

# THE GOVERNMENT OF CULTURE

## AN INTERVIEW WITH MICHAEL F. BROWN

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• TRANSCRIBED AND INTRODUCED BY THOMAS STRONG. EDITED BY MICHAEL F. BROWN •

In September 2006, Michael F. Brown, Professor of Anthropology at Williams College (USA), was invited to speak at the Department of Anthropology, University of Helsinki. His talk, "Culture in the Iron Cage: Dilemmas and delusions in global efforts to halt appropriation of indigenous heritage," explored the problems involved in attempting legally to protect native cultures from harmful forms of exploitation, including commercial ones. His talk summarized aspects of material presented in his book *Who Owns Native Culture?* (2003) and reflected his strong interest in intellectual/cultural property. Professor Brown is uniquely positioned to explore questions related to the 'appropriation' of indigenous cultures: he has worked extensively on 'both sides' of the appropriation. In *Tsewa's Gift: Magic and Meaning in an Amazonian Society* (1986), he explored the magical technologies of the Aguaruna of the Peruvian Amazon. In *The Channeling Zone: American Spirituality in an Anxious Age* (1999), Brown explored New Age spirituality in the United States, a form of religious practice that often finds inspiration in the putative animism of native beliefs.

Professor Jukka Siikala, who heads Social Anthropology at the University of Helsinki, and Thomas Strong, who is a visiting lecturer in Professor Siikala's department, spent some time in conversation with Professor Brown at the American Anthropological Association meetings in San Jose, California, in November 2007. What follows is an edited transcript of their discussion, touching on themes of ethnographic methods, the anthropology of law, problems of lost authenticity in the modern world, and more.

**MB:** Michael F. Brown

**TS:** Thomas Strong

**JS:** Jukka Siikala

**TS:** How did you come to study the topic of cultural property?

**MB:** Ethnography brought me to it. I was finishing an ethnographic study of the New Age movement in the United States at a time when people involved in the movement were being accused of appropriating Native American religion. I wanted to look at that issue in a dispassionate way because it raised intriguing questions. The idea that you're stealing someone else's religion is fascinating. That's what many religions want – they're inherently expansionist, and they try to win people over. All religions borrow from other religions; I don't think there's any religion that is so completely *sui generis* that it hasn't appropriated elements of some other group's religious practices. Does it even make sense to talk about 'appropriating' someone else's religion? What's really at issue? At the time – this was the late 1990s – it led to assertions that there should be forms of protection set

up for American Indians and other indigenous peoples to protect them from that kind of 'borrowing.'

The critique of appropriation then began to move into other areas. The commercial use of native symbols was one. Some groups were beginning to contend that they 'owned' their language and that it was improper for other people to document, study, or even speak that language. Accusations of cultural appropriation moved into the worlds of graphic art, music, design, dance, and clothing: every conceivable form of cultural production. It struck me as an incredibly rich set of questions for ethnographic study, especially because a lot of it was being discussed in public forums in highly abstract ways that ignored the complexity of actual situations. I thought I could bring to it a kind of 'devil in the details' attention to individual cases and see where that led.

Then the problem became one of defining discrete areas that I could disentangle ethnographically. Which of course required a form of multi-site ethnography that was new to me. This proved enjoyable but often frustrating, too. You parachute into situations and try to make sense of a complicated social world in a week or less. Of course, I spent a lot of time doing background research to set up the interviews. For an ethnographer, it's fun, it's a challenge. Yet it's also frustrating because you know that there are stories behind the stories, and you're not going to get them. I worked hard to bring a human face to issues that are often portrayed abstractly. The presentation of these issues often misses the spark of creativity and humor and playfulness that I found in real life.

**JS:** I am interested in the political aspect of this. It's an intellectual project, but on the ground it's also very political and commercial. So there are many sides to these questions.

