the prices of *neem* seeds by a factor of ten, making the seeds, trees, and uses unavailable to most Indians: a clear, economic displacement.

The current status

The arguments against cross-cultural *artifact* appropriation have been quite accepted, though difficult to execute. Contemporary debates still rage over *intangible* cross-cultural appropriation in the arts. Part of the reason is that legal and market regulation of activity has become pervasive. For creative works under copyright, the admittedly murky guidelines of copyright can be settled in court. However, in the visual arts, for example, the rules allowing re-use of others' work are quite liberal, requiring only some “transformation” which could be a transformation of *interpretation* [CAA 2015]. Recall from my previous Monday Club paper, Arthur C. Danto's [1973] dictum that art is that which requires an interpretation – so nearly any reproduction of an earlier work, to be called art, at least places a new interpretation on the earlier work.

In our current setting, markets regulate nearly all behavior that is not regulated by the state. If a white rapper samples an earlier rap sequence so thoroughly as to be re-releasing it, the original

artist can seek redress in the courts – the original work is almost certainly under copyright. Until and unless a court awards damages, both artists can perform and earn proceeds from their works.

However, national and international law do not recognize *collective* ownership of images, stories, styles, or patterns by a community that is not institutionalized into private companies or public governments. Through a legal lens, African Americans cannot own the blues, nor the stories and characters that the Gershwins tried to depict in *Porgy and Bess*. As James Young [1995] has written “Where there is no ownership there can be no theft” [74; quoted in Coleman [2005: 20].

Consequences

When artistic works use images, stories, symbols, tropes from other cultures, traditions, or groups, what is accomplished?

1. It can increase the range of inspiration for the producing artist.
2. It can inform the destination audience. When there is actual interplay and mutual learning among artists, this can create *intercultural* or intersectional art. In the cases of Paul Simon’s *Graceland* album and Paul Winter’s world music, the originating artists whose work is integrated gained global awareness as a result.
3. It can reinforce stereotypes about the origin culture: valuing the artifacts or artistic elements because they evoke an imagined time, place, or circumstances of the origin “group,” rather than expressions of individuals or subgroups engaged in struggle and in change. Members of any group or tradition desire to be represented as agents rather than passive observers or victims, and as part of a living tradition rather than a static, imaginary past. Poor, long-suffering, ultimately tragic Cio Cio San. Strong, long-suffering, noble Native Americans.
4. It can literally enrich the producers within the destination culture. Members of non-dominant groups may resent the commodification of their practices, words, styles, or stories by non-members, packaged for anyone who is willing to pay. Legal scholar Rosemary Coombe [1993] gives the examples of Indian spirituality workshops, sweat lodges, and potlaches as part of New Age packaged experiences.

The dominant cultural group generally controls the means through which any cultural elements are disseminated, valued, and monetized. “It is precisely because [minority] people are so seldom recognized or compensated” or their works viewed or read, that representations of their stories by dominant groups “are so offensive” [Coombe 1993, citing Lenore Keeshig-Tobias 1990]. Young [2008: 28] describes the uncredited origins of key elements of Herbie Hancock’s 1973 album *Headhunters* from a recording of Central African Benzélé Pygmies, made by French ethnomusicologists. This represented a fascinating tri-cultural dissemination, but who appropriated the returns?

Fundamental understandings at odds

The arguments favoring versus condemning cross-cultural appropriation grow from very different conceptions of art, artists, and cultures. Coombe [1993] has identified two seemingly opposing bases for the defense of and arguments against intangible cross-cultural appropriation, which she calls “possessive individualism” versus “cultural essentialism.” These are marvelously abstract terms, but as we look at those two columns in Table 2, you’ll find them to be familiar tropes.

“Possessive individualism” is the Western Romantic ideal of the artist (writer, composer, choreographer) who takes all ideas to which “he” has been exposed, and through force of will,

discernment, and creativity brings forth a new work. If the work becomes highly regarded, it is a result of “his” genius. In a letter responding to *The Globe and Mail’s* series on the use of Native voices by white Canadian writers, the letter writer claimed with exasperation “Appropriation of voice is what fiction is” [Smith 1992, quoted in Coombe [1993: 251].

