

2021 Honors Symposium Submission: *Understanding Cultural Appropriation, Denigration, and Appreciation Towards the First Amendment:* <https://youtu.be/Yaz5yrLg0Xw>

Should cultural appropriation and cultural denigration be protected under the First Amendment?

Jessica Fatima Simmons

Whitehurst Family Honors Program, Barton College

2021

Abstract

Cultural appropriation falls into a gray area that is a hot debate topic amongst people around the world. The purpose of this project is to explore cultural appropriation and cultural denigration in relation to the First Amendment, investigate how cultural appropriation and denigration affect racial and cultural minorities, and determine whether or not cultural appropriation and denigration should be protected under First Amendment laws in the United States. This will be explored through scholarly articles, journals, court cases, blogs, and news articles in order to break down the terms and gain background knowledge of cultural appropriation and cultural denigration before making a final decision.

Introduction

The United States Bill Of Rights has granted its citizens a number of freedoms and protected rights. Under the First Amendment, U.S. citizens are allowed the freedoms of the press, to assemble peacefully, to petition the Government, follow their own religions, the freedom of speech, and the freedom to express themselves. However, citizens have taken expressing themselves to a level that can cause harm to underrepresented groups. How many of those expressions are protected? Where is the line drawn? To answer these questions, the main one stands, should cultural appropriation and cultural denigration be protected under the First Amendment?

Cultural Appropriation

Researchers claim that *cultural appropriation* has turned into a blanket term to society and it is always immediately deemed to be offensive while others seem to beg to differ. Studies

state that to label something or someone as culturally appropriating, one must understand the meanings of it (Siems, 2019).

There are several different definitions that researchers use to describe cultural appropriation, but it all boils down to one denominator: an outsider taking something that isn't from their culture (Young, 2000). However, a more detailed definition of cultural appropriation is the usage of objects, sounds, or elements from a non-dominant group without authorization and/or with the intent of exploration for one's own needs, or without the proper knowledge of what the elements are taken to represent (Cuncic, 2020). There are many examples of cultural appropriation such as dance, hairstyles, tattoos, and symbols, etc. However, fashion appropriation seems to be highly prevalent.

One article discovers what ought to be the first cultural appropriation court case in the U.S. In 2020, one clothing retailer was sued for stealing the designs of a culture-enriched coat from an Indigenous woman, mass-producing the coats, and selling them for \$700 (Jenkins, 2020). The retailer later tried to explain they were paying homage to the culture which was not an acceptable reason since they had taken the design without permission from its creator primarily. Another article shared bigger brands such as Nike exploiting a Samoan's man of his leg tattoos to make athletic leggings, only to apologize and exploitative Puerto Ricans to make limited edition *Air Force 1 Puerto Rico* sneakers (Vézina, 2019).

While cultural appropriation is understood to be an umbrella term, one study claims that there are actually layers to cultural appropriation and that people who write about cultural appropriation are not aware of the types that play a role in appropriating comprise of five types: (1) material appropriation, (2) non-material appropriation, (3) stylistic appropriation, (4) motif appropriation and, (5) subjective appropriation (Young, 2000).

Cultural Denigration

Cultural denigration is the act of appropriating with the sole purpose of humiliating and belittling members of a non-dominant group. Examples of this include sports mascots such as the Cleveland Indians, the Washington Redskins, and the Edmonton Eskimos (Thagard, 2019).

Researchers portray when cultural denigration is at its highest level: Halloween; and encourages people to rethink their Halloween costumes (Ellison, 2015). They found themselves shocked at the number of people who wore Native American headdresses and wraps to go to parties and to those who felt as if their costumes were unfinished without painting their faces black or brown. Blackface had begun all the way back to the nineteenth century where it was shown in Minstrel shows that portrayed African Americans as lazy, hypersexual, and superstitious (Thagard, 2019). Both articles agree that if people decide to use parts of different cultures for their costumes, to do the work to understand the meanings of each element.

