The Gatekeepers

An anthropologist is skeptical about extending the logic of group rights to music, art and origin stories.

What code of cultural privacy makes sense when representatives of the Pueblo community complain that the susu symbol on the New Mexico state flag was stolen without permission from a design on a 15th-century ceramic pot made by an anonymous and unidentifiable American Indian potter? What about the deposed forest-dwelling pygmies of Central Africa? Is there a meaningful modern sense in which they can be said to own their traditional flute music and distinctive form of yodeling, traces of which have diffused throughout the globe and can be detected in Herbie Hancock's album "Headhunters" and Madonna's "Bedtime Stories"? Should the pygmies be compensated? Why and how? What are our moral responsibilities under such circumstances?

By Richard A. Shweder

SOME years ago an American anthropologist knew, who was trained at the University of Chicago, sought permission to conduct research among the Maori people of New Zealand. During one part of an elaborate bureaucratic process he found himself being interviewed by a "native," a rather well-instructed Maori who, if he had been at an Oxford University degree in anthropology. This cosmopolitan graduate of aboriginal descent was a pan-grocer for his "indigenous people" and a legally empowered guardian of their group privacy. He believed that Maori rituals, art, legends and history belonged to and were, in some sense or other, owned by the Maori. He believed that the Maori people had a collective interest in regulating the scholarly interests of outside scholars and knew how Maori traditions get talked about in the rest of the world. The man took his job seriously. He interrogated the American petitioner and expressed doubts and reservations about the "Chicago School of Anthropology" as a way of representing the Maori way of life. And he was in a position to say "no" — to limit research and restrict the flow of information and to constrain the freedom of academic considerers to associate with Maori insiders, including those insiders who might be willing or even eager to speak to any American anthropologist who came along. One does not know whether to laugh or cry.

Every day in a while critical reason triumphs over political correctness and identity politics, and the result can be exhilarating. Michael F. Brown, who is the Lamont professor of anthropology and Latin American studies at Williams College and knows more about the intellectual property law than most legal scholars, has written a brave, logical and even witty book about some of the hazards and challenges of cultural heritage protection. His book is titled "Who Owns Native Culture," yet his message is one of skepticism and caution about extending the logic of ownership and group rights to the music, art, religious rituals, origin stories and botanical knowledge of any cultural tradition.

Do we want to turn culture into a legally protected resource in cultural heritage something that ought to be owned, patented, copyrighted, trademarked, licensed, exclusively controlled or treated as the private property of Richard A. Shweder, the William Claude Reed distinguished service professor at the University of Chicago, is the author of "Why Do Men Barbecue? Recipes for Cultural Psychology."

particular ethnic groups? What are the risks to a liberal pluralistic democratic society when ethnic groups are empowered with group rights? Does the assertion of cultural ownership by indigenous peoples threaten the public domain? Does it necessarily restrict that region of open society — the intellectual and social commons — where members of different traditions can meet, mix, creatively invent hybrid cultural forms and do so freely and without bureaucratic surveillance?

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