
BOOK REVIEWS

Catherine Alexander

Goldsmiths College, University of London

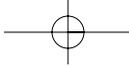
Who Owns Native Culture?

Michael Brown (Cambridge, MA: Harvard University Press, 2004)

Michael Brown opens with a ventriloquist act. The title raises a question that is by now so familiar and so certain to raise hackles in one way or another that it comes as something of a shock to realize that activism over indigenous rights has only been flourishing and making headlines since the mid-1980s. Since then, there has been a steadily growing eruption of indignation against old and new forms of appropriation that often appear all the more insidious because they have increasingly come to focus on things that are not readily made explicit or tangible, and are thus not easily delineated into an object in which an absolute claim may be staked.

Who Owns Native Culture? is a provocative and highly stimulating account of the rise of indigenous movements since the 1980s and their attempts to reassert control over both sacred lands and their cultural productions, including knowledge. Further, Brown questions the legitimacy of material benefit, made from appropriation of these productions, which all too rarely filters back to its originators. The case studies of such grievances and attempts to address them are wide-ranging and careful in their delineation of the complexities of each instance. Brown takes us from Hopi Indian rituals captured in photographs, through the fiendish ins and outs of Australian courtroom disputes over reproductions of sacred art; the contested use of the Zia tribe emblem for New Mexico's flag and so on to the murky maze of ethnobotanical claims for efficacious plant compounds, ending with rival claims to land sacred to Native Americans. It is a dazzling array of material. But though clear inequities are revealed, Brown is also careful to highlight where defense of indigenous rights has played into the "if you can't beat 'em, join 'em" game replicating the very logic of privatization, whereby corporations seek to annex to themselves the sole access to and use of such products. Brown rejects any easy or single solution—especially those crafted in law. What he does explore is the extent to which a notion of group privacy may be fruitfully employed as opposed to the familiar dichotomy opposing individual privacy to publicness; how far ideas about intellectual property rights may be usefully applied to native cultures; and the need for negotiated compromise. It is this middle ground that affords a way out from the locked horns of extremism: indigenous rights protectionists on the one hand and public domain advocates on the other.

Brown's book is timely: two extensive, distinct literatures have evolved in the last twenty years on indigenous and intellectual property rights respectively,¹ the



former perhaps fueled more by moral outrage, the latter by economic interest as well as a theoretical fascination with accounting for this extension of quite different debates on social personhood² into the realm of hard cost benefits and penalties. Fruitful and stimulating as comparison may be, a note of caution needs to be sounded early on as to the complete interchangeability of these approaches. Certainly, sailing the good ship of native cultures under the flag of IPR has occasionally led to an uncomfortable lurch into the deep waters of financial restitution for the essentially immeasurable. In any case, the too easy elision of “property” with “ownership” misrepresents the full rights pertaining to intellectual and cultural productions alike. Property, as a bundle of rights (Maine 1905; Hann 1998:1) is produced from and woven through imbricated systems of belonging, personhood, and relations between persons and objects. As such, it is a profoundly political issue entailing (at least) questions of asymmetrical access, the power to grant and deny rights, and the problem of citizenship (see Kristeva 1991).

The extent to which ideas about intellectual property can be, and have been, applied to native culture is explored here through the replication of images, sacred sites, and the synthesizing of traditional medicines into blockbuster pharmaceuticals—drawing out the connections between these domains. However, the broader climate of the late 1980s, which generated so many of these parallel rights movements, is worth considering briefly first since it gives us something of a clue to the problems that have been uncoiling ever since the rights discourse hit the mainstream. For example, current debates between universal human rights, which feed directly into the issue of cultural property, and the messier complexity of how relations between people and things (both tangible and intangible) are managed on the ground in different places, seem to be a reprise or continuation of older tussles between a stance of radical doubt and the conviction of rules that are universally true and applicable.