In this still-dominant view of artistic creation, connoisseurship entails distinguishing “authentic masterpieces” from “inauthentic” reproductions or derivatives [Clifford 1988]. Coombe includes “possessive” in this ideal because works can be protected by legal tools of property ownership: copyright, ownership, and sale of artworks. Artists are given wide berth to incorporate influences into their works, which then become their property to sell, and in the case of visual arts, the buyers’ property to re-sell.

“Cultural essentialism” implies that each person belongs to a single cultural tradition from which that person draws most of their identity or “voice,” and that the strength of their identity, the integrity of their voice, is diminished when others use elements of that tradition in their own voices. It relies on the equally Romantic ideal of a homogeneous “people” or “culture” which jointly create and own artworks, stories, and styles. Connoisseurship entails distinguishing “authentic artifacts” of a culture from “inauthentic” reproductions or derivatives [Clifford 1988]. Cultural essentialism supports national and international laws on national patrimony and its repatriation, *using legal concepts that are analogous to individual ownership*, and that are useless in the context of groups without sovereign status.

Can individuals or even nations lay claim to “a culture”? This question contains at least two component questions:

- On what bases can an individual or nation trace cultural lineage? Some cultures or nations have formal memberships, but many do not. One argument is that an individual who is judged or assumed by others to be part of a racial or ethnic group thereby gains the perquisites or the prejudices given by others to members of that group. To quote author and activist bell hooks, “There is a radical difference between ... the idea that there is a black ‘essence’ and a recognition of the way that black identity has been specifically constituted in the experience of exile and struggle” [hooks [1990: 29], quoted in Coombe [1993: 268]].
- On what bases can we claim national or group cultures, now that elements of most cultures – certainly of large or dominant cultures, have indeed been disseminated, adopted, or forced worldwide through colonialism, neo-colonialism, international trade, travel, and media exposure?

The artificial constraint of cultural essentialism is central to most definitions of cross-cultural appropriation. Using the argument of cultural essentialism forces groups into language of static homogeneity to claim ownership of physical artifacts, and to argue for broader cultural “patrimony” (an ironic term for those groups who practice matrilineal transmission of, for example, permission to tell stories). Members of groups whose group identity has been suppressed by more powerful groups – whose languages, religions, or cultural practices were made illegal – might claim static homogeneity, even though *that* claim denies the ways that individuals experience the group identity across genders, classes, and time. Thus, cultural essentialism places less-dominant groups and individuals in a bind: am I defined by my group status?

Some of you might recognize a parallel constraint on the ability of writers and artists to express their insights. The essentialism of defining who’s in what culture wreaks havoc with how

we define ourselves, as members of multiple cultures and groups. Who's in and who's out? Do I have to prove the cultural purity of my Blackness in order to claim African-American themes in my art?

Context and power

Some hold that questions of ownership and of the right to use materials are not *inherently* answerable, but must be answered through legislative processes and interpreted by courts. However, legal scholar Rosemary Coombe [1993] argues that *state* laws and *market* decisions are insufficient vessels to contain *cultural* practices. [Circulate Table 3.] The right column of Table 3 adds this more nuanced interpretation of cultural products.

Legal scholar Martha Minow and philosopher Elizabeth Spelman [1991] present *and* problematize a call for *contextual interpretation* of moral [and legal] disputes. They characterize the call in this way [p. 248]:

“Moral decisions cannot be reached adequately by simply figuring out what moral rule applies to the situation at hand; the given situation is too specific and its particularities too numerous and too complex to be covered by a rule whose very abstractness has been made possible by erasing contextual details....

In many contemporary arguments for context, what people in fact urge is greater attention to ... structures of power in society” and the situation of actors within those structures.

Often, the most relevant component of these backgrounds is the relative political, economic, and even military power of the persons and of the communities in which they are situated.

Minow and Spelman take seriously the arguments *against* contextual interpretation of moral and legal rules: the erosion of foundations, and the inability of anyone to judge which contextual elements are most relevant to the case at hand. However, they conclude in favor of contextual interpretation for several reasons. I feel that the most relevant reasons here are:

- pragmatism: what are the consequences of interpreting a rule in a certain way, for the actors involved and for the broader society?
- better decision-making: what information is needed to help the arbiter reach a conclusion?

