

Is stealing someone's culture a crime? - AvvoStories

Monday, March 21 2016, 1:34 PM



Is stealing someone's culture a crime?

RIGHTS, CELEBRITY, NEWS

Mar 16, 2016

By [Gemma Alexander](#)

◀ 9

Cultural appropriation has been a hot topic on college campuses and in art circles for several years, but the concept is fairly new to the average consumer. Is it wrong to wear an “ethnic” hairstyle or purchase tribal jewelry on vacation? Since culture is arguably what results from the exchange of ideas, the line between inspiration and appropriation can be hard to find.

Cultural appropriation is defined as the adoption or use of elements of one culture by members of another. But the term comes loaded with connotations of racism and exploitation. No one cries “appropriation” over the American taste for pizza or expects Irish people to follow a diet of boiled potatoes (which, by the way, were

appropriated from Peru by Spanish Conquistadores in the 1500s). Appropriation is more than merely adopting elements of another culture—it is doing so in an illegal or unfair manner. That often involves the commodification of spiritual aspects of culture, or unfairly profiting from traditional industries.

Fortunate son

Cultural appropriation involves “taking intellectual property, traditional knowledge, cultural expressions, or artifacts from someone else’s culture without permission,” says Susan Scafidi, author of *Who Owns Culture?: Appropriation and Authenticity in American Law* in an interview with *Jezebel*. “It’s most likely to be harmful when the source community is a minority group that has been oppressed or exploited in other ways or when the object of appropriation is particularly sensitive; e.g., sacred objects.”

In other words, a Grammy-winning white rapper may need to check his privilege; an African-American tenor at Covent Garden, not so much. Not only is appropriation unlikely to be harmful when the source community is dominant, historically, it has not been optional. A key facet of colonialism is the enforced adoption of the colonizers’ culture by the indigenous population.

Take the money and run

Kids at the Coachella Festival wearing feathered headdresses (and the vendors who profit from them) are a highly visible example of cultural appropriation, but the greatest, and most frequent offenders are found in the fashion industry. For example, fashion designer Valentino’s spring 2016 collection had a clear African theme (though no Africans were involved in the design process) and most of the models—sporting tribal motifs and cornrows—were white. Compare this to Brazilian sportswear label Osklen’s spring 2016 collection, which paid the indigenous Asháninka tribe for permission to adapt their tattoos and traditional fabrics. The payment was enough to build a school in the tribe’s community.

The answer to the question of who benefits from an act of appropriation is useful in answering the question of ethicality. But when is appropriation legal?

Blurred lines

It turns out, almost always. Culture is a form of intellectual property, and appropriation can be understood as a parallel to copyright. But unlike copyright, the aggrieved party rarely exists as a legal entity. The most famous (and almost unique) exception to this is the Navajo Nation, which presciently registered a trademark for the name “Navajo” in 1943. In contrast, many smaller Native American tribes are not even recognized by the federal government; other large groups, like the Sioux confederacy, share cultural elements but maintain separate governments and tribal enrollments.

The only legal protection specifically addressing cultural appropriation is the Indian Arts and Crafts Act of 1935, which was established to protect the ability of Native Americans to generate income through traditional skillsets. The law was strengthened by a 1990 truth-in-advertising update that established penalties of \$250,000 and five-year prison terms for individuals selling counterfeit Native American goods, and fines up to \$1 million for offending businesses.

Been caught stealing

Armed with the Indian Arts and Crafts Act and a slew of tribal trademarks, the Navajo Nation is one of the few cultural groups that have attempted to take legal action to protect themselves against cultural appropriation. In 2011, Urban Outfitters introduced a line of “Navajo” products, complete with underwear and hip flasks in patterns that resembled Native American blankets. The tribe responded immediately with a cease-and-desist letter, and followed up in February 2012 with a [lawsuit](#) when other brands within the same parent company continued to sell products labeled “Navajo.”

In December 2015, a federal judge responded to summary judgments submitted by both the tribe and the company. He rejected both, but [ruled](#) that the Navajo Nation has “injury in fact,” standing that allows the tribe to continue its claims against Urban Outfitters under Article III of the Indian Arts and Crafts Act.

Do right woman, do right man

There is very little recourse for victims of appropriation, and few repercussions for offenders, beyond a possible PR kerfuffle, but most people would rather do the right thing. An article in [The Atlantic](#) recently presented guidelines to walking the blurred line between cultural appreciation and appropriation. It includes simple dos and don'ts like:

- Blackface is never okay, no matter [who you are](#).
- Do not treat the sacred as secular.
- Remember that cultures are not frozen in time.

But most of the advice centered on one simple principle: a culture's history, artifacts, symbols, and other elements belong to actual people, who should be involved as equals in any endeavor that benefits from the use of their culture.

Image courtesy of [inyourspeakers.com](#)

- [Boy arrested for sexually exploiting...himself - AvvoStories](#)
- [Marnie the Dog stars in new Avvo ad - AvvoStories](#)
- [5 common mistakes to avoid if you're arrested](#)
- [5 reasons men file for divorce - AvvoStories](#)

Recommended by

Tagged [celebrity](#), [rights](#)

[1 comment](#)