The end of the 1980s saw the final dismantling of political regimes that had been born at the end of the nineteenth century and had come to enshrine modernism—even if the death of modernism is often, a little prematurely, placed in the 1930s. Typically, these regimes were characterized by a faith in scientific rationality as a means of both explaining and directing the world. The emphasis of this scientism was on predictability, repeatability, and the applicability of rules across physical, social, and symbolic domains. As Scott (1998) has shown, the effects of such schemes, usually implemented with the best of intentions, were often disastrous, quite simply as a result of ignoring the variability of local conditions. Juxtaposed with the confidence of this modernist worldview was the coterminous increasing epistemological uncertainty reflected in the arts. Thus, at the beginning of the twentieth century, modernist literature and art subverted such political assurance by presenting fractured, shifting, multiple perspectives denying singularity and the privileged gaze on the one hand and emphasizing the

unexpected correspondence on the other. These modernisms are not so far from the contemporary, capacious carpet-bag that postmodernism seems to have become. Postmodernism, however, also has its universal other.

The effect of the implosion of the eastern bloc and Soviet Union was a crisis of faith partly in the core values of socialism but perhaps more so in how they were to be enacted. But by removing the plan as panacea and the centralized economy that was to redeem mankind from the vagaries of chance, to paraphrase Marx, a gap was left into which now apparently incontrovertible beliefs about the linked relationship between freedom, democracy, and market capitalism poured. The shift in emphasis is from a belief in the unique power of science to uncover absolutes and correspondences across domains precisely because it is apparently disengaged and “out of this world,” to a faith in the possibility both of unearthing a system of universal ethics—similarly disembedded from practice³—and then applying it across wildly different fields. In this case, ethics equal rights.

Alongside this, another pattern may also be detected in the emergence of campaigns for rights to indigenous cultural production. The last forty years or so have seen a steadily increasing diversion of power from elected bodies and state institutions to non-governmental organizations and private corporations, a move broadly associated with the neo-liberal programme. The emphasis on championing rights of indigenous groups is right in line with this apparent diffusion of power. But there are two points to note. The first is that the classic NGO emphasis on grassroots and “community” development can ignore local inequities and conflicts. By the same token, native peoples may have different access to sacred or knowledge productions of their group. Second, to return to the earlier theme, the problem is that the rise of rights laws in all directions seems to have taken on the mantle of those well-meaning universalizing schemas that appeared to have disappeared once and for all with the end of the cold war. By attempting to formalize those rights or, in this case, the programme of cultural ownership through bureaucratic and legalistic containment, an own goal is effectively scored—as Brown illustrates repeatedly. The most telling example is that of the Total Heritage Movement, which campaigns for absolute and exclusive rights by a given group of people in their history and the artifacts and knowledge relating to it.

And this is where the ventriloquism comes in, for the title teases. Deliberately invoking the language of rights through the prism of sound-bite policy and snappy phrases, the question plays on a succession of highly loaded terms, each of which is enough in itself to galvanize knee-jerk reactions, whether of approbation or disapproval. Having posed an apparently unambiguous question that rings all the right bells for those wishing to right wrongs and reveal exploitation, Brown then responds to it in his own voice by anatomizing the manifold pitfalls lurking in the title and bringing in detailed case studies to illustrate the need for an awareness of complexity and difference at multiple levels.⁴

Thus, ownership summons up debates and questions over different property regimes: what they are assumed to do, what they actually do, and the form and nature of the people, objects, and relations that together comprise a property relation. More specifically, ownership points towards the exclusive and absolute access and control that are assumed to be the defining features of private property.⁵ Yoking the legal precision of private ownership to the amorphous notion of culture suggests even more problems than are tackled head-on here: issues of representation, who is speaking for whom, and what precisely (or indeed imprecisely) is being gestured to by “culture.”

For culture, as Brown observes, if not in so many words, is a hot topic these days. Even as anthropologists are trying to repudiate the monstrous child they have spawned, it keeps returning in strange guises. From being a loose, working indication of associated values, practices, and symbols, “culture” has been hijacked by activist groups, interest groups, jurisprudentialists, and well-meaning policy-makers to designate a fixed checklist of items and practices that together identify a given identity. Disconcertingly, the idea of culture can even be reified to the point where it can exist, golem-like, independent of people. As a point of affiliation, it can “stand in for” society or any group of people and, as such, becomes a key mobilizing feature of identity politics as boundaries harden between groups, and “culture” is wheeled out as the principal means of distinguishing one group from another.

