# Resolution: Privileged individuals ought not appropriate the culture of a marginalized group.

# Topic Overview

The appropriation of marginalized culture has become a widely-discussed topic over the past ten years. While the issue is nothing new, opinions in how we perceive cultural appropriation have evolved over time. Many would argue that cultural appropriation has been around since the beginning of recorded history and that “borrowing” culture from others is part of human nature. It is true that most cultures around the world are not unique and share common characteristics and themes with others. For example, language and religion are often not only shared between homogeneous groups, but are adopted by many non-native members within these groups, sometimes by choice, often by force in an effort to survive. Appropriation of culture is different from cultural blending in many ways.

The act of appropriation involves taking something for your personal use. This may be a benign action where no other individual is affected or it may be done for the benefit of one over and the disadvantage of another. It is commonly accepted that appropriation is the act of taking something without the owner’s permission. This definition is the most current and will drive this debate. Claiming that cultural appropriation is a mutual action by both sides is naive at best, and does not facilitate much of a debate. It is important that both sides view the act of appropriation as an action where one side clearly takes something without the permission of the other.

Cultural appropriation takes place in many areas of our world today. Most of the complaints about cultural appropriation of marginalized groups come from the perceived violations in the fashion industry and entertainment. Some go as far as claiming that a white, privileged author, writing a novel with a person of color being the protagonist is unacceptable, claiming that the author could not understand nor portray the culture of the character accurately. Further, if the author is reaping financial reward resulting from telling the story of the marginalized group, that author is unethically using a culture not their own for financial gain. The claim is that this is an abuse and the action “steals” what belongs to the marginalized group.

One word of advice on this resolution. You must do all you can to avoid being viewed as racially bias. Don’t make this debate about which group should benefit over the other. Don’t claim that there is no harm to anyone through appropriation of culture. You do not want to appear unsympathetic or callus in regard to race and gender. You also want to avoid being seen as naïve or blind to issues of racism and conflict.

Most of the research and information on the web seems to support the affirmative of the resolution. Keep in mind that this is mostly the result of who is writing on the subject. Many will be willing to discuss the negative side of cultural appropriation but few are going to spend time defending an action that is common place and widely practiced. Most of the resources supporting the negation are written in response to criticisms written on the side of the affirmative. Seek out academic resources that view the issue from both perspectives. This will assist in making sure that your argument is coming from a neutral intellectual position and not from opinion or experiential bias.

#### Aff Strategy

The affirmative must show that negating the resolution will bring harms to either privileged individuals, marginalized groups, or society as a whole. Focusing on the outcomes of the marginalization is a better strategy than focusing on the action itself. This will help avoid the appearance of this being a debate focused on race and instead focus the debate on how cultural marginalization affects others. Saying it is wrong solely because “white privilege” needs to be kept in check may backfire with some judges. In the sample case below, the affirmative side argues that the results of cultural appropriation leads to stereotyping and prejudice.

If you must debate the action itself, may I suggest you argue that cultural appropriation is an act of theft, claiming that culture is a form of intellectual property and should be protected as all intellectual property. It may be difficult to adequately show the culture would qualify for intellectual protections under the law the same way that art and ideas are protected. The affirmative would have to show that a culture is something that is owned and is not in the public sphere.

#### Neg Strategy

It was difficult to find reasons that cultural appropriation of marginalized people is justified. I think that many in the debate community will find the same challenge. It was only after I stopped seeing this as an issue of race that I was able to move forward in developing my negative case. I chose to focus on the fact that culture in and of itself is dynamic and claiming ownership of a culture nearly if not completely impossible. Everyone, regardless of your race, gender, religion, social status, etc., has their own unique culture. Also, nearly everyone can be classified as a marginalized individual in some way or another. A wealthy white male might be marginalized if he identifies himself as Jewish or gay or even a member of a labor union. Also, one Native American might be affluent and part of main stream society while another may be living in poverty on a reservation. Does one get to claim membership of a marginalized group and the other does not?

# Aff Case

## 1AC

#### How groups are viewed by others matters

Wilkinson, 2009 (Richard, Author and professor or social epidemiology, “The Spirit Level: Why Greater Equality Makes Societies Stronger,” Bloomsbury Press, New York)

The psychoanalyst Alfred Alder said, ‘To be human means to feel inferior.’ Perhaps he should have said ‘To be human means being highly sensitive about being regarded as inferior.’ Our sensitivity to such feeling makes it easy to understand the contrasting effects of high and low social status on confidence. How people see you matters. While it is of course possible to be upper-class and still feel totally inadequate, or to be lower-class and full of confidence, in general the further up the social ladder you are, the more help the world seems to give you in keeping the self-doubts at bay. If the social hierarchy is see – as it often I s – as if it were a ranking of the human race by ability, then the outward signs of success or failure (the better jobs, higher incomes, education, housing, car and clothes) all make a difference.

It is for this reason that we must support and accept the resolution: Privileged individuals ought not appropriate the culture of a marginalized group.

#### Definition

Johnson, 2015 (Feminist leader and social activist, What’s Wrong with Cultural Appropriation?: These 9 Answers Reveal its Harm, Everyday Feminism, accessed online, July 7th, 2017 at http://everydayfeminism.com/2015/06/cultural-appropriation-wrong/

Cultural appropriation is when somebody adopts aspects of a culture that’s not their own. But that’s only the most basic definition. A deeper understanding of cultural appropriation also refers to a particular power dynamic in which members of a dominant culture take elements from a culture of people who have been systematically oppressed by that dominant group. That’s why cultural appropriation is not the same as cultural exchange, when people share mutually with each other – because cultural exchange lacks that systemic power dynamic. It’s also not the same as assimilation, when marginalized people adopt elements of the dominant culture in order to survive conditions that make life more of a struggle if they don’t.

#### Value

The value of Social Justice is essential for any community to claim the moral high ground. Social justice is best defined when looking through the perspective of social discrimination.

Bhugra, 2016 (Dinesh [CBE, Professor at King’s College], Social Discrimination and Social Justice, *International Review of Psychiatry*, 28:4, pp 336-341)

As has been shown in the case of racism (UNESCO, 1967 UNESCO. (1967). Statement on race and racial prejudice. Paris: UNESCO. [Google Scholar] ), all human beings belong to the same species and descend from the same stock. Thus, no illness—be it mental or physical, acute or chronic—should lead to discrimination of any kind whatsoever. Social discrimination against people with mental illness is a global issue and it covers a range of spheres which influence daily living and daily functioning. Social discrimination appears to be lodged in the system and, therefore, can be pervasive and intrusive, and stop people from reaching their full potential and, more importantly, labelling them changes their identities. Micro-identities related to race, gender, age, religion, sexual orientation, and other components all get trumped by [a] the label of being mentally ill. Social discrimination is defined as sustained inequality between individuals on the basis of illness, disability, religion, sexual orientation, or any other measures of diversity. Social justice is aimed at promoting a society which is just and equitable, valuing diversity, providing equal opportunities to all its members, irrespective of their disability, ethnicities, gender, age, sexual orientation or religion, and ensuring fair allocation of resources and support for their human rights. Any number of diverse factors, including those mentioned above, but also education, social class, political affiliation, beliefs, or other characteristics can lead to discriminatory behaviors, especially by those who may have a degree of power in their hands. Stigma is a prejudiced attitude and is readily applied to people with mental illness (especially to those with severe and serious mental illness such as schizophrenia and bipolar disorders), and widespread insidious and pervasive stigma leads to discriminatory attitudes and practices. Stigma can also explain widespread negative attitudes and behaviors, as well as negative cognitions and structures which create and perpetuate inequities.

