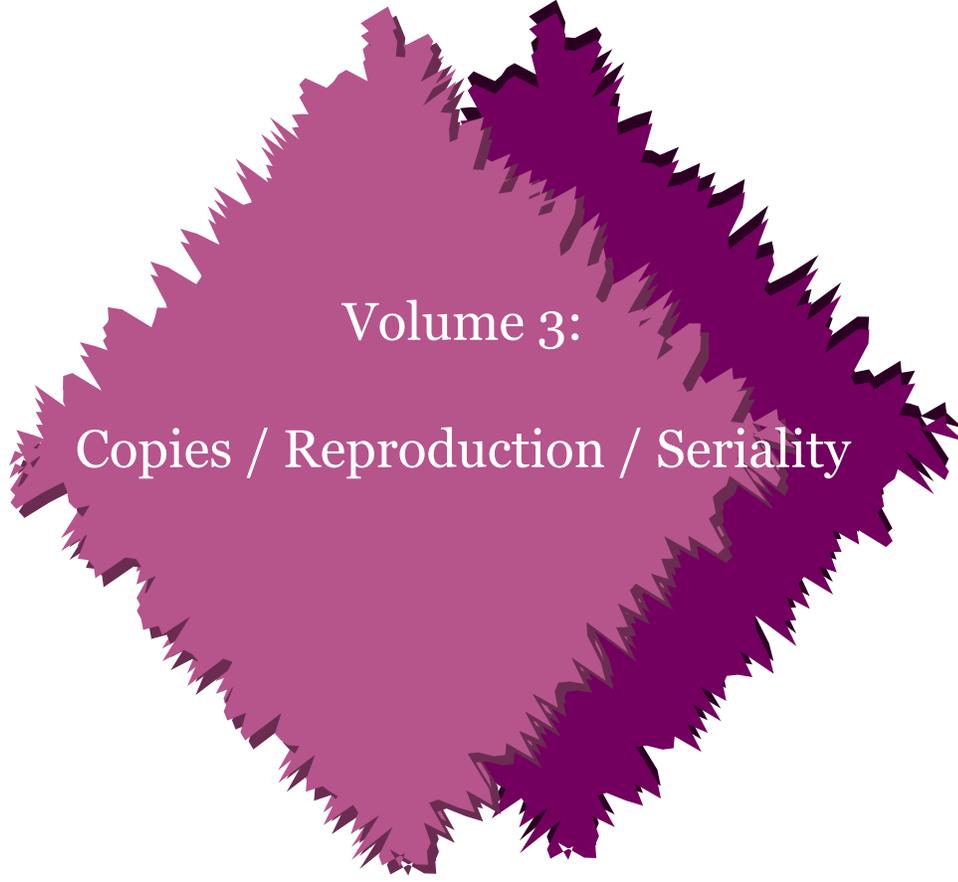


CULTURAL ANALYSIS

An Interdisciplinary Forum on Folklore and Popular Culture



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Cultural Analysis:
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Volume 3, 2002

Articles

Philip Jenkins

Catch Me Before I Kill More: Seriality as Modern Monstrosity.....1

Carol Muller

Covers, Copies, and “Colo[u]redness” in Postwar Cape Town.....19

Peter Shand

Scenes from the Colonial Catwalk:

Cultural Appropriation, Intellectual Property Rights, and Fashion47

Discussions

Hillel Schwartz

Obsessive-Compulsive Disorder: Comments on

Cape Town Covers, Colonial Catwalks, and Getting Caught.....88

Diarmuid Ó Giolláin

Copy Wrong and Copyright:

Serial Psychos, Coloured Covers, and Maori Marks.....100

Reviews

Timothy Tangherlini

Forestillinger om "Den Andre"—Images of Otherness. (Ytrehus, ed.).....R1

Sheri J. Tatsch

On Biocultural Diversity:

Linking Language, Knowledge, and the Environment. (Maffi, ed.).....R5

Sam Schrager

On Holiday: A History of Vacationing. (Löfgren).....R8

Barry Mauer

Georges Bataille: A Critical Introduction. (Noys).....R14

Jessie Lawson

The Telling. (Le Guin).....R17



Catch Me Before I Kill More: Seriality as Modern Monstrosity

Philip Jenkins

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A colleague of mine, lamenting the disasters of her personal life, which included several broken engagements over the previous decade, said despairingly that she seemed destined to be nothing more than a “serial fiancée.” This phrase evocatively suggests the power of the word “serial” in contemporary culture. Though “serial” can mean no more than simple repetition, it has in recent years come to carry a far richer significance, suggesting behavior that is pathological, compulsive, and irresistible. These rhetorical layers were implicit in the title of John Waters’s 1994 film *Serial Mom*, a story which self-evidently dealt with topics far more threatening than just repeated parenthood. In speaking of herself as a “serial fiancée,” my friend intended to convey all these senses, though in a self-mocking way. More commonly, discussion of “serial” activities carries not the slightest hint of humor or irony, and different types of serial crime (particularly murder) are generally regarded as the absolute worst forms of depravity that a society must confront.

My goal is to describe how and why the seemingly harmless mathematical term “serial” so vastly (and suddenly) expanded its rhetorical significance, to imply monstrous violence with a near-spiritual dimension. How, in short, did serial crime come to represent an ultimate evil? What is so dreadful about the mere act of repetition? I will place the development of the “serial” concept within a historical context, specifically during the period of intense ideological conflict and political redefinition that occurred in the United States during the 1980s. I stress this chronology since the whole idea of serial violence has now become so integral a part of social ideology that it seems unthinkable that it was ever absent. To the contrary, the idea is relatively new.