It is precisely this area that Chris Hann (2003:223-229) explores in his examination of the use of different traditions of sacred music that have not only co-existed in central Europe for centuries but have also influenced one another, particularly in the case of the Greek Catholic Church that is itself a hybrid institution. His point of departure is the use of music as a marker of difference. It is just wrong, Hann argues, to use music, and by extension culture, as being coterminous with a particular ethnic or national group, whether the promoters of such a view support “multi-culturalism” or strict ethno-nationalist demarcation. Quite simply, such use of a reified, static culture is little more than the invocation of superstition and “becomes problematic when invoked as a shorthand to avoid sustained enquiry into the causes of social and political processes” (Hann 2003:234).

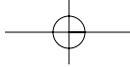
As if the fluidity of cultural processes and productions was not enough to make a mockery of the concept of a fixed claim in such things, the sense of a closed, territorially-fixed “native” community is equally neatly dispatched.⁶ Not only are many indigenous groups widely dispersed geographically across lands and cities, but many diasporic members of a group happily straddle several social spaces of which affinity to a native heritage is but one. This separatist impulse to box in people who may variously have some common interests, genetic material, or ways of doing things into a tidy monocultural group is not confined to indigenous peoples. In a similar vein, Miranda Joseph (2002) charts and critiques the

tendency to insist on total uniformity within a “community” structured around common features—in this case NGOs and groups centered on cultural productions. Moreover, she deftly unpicks the woolly warmth adhering to the term “community,” showing the complicit replication of those social hierarchies upon which capitalism depends within such practices and groupings.

Whether contiguous territory, biometrics, or elected alliances and associations are the basis of collectivities, partial, shifting, and negotiated membership tends to be undervalued in the face of unqualified adherence to group mores. More than this, as noted above, and exemplified in various of Brown’s case studies, there may be clashes and discrete areas of knowledge production and access within an apparently homogeneous group. By missing such nuances of social organization and practice, a negative result is easily generated from the noblest of purposes, blurring necessary separations and insisting on others.

Erica-Irene Daes, a Greek lawyer, in particular is held guilty of missing the point of her well-intentioned UN report “Protection of the Heritage of Indigenous People” (Daes 1996). On the whole, such profile raising has been a necessary corrective to past abuses, but the emphasis on permanent control by peoples of their heritage, described with a daunting comprehensiveness as “everything that belongs to the distinct identity of a people,” is also blind to the possibility of fissures and possible conflicts within “a people.” Further, in order to locate and so defend such heritage a process of identification is necessary and this prompts enumeration of those elements that together may seem to comprise a heritage.⁷ It is at this point that the impossibility of such an exercise begins to become apparent, let alone the acute undesirability of listing and freezing a way of life and, by that very act, starving it of vitality by effectively sticking it in a glass case, or indeed in the iron cage of Weber’s legal-rational bureaucracy at its most inhumane extreme. This produces another argument running through many of the case studies: sealing off groups of people and their cultural productions is not only a practical impossibility but morally wrong if one accepts that there is an urgent need to find a way for different, shifting, mobile, overlapping groups of people to live together peaceably. Legal ownership requires fixity and boundaries both in the property object and the person or people who make the claim; in practice, relations of access to knowledge and things often deny such stasis, which is only to be found in representations of particular moments (see Alexander 2004b).

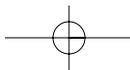
Brown thus reveals his strategy early on. As it stands, the titular question just doesn’t make sense. The sheer mobility of the terms under scrutiny defies the abstracting logic of standard categories and off-the-peg solutions. The one thing that is not allowed to slip, and which ultimately sets the context and agenda for the whole book, is a clear commitment to a pluralist democracy and a robust civic regime. To this end, the question is rephrased as the less elegant but more searching “how can we promote respectful treatment of native cultures and indigenous forms of self-expressions within mass societies?” (10). In threefold



answer there is first, the anaphoric appeal throughout the text to a simple respect for human dignity and the awkward middle ground of pragmatism and negotiation. Second, a series of carefully delineated case studies of contested rights, each of which explores different minefields, vividly illustrates both the need to appreciate complexity and the by now familiar appeal to the law of unanticipated outcomes when infinite variety is pummelled into reductive strictures. In the haste to find pre-prepared, ready-to-go ethics, the nuances of specific counterclaims and silent voices tend to be lost. As these tortuous case studies, so beautifully and clearly unwound, demonstrate, ignoring the detail all too often ends up in having the devil to pay in terms of unintended effects. Third, the question is opened out into a series of broader questions that need to be addressed continually in pursuit of negotiated settlements. The answer for Brown, then, if it can be so termed, is the continual need to interrogate circumstances and claims as they are in the world, against the one overarching criterion of finding a means, however imperfect and messy, for people to co-exist. To paraphrase the old Soviet mantra,⁸ the right to dignity and respect should be universal in form but local in content.