#### Criterion

Through my case, I will show that social justice is in the best interest of all members of society. Therefore, Utilitarianism will be the measure.

If the affirmative can show that the appropriation of marginalized culture by privilege individuals leads to negative consequences for both marginalized groups and privileges groups alike and that affirming the resolution will benefit all of society through providing an situation of social justice, than the affirmative should win this round.

#### Moral policy only blocks decision making necessary to limit injustice and atrocities.

Issac, 02 – Professor of Political Science at Indiana-Bloomington, Director of the Center for the Study of Democracy and Public Life, PhD from Yale (Jeffery C., Dissent Magazine, Vol. 49, Iss. 2, “Ends, Means, and Politics,” p. Proquest)

As a result, the most important political questions are simply not asked. It is assumed that U.S. military intervention is an act of "aggression," but no consideration is given to the aggression to which intervention is a response. The status quo ante in Afghanistan is not, as peace activists would have it, peace, but rather terrorist violence abetted by a regime--the Taliban--that rose to power through brutality and repression. This requires us to ask a question that most "peace" activists would prefer not to ask: What should be done to respond to the violence of a Saddam Hussein, or a Milosevic, or a Taliban regime? What means are likely to stop violence and bring criminals to justice? Calls for diplomacy and international law are well intended and important; they implicate a decent and civilized ethic of global order. But they are also vague and empty, because they are not accompanied by any account of how diplomacy or international law can work effectively to address the problem at hand. The campus left offers no such account. To do so would require it to contemplate tragic choices in which moral goodness is of limited utility. Here what matters is not purity of intention but the intelligent exercise of power. Power is not a dirty word or an unfortunate feature of the world. It is the core of politics. Power is the ability to effect outcomes in the world. Politics, in large part, involves contests over the distribution and use of power. To accomplish anything in the political world, one must attend to the means that are necessary to bring it about. And to develop such means is to develop, and to exercise, power. To say this is not to say that power is beyond morality. It is to say that power is not reducible to morality. As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, and Hannah Arendt have taught, an unyielding concern with moral goodness undercuts political responsibility. The concern may be morally laudable, reflecting a kind of personal integrity, but it suffers from three fatal flaws: (1) It fails to see that the purity of one's intention does not ensure the achievement of what one intends. Abjuring violence or refusing to make common cause with morally compromised parties may seem like the right thing; but if such tactics entail impotence, then it is hard to view them as serving any moral good beyond the clean conscience of their supporters; (2) it fails to see that in a world of real violence and injustice, moral purity is not simply a form of powerlessness; it is often a form of complicity in injustice. This is why, from the standpoint of politics--as opposed to religion--pacifism is always a potentially immoral stand. In categorically repudiating violence, it refuses in principle to oppose certain violent injustices with any effect; and (3) it fails to see that politics is as much about unintended consequences as it is about intentions; it is the effects of action, rather than the motives of action, that is most significant. Just as the alignment with "good" may engender impotence, it is often the pursuit of "good" that generates evil. This is the lesson of communism in the twentieth century: it is not enough that one's goals be sincere or idealistic; it is equally important, always, to ask about the effects of pursuing these goals and to judge these effects in pragmatic and historically contextualized ways. Moral absolutism inhibits this judgment. It alienates those who are not true believers. It promotes arrogance. And it undermines political effectiveness.

#### C1 Appropriation of culture leads to oppression

#### Oppression is a system of advantage and disadvantage based on social groups

Goodman, 2015 (Diane, Ed.D., consultant, author, professor, “Oppression and Privilege: Two Sides of the Same Coin,” Journal of Intercultural Communication, No. 18 (2015): 1-14)

One way to define oppression is as a system of advantage (privilege) and disadvantage (oppression) based on social group membership. Some groups are advantaged – seen as superior, have greater social power, and receive unearned benefits, while other groups are disadvantaged – seen as inferior, have less social power, and face discrimination and violence. In the US, as in many countries, men, heterosexuals, the dominant racial/ethnic group (whites), wealthier people, the dominant religious group (Christians), native born people, and able-bodied people are the advantaged (or the dominant or privileged) groups, while women, lesbian, gay, bisexual, transgender, and queer (LGBTQ) people, marginalized racial/ethnic groups, low income and poor people, non-native born people, and people with disabilities are in the disadvantaged (or the subordinated or marginalized) groups. Even though individuals within these social identity groups may have their own particular experiences, examinations of systems of inequality use a social group lens, focusing on what typically happens for people within these social group categories in a given society.

#### Subpoint A: Appropriation of culture leads to prejudice in society

A quick definition of prejudice from the Anti-Defamation League:

Prejudice is the prejudging or making a decision about a person or group of people without sufficient knowledge. Prejudicial thinking is frequently based on stereotypes.

#### Appropriation leads to the stereotyping of marginalized groups

Young, 2015 ([Anja, Editor, The Stanford Daily] *Caricaturing Cultures: The Dangers of Appropriation*, The Stanford Daily, Vol. 259, April 21, 2015)

The domino effect is simple: Appropriation creates stereotypes, and stereotypes narrow the bandwidth for productive intercultural dialogue. Then, even in spheres where productive cross-cultural conversations could happen, many people come in with preconceptions that have very little basis in historical fact. We enter discussions with preconceived notions of what it means to belong to a particular group based on stereotypes perpetuated by entertainment. By decontextualizing these cultural tokens, we shift the context of the conversation to an uphill battle against stereotypes to validate the history from which they sprung. Caricaturing cultures so they are more easily digested in public consumption isn’t progress. It’s counterproductive.

#### Subpoint B: Prejudices lead to oppression of marginalized groups

#### Prejudice leads to oppression of marginalized groups

Goodman, 2015 (Diane, Ed.D., consultant, author, professor, “Oppression and Privilege: Two Sides of the Same Coin,” Journal of Intercultural Communication, No. 18 (2015): 1-14)

One important distinction in understanding systems of inequality is the difference between prejudice and oppression. Prejudices are prejudgments about individuals or groups based on their social identities. People assume that something must be true about a person because of their social group identity without knowing who that person is as an individual. There are often many prejudices and stereotypes about people from subordinated groups. Some examples of stereotypes in the US are that gay men are effeminate and poor people are lazy. There can also be prejudices and stereotypes about people from advantaged groups, such as that wealthy people are greedy and that men are not nurturing. Regardless of whether the belief or attitude reflects a “positive” quality (e.g., Asians are good at math and blacks are good athletes) or a negative one, stereotypes keep people in boxes and do not allow them to be seen for who they truly are. While prejudices are harmful to everyone, when a group has social power – access to societal resources and decision making – they can enforce their prejudices on a societal level, which becomes oppression. A shorthand definition is Prejudice + Social Power = Oppression. Advantaged groups have the social power to act on their prejudice. This can take the form of denying people from subordinated groups access to good jobs, housing, education or healthcare or being more likely to arrest and incarcerate them. People from disadvantaged groups do not have the same access to social power to have a similar impact on people from advantaged groups. From a social justice perspective, it is critical to consider the differences in power between dominant and subordinated groups, even as we try to eliminate prejudices and stereotypes about all groups.

