Property, Labour, and Theft
Lecture 6: Natural resources and cultural appropriation

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The toy flute is the product of Carla’s labour.

If the toy flute is the product of Carla’s labour, then it is her property.

The toy flute is Carla’s property.

If the toy flute is Carla’s property, and we take the toy flute away from Carla and give it to Bob instead, then we are stealing from Carla.

Egalitarianism requires us take the toy flute away from Carla and give it to Bob instead.

Egalitarianism requires us to steal from Carla.
In 2014, Pharrell Williams appeared on the front cover of Elle magazine wearing a Native American headdress. This provoked a strong reaction from the Native American community…

‘Our culture is not an accessory!’

‘Those headdresses are earned and not worn to make a buck or draw attention. They have meaning and are worn by our men with pride and dignity.’

#nothappy
An even more famous case involves the American Football team the Washington Redskins.

The team takes as its name a racial slur on Native Americans.

The mascot is a Native American.

Many fans dress up as Native Americans.

This has been condemned by groups including the National Congress of American Indians.
What’s so bad about cultural appropriation?

Can we use any of the concepts and arguments discussed in these lectures to give a good answer to this question?

One possible answer is that cultural appropriation is bad because it is disrespectful. It demeans the target culture and expresses the view that this culture is more primitive.

In 2013, Dan Snyder, owner of the Washington Redskins wrote…

‘The name was never a label. It was, and continues to be, a badge of honor…It is a symbol of everything we stand for: strength, courage, pride, and respect – the same values we know guide Native Americans and which are embedded throughout their rich history…’
Cultural appropriation

Another possible answer to the question is that cultural appropriation is harmful to the target culture because it undermines the capacity of members of this culture to perform certain actions.

It is important to have the capacity to communicate the idea that a person is a member of a particular religion, or especially honourable or praise-worthy.

If garments or decorations used by the target culture to communicate these ideas are increasingly used by members of another culture to do something else – say, as fancy dress – then this undermines the extent to which these garments and decorations can be used by members of the target culture to communicate these ideas.
For our purposes, the interesting claim is that cultural appropriation is not only disrespectful and harmful, but also a case of *theft* – that it violates the *property rights* of the target culture.

One way to defend this claim is to think about where the culture came from.

Perhaps cultural traditions and symbols should be regarded as the product of the collective intellectual labour of the target community…
Cultural appropriation

Here’s an argument…

P1 Native American headwear is the product of the collective intellectual labour of the Native American community.

P2 If Y is the product of X’s labour, then Y is X’s private property.

P3 If Y is X’s private property, then the use of Y without X’s permission is a violation of X’s property rights.

C The use of Native American headwear without the permission of the Native American community is a violation of this community’s property rights.
P3 is clearly true.

As for P2, it may be objected that this should be restated:

**P2** If $Y$ is the product of $X$’s labour, and all of the other factors of production are $X$’s private property, then $Y$ is $X$’s private property.

Carla’s labour is only one of the factors of production for the toy flute. The flute is also partly the product of a piece of wood.

Perhaps this doesn’t matter. It is hard to think of any other factors of production for Native American headwear (i.e. the style) apart from intellectual labour.
What about P1?

Should we be so quick to accept that Native American headwear is the product of the collective intellectual labour of the Native American community?

It could be the product of the intellectual labour of a particular Native American who was perfectly happy for anybody else to use it.

It could be the product of the collective intellectual labour of a now extinct community, from whom it was appropriated by the Native American community.

The point is not that P1 is false. Rather, it is hard to know that P1 is true.
Another way to defend the claim that cultural appropriation violates the property rights of the target culture is to think about the connection between cultural symbols and traditions and the identity of the target culture.

‘According to the thesis of self-ownership, each person possesses over himself, as a matter of moral right, all those rights that a slaveholder has over a complete chattel slave as a matter of legal right…’

(Jerry Cohen, *Self-Ownership, Freedom and Equality*, p.68)
Bob is a full self-owner if and only if

(a) Bob can do what he likes to or with himself. And if Bob produces anything, then he owns this as well.

(b) Other people cannot do anything to or with Bob unless he permits them. Bob (and only Bob) can permit people to do, or prohibit people from doing, things to or with himself.

(c) Bob can transfer any of these rights to other people, either temporarily or permanently, either in exchange for other rights or in exchange for nothing.

(d) Bob is due compensation from other people who violate these rights.
Perhaps what is bad about cultural appropriation is the fact that it violates the private property rights that communities have over themselves.

P1 The Native American community identifies itself with Native American headwear (among other things).

P2 If the Native American community identifies itself with Native American headwear, and the Native American community has private property rights over itself, then the Native American community has private property rights over Native American headwear.

P3 Native American community has private property rights over itself.
The Native American community has private property rights over Native American headwear.

If Y is X’s private property, then the use of Y without X’s permission is a violation of X’s property rights.

The use of Native American headwear without the permission of the Native American community is a violation of this community’s property rights.

‘X Factor’s Honey G denies ‘raping black culture’.’ (NME, 2016)
Cultural appropriation

Does this argument make it too easy to generate property rights over cultural symbols and traditions?

The concern is not that Honey G might claim to identify herself with black culture and so – by this reasoning – acquire property rights over black culture.

The concern is rather that Honey G might actually identify herself with black culture and so – by this reasoning – acquire property rights over black culture.

‘X Factor’s Honey G denies ‘raping black culture’.’ (NME, 2016)
Another obvious worry about these cases is that no work is done by, for example, facts about the historically unequal status of Native Americans in the United States.