But this brings us to a decidedly curious and uncomfortable blurring between a form of totalitarianism on the one hand and Brown's almost evangelical pragmatic liberalism on the other. Equally to the point, the old mantra was not a howling success in its original form either: the people who defined the nationalist content were pretty much those who were also defining socialism. To serve the ideology of dialectical history, national difference had to be crisply established so that a clear pattern of development could then be described leading to the cultural amalgam of *homo sovieticus*—a rather teleological service. The unfortunate result was all too often a checklist of what made up a “nation”⁹ and, once these elements had been identified, ethnological museums became stuffed with dusty artifacts pickled in the formaldehyde of neglect and indifference.¹⁰ The issues of power, of whose voice is heard, of what idiom prevails (NAGPRA-speak? remuneration for intellectual property rights? local symbolic systems?) in the courts are profoundly important in naming and claiming rights. These questions shadow the otherwise sharply illuminating examples provided by Brown.

To take just two of the many case studies offered here is to see that the issues raised by Brown's careful archeology of contestations over rights to knowledge and its products have bearings on wider issues too. The question of how to value information, for example, is decidedly sticky for it has the peculiar property of being able to be infinitely replicated without the original losing its essential character: it can, confounding the old saw, be simultaneously given away and kept. In fact, as Bronwyn Parry (2004) observes, the “copy” of the digitalized form of a scanned body part may in fact be of more value or use to an experimental laboratory than the rather messy “original.” Thus claims on knowledge are logically, in Lawrence Lessig's (2002) phrase, non-rivalrous; access by one party does



not diminish access by anyone else, Yet this is to downplay and misunderstand the importance of the concomitant feature of data as potential property objects. Once seen they cannot be unseen, unread. Once out in the public domain they cannot, as tangible objects may, be wholly reclaimed for exclusive access; they cannot be repatriated and laid to rest. And when knowledge is sacred, powerful, perhaps even dangerous (see, for example, Barker 2001) and therefore customarily restricted not only to a community but to expert practitioners of the sacred realm within it, then the leaking of such knowledge (or images, or recordings) outside authorized confines is to move quite beyond the domain of rivalry; it is to dissipate the potency of that knowledge and disturb the correct functioning of the world. A cultural commons, such as that to which Lessig refers, relies on the data and images therein having a universal value in the simple sense of what the things under scrutiny actually are and what power they possess.¹¹ Such a domain cannot exist when the same property object, in a purely physical sense, is an unrooted pattern of unconnected images for one, a legible text for another, and a holder of values far beyond the semiotic for another still. The literature concerning the high value placed on restricted knowledge, on secrecy in Papua New Guinea (e.g. Barth 1975) adds another spin again on the impossibility of a cultural commons that relies on apparent face denominations alone. Moreover, the literature on secret knowledge in Papua New Guinea shows us the intimate connection between control of rights (in this case knowledges) and the construction of personhood: exposure of knowledge at key junctures allows a temporary congregation of relations that creates a particular social person.

What is at stake then are rivalrous *values* or logic systems, not just the thing itself that holds or exists within them—and where these are inseparable, then the object cannot be the focus of unregulated attention. After all, “common” is also linked to an idea of shared understanding: common sense. The problem is that the mobilizing sense of value repeatedly slips to the economic, drawing life from ideas of scarcity, restricted access, or indeed mass dissemination. This is at odds with an idea of knowledge value being linked to patterns of closure and disclosure, patterns that refute the economic dilemma of how to account for the value of information. After all, in the PNG examples, people are quite well aware of the “information” in such knowledge practices—this has little to do with the ritual of revelation. Economic evaluations are ill-equipped to address such instances where value inheres in a momentary confluence of people and things, whether knowledge or the intricately carved masks used for PNG death rituals. Rather, interests in financial costs and benefits tend to cluster round claims to objects and knowledge practices where value endures over time in the object or practice.