#### C2 Oppression causes harms for both marginalized groups and privileged individuals

#### Privileged groups are negatively affected by inequitable societies

Goodman, 2015 (Diane, Ed.D., consultant, author, professor, “Oppression and Privilege: Two Sides of the Same Coin,” Journal of Intercultural Communication, No. 18 (2015): 1-14)

There are numerous costs to people from privileged groups for being part of inequitable societies. Psychological costs involve a loss of mental health and authentic sense of self. People are socialized into limited roles and patterns of behavior, expected to deny emotions and empathy, and often feel fearful of engaging with others who are different. Social costs are reflected in the loss and diminishment of relationships. There is isolation from different people, barriers to authentic relationships, and disconnection from people from one’s own privileged group is they act differently than expected. There is also the loss of moral and spiritual integrity. People feel guilt and shame for their unfair advantages and role in perpetuating oppression, and moral ambivalence when faced with doing “the right thing” vs. the social pressures to maintain the status quo. Intellectually, dominate group members do not develop a full range of knowledge either about their own or other people’s cultures and histories. There are omissions and distortions in what people learn about current and past realities. Lastly, there are losses related to safety, resources and quality of life. Social inequality leads to violence and unrest, the loss of valuable talents that are undeveloped and underutilized, and the diminished ability to work collectively around common concerns.

#### C3 Equality is better for all members of society

#### The benefits of social justice

Goodman, 2015 (Diane, Ed.D., consultant, author, professor, “Oppression and Privilege: Two Sides of the Same Coin,” Journal of Intercultural Communication, No. 18 (2015): 1-14)

Not only are there costs of oppression, there are benefits of social justice. Research has found that the more equally wealth is distributed, the better the health of that society, as indicated by the degree of health and social problems. The range of problems covers many issues including imprisonment, mental health, violence, education, the status of women, and sustainability. More socially justice societies (beyond just economic equality) have less violence, are able to utilize the knowledge, perspectives and abilities of all people to address challenges, and spend less money on services to address the results of inequality.

#### Empathy for other’s culture leads to social justice

#### The benefits of social justice

Goodman, 2001 (Diane, Ed.D., consultant, author, professor, Promoting Diversity and Social Justice: Educating People from Privileged Groups, Sage Publications, California, pp 127-128)

Many theorist have discussed the significance of empathy in social relations. The presence of empathy can foster positive social action whereas its absence can perpetuate injustice. Suppressing empathy for people in oppressed groups is a powerful tool in maintaining oppression. When we fail to see our common humanity with people we perceive as different from ourselves, we can more easily ignore their plight. It also allows us to dehumanize others, seeing them as less than human or as unworthy of care and respect. This sets the stage for the acceptance or perpetuation of violence. The more one dehumanized people, the more likely one will do violence. This in turn increases the need to dehumanize them. “By making the objects of our violence less than human, we do not experience the guilt associated with killing or harming fellow human beings”.

There are many ways in which people from oppressed groups are depersonalized and dehumanized in our society. Depersonalization and dehumanization occur through stereotypes (defining gay men as child molesters), images (depicting African Americans as animals) and language (using derogatory names – gook, bitch, wetback). In sum, perpetuating the sense that Other is sufficiently different and less human than ourselves erodes the capacity for empathy and, thus, the propensity for care and action.

## Aff Cards

#### In a socially just world, all people would be valued and respected

Goodman, 2015 (Diane, Ed.D., consultant, author, professor, “Oppression and Privilege: Two Sides of the Same Coin,” Journal of Intercultural Communication, No. 18 (2015): 1-14)

In a socially just world, all people, regardless of their particular social identities, should be valued and respected. Everyone would have equitable access to resources and opportunities, be safe (psychologically and physically) and be able to fulfill their potential. However, this is not currently the case. Instead of embracing and appreciating social/cultural differences, social groups get ranked into a hierarchy, with some social identities being seen as better than others.

#### Oppression is a system of advantage and disadvantage based on social groups

Goodman, 2015 (Diane, Ed.D., consultant, author, professor, “Oppression and Privilege: Two Sides of the Same Coin,” Journal of Intercultural Communication, No. 18 (2015): 1-14)

One way to define oppression is as a system of advantage (privilege) and disadvantage (oppression) based on social group membership. Some groups are advantaged – seen as superior, have greater social power, and receive unearned benefits, while other groups are disadvantaged – seen as inferior, have less social power, and face discrimination and violence. In the US, as in many countries, men, heterosexuals, the dominant racial/ethnic group (whites), wealthier people, the dominant religious group (Christians), native born people, and able-bodied people are the advantaged (or the dominant or privileged) groups, while women, lesbian, gay, bisexual, transgender, and queer (LGBTQ) people, marginalized racial/ethnic groups, low income and poor people, non-native born people, and people with disabilities are in the disadvantaged (or the subordinated or marginalized) groups. Even though individuals within these social identity groups may have their own particular experiences, examinations of systems of inequality use a social group lens, focusing on what typically happens for people within these social group categories in a given society.

#### How groups are viewed by others matters

Wilkinson, 2009 (Richard, Author and professor or social epidemiology, “The Spirit Level: Why Greater Equality Makes Societies Stronger,” Bloomsbury Press, New York)

The psychoanalyst Alfred Alder said, ‘To be human means to feel inferior.’ Perhaps he should have said ‘To be human means being highly sensitive about being regarded as inferior.’ Our sensitivity to such feeling makes it easy to understand the contrasting effects of high and low social status on confidence. How people see you matters. While it is of course possible to be upper-class and still feel totally inadequate, or to be lower-class and full of confidence, in general the further up the social ladder you are, the more help the world seems to give you in keeping the self-doubts at bay. If the social hierarchy is see – as it often I s – as if it were a ranking of the human race by ability, then the outward signs of success or failure (the better jobs, higher incomes, education, housing, car and clothes) all make a difference.

#### Cultural Appropriation involves privileged individuals taking advantage of their power

Biakolo, 2016 (Kovie [Author, Social Activist] *What Makes Cultural Appropriation Different from Cultural Exchange*, Salon, Published 10/1/2016, accessed online 7/18/2017 at http://www.salon.com/2016/10/01/how-to-explain-cultural-appropriation-to-someone-who-just-doesnt-get-it\_partner/)

Cultural appropriation involves the use of one culture’s elements by a group or individual who does not belong to that culture. However, this definition is lacking because such an interaction may be labeled simply as cultural exchange. And that argument would be difficult to defeat because first, who “owns” a culture? And second, borrowing from one culture and lending to another has been the way of the world since human society began, according to recorded history and anthropologists

So what makes cultural exchange different from cultural appropriation? As with most points of cultural contention, the difference is power. In particular, the power of the privileged to borrow and normalize a cultural element of another group, while the appropriated group is often demonized and excluded because of that very cultural element.

