

Contesting Culture as Property: Introductory Comments to the Symposium

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The following comments were offered as an introduction to Contesting Culture as Property: A Symposium, held at the Indiana Memorial Union, Indiana University, Bloomington, Indiana, December 9, 2004. The symposium was presented by students in the Fall 2004 graduate seminar “Contesting Culture as Property” (Folklore F804). The seminar participants presented original work exploring the intersections of intellectual and cultural property policy and local customary practices around the world. Issues of property in the contexts of heritage tourism, cultural diffusion and appropriation, scholarly representation, and corporate enclosure of traditional culture figured prominently in the work discussed. It is hoped that these presentations will be made available through the Digital Library of the Commons and it is expected that many of the participants will continue work on their projects.

Good afternoon. My name is Jason Jackson and I am a faculty member in the IU Department of Folklore and Ethnomusicology. On behalf of both the Department and the presenters, I want to welcome you to a symposium titled *Contesting Culture as Property*. As I will describe momentarily, our symposium grows out of, and in some ways concludes, a graduate course of

the same name. In my introductory remarks, I will try to briefly characterize the aims of the class.

In folklore and ethnomusicology, as in many other fields, questions (and conflicts) relating to the transformation of culture into property have quickly emerged as central concerns. These issues are not new concerns in a conventional “pursuit-of-new-knowledge” sense. By concern, I mean here something more fundamental to the state of the world as it is now and as it is rapidly becoming in the context of a dizzying array of global transformations. Questions of tangible and intangible property are suddenly a central topic at our professional meetings and in our journals because these issues now permeate our lives in new, sometimes frightening, ways, whether we live deep in an Amazonian rainforest or in a affluent and gated suburb. They alternately constrain or enrich our lives, and for many, they have become a motivation to new forms of political mobilization. As our discussions revealed, they have also, more often than one might at first think, become matters of life and death. Consider in this regard the non-availability of prescription drugs in AIDS-ravaged Africa or the cultural and economic transformations that have turned living kidneys into commodities that are now bought, sold and stolen not only in urban legend, but in the street markets of Istanbul and Manila.

Finally, and to some surprisingly, the current global contests over culture as property also connect directly to longstanding concerns of folklorists and ethnomusicologists. I anticipate that the panelists will justify this assertion momentarily, but it is worth noting that such issues have rapidly assumed a prominent place in both fields and that folklorists and ethnomusicologists are beginning to contribute to wider discussions, both on their own and in collaboration with the diverse communities in which we work. I cannot quickly summarize all

the varied topics that we examined together, but recent work by folklorist Philip Scher can stand as a token of the type of issues we have been grappling with.¹

Drawing on earlier documentary work by folklorists, elites in Trinidad have recast local carnival practices, purifying and standardizing them, while reframing them as a privileged expression of national heritage. They have pursued this effort by creating a national bureaucracy, the National Carnival Commission, to legislate authentic performance practices, to exploit it as an economic resource and to, it is hoped, copyright it, so as to protect this asset from “appropriation” not only by outsiders, but also by natives of Trinidad living in North America and Europe. This later concern arises in the contexts of both out migration and the rise global heritage tourism and the demands of what Barbara Kirshenblatt-Gimblett has characterized as “destination culture.”

The work of the National Carnival Commission unfolds in a larger global context, with representatives of the World Intellectual Property Organization (WIPO) making site visits to Post-of-Spain and offering technical support to the copyright effort, while simultaneously gathering information for their own global efforts to “protect” “traditional knowledge and folklore” using the mechanisms of globally “harmonized” intellectual property law on the western model. In doing so, they seek to act upon the WIPO belief that “intellectual property is a powerful tool for economic growth.”²

On the ground during carnival, Scher ethnographically documented opposition, particularly among women, to the manifold ways carnival, the classic rite of reversal and resistance, is being commoditized, essentialized, devitalized, and alienated from the lower and

¹ Philip W. Scher (2002) “Copyright Heritage: Preservation, Carnival, and the State in Trinidad.” *Anthropological Quarterly*. 75(3):453-484.

² “Message from Director General Kamil Idris, www.wipo.int/about-wipo/en/dgo/dgki_2003.html, accessed 8 December 2004.

middle class people who sustained it, and in turn drew strength from it, before independence. In resisting these transformations, Scher documents how middle class women shape their carnival performances, including the representation of their own bodies, to fight for their own forms and understandings of carnival.

My summary does not do justice to Scher's rich ethnographic and analytical work, but it does point to some of the concerns that have occupied our own studies. Among these are: (1) the essentializing transformation of culture into a form of property open to either protection or enclosure through copyright and related processes, (2) the production of "heritage" and the role of ethnography in its formulation, (3) the rise of new mechanisms for controlling cultural production, including the emergence of cultural bureaucracies, (4) the growth of intergovernmental bodies, such as WIPO, and their growing entanglements with local culture, and (5) the role of cultural performances as both contested objects and sites in which contests over culture play out. From the rise of the world music industry to the patenting of folk medicines, there is a much in this new domain that reconfigures our longstanding concerns in new ways.

Because we had little inherited precedent, we reframed the course as a workshop in which we worked to survey the current state of play and to develop frameworks through which we could make sense of the paradoxes arising around the conversion of culture into property, especially as these play out in particular local communities. Our discussions connected to current confrontations over the expansion of copyright and the erosion of fair use and the public domain, but they were not confined to these better-known issues. While courtrooms and science labs were important places to look, we also tracked the problem into, for us, more familiar fieldwork settings, such as among Appalachian ginseng gatherers, Berber musicians, and Haida Indian fishermen and fundamentalists.

As a workshop mapping emergent and contentious issues in uncharted waters, our group has received tremendous support and encouragement from many leaders in the field. Michael Brown, whose book *Who Owns Native Culture?* was our keystone text, offered considerable assistance, responded to our questions and offered numerous reading suggestions. Fred Myers generously shared the syllabus for his own course “Exchange and the Politics of Cultural Property.” Mary Hufford, Dorry Noyes, Valdimar Hafstein, Patricia Sawin, Jessica Cattelino, Kim Christen, Circe Sturm, and Randy Lewis all offered rich guidance and encouragement. We are appreciative as well of Jane Goodman who joined our discussions and enriched them with her own research. Foremost among our supporters was Barbara Kirshenblatt-Gimblett. Barbara has tracked our progress with great interest and helped us in every imaginable way. Her scholarly example powerfully illustrates the manner in which our own intellectual tradition can be marshaled to confront the human challenges of our still new century.

Our own Department of Folklore and Ethnomusicology planted the seed for our work more than two years ago when it recognized the role that intellectual and cultural property issues will play in our fields during coming decades. The College of Arts and Sciences supported the department in this new venture and the department in turn has offered every encouragement to us, down to the reception that will follow our program. We want to thank all of these colleagues for their support.

Speaking for myself, I would close by thanking tonight’s panelists. They are a very talented group of ethnomusicologists and folklorists who have helped me make much clearer sense of issues that few, inside or outside our fields, have fully come to grips with. Entering new territory, I brought with me little more knowledge than they carried with them. We

worked hard and learned together. I have never had a more rewarding classroom experience and thus I am very grateful for all the effort they invested in our collective project.