Let us take the case of the missionary’s photographs with which the ethnographic chapters open. Having raised the peculiar properties of informational property, Brown turns to the case of images and recordings. Henry Voth was a

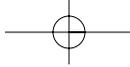
Mennonite missionary who lived with the Hopi in the late nineteenth century. Over the years he developed a fascination with the very rituals that he was supposedly trying to displace, and which came to provide his main means of support as he toured his exhibits of Hopi images and ritual displays. The publication of details of important rituals (13) ran counter to Hopi ideas of the proper distribution of knowledge that in turn enabled the maintenance of the cosmological sphere. But, by the same token, the restriction of visitors' cameras and recording apparatuses later appeared unreasonable to tourists who felt entitled to the freedom to photograph what they pleased and as was their custom elsewhere. Concern in the 1990s about the widespread holdings of culturally-sensitive information led to the Hopi tribe requesting that it be repatriated.

There are a number of points worth noting here. First is the use of NAGPRA-speak in that word "repatriated"—which is echoed again to startling effect in Brown's chapter on competing claims to Devil's Tower, a sacred site to American Indians (Cheyenne, Arapaho, Crow, Kiowa, and Lakota) where one Indian is quoted as saying, "I am opposed to any recreational activity at places where I do traditional cultural activities" (167). Second is the assumption that such artifactual knowledge can be returned in its entirety, erasing traces of its existence in the wider world. Third is the anxiety on the part of curators that priceless objects may be lost if used to the end of their physical life. There is no simple answer to this. Some peoples have been happy for sacred objects to remain in museums if treated with appropriate respect, believing that sometimes it is safer for such potent objects to be in such hands than in those of religious experts who can no longer control such things, or that museums and archives can prove more effective in keeping such sacred objects away from specific rivalrous groups—demonstrating once again that a simple category of "indigenous" woefully misses clashes, sub-groups, and disagreements within.¹² Better, in such cases, for no jam for anyone than for the wrong people to gain access. Others have demanded absolute return. Simple restitution according to law is also fraught with mistaken good intentions. As Benda-Beckmann (2000) points out, the tendency to stress communal holding measures for traditional groups and the individual element in Western private property regimes makes for an artificial distinction that loses both the communal features of private property and the exclusive elements in many traditional structures relating people to land. One result is that objects returned as part of the move to repatriate misappropriated things are often given back to the group as a whole, ignoring the fact of individual or familial property. What happens to objects so returned? There can be further difficulties within a group as to how they wish to represent their past in the present, ideas that may well be at odds with each other as some choose to celebrate communalist aspects of previous tribal formations, while others prefer to repudiate such a past in searching for new social configurations.

This last in turn points to the argument Brown makes later, in line with his plea for negotiating a workable pluralist democracy, that parts of the past are not the sole prerogative of distinct groups. While the right to articulate a history should be defended, the exclusive right of any one history to drown out other versions should be vigorously rejected. As with most other conclusions and recommendations throughout the book, this is a common-sense corrective that tries to steer between the painfully well-meaning and the oppressive.

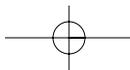
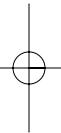
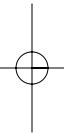
It is impossible in a short essay to examine fully either the many moral and practical quandaries raised in pursuit of justice and the common good, or the good sense that picks out the more humane routes through the mire. However, the chapter on the rise and fall of bioprospecting in Mexico is particularly salutary and brings us back to the opening request for caution in two respects. First, the problems in literally merging current ideas about intellectual property rights with the more complex ranges of relations between things and people on the ground are vividly illustrated. Second, the result has been that (entirely well-meaning) attempts to promote innovation through IPR in the form of patents have effectively ended up shooting themselves in the foot as what Heller (2002) has termed an anti-commons has been created: a plethora of exclusive controls and rights that are so entangled and complex that they actually inhibit intellectual speculation.