#### Human dignity is the highest standard

#### Kateb, 1992 (George [Professor of Politics, Princeton], THE INNER OCEAN, 1992, p. 9

In sum, there seems to be no generally credible foundation for a critique of rights. Rights emerge as the only or best way of protecting human dignity, and human dignity remains the highest standard. This is not to deny that there will be strenuous differences of interpretation of various rights and quarrels over the comparative importance of various rights. But by now even some anti-individualists, whether secular or religious, accept the idea of rights as useful or even as an indispensable ingredient in their own thinking about politics and society.

#### Utilitarianism fundamentally fails to protect individual rights – “greatest good” claims simply conflict.

#### Byrnes, 1999 (Erin [JD U Arizona], “Therapeutic Jurisprudence: Unmasking White Privelege to Expose the Fallacy of White Innocense,” 41 Ariz. L. Rev. 535, 1999

Moral rights are objectionable not only because they lack social recognition but also because they necessarily imply a correlation between rights and duties. Again, utilitarianism's specific rejection of the tie between rights and duties renders recognition of white privilege nearly impossible. Without this recognition, there can be no meaningful solution. [247](http://www.lexis.com/research/retrieve?_m=6086918c24ac435052e6f504fe73f06f&docnum=5&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAt&_md5=43416a79a379e0b157709063cbfc7fc5&focBudTerms=SUMMARY%20%2528utilitar%2521%20w/20%20righ%2521%20%2529&focBudSel=all#n247#n247) If accepted, moral rights would provide the grounds for the appraisal of law and other social institutions, a system of appraisal antithetical to utilitarianism's rubric of assessment. Moral rights carry with them the expectation that institutions will be erected with an eye towards respect and furtherance of such rights. [248](http://www.lexis.com/research/retrieve?_m=6086918c24ac435052e6f504fe73f06f&docnum=5&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAt&_md5=43416a79a379e0b157709063cbfc7fc5&focBudTerms=SUMMARY%20%2528utilitar%2521%20w/20%20righ%2521%20%2529&focBudSel=all#n248#n248) Such a proposition would certainly require more than just striving towards color-blindness were it applied to affirmative action. Utilitarianism, however, requires that institutions and rights be evaluated solely with respect to the promotion of human welfare, welfare being the satisfaction of overall citizen desires. [249](http://www.lexis.com/research/retrieve?_m=6086918c24ac435052e6f504fe73f06f&docnum=5&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAt&_md5=43416a79a379e0b157709063cbfc7fc5&focBudTerms=SUMMARY%20%2528utilitar%2521%20w/20%20righ%2521%20%2529&focBudSel=all#n249#n249) The assumption, implicit in the foregoing argument, is that moral rights neither fit perfectly nor converge with legal rights. [250](http://www.lexis.com/research/retrieve?_m=6086918c24ac435052e6f504fe73f06f&docnum=5&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAt&_md5=43416a79a379e0b157709063cbfc7fc5&focBudTerms=SUMMARY%20%2528utilitar%2521%20w/20%20righ%2521%20%2529&focBudSel=all#n250#n250) This may not necessarily be the case. David Lyons' "theory of moral rights exclusion" discusses the way in which utilitarians conceive of moral rights working at odds with the utilitarian goal. [251](http://www.lexis.com/research/retrieve?_m=6086918c24ac435052e6f504fe73f06f&docnum=5&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAt&_md5=43416a79a379e0b157709063cbfc7fc5&focBudTerms=SUMMARY%20%2528utilitar%2521%20w/20%20righ%2521%20%2529&focBudSel=all#n251#n251) Lyons' theory describes the way in which a moral right, at some point, gains enough currency to warrant individual exercise of that right. According to Lyons, when a moral right has reached this point, it has achieved the "argumentative threshold" and gains normative force. [252](http://www.lexis.com/research/retrieve?_m=6086918c24ac435052e6f504fe73f06f&docnum=5&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAt&_md5=43416a79a379e0b157709063cbfc7fc5&focBudTerms=SUMMARY%20%2528utilitar%2521%20w/20%20righ%2521%20%2529&focBudSel=all#n252#n252) The potential for this occurrence is precisely what leads to the utilitarian rejection of moral rights. Rejection is predicated on the fact that once the argumentative threshold is reached, a presumption is created against interference upon the individual exercise [\*564] of the right. [253](http://www.lexis.com/research/retrieve?_m=6086918c24ac435052e6f504fe73f06f&docnum=5&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAt&_md5=43416a79a379e0b157709063cbfc7fc5&focBudTerms=SUMMARY%20%2528utilitar%2521%20w/20%20righ%2521%20%2529&focBudSel=all#n253#n253) Under a system which recognized moral rights, but still organized itself according to the utilitarian goal of achieving human welfare (which is happiness), individual rights would purportedly run headlong into the pursuit of welfare. [254](http://www.lexis.com/research/retrieve?_m=6086918c24ac435052e6f504fe73f06f&docnum=5&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAt&_md5=43416a79a379e0b157709063cbfc7fc5&focBudTerms=SUMMARY%20%2528utilitar%2521%20w/20%20righ%2521%20%2529&focBudSel=all#n254#n254) Though the pursuit of welfare would be deemed morally relevant and would justify a course of action on welfare's behalf, in a scenario where that course of action constituted a mere "minimal increment of utility," it would be incapable of overcoming the argumentative threshold of rights. [255](http://www.lexis.com/research/retrieve?_m=6086918c24ac435052e6f504fe73f06f&docnum=5&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzb-zSkAt&_md5=43416a79a379e0b157709063cbfc7fc5&focBudTerms=SUMMARY%20%2528utilitar%2521%20w/20%20righ%2521%20%2529&focBudSel=all#n255#n255) Thus, the argument is that the recognition of moral rights is diametrically opposed to utilitarianism because in a moral rights regime, rights act as a limitation upon the utilitarian goal of fulfilling as many individual desires as possible.

#### The only way to preserve individualism is to allow all persons to have the right to own themselves regardless of any negative consequentialist impacts

#### Schroeder, 86 – (Christopher [Professor of Law at Duke], “Rights Against Risks,”, April, Columbia Law Review, pp. 495-562, http://www.jstor.org/pss/1122636)

Liberal Theories in the "Rights" Tradition. A second group of theories avoids the modern criticism of utilitarianism by making the individual central. Contemporary theorists as diverse as John Rawls, Robert Nozick, Richard Epstein, Charles Fried, and Ronald Dworkin continue a tradition variously described as the Kantian, natural rights, or "rights" tradition.62 They all define the requirements of justice in terms of recognizing and preserving the essential characteristics of individuals as free and autonomous moral agents. In this approach, the individual is defined prior to articulating the terms under which that individual can be acted upon or interacted with, and those terms are consequently specified so as to protect and preserve what is essential to the individual. In this context, rights have been called "trumps" since they constrain what society can do to the individual. These theories all aspire to make the individual more secure than he is under utilitarianism. In the rights tradition, the crucial criteria for assessing risks derive from the impact of those risks on risk victims, and the criteria are defined independently of the benefits flowing from risk creation. To be plausible, such a program cannot totally prohibit risk creation, but the ostensible advantage of this program over utilitarianism is that risk creation is circumscribed by criteria exclusively derived from considerations of the integrity of the individual, not from any balancing or weighing process.65 The root idea is that nonconsensual risks are violations of "individual entitlements to personal security and autonomy."66 This idea seems highly congruent with the ideology of environmentalism expressed in our national legislation regulating technological risk. Indeed, two scholars have recently suggested a modern rendering of Kant's categorical imperative: "All rational persons have a right not to be used without their consent even for the benefit of others."67 If imposing risk amounts to using another, this tradition seems to be the place to look to secure the status of the individual.