To shed some light on one contextual issue relevant to assessing claims of cross-cultural appropriation, the philosopher Erich Matthes [2016] uses Miranda Fricker's concepts of “epistemic injustice,” “credibility deficit,” and “credibility surplus.” Epistemic injustice (in this situation) refers to differences in the perceived credibility of an explanation based on who has provided the explanation. To the ears and eyes of many art listeners and viewers, artworks and cultural exegeses are more credible, more viable, more palatable when presented by “mainstream” artists, speakers, museums, and publishers. The dominant groups in a country³ control nearly all “mainstream” museums, publishers, recording studios, universities, etc. Not only is it more feasible for a majority-group member to gain a platform through these channels, most viewers or listeners have a predilection to appreciate and patronize works produced by majority-group members – which is to say that these writers, speakers, and artists have a credibility surplus. Minority writers, speakers, and artists are less likely to be heard, published, or seen, and when they *are*, face a credibility deficit in the ears and eyes of majority audiences. Such artists are at a

³ My language and intent here are broader than the Native/white or black/white categorizations prevalent in this literature, including the dominance of Han Chinese over Islamic Uyghurs or of Buddhist Myanmar over the Islamic Rohingya.

double disadvantage in getting audiences for their work, whatever the style or subject. This double disadvantage, leading to the displacement I mentioned earlier, causes special resentment when the style, subject, or story arose in or describes the minority culture.

Quoting the Métis Cree writer and film director Loretta Todd [1992: 24-25],

Appropriation occurs when someone else speaks for, tells, defines, describes, represents, uses or recruits the images, stories, experiences, dreams of others for their own. Appropriation also occurs when someone else becomes the expert on your experience and is deemed more knowledgeable about who you are than yourself.

There is a key reason why members of less-dominant groups (and I don't *necessarily* mean ethnic minorities – this could pertain to women in our broader current culture) may use themes or styles from the dominant culture without causing harm. The most fundamental is this: The dominant culture is promulgated broadly – in some cases, has been forced on Native Americans and Australians, or on Africans brought to North America as slaves – and members of these less-dominant groups also belong to or “own” elements of the dominant culture.

Think about this, though: cultural appropriation, which is indeed a basis for much art, is a *problem* when it reduces the ability of some artists to get their (perhaps more authentic) work before and accepted by the broader public. I'll return to Lauren Michelle Jackson's pointed title “When We Talk About Cultural Appropriation, We Should Be Talking About Power.”

[Most] discussions about appropriation have been limited to debates about freedom and choice, when [we] should be [dissecting] power. The act of cultural transport is not in itself an ethical dilemma. Appropriation can often be a means of social and political repair.... And yet. When the powerful appropriate from the oppressed, society's imbalances are exacerbated and inequalities prolonged.

In my own view, Pablo Picasso, Harold Arlen, Elvis Presley, and Eminem are mere instruments of a system: they were taking opportunities for expression. However, their producers and gallerists recognized that in these artists they found the ability to put an acceptable, white face on a compelling art form, from which they could all earn financial reward. The *particular* face might not have been that important.

Ways forward?

At this juncture in the 21st century, a form of regulation has become prominent that relies neither on legal constructs of ownership nor on groups' self-definition. I call this newly important regulatory regime **social regulation**. Contemporary artists' reliance on the internet for dissemination and marketing (often self-marketing) means that internet arguments about originality and quality can spread widely and quickly, affecting the market returns for each artist. The controversy may lead some to purchase and consume the original work, while others may be drawn to the copier (or “sampler,” in music).

Let's pursue this farther: markets rely on market power. The market power of the *partisans* of the originating artist and the importing artist may be quite unequal. For example, more whites with higher average incomes bear more power in the marketplace. This returns us to the “crowding out” argument against legal cross-cultural appropriation.

Matthes [2016] concludes that what I call social regulation is subjectively applied, based on listeners', viewers', and readers' perceptions whether a given incidence of appropriation is warranted by the artistic purpose and whether it harms the originators. He suggests that this is as it should be – while he does not refer explicitly to the call for contextualism, he notes that members of the public will rely on their sensibility whether the copying is harmful or demeaning to the originating group or artist.

Matthes's concluding point is that credibility deficits and surpluses – the legitimacy that the broad public gives to artists and speakers from minority versus dominant backgrounds – result from social marginalization. Recognizing and combatting social (and economic) marginalization underlie, and are more important than, railing over specific instances of cross-cultural appropriation. My reading, thinking, and observing the current battles have led me to the same conclusion.