Ultimately, it could be argued, bioprospecting failed to live up to what was believed to be its early promises for pharmaceutical firms simply because they too lacked an awareness of complexity. In this case, however, the efficacious entanglements were from compounds comprising multiple plants and producing results that synthesizing single plant extracts failed to achieve. Again, agreements between prospectors and claimants to traditional botanical knowledges did not always succeed in negotiating through the multiple nested claims on natural resources from local to national bio-patrimonies. Cori Hayden (2004) further pursues this particular labyrinthine line of contested representational authority in the case of bioprospecting agreements, as well as the appearance and disappearance of social connections adhering to plant extracts as curiously formalized ethical positions are acknowledged in one context and hastily dispensed with once over the laboratory threshold. As ever, the question of size seems to be pretty key. Both macro- and microscopic scales slip through the net of being able to recognize what makes an object unique, and thus are particularly vexing in the legal arena of claiming restrictive rights through patents that require boundedness in the object being patented as well as those registering the claim. In a sense, the problem here is a homology of the knowledge genealogies touched on earlier (note 2). Ring fence a gene, a DNA sequence, or a molecular structure and any research or interest in the larger biochemical configuration constructed on such building blocks is effectively hamstrung. Label a nation-state's territory the patrimony of its citizens, and discrimination between objects and groups at lower levels become hard to distinguish. The point is simply that a rush to define and separate beginnings and ends can lose the effective web of connections.



But there are two things I wish to end on. One is to return to borders as a theme running through this article: not those of magnitude this time, nor the need for private property to contain the essential fluidity of relations, objects, and persons through static representation, but the double-think often involved in discussing the adaptation of rituals and practices. Innovative creolization in socioeconomically disadvantaged groups can be celebrated as resisting globalization even while rapacious appropriation is damned on the part of groups with a more economically dominant role on the world stage. As Brown neatly notes, there are numerous cases where the adaptation of Christian symbolism for use within local syncretic religions is seen as creative hybridity, which fits slightly awkwardly with the blanket condemnation of flows going the other way. The highly charged language is enough to give one a flavor of the bias: the “cannibals” of global pharmaceutical firms practice “ethnocide” and “biopiracy.” There are two points to note in connection with this. Christianity moved from being a minority ascetic cult to a dominant state religion, but, en route, its very success was partly because of its plastic capacity to absorb the symbols and resonances of other local cults as it spread. Second, most missionaries actively promoted the take-up of their religion whereas presumably most images of indigenous peoples either had no effective consent given or people weren’t aware of long-term effects.

This indeed leads us to the final theme that at once returns to the beginning of this essay and indeed stalks most of Brown’s arguments—and this is the not so simple question of unequal power relations touched on above. The accommodation that Brown calls for entails a lack of legal prescription in favor of a general direction to be hammered out on a case-by-case basis by peoples and groups who feel they have competing claims. Thus, Brown seems to suggest moving away from heavy-handed state, or indeed international, control to a civil arena of pragmatic negotiation. But where and what exactly is this civil arena? It appears that in place of state institutions we are entering instead into the realm of the neo-liberal legal fiction where free and equal individuals¹³ voluntarily engage in negotiated agreements to mutual benefit (see Atiyah 1979, 1986), the unfolding of such agreements taking place in a curiously frozen legal time (Summers 1969). This is the world of theoretical market neo-liberalism,¹⁴ but as has been frequently observed (see for example, Alexander 2002; Gilmore 1986; Macneil 1974) such unfettered settlements are difficult to obtain and indeed maintain in the more complex world outside the courts. The awkward question that haunts these pages—of who exactly is speaking for whom and with what authority—appears here again. Quite simply, those with more access to resources can purchase louder voices, but there is also the perennial anxiety that communities are not readily represented unless in a rather idealized, cohesive form. In connection with this, it is also worth noting that much of the law being shipped over to the newly independent states of the former Soviet Union has been criticized for precisely such broad brushstrokes with few or no detailed regulations. The result has been for the powerful to interpret and bend the law to their own benefit. That



uncomfortable possibility has to be recognized in the call for compromise and negotiation (see also Strathern 1998). Brown gives us carefully nuanced accounts of contested claims to native cultures—most of which end in happy cooperation. Certainly, increasing numbers of voices from indigenous groups are now heard in international fora, but it is also necessary to consider the many unheard voices for whom some kind of imperfect international legal protection may be a more satisfactory compromise than an unequal tussle with corporate interests or those of another public.