# Neg Case

## 1NC

Tom Hill, an anthropologist, author, and member of the Iroquois Nation, boldly states,

#### Fighting to maintain a culture is going to cause its downfall

Hill, 1994 (Tom [Director of the Woodland Indian Museum, Author], A Question of Survival, All Roads are Good: Native Voices on Life and Culture, Smithsonian Institution, pp 185-195)

We can’t be so ethnocentric anymore. We can’t be those smug Iroquoian people, who did all these great and wonderful things. We can blow our own horns – we have a right to and we should – but we have to look for the bigger picture, now more than ever, and see how we fit in, how we interface.

Any genuine culture – if it is a living, breathing culture – involves evolution and change. And the moment we think that our culture is back in the past, back in that museum case, we’re in for it. Because we’ll always try to aspire to that item in the museum case. And that’s not where our culture is. It’s happening here, as we look at this video or participate in other kinds of activities. We’ve got to be able to take the world views, which in a way began in these cases, and bring everything up to speed, to what’s happening now.

It is for this reason that we must negate the resolution: “Privileged individuals ought not appropriate the culture of a marginalized group.”

Let me begin with defining culture:

#### Culture is dynamic and always changing

Nieto, 2010 ([Sonia, Ph.D. University of Massachusetts] Language, Culture, and Teaching: Critical Perspectives, Routledge Press, New York, pp 137-138)

Culture does not exist outside of human beings. This means that cultures are not static relics, stagnant behaviors, or sterile values. Steven Arvizu’s wonderful description of culture as a verb rather than a noun captures this essence of culture beautifully. This is, culture is dynamic, active, changing, always on the move. Even within their native contexts, cultures are always changing as a result of political, social, and other modifications in the immediate environment. When people with different backgrounds come in contact with one another, such change is to be expected even more.

But cultural change is not simply a one-way process. The popular conception of cultural change is that it is much like a transfusion: As one culture is emptied out of a person, a new one is poured in. In this conception, each culture is inert and permanent, and human beings do not influence the process to any significant degree. But the reality is that cultures are always hybrids, and that people select and reject particular elements of culture as suitable or not for particular contexts. Cultural values are not gotten rid of as easily as blood, nor are new ones simply infused. For instance, there is ample ethnographic evidence that in spite of the enormous political, social, and economic changes amount American Indians in the past 100 years, their child-rearing practice, although they have, of course changed, have also remained quite stable. Likewise, among immigrants to the United States, there are indications that ethnic values and identities are preserved to some extent for many generations.

**Appropriation is defined as**:

Shugart, 1997 (Helene [Professor of Communication: University of Utah], Counterhegemonic Acts: Appropriation as a Feminist Rhetorical Strategy, Quarterly Journal of Speech, 83, pp. 210 – 229)

Etymologically, the root of the word appropriation is the Latin proprium, meaning “one’s own.” Technically, appropriation refers to any instance in which means commonly associated with and/or perceived as belonging to another are used to further one’s own ends. Any instance in which a group borrows or imitates the strategies of another – even when the tactic is not intended to deconstruct or distort the other’s meanings and experiences – thus would constitute appropriation. Appropriation generally is understood and discussed theoretically, however, as a means by which the referenced “other” is challenged. Most theorists understand appropriation as the claiming, by an individual or group, of another’s meanings, ideas, or experiences to advance the individual’s or group’s beliefs, ideas, or agenda. Consequently, the original meaning, which may pose a threat to the appropriator, is deconstructed, distorted, or destroyed so that the perceived threat is undermined and the agenda of the appropriator is advanced instead.

#### My value for this debate is Progress.

Benoist, 2002 (Alain De [Ph.D., Author, Editor], A Brief History of the Idea of Progress, Critiques – The Occidental Quarterly, vol. 8, no. 1 , 2008)

Progress can be defined as a cumulative process in which the most recent stage is always considered preferable and better, i.e., qualitatively superior, to what preceded it. This definition contains a descriptive element (change takes place in a given direction) and an axiological element (this progression is interpreted as an improvement). Thus it refers to change that is oriented (toward the best), necessary (one does not stop progress), and irreversible (no overall return to the past is possible). Improvement being inescapable, it follows that tomorrow will be always better than today.

Parvin, 2010 (Phil [PhD, Director of the Loughborough’s Center for Study of International Governance], Major Conservative and Libertarian Thinkers: Karl Popper, The Continuum International Publishing Group, New York, 2010, pp 94-95)

Popper therefore believed in the possibility of progress, but of a very different kind to that defended by the historicists. His idea of scientific progress, for example, outlined in the *The Poverty of Historicism*, held [holds] that the development of human knowledge was [is] linked to, and dependent upon, particular institutions, namely, those institutions like speech and writing, as well institutions like laboratories, universities, and research facilities, in which scientists might engage in public debate about existing theories. Consequently, it was very important indeed that, in the interests of scientific progress, the right social institutions [are] were present, by which he meant those institutions which protected and encouraged free debate. These claims connect sharply with Popper’s wider claims about the role of institutions in driving *political*  or *social*  progress: if we value progress, the development of knowledge, freedom, and the capacity of social institutions to improve society by rectifying those problems which afflict society and undermine the basic equality of human beings – as we should --- then we must establish and protect social institutions which allow us to debate with one another about the appropriate ends of politics, to form our own judgements about politics, and to criticize the judgements of others, while all the while defending our own views against the criticisms of others and, when necessary, rejecting our theories in favor of newer, more persuasive ones. Only the ‘institutional method makes it possible to make adjustments in the light of discussion and experience’, he argued.

Policies, if they do not do what they are supposed to do, should be dropped and replaced with ones which do. Institutions, if they prove themselves unfit to carry out the tasks required of them, should be reformed so as to be better able to meet the social and political challenges at hand. And politicians, if they prove themselves incapable of ruling effectively, should be removed in favor of ones who are better suited to public office. All of these decisions –including the prior questions concerning the appropriate role of institutions and policies and politicians – are, in an open society, decided by free and equal citizens, engaged in reason able democratic debate with one another via institutions which protect their individual freedoms. Thus, while historicists defended essentialism, holism, utopian social engineering, totalitarianism, and the subordination of the individual to society and to impersonal laws of historical development, Popper defended nominalism, individualism, piecemeal social engineering, democracy, and the importance of each and every individual in their own right, not as mere tools to be used and manipulated in the interests of bringing about some ideal state of affairs, but as ends in themselves.