Culture Appreciation

Culture appreciation is taking the time to do one's research on a culture that is not their own to understand and respect that culture. In one study, researchers explained how to understand the difference between cultural appropriation and culture appreciation through music equity (Howard, 2020), while another one determined the difference between cultural appropriation and cultural safety in the medical field (Hunter, 2020). While music educators and nurses wanted to share music and medical treatments from different cultures in class or clinic, they did not want to be culturally inappropriate. Researchers say that there are several other ways to give appreciation, such as financially aiding different people in their cultures or even a culture

exchange. In a culture exchange, one must not only take but give something with equal or more value upon it with credit, otherwise, it's just taking (Galchen & Holmes, 2017). Once a culture exchange has been made, one is able to make what was given their own by transforming it under fair use laws and paying homage in order to once more avoid wrongfully appropriating (Reed, 2019).

Conclusion

Between the two sides of universal entitlement, the view to use anything from any culture within the boundaries of property laws, and universal restrictiveness, the view that any type of cultural borrowing is considered appropriating and not allowed, cultural appropriation is one of the most divided and debated topics in society (Thi Nguyen & Strohl, 2019). Cultures are not only meant to be experienced but respected as well (Ellison, 2015). Researchers claim that without aspects from other cultures through reciprocal cultural exchange, life would be like a boring memoir. Culture appropriation has also been seen as transcultural, meaning it can be hard to determine whether or not something is appropriated if it's cross-culture (Gainer, 2016), which makes finding the answer to the research question a bit tricky.

References

Cuncic, A. (2020). What Is Cultural Appropriation? *VeryWell Mind*.

<https://www.verywellmind.com/what-is-cultural-appropriation-5070458>

Ellison, B. (2015). People need to think about cultural appropriation when choosing halloween costumes people need to think about cultural appropriation when choosing halloween costumes. *University Wire*.

<https://login.proxy012.nclive.org/login?url=https://www.proquest.com/wire-feeds/people-need-think-about-cultural-appropriation/docview/1726667670/se-2?accountid=8499>

Gainer, K. (2016). Cultural Property versus Intellectual Property: The Cultural Appropriation Debate. *Microsoft*.

<https://prod-ncte-cdn.azureedge.net/nctefiles/groups/cccc/committees/ip/2016/gainer.pdf>

Galchen, R., & Holmes, A. (2017, Jun 11). Bookends. *New York Times Book Review*, 27.

<https://login.proxy012.nclive.org/login?url=https://www.proquest.com/magazines/bookends/docview/1909755918/se-2?accountid=8499>

Howard, K. (2020). Equity in Music Education: Cultural Appropriation Versus Cultural Appreciation—Understanding the Difference. *Music Educators Journal*, 106(3), 68–70.

<https://doi.org/10.1177/0027432119892926>

Hunter, K. (2020). Cultural safety or cultural appropriation? *Kai Tiaki : Nursing New Zealand*, 26(1), 24-25.

<https://login.proxy012.nclive.org/login?url=https://www.proquest.com/scholarly-journals/cultural-safety-appropriation/docview/2358476606/se-2?accountid=8499>

- Jenkins, E. (2020). Lawsuit over cultural appropriation of Native designs proceeds, despite Neiman Marcus bankruptcy. *Alaska Public Media*.
<https://www.alaskapublic.org/2020/07/01/lawsuit-over-cultural-appropriation-of-native-designs-proceeds-despite-neiman-marcus-bankruptcy/>
- Reed, T. (2019). Fair use as cultural appropriation. *Forthcoming, California Law Review*, 109(1-70), 2021. <http://dx.doi.org/10.2139/ssrn.3456164>
- Siems, M. (2019). The law and ethics of ‘cultural appropriation’. *International Journal of Law in Context*, 15(4), 408-423. <http://dx.doi.org/10.1017/S1744552319000405>
- Thagard, P. (2019) Cultural appropriation, appreciation, and denigration. *PsychologyToday*.
<https://www.psychologytoday.com/us/blog/hot-thought/201910/cultural-appropriation-appreciation-and-denigration>
- Thi Nguyen, C., & Strohl, M. (2019). Cultural appropriation and the intimacy of groups. *Philosophical Studies*, 176(4), 981–1002. <https://doi.org/10.1007/s11098-018-1223-3>
- Vézina, B. (2019). Curbing cultural appropriation in the fashion industry with intellectual property. *WIPO Magazine*.
https://www.wipo.int/wipo_magazine/en/2019/04/article_0002.html
- Young, J. O. (2000). The ethics of cultural appropriation. *The Dalhousie Review*.
<https://dalspace.library.dal.ca/bitstream/handle/10222/63438/dalrevvol80iss3pp301316.pdf?sequence=1>