The arguments would work equally well if the culture or community whose symbols or traditions had been appropriated were in a position of power with respect to the appropriator.

Surely, the appropriation would be less bad if this were the case?

If the arguments I have been considering are sound, the appropriation would not be less bad.

Theft isn’t less bad if the thief is less powerful than the victim…
One objection to egalitarianism based on considerations of property, labour, and theft is that...

...if egalitarianism is true, then justice requires us to confiscate people’s property, and, therefore, to steal from them.

Another objection to egalitarianism based on considerations of property, labour, and theft is that...

...it is possible to explain many of our supposedly egalitarian intuitions precisely by appealing to considerations of property, labour, and theft, instead of by appealing to the truth of egalitarianism.
‘Because of a major flaw in the system of international trade, consumers buy stolen goods every day. Consumers may buy stolen goods when they buy gasoline and magazines, clothing and cosmetics… The raw materials used to make many of these goods have been taken—sometimes by stealth, sometimes by force—from some of the poorest people in the world. These goods flow through the system of global commerce under cover of a rule that is little more than a cloak for larceny.’

(Leif Wenar, *Property Rights and the Resource Curse*, p.2)
Natural resources

This is Theodoro Obiang, since 1979 President of Equatorial Guinea, but effectively a brutal dictator.

In the 1990s oil was found off the coat of the country, and Equatorial Guinea now exports oil all over the world.

Obiang is extremely rich as a result of oil sales. He has used his wealth to consolidate his power, stifling dissent, controlling the media and the judiciary.
P1  The oil found off the coast of Equatorial Guinea was the property of the people of Equatorial Guinea.

P2  If the oil was the property of the people of Equatorial Guinea, and somebody took possession of this oil without their permission, then this oil was stolen from them.

P3  President Obiang took possession of the oil found off the coast of Equatorial Guinea without the permission of the people of Equatorial Guinea.

C  The oil found off the coast of Equatorial Guinea was stolen from the people of Equatorial Guinea.
P1 of this argument is based on the *Principle of National Ownership*. ‘...the resources of a country belong to the people of that country’. (*Property Rights and the Resource Curse*, p.9).

It would be better to express the principle as follows...

The natural resources on a patch of the Earth are *initially* owned by the people who live on that patch of the Earth.

This principle is supposed to be compatible with the claim that property rights in natural resources can be sold to private corporations such as Shell or BP.
Arguments for the *Principle of National Ownership*

This principle is ‘widely accepted’, and ‘embedded deep within international law’.

It is also ‘enshrined in many national constitutions’.

‘The idea that the natural resources of a country belong to the people of that country is so intuitive that most will need no more proof than its statement.’

*(Property Rights and the Resource Curse, p.9-10)*
Natural resources

Article 1 of the 1976 International Covenant on Civil and Political Rights:

‘All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation… In no case may a people be deprived of its own means of subsistence.’

This implies that French people and German people and American people have an obligation not to appropriate natural resources in Britain without the permission of the British people.

What it implies about the rights and obligations of British people is less clear.
Natural resources

One possibility is that the natural resources of Great Britain are owned by its people in the sense that each British person has private property in an equal-sized portion of these resources.

Another possibility is that the natural resources of Great Britain are owned by its people in the sense that it is the private property of the people of Great Britain as a community.

Decisions about the use and management of these natural resources can only be taken by the community as a whole.
A third possibility is that the natural resources of Great Britain are owned by its people in the sense that the transfer rights and control rights over these natural resources belong to the whole community, but each British person has use rights and income rights over these natural resources.

A fourth possibility is that the natural resources of Great Britain are initially unowned by anyone, but each British person can appropriate a part of these natural resources as long as a particular proviso is satisfied.
Natural resources

It doesn’t matter how exactly we understand the type of common ownership that a people has over the natural resources on the patch of land it occupies.

Suppose that the natural resources of Equatorial Guinea are initially unowned, but that anybody may appropriate these natural resources as long as,…

…this doesn’t make anybody worse off than they would have been if the natural resources had remained unowned.

Even the super-weak Nozickean proviso is not satisfied in the case of President Obiang.
But notice that the Principle of National Ownership conflicts with another claim that we have encountered…

…which is that the natural resources of Planet Earth, including the natural resources of Great Britain and the natural resources of Equatorial Guinea, are the property of all of the inhabitants of Planet Earth.

Does this matter…?

 Couldn’t we just adapt Leif Wenar’s argument so that it is based on the Principle of Global Ownership instead?
Natural resources

Wenar does briefly mention this competing principle.

‘...some philosophers may hold to the idea that the earth in some way belongs to all humans equally. There are deeper theoretical issues here that we cannot take up, but simply as a practical matter global egalitarians have good reason to support the approach set out in this article... The approach here will push the highly unequal pattern of control over resources toward greater equality among individuals around the world, and so will make progress toward the global egalitarian ideal.’

(Property Rights and the Resource Curse, p.12)

But this runs together considerations of equality and considerations of property.
If the Principle of Global Ownership is true, then the Principle of National Ownership is false. So Wenar can know that the Principle of National Ownership is true only if he knows that the Principle of Global Ownership is false.

Wenar claims that the Principle of National Ownership is ‘so intuitive that most will need no more proof than its statement’.

Given that some philosophers accept the Principle of Global Ownership, Wenar needs to do more than state the Principle of National Ownership; he needs to give us reason to think that the Principle of Global Ownership is false.

Perhaps he could base his argument on a disjunctive premise…