Art production should certainly celebrate *and question* the influences on the artist: how could it *not*?⁴ However, when the borrowing is from – and especially *in* – the voices, images, or styles of others, those others and their paths need to be acknowledged in ways that lead the listener, viewer, or reader to seek *their* work and *their* stories.

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⁴ "I feel some anxiety about the way in which I have appropriated this strange material. But appropriation is what novelists do. Whatever we write is, knowingly or unknowingly, a borrowing. Nothing comes from nowhere." Margaret Drabble, in *The Red Queen* (2004: x)

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TABLE 1
Categorizing cross-cultural appropriation in arts

<i>Objects and types</i>	<i>What's gained</i>	<i>What's lost</i>
Artifact appropriation	May become available to a larger audience. May foster cross-cultural knowledge. May be better preserved.	May become available only to a private owner. May become relatively unavailable to the intended audience. May be mis-interpreted out of its intended context.
without compensation		Property rights. National or cultural sovereignty.
with compensation		
Intangible appropriation	May become available to a larger audience. May foster cross-cultural knowledge.	
copyright infringement		Revenues from the appropriated material.
using or disseminating ideas, stories, themes, styles, motifs, images developed in another culture	Source material and inspiration for artists in all disciplines.	Attention and/or revenue to artists in the origin cultures, if the borrowing artists have greater access to dissemination in larger markets. May be mis-interpreted or poorly reproduced in the transfer, so that patrons in the destination culture learn little of the original content or culture.

TABLE 2
Competing bases for judging cross-cultural appropriation in the arts, 1

Bases for claims of ownership →	Possessive individualism	Cultural essentialism
<i>Who owns?</i>	Romantic ideal of “ <i>the artist</i> ,” transforming influences through his own genius, to create a unique work.	Romantic ideal of a homogeneous “ <i>people</i> ” or “ <i>culture</i> ” that jointly create and own artworks, stories, styles.
What works are worthy of the label “art”?	Connoisseurship entails distinguishing “authentic masterpieces” from “inauthentic” reproductions or derivatives [Clifford 1988].	Connoisseurship entails distinguishing “authentic artifacts” of a culture from “inauthentic” reproductions or derivatives [Clifford 1988].
Enforcement tools	Translated into legal tools of property ownership: copyright, ownership, and sale of artworks.	Translated into national and international laws on national patrimony and its repatriation, <i>using legal concepts that are analogous to individual ownership</i> , and that are useless in the context of groups without sovereign status.
Implications	Artists are given wide berth to incorporate influences into their works, which then become their property to sell.	Groups resort to language of static homogeneity to claim ownership of physical artifacts, and to argue for broader cultural patrimony (an ironic term for those groups who practice matrilineal transmission of permission to tell stories).

TABLE 3
Competing bases for judging cross-cultural appropriation in the arts, 2

Bases for claims of ownership →	Possessive individualism	Cultural essentialism	Contextual claims
Who owns?	Romantic ideal of <i>“the artist,”</i> transforming influences through his own genius, to create a unique work.	Romantic ideal of a homogeneous <i>“people”</i> or <i>“culture”</i> that jointly create and own artworks, stories, styles.	A pragmatic ethics of appropriation in which claims are recognized according to context.
What works are worthy of the label “art”?	Connoisseurship entails distinguishing “authentic masterpieces” from “inauthentic” reproductions or derivatives [Clifford 1988].	Connoisseurship entails distinguishing “authentic artifacts” of a culture from “inauthentic” reproductions or derivatives [Clifford 1988].	Connoisseurship entails understanding the sources of artistic influences, recognizing the historical and political forces that led to the possibility and conditions of influence.
Enforcement tools	Translated into legal tools of property ownership: copyright, ownership, and sale of artworks.	Translated into national and international laws on national patrimony and its repatriation, <i>using legal concepts that are analogous to individual ownership</i> , and that are useless in the context of groups without sovereign status.	Translated into ethics internalized by artists and enforced by producers, curators, and the media-consuming public. Social regulation?
Implications	Artists are given wide berth to incorporate influences into their works, which then become their property to sell.	Groups resort to language of static homogeneity to claim ownership of physical artifacts, and to argue for broader cultural patrimony (an ironic term for those groups who practice matrilineal transmission of permission to tell stories).	A broader recognition of the humanity and struggles of groups and individuals whose work contributes to contemporary culture.