Progress must be in the best interest of society. Therefore we must way the outcome of the resolution in a **(Criterion) utilitarian framework**.

#### Not knowing conditions for each individual or ramifications forces us to adopt utilitarianism. Policy makers must use in their decision making

Goodin 95 – Professor of Philosophy at the Research School of the Social Sciences at the Australian National University (Robert E., Cambridge University Press, “Utilitarianism As a Public Philosophy” pg 63)

Furthermore, the argument from necessity would continue, the instruments available to public policy-makers are relatively blunt. They can influence general tendencies, making rather more people behave in certain sorts of ways rather more often. But perfect compliance is unrealistic. And (building on the previous point) not knowing particular circumstances of particular individuals, rules and regulations must necessarily be relatively general in form. They must treat more people more nearly alike than ideally they should, had we perfect information. The combined effect of these two factors is to preclude public policy-makers from fine-tuning policies very well at all. They must, of necessity, deal with people in aggregate, imposing upon them rules that are general in form. Nothing in any of this necessarily forces them to be utilitarian in their public policy-making, of course. What it does do, however, is force them- if they are inclined to be utilitarian at all-away from direct (act) utilitarianism. The circumstances surrounding the selection and implementation of public policies simply do not permit the more precise calculations required by any decision rule more tailored to peculiarities of individuals or situations.

There are three contentions I wish to make that would prevent us from adopting the resolution as stated. We must reject the resolution so that society can progress and overcome racism.

#### Contention 1: Culture is Dynamic

Jose, 2014 (F. Sionil [Author and Activist], Understanding Culture and Culture Change, The Philippine Star, December 8, 2014, accessed online July 18, 2017 at http://www.philstar.com/arts-and-culture/2014/12/08/1399719/understanding-culture-and-culture-change)

Culture is not static; it is always changing, often slowly, sometimes suddenly. Take Session Road in Baguio in the Fifties and the Sixties — it was not unusual then to see Igorot men in their G-strings there. In the market were wooden plates with serrated edges as hand-carved by them. The wooden stools with figurines carved solid from tree trunks, too. These aren’t in the souvenir shops in Baguio anymore unless they are sold as antiques. First, the loincloth for men requires intricate weaving, hard work. It is much more convenient and cheaper now for the men to go around in jeans, more comfortable and with pockets. There are no more trees for woodcarvers, and plates of ceramics and plastic are much cheaper and available readily. Many of the rice terraces in Ifugao are falling apart. Maintaining them is very hard work — why should anyone work so hard when money can be made easier with jobs in the cities? Culture change is inevitable with development. The Ifugao houses — many of them are now roofed with galvanized iron. The grass roof burns easily, is one reason. Why should we deny our ethnics, refrigerators, TV and radio and gas stoves? Sure, we must know and maintain many aspects of their culture — the skills in weaving, woodcarving, for instance. But we must be prepared to lose many of those terraces to the natural growth of trees. As in the West, they will also be ruins in the future, except for some important and scenic ones that must be preserved for tourism and as monuments to the hardiness of the Ifugao spirit. In other words, all our ethnics must modernize so that they will not be denied power and justice which they also deserve.

#### Culture is dynamic and always changing

Nieto, 2010 ([Sonia, Ph.D. University of Massachusetts] Language, Culture, and Teaching: Critical Perspectives, Routledge Press, New York, pp 137-138)

Culture does not exist outside of human beings. This means that cultures are not static relics, stagnant behaviors, or sterile values. Steven Arvizu’s wonderful description of culture as a verb rather than a noun captures this essence of culture beautifully. This is, culture is dynamic, active, changing, always on the move. Even within their native contexts, cultures are always changing as a result of political, social, and other modifications in the immediate environment. When people with different backgrounds come in contact with one another, such change is to be expected even more.

But cultural change is not simply a one-way process. The popular conception of cultural change is that it is much like a transfusion: As one culture is emptied out of a person, a new one is poured in. In this conception, each culture is inert and permanent, and human beings do not influence the process to any significant degree. But the reality is that cultures are always hybrids, and that people select and reject particular elements of culture as suitable or not for particular contexts. Cultural values are not gotten rid of as easily as blood, nor are new ones simply infused. For instance, there is ample ethnographic evidence that in spite of the enormous political, social, and economic changes amount American Indians in the past 100 years, their child-rearing practice, although they have, of course changed, have also remained quite stable. Likewise, among immigrants to the United States, there are indications that ethnic values and identities are preserved to some extent for many generations.

#### Contention 2: Fighting to Maintain Traditional Culture Leads to Prejudice and Segregation

Reich, 2013 (Bryony [Professor of Economics, Cambridge], *Culture, Community and Segregation*, Speech, January 27, 2013, Accessed online July 18, 2017 at http://www2.warwick.ac.uk/fac/soc/economics/events/seminars-schedule/conferences/ctn/reich.pdf)

Paying a cost to switch culture could arise for a variety of reasons: culture can be so deeply entrenched that individuals find it psychologically costly to adhere to behaviors or attitudes that differ from the culture one has grown up with; there may be penalties from within the group for deviating from cultural practices; if different cultures listen to and play different types of music or sport, for example, then participating in the activities of another group can be costly because it is unfamiliar; alternatively there may be fixed costs involved, such as learning a new language. We reduce these different possibilities to a single cost c in line with previous work on culture choice (Akerlof and Kranton, 2000; Bisin and Verdier, 2000). Were this the end of the model, individuals would never choose to pay the cost and switch culture, however, there is another side to the problem: individuals value social interaction. That is, we assume the n individuals who cohabit the population wish to form social ties and interact with each other (irrespective of type). Social interaction is valuable to individuals because it can provide information, economic opportunities, economic support, risk sharing, or can simply be enjoyable in itself.

Importantly, social ties require common ground. If individuals have no common interests or activities then there is little possibility for a social tie to develop. Think back to the previous examples of different cultural practices. Most obviously, without a common language social interaction is very difficult (it is difficult to exchange information, discuss and agree on economic exchange, and any activity that involves conversation or communication is limited). Consider individuals who partake in different activities such as sports and music; not only do they spend time apart when they undertake the different activities but even when they do meet they are unable to exchange information relevant to them both and there are fewer common interests to enhance conversation. As for more subtle things such as attitudes towards education, individuals may want to associate with like minded others in order to exchange relevant information and share relevant opportunities and activities. To model the necessity of common ground in social interaction, we suppose that any two individuals can form a social tie at a cost L each, and that the social tie has value 1 (to each of them) if individuals have cultural practices in common and 0 if not.