**MB:** As I said in Helsinki, one of the things that fascinated me about discussions of indigenous intellectual property was that they failed to bridge two parallel debates. On the one hand, there was the 'information wants to be free' movement advanced by the 'copyleft,' who promoted the idea that the global intellectual property regime is collapsing under the weight of its own contradictions and the impact of new technologies. On the other hand, critics of cultural appropriation were demanding new forms of intellectual property protection for indigenous peoples: protections that would be far more rigorous and all-encompassing than the copyright and patent laws that were being critiqued by some of the same people. This disconnect was interesting. It seemed to offer elbow room for someone coming in from the outside and juxtaposing the two discourses to see where that led.

**TS:** As you say this is a highly political, very politicized question, and people's feelings are very strong about it. And when we're talking about disputes about sacred sites, as you write about, for example, Devil's Tower, or the Hindmarsh Bridge affair, and this kind of thing. Could you describe what that was like? Did you have an explicit strategy for doing fieldwork in a situation that is fraught in that way?

**MB:** I don't think it's different from any other kind of fieldwork except that the time span is shorter. In the case of the controversy over the sacredness of Devil's Tower, I set

up interviews with the park's supervisor. I tried to interview one of the strongest opponents of the voluntary moratorium on climbing the mountain, but he broke the date. The problem was that it was during the Sturgis Harley Davidson rally, a national bikers' event, and there were thousands of bikers! At some point the roads were so congested with motorcyclists that I couldn't get through the traffic. Tracking down Native spokespersons was exceedingly difficult because they weren't particularly responsive. But I ambushed one prominent figure at his workplace, and to his credit, he was willing to be interviewed at the end of his work shift. I also spent some time at the state Historic Preservation Office in Cheyenne, whose staff gave me access to documents that came from all factions in the conflict: from descendants of white settlers, from representatives of American Indian nations in the area, and from the climbing outfitters who had an economic stake in being able to guide climbers to the top of the mountain during the short climbing season. You put the whole thing together as faithfully to the truth as you can, showing how complicated the issues are for all parties.

**JS:** A much more explosive situation might be found in Australia where there are sacred aboriginal sites where mining is proposed. It's not climbing the mountain, it's physically destroying the whole site, and that has this 'sacred' side plus the enormous 'economic' side.

**MB:** I couldn't resolve those issues. I have to say that some of the claims of sacredness are so expansive that they push the envelope of what I find persuasive. Today claims of sacredness give indigenous peoples legal leverage, and they often inspire a high level of public support. But sacredness is notoriously difficult to define and measure. What is sacred to you may not be sacred to me, and vice versa. Even within indigenous communities one finds a range of opinion about the sacredness of particular sites. There is a tendency to expand ever outward the scope of land defined as sacred. There are indigenous people who argue that the entire continent of Australia is sacred. Even to propose that they define which areas are most sacred is deemed offensive. My book doesn't offer any solution to that. I simply try to help readers understand how complex the issues are in the real world. This is a case, I think, when you have to get all the parties around the table and seek compromise.

Many of the debates about sacred sites are defined by simplistic arguments. They accept at face value certain radical claims about sacredness without a full understanding of the evidence and what its implications might be. Do courts have the right to demand that people produce evidence to support their claims? That in itself raises complex issues. It puts indigenous people in a situation of extreme difficulty. In some cases they can't reveal this information without violating their own cultural rules, especially if the 'evidence' is secret. So what are they going to do?

**JS:** Can we claim that 'sacredness' is now one way of claiming ownership?

**MB:** In some situations, that is true. Claims of sacredness assert certain rights. Perhaps not absolute rights, but at least limited ones, in a piece of landscape or a geological feature. But how far should that go? How long should it last? What kind of evidence is involved?

Does it need to be re-ratified on a regular basis because people's spirituality changes? How do we know that they're not increasing the scope of what they consider to be sacred?

**TS:** Clearly one of the things that is valuable for anthropologists about your work is precisely this kind of calm and methodical attention to the complexity of these issues. It's also a model of what it means to do ethnography now, as you've said – multi-sited ethnography – encompassing very traditional anthropological concerns (religion) but also very contemporary ones (the state, law). I wanted to ask you about case law. Can you remember a particular case that ideal typically represented some of the key contradictions?