With this in mind, one thing to end on might be a return to the provocation of the title, and to remember that property relations encompass a spectrum of connections between people and things (or between people through things) far beyond the state-sponsored framework of exclusive private property suggested by “ownership.” Yet when the ability to defend rights is weak, the ownership rights suggested by IPR may be slightly off the mark but also may go somewhere in defense of maintaining meaningful constellations of knowledges, peoples, and things. An appreciation of such basic inequalities in the labyrinth of identity and cultural politics might also productively temper Charles Taylor’s (in Lukes 2001) and others’ calls to reassert liberalism as a “fighting creed.” This is a manifesto to establish minimum universal rights in a constitutional framework of citizenship within which communities and individuals may make free choices provided that value pluralism is never allowed to trump overarching basic rights (Amit and Rapport 2002; Barry 2000), a manifesto that is right in line with Brown’s call for mutual respect and the need to constantly struggle for common human dignity. It would indeed be a wonderful thing, were the hurdle of embedded institutionalized inequities to be overcome, but perhaps even more awareness of complexity is required on the way.

Notes

I would like to thank Cori Hayden, Matthew Engelke, Keith Hart, and Alpa Shah for the care with which they read and commented on this article.

1. Although as Strathern (1998:216) observes first, the history of concern about misappropriation of people’s heritage can be traced back to 1913 and an ordinance concerning Papuan Antiquities (in Busse 1997) and second, the term, “cultural property” itself can be tracked to the 1970 UNESCO convention on the illegal transfer of ownership of such property.
2. I am thinking here particularly of the familiar seesaw between libertarians and communitarians that stresses the absolute rights of the individual versus the common good. The latter embraces the line that since all individuals are products of their social, educational, and institutional environment, the essentially Romantic idea of a finite claim to self and products of the self is simply illogical: possessive individualism just doesn’t wash. The link between the debates is mine, but seems to be supported by Strathern’s

(1996) emphasis on the legal fiction summoned by patents that effectively cuts short or blanks out the infinite genealogy of intellectual generation (on a similiar point see also Strathern 1996:30).

3. This appears to be part of another (late twentieth-century) trend, being ever more enthusiastically pursued: the extraction of elements from a recognizable entity or practice into objects, skills, and professions that can be traded, taught, and applied quite independently of the context (one might indeed use culture here in the sense of the nutrient medium in which micro-organisms grow). Thus the rise of a global market in trading sulphur dioxide emissions (Rose 2000, 2004), or “management,” “quality,” and indeed ethics being treated as off-the-peg, or “transferable” skills that can be learned and applied across sectors as diverse as business, education, and medical care.
4. Brown himself quotes Trilling 1979, much of which is a plea to address complication and contradictions head on, rather than retreat into simplification.
5. “Assumed” because private property is usually supported by the state and indeed also framed by co-existing and potentially over-riding rights held by the state.
6. For another twist on this argument, Stirrat (1997) describes the creation and manipulation of such “communities” as a neo-orientalist enterprise: the reified idealization of “indigenous rights” plays into the need for intervention by the Western rights market. Mosse (1997) also speaks to the history of communities—or rather particular notions of community being a direct product of the (colonial) state.
7. See Alexander 2004a for an examination of attempts to identify property objects in the post-socialist sweeping moves to private property regimes. The impossibility of decontextualizing, say, a factory from the social web that sustained it and allowed it to exist at all illustrates how relationships between people and things may be more accurately summoned by the sense that property objects exist in and through particular time-bound constellations of people and things rather than the legal insistence on finitude and abstraction.
8. “Socialist in form, nationalist in content.”
9. Stalin 1994:18-20.
10. See for example, Yuri Dombrovsky’s (1969, 1996) wonderfully ironic accounts of Alma-Ata’s museum of archeological and ethnological objects and the struggle of local scholars to prevent Stalinist officials from trivializing and vulgarizing the past, and the relevance of the past in the present.

11. Note the variety of meanings of value, all of which relate in part to one another. There is the monetary equivalent that can be applied to an object. This, in turn, depends on a clear sense of what a thing is, but also, on occasion, on its value in the sense of its moral worth, its potential to act on and be in the world (Alexander 2004a).
12. Brown cites the example of the Hopi feeling swamped by the numerically greater Navajo people.
13. One classic legal fiction of course is that a corporation is also an “individual” (Burrows 1944). See also Hart in press.
14. Note Galbraith’s (1987:209) pithy comment on the fact that not one industrialized state that preaches such a model, practices it at home.

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