#### Contention 3: Transculturation is good for Society

Rogers, 2006 (Richard A. [Ph.D., Professor of Communications], *From Cultural Exchange to Transculturation: A review and Reconceptualization of Cultural Appropriation,* Communication Theory, Vol. 16, 2006, pp474-503)

Transculturation involves cultural elements created through appropriations from and by multiple cultures such that identification of a single originating culture is problematic. Transculturation involves ongoing, circular appropriations of elements between multiple cultures, including elements that are themselves transcultural. Lull describes transculturation as ‘‘a process whereby cultural forms literally move through time and space where they interact with other cultural forms and settings, inﬂuence each other, produce new forms, and change the cultural settings’’. ‘‘Transculturation produces cultural hybrids—the fusing of cultural forms’’, but ‘‘hybrids such as these never develop from ‘pure’ cultural forms in the first place’’ To explain how transculturation and hybridization occur, Lull adds the dynamic of indigenization, in which ‘‘imported cultural elements take on local features as the cultural hybrids develop’’. For example, musical forms appropriated by the culture industry from urban African American culture (e.g., hip-hop), forms already structured in multiple cultural traditions and matrices of power, are in turn appropriated and localized by Native American youth living on rural reservations. Significantly, ‘‘transculturation processes synthesize new cultural genres while they break down traditional cultural categories’’. Transculturation refers not only to a more complex blending of cultures than the previous categories but also to a set of conditions under which such acts occur: globalization, neocolonialism, and the increasing dominance of transnational capitalism vis-a`-vis nation states.

Clifford, 1988 (James [Ph.D., Historian, Professor], The Predicament of Culture: Twentieth-Century Ethnography, Literature, and Art, Harvard College)

The culture concept accommodates internal diversity and an ‘‘organic’’ division of roles but not sharp contradictions, mutations, or emergences .. Groups negotiating their identity in contexts of domination and exchange persist, patch themselves together in ways different from a living organism. A community, unlike a body, can lose a central ‘‘organ’’ and not die. All the critical elements of identity are in specific conditions replaceable: language, land, blood, leadership, religion .. Metaphors of continuity and ‘‘survival’’ do not account for complex historical processes of appropriation, compromise, subversion, masking, invention, and revival.

Rogers, 2006 (Richard A. [Ph.D., Professor of Communications], *From Cultural Exchange to Transculturation: A review and Reconceptualization of Cultural Appropriation,* Communication Theory, Vol. 16, 2006, pp474-503)

Clifford’s (1988) view has significant implications for conceptualizing cultural appropriation beyond highlighting the centrality of appropriative resistance to the survival of colonized peoples. It posits that appropriations do not simply occur between cultures, constituting their relationships, but that such appropriative relations and intersections constitute the cultures themselves. Certainly, in an era often described as postmodern (involving cultural fragmentation, multiplicity, indeterminacy, pastiche, and bricolage), postcolonial (in which previously colonized cultures work to recreate themselves from the remains of their precolonial and colonial cultures), and globalized (involving an unprecedented flow of people, discourses, and cultural forms around the world), cultural appropriation is a central process. Clifford’s reconceptualization of culture comes closer to capturing these dynamics than organic metaphors that reflect Western discourses of the primitive more than contemporary cultural experience. Nevertheless, the implications of transculturation and Clifford’s critique of the organic view of culture are not necessarily limited to the postmodern, postcolonial, and global, suggesting that a conjunctural view of culture may apply to (pre)modern and (pre)colonial conditions as well, questioning the applicability of cultural dominance and exploitation not only to contemporary contexts but also to historical ones.

## Neg Cards

#### Sharing of cultural products leads to respect and recognition

Scafidi, 2005 (Susan, [Law professor, Southern Methodist University], *Who Owns Culture?: Appropriation and Authenticity in American Law*, Rutgers University Press, 2005, pp 7-8)

In order for an ethnic, regional, social, or cultural group to register upon the American mental landscape, then, the nation as a whole first extracts what might be termed an identity tax. This tax is payable to the public domain in the form of distinctive cultural products, including cuisine, dress, music, dance, folklore, handicrafts, healing arts, language, and images. Chinese medicine, Ethiopian restaurants, Australian Aboriginal instruments used in the theme of the Survivor reality television series, and Andean street musicians all contribute to the national culture. In many cases, consumption of these cultural products is the first-or indeed only-contact that many Americans have with cultural groups other than their own. Were it not for their cultural products, many groups would remain largely invisible.

When cultural products enter the marketplace or otherwise become accessible to outsiders, society at large claims the right to sample them and in return recognizes a group identity constructed from a simplified set of defining characteristics. This identity is necessarily limited - an entire culture cannot be read in the gold embroidery of an Indian woman's sari or illuminated by the flames from a dish of American-style Greek saganaki. Cultural products do, however, provide a starting point for recognition of the source community as well as a means of allowing outsiders a degree of participation in and appreciation of that community.

#### Cultural appropriation leads to appreciation which leads to better societies

Scafidi, 2005 (Susan, [Law professor, Southern Methodist University], *Who Owns Culture?: Appropriation and Authenticity in American Law*, Rutgers University Press, 2005, pp 8-9)

The perceived advantage to American consumers of an ever- expanding range of cultural products is fairly straightforward. Nativist sentiments or certain strains of extreme social conservatism aside, we are cultural gourmands. The more parades, radio stations, publications. and decorative housewares are available. the greater our pleasure in the diversity of choice. This sentiment has echoes in classical antiquity: Herodotus praised ancient Greek society for its cultural acquisitiveness, noting that Greek and Libyan armies copied elements of one another's armor and that the Greeks borrowed many of their gods from Egypt. Even manners and morals could be borrowed, according to one scholar who notes that "nearly all the people on Herodotus's map shop around for the nomoi they find most useful or pleasurable."? Similarly, the European Renaissance owed much to open trade routes with the Islamic world and Asia. From the point of view of the American majority public today, the appreciation of others' cultural products- although not necessarily the presence of the others themselves-is a fringe benefit of globalization, integration, and the commodification of culture.

#### Claiming ownership of a culture hampers the ability for others to participate

Scafidi, 2005 (Susan, [Law professor, Southern Methodist University], *Who Owns Culture?: Appropriation and Authenticity in American Law*, Rutgers University Press, 2005, p. 10)

Within a cultural group, members may debate the authenticity of particular cultural products, a difficulty exacerbated by their constantly evolving nature. Which version of a recipe or folktale is the "real" one? In some cases, there may be a reasonably clear urproduct, like Neapolitan pizza, and competing regional versions, like those made with a thin crust in New York, in a deep-dish style in Chicago, and with unusual gourmet toppings in California. In other cases, the origin of a cultural product may lie in an obscure past, or splinter groups may exert competing claims to the true tradition. When claims of originality or authenticity move beyond good-natured rivalry, which may actually spur creativity, they can hamper the ability of certain members of a cultural group to participate in the creation of cultural products or distort the identity of the group as a whole.