**MB:** The Devil's Tower case was interesting because the ruling came from a smart judge. This federal court judge said that if he found evidence that the Park Service was actively preventing climbers from ascending Devil's Tower, he would consider the voluntary nature of the moratorium to have been violated. Essentially, the number of climbers who make ascents could be any number but zero. If it reached zero, this would be prima facie evidence of coercion. It sounds like casuistry, but there's a common-sense logic to it. He was arguing that it's not a simple case – that because of the rigorous separation of church and state in U.S. law, the religious preferences and practices of Native Americans couldn't trump all other considerations and that voluntarism was a virtue in itself.

Voluntarism isn't held in high regard in anthropology. Paradoxically, anthropologists criticize law all the time, then we turn around and demand new laws to protect indigenous interests. I am amazed when I hear spokespersons for indigenous peoples demand that the federal government protect them from certain kinds of appropriation. The government has been 'protecting' them for centuries, and the outcome has not been satisfactory. That isn't to say that there shouldn't be restrictions on certain kinds of appropriation. I am saying only that one would expect indigenous peoples to be cautious about encouraging the insertion of government control into the intimacies of cultural production, especially given the long history of destructive government meddling in indigenous affairs.

**TS:** Was it hard to master all of this law?

**MB:** I don't know that I mastered it! I did my best and I sought the help of people familiar with the issues. It was interesting. This was a situation where a certain naiveté about the law actually helped in the sense that I didn't have a lot invested in 'legal anthropology.' I approached the material with a fresh eye.

**TS:** How have legal anthropologists responded to your work on cultural property?

**MB:** The short answer is that the response has been positive. The longer answer is that some of the more sophisticated legal anthropologists contend that my understanding of the law isn't sufficiently nuanced, that it is a 'literalist' interpretation that underestimates law's role as a process as well as a set of rules. There is some truth to that. The book received a critical review in the *Yale Law Journal* by an expert on property law, Carol Rose, a brilliant legal scholar. Rose believes that property is a good idea and that the inherent skepticism of anthropologists toward Western property concepts is misplaced. She makes

a persuasive case for the ‘proPERTIZATION’ of certain domains, like carbon emissions. I don’t happen to agree with her about indigenous cultural productions. But I regard her criticism of my book as fair, even though I disagree with it. I was flattered that she took the time to consider the work carefully.

**JS:** Are we in big trouble if the concept of property can be extended to painting styles or music styles or mythical stories? As anthropologists very well know, those have always been circulating freely.

**MB:** Carol Rose argues that the concept of property is much more plastic than we allow, that it is adaptive. It potentially empowers the creators of these productions in certain ways. But even Rose admits that intellectual property poses problems of legitimacy that other forms of property don’t share. I think it is genuinely hard for people to understand why it is theft if you email me an MP3 of a song that you ripped from a CD that you own. How are you hurting anybody by sharing that? The harm seems pretty abstract.

**TS:** Could you comment on how these kinds of claims regarding indigenous cultural property unfold in the context of liberal settler states versus other kinds of postcolonial state? My gut feeling is that this issue of cultural property is far more salient in these embattled contexts where people are marginalized. What about the larger political context?

**MB:** This becomes a proxy for other kinds of struggles. It’s partly just fashion – suddenly everyone is talking about IPR, so intellectual property rights become contested terrain. Eventually this will exhaust itself and people will move onto something else. I don’t want to trivialize the issue, though. There is a legitimate global crisis of intellectual property. There is great anxiety about how elements of culture are moving. On the one hand, people are worried about stuff coming in from the outside that they think they don’t want. They are equally worried about their stuff flowing to places where they don’t want it to go. A lot of IPR issues get conflated with issues of economic justice: “You’re stealing our culture.” Yet nine times out of ten, the real issue isn’t money. It is about respect and a community’s sense of violation when appropriation occurs.

**JS:** It’s about a politics of recognition.

**MB:** The New Mexico sun symbol chapter [in *Who Owns Native Culture?*] is a good example. Zia Pueblo, a small Native American community not far from Albuquerque, claims certain rights in a powerful symbol that was used in the state flag without their permission. The community’s position is that it should have been asked first. They rarely turn down anybody who seeks their permission to use the symbol unless the use is incompatible with Native values. A few years ago there was a trademark case in which a manufacturer sought to use the sun symbol on packages of drink mix – flavorings for margaritas, daiquiris, and other alcoholic drinks. Because of the problem of alcoholism among Native Americans, this use of the sun symbol was resisted by Zia Pueblo.

**TS:** In your talk in Helsinki, you described the problem of financial compensation, but also the question of the authenticity of a worldview being impinged upon by these appropriations. There is an irony to the act of these appropriations: one of the reasons that folks are so interested in indigenous ‘stuff’ is this search for an authentic experience. At the same time, that search or appropriation disarticulates the very authenticity that it is searching for – or at least threatens to do so.

**MB:** The flip side is that the boundaries of indigenous societies themselves are getting murky. There are high rates of interethnic marriages, intercultural contacts of one sort or another, and declining familiarity with indigenous languages. Appropriators want to grab some of the perceived authenticity of indigenous culture, yet among indigenous people authenticity may be under great pressure. The situation becomes so freighted with anxiety that it leads to explosive conflict.

**TS:** What’s your sense of good strategies for dealing with that loss of authenticity?

**MB:** In the broadest sense I don’t have a solution. People are going to marry who they marry. The history of humanity suggests that if groups come together they are going to exchange and change. It’s just going to happen.

**JS:** We are producing new forms of authenticity all the time.

**MB:** Yes, that’s constantly being renegotiated. What I say in the book is that I don’t believe in simple, one-size-fits-all solutions. You have to look at things carefully and develop situation-specific solutions. In that sense, the book represents a cautionary tale. We shouldn’t rush to judgment about appropriate solutions. The stakes are high on all sides. One of my colleagues at Williams teases me by saying, “Michael, you are trying to make the world safe for ambivalence.” I think there is some truth to that. People of good will can be genuinely perplexed by these situations. We can see injustice, but the proposed solutions are problematic, too. As a Weberian, I am always aware of what happens when bureaucracies attempt to manage human creativity. The outcomes are not pretty.

**JS:** There are opposing positions, and if we simply endorse one it can lead to absurdities.

**MB:** Absolutely. It relates to another other set of interests of mine, millenarian movements and utopian dreams. Utopias are wonderful but also destabilizing. Many of the atrocities of the twentieth century were committed in the name of utopian ideologies. Social life in pluralist societies requires accommodation to imperfection. Citizens need to be told how hurtful it is to others when they appropriate bits of indigenous cultures. If they are made aware of that, in many cases they’ll stop.

**TS:** You mentioned ‘Weberian.’ Your work is valuable for its ethnographic specificity, but you are also engaged in some very large theoretical questions. Can you identify the streams of theory that you see your work contributing to?

**MB:** Twenty-five years of having sociologists as colleagues has changed my academic interests in significant ways. Anthropologists don't do a very good job of analyzing institutions. I am increasingly interested in the so-called 'irrationality of rationality,' how institutional logics can go awry. I am currently involved in a major building project at Williams College, where I teach. Every day I see the application of well-intentioned building codes that make perfect sense in theory. But when applied to complex real-world situations, they sometimes produce absurd consequences.

Where intellectual property is concerned, once you define something as being protectable by patents or copyrights or their legal equivalent, new social forces come into play. Culture is handed over to experts: legal experts, code experts, enforcement experts. A new class of mandarins is put in charge. They may be indigenous mandarins or non-indigenous mandarins. Either way, the situation favors the interests of elites. The people you are trying to protect are disempowered in significant ways.

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