#### Culture is not intellectual property

Scafidi, 2005 (Susan, [Law professor, Southern Methodist University], *Who Owns Culture?: Appropriation and Authenticity in American Law*, Rutgers University Press, 2005, p. 21-22)

Still more likely to fall outside the realm of intellectual property are the creative expressions of an unincorporated group, such as a particular race, ethnicity, religion, sexual orientation, profession, avocation, class, or even gender or age category. The intangible products of these cultural groups, whether created deliberately or as a byproduct of social interaction over time, tend to fail the tests of agency and novelty common to the utilitarian and ethical theories of intellectual property protection. Consider cultural products such as cuisine, dress, music, dance, folklore, handicrafts, images, healing arts, and language. Manifestations of these forms appear in both traditional and more recently emergent culture groups: distinctive cultural dress may be an Indian woman's sari or a sadomasochist's leather harness; folklore may involve the appearance of Coyote in a Native American myth or kidney thieves in an urban legend on a website; the language may be Yiddish or American Sign Language. In none of these cases, however, is authorship sufficiently identifiable to meet the standards of intellectual property law. In none of these cases is [are] the cultural artifact, once developed within the community of origin and declared valuable, sufficiently new to qualify for legal protection. Lacking both a Romantic author and a "Eureka!" moment, intangible cultural products are legally invisible.

#### Borrowing From Other Cultures Is Human Nature

McWhorter, 2016 (John, [Professor Columbia University, Columnist for Time Magazine], *Borrowing From Other Cultures is Human Nature*, The New York Times, February 2, 2016, accessed online 7/14/17 at https://www.nytimes.com/roomfordebate/2015/08/04/whose-culture-is-it-anyhow/borrowing-from-other-cultures-is-human-nature)

The resentment of appropriation begins in a justifiable way: against whites adopting black performance styles and making money that black performers themselves never would. Elvis Presley is the classic example. But the new idea that it is equally grievous when a dominant group imitates a subordinate one’s cultural traits gets us nowhere.

Throughout human history, when groups have come together, they have imitated each other. Typically, this is seen as progressive, in a “two heads are better than one” sense. Works like Robert Wright’s "Nonzero," as well as the entire histories of Europe, China or India are all about cultural appropriations, typically described with words like diverse and dynamic.

Yet today we are told that it is wrong when, for example, gay white men imitate black women’s gestures and speech styles. The idea is that these men are “stealing.” But for one, this implies that the black women no longer possess what they had.

A common argument is that to mimic an oppressed group’s gestures is wrong because you haven’t suffered their oppression. But this implies that, for example, the speech patterns and gestures of black women are all responses to oppression. Surely that is a reductive portrait of what it is to be a black woman or any human being. White Rachel Dolezal gliding around “identifying” as oppressed is one thing. White gay men imitating a few mannerisms of black women out of admiration is quite another.

That’s just it. Some academics are given to claiming that, as I once heard it put, “imitation is a form of negation.” That is, to imitate is to cancel out. But what happened to “imitation is the sincerest form of flattery?” If Harlem in the 1920s was fascinating cross-cultural fertilization, then why is the same kind of thing happening today condemned as “appropriation?”

#### Culture is not intellectual property

Scafidi, 2005 (Susan, [Law professor, Southern Methodist University], *Who Owns Culture?: Appropriation and Authenticity in American Law*, Rutgers University Press, 2005, p. xii)

When we consider the protection of cultural products, moreover, we must concurrently remain aware of the effect of such protection on the source communities themselves. International discussion regarding indigenous heritage underscores the importance of this inquiry. Culture is naturally fluid and evolving, and well-intentioned legal protections may provoke ossification of a culture and its artifacts. In addition, a Source community may include dissenting voices, and a grant of legal protection to those who speak on behalf of the community may silence those voices-always an issue when rights are vested in a group rather than an individual. Any determination regarding the ownership and protection of cultural products must thus proceed with caution, taking into account both cultural and economic effects on the source community, as well as the interests of the nation and world community as a whole.

National pride, communal identity, law, tradition, value, consumerism, appreciation, and habit all play a role in the production and adaptation of cultural products in the ongoing search for an authentic America. At the end of the day, however, the central question, "Who owns culture?", can be answered only by its creators - all of us.

#### True equality is only attainable under utilitarian framework.

Dworkin 77 – Professor of Law and Philosophy at New York University (Ronald1977, “Taking Rights Seriously” pg 274-5)

The liberal conception of equality sharply limits the extent to which ideal arguments of policy may be used to justify any constraint on liberty. Such arguments cannot be used if the idea in question is itself controversial within the community. Constraints cannot be defended, for example, directly on the ground that they contribute to a culturally sophisticated community, whether the community wants the sophistication or not, because that argument would violate the canon of the liberal conception of equality that prohibits a government from relying on the claim that certain forms of life are inherently more valuable than others. Utilitarian argument of policy, however, would seem secure from that objection. They do not suppose that any form of life is inherently more valuable than any other, but instead base· their claim, that constraints on liberty are necessary to advance some collective goal of the community, just on the fact that that goal happens to be desired more widely or more deeply than any other. Utilitarian arguments of policy, therefore, seem not to oppose but on the contrary to embody the fundamental right of equal concernand respect, because they treat the wishes of each member of the community on a par with the wishes of any other, with no bonus or discount reflecting the view that that member is more or less worthy of concern, or his views more or less worthy of respect, than any other. This appearance of egalitarianism has, I think, been the principal source of the great appeal that utilitarianism has had, as a general political philosophy, over the last century. In Chapter 9, however, I pointed out that the egalitarian character of a utilitarian argument is often an illusion. I will not repeat, but5 oly summarize, my argument here. Utilitarian arguments fix on the fact that a particular constraint on liberty will make more people happier, or satisfy more of their preferences, depending upon whether psychological or preference utilitarianism is in play. But people’s overall preference for one policy rather than another may be seen to include, on further analysis, both preference that are personal, because they state a preference for the assignment of one set of goods or opportunities to him and preferences that are external, because they state a preference for one assignment of goods or opportunities to others.

But a utilitarian argument that assigns critical weight to the external preferences of members of the community will not be egalitarian in the sense under consideration. It will not respect the right of everyone to be treated with equal concern and respect.

# Additional Web Resources

1. Is cultural appropriation ever appropriate? (Cultural appropriation in literature)

<https://lareviewofbooks.org/article/is-cultural-appropriation-ever-appropriate/>

1. Commentary: Cultural Appropriation Is, In Fact, Indefensible

<http://www.npr.org/sections/codeswitch/2017/06/28/533818685/cultural-appropriation-is-in-fact-indefensible>

1. Why Fashion Needs Cultural Appropriation

<https://www.businessoffashion.com/articles/opinion/why-fashion-needs-cultural-appropriation>

1. The Cultural Mosaic: A Metatheory for Understanding the Complexity of Culture

[http://cieseerx.ist.psu.edu/viewdoc/download;jsessionid=B003BAA1960C2D30A17555340BAC9B13?doi=10.1.1.124.4336&rep=rep1&type=pdf](http://citeseerx.ist.psu.edu/viewdoc/download;jsessionid=B003BAA1960C2D30A17555340BAC9B13?doi=10.1.1.124.4336&rep=rep1&type=pdf)

1. List of books about cultural appropriation

<https://www.questia.com/library/sociology-and-anthropology/cultures-and-ethnic-groups/cultural-appropriation>

1. Cultural appropriation: Why can't we debate it?

<https://www.theglobeandmail.com/opinion/unpopular-ideas-shouldnt-be-silenced-they-should-be-debated/article34956197/>

1. TED: Cultural Appropriation: Why Your Pocahontas Costume Isn't Okay

<https://www.youtube.com/watch?v=zSV7Hi2eYLQ>