In elucidating the term itself, in explaining its raw power, I argue that “serial” murder enjoyed such an impact because of its mythological connotations. To over-simplify, it was rhetorically and politically necessary during the early 1980s to posit the existence of uniquely dangerous predatory villains, against whom no counter-measures were too

extreme. By then our concepts of science and the supernatural no longer accommodated a literal belief in archaic beings like vampires and werewolves, however often the media metaphorically compared actual criminals to these traditional monsters. But the newly re-imagined serial killer could be cited quite freely, as an undoubtedly authentic being whose existence was vouchsafed by social and behavioral science, yet who fulfilled all the mythical roles of the supernatural night-prowlers of old. It was above all the fact of uncontrollable repetition, the absolute lack of self-control, that made serial killers less than human and denoted them as monsters.

Panic

The origins of “serial” terminology as applied to crime and violence are much debated, but the concept probably emerged in criminological writing during the 1960s. Whoever first coined the phrase, it was until the early 1980s largely confined to a handful of criminologists and psychologists who studied multiple homicide. As recently as 1982, a book on Jack the Ripper or Ted Bundy was advertised as a case study of “mass murder.” Matters changed very rapidly over the next two years, as the concept of serial murder entered popular thought. One pivotal event was the hearings before a US Senate committee in the summer of 1983, “on patterns of murders committed by one person in large numbers with no apparent rhyme, reason or motivation” (US Senate 1984). Between 1983 and 1985, serial murder became one of the most intensely debated issues in the media, both in serious news outlets

and popular culture, to the extent that the nation experienced what I have described elsewhere as a general panic (Jenkins 1994; US House of Representatives 1996).

A whole new taxonomy of violence now emerged. Multiple homicide was reclassified, depending on whether the acts occurred more or less in one time and place or were spread over a lengthy period, of months or years. The first type of crime, designated as mass murder, can be exemplified by the recent high school shootings at Columbine. Crimes committed over time and in many places, like the killings attributed to Ted Bundy or John Wayne Gacy or (later) to Jeffrey Dahmer, were classified as “serial” murder. The essence of serial crime was that the offender had a “cooling-off period” between acts, a chance to stop and think, and yet returned to commit evil once again.

Fundamental to the new concept was the singular evil of seriality itself. If one commits the same act two or three times, we speak in terms of doubling or trebling the credit or blame that should accrue. In the case of serial murder, though, one plus one equals a great deal more than two. Augmenting the horror of the individual crimes are the attributes of delay, repeated premeditation, and compulsivity. Though the killer “cools down” between crimes, he never really has the option of desisting. I use the pronoun “he” intentionally because in addition to the fact of repetition, the “serial” concept also contained a whole demographic profile of both offenders and victims, a package of ideas that could ultimately be traced to the FBI’s Behav-

ioral Science Unit, the BSU. As conceived in the white-hot enthusiasm of the early 1980s, the serial killer was not just an individual of indiscriminate age and gender, killing in more or less any fashion. The term referred above all to “sex killers” or “rippers,” that is, specifically to men, virtually all white, who kill repeatedly for obviously sexual motives. Moreover, they often engage in extreme acts of sexual violence and mutilation. The segregation of mass murder into a different category of multiple homicide reinforced these images, by removing cases which lacked an obvious element of sexualized victimization, of savage men hunting down defenseless women.

In this newer model, serial killers are viewed as predators, metaphorically as wolves, preying on weaker human beings who are represented in the historically familiar imagery of victims. These are the “silent lambs” commemorated in Thomas Harris’ celebrated book, and the even more influential 1991 film. Hunting metaphors abounded in the congressional hearings and news stories that proliferated through the 1980s. Hart Fisher, the creator of a comic book devoted to the deeds of Jeffrey Dahmer, justified his project by claiming that “Serial killers are the werewolves of the modern age. By day they walk around unassuming, then boom! By night they turn into monsters. People want to know why.” By 1994, *Time Magazine* was drawing attention to the national fascination with serial killers, with an article memorably entitled “Dances with werewolves” (Toufexis 1994).

Like wolves, serial killers roamed, or perhaps prowled. They wandered across

the country, striking now in Arizona, now in Maryland, now in Oregon, and the totals of their “kills” ran into the hundreds. Each year, perhaps a quarter of all homicides in the United States were the work of such serial offenders. The grim concept is epitomized by a 1983 article in *Psychology Today*, which like virtually all the apparently objective “expert” analyses in these years, relied exclusively on FBI-supplied publicity materials. The magazine asserted that “In an increasingly large number of stranger homicides, the killer seems driven to murder not by some ‘rational’ reason but by a serious psychological disorder. The FBI estimates that as many as 25 percent of killings may now fall into this category ... overwhelmingly, the victims of bizarre murder are women and children; the killers are almost invariably men” (Porter 1983, 2).

Another point of the new officially-inspired mythology of serial murder was that the monstrous behavior was distinctive to the time and place, that it had never really occurred before the late 1970s, and was extremely rare outside the United States. The American “murder wave” was both qualitatively and quantitatively different from anything recorded in previous history, with vastly more victims, and much greater occurrence of savage torture and mutilation. And serial murder was not the only aspect of the new problem: the FBI hoped to expand its efforts against other “serial” crimes, like rape, bombing, arson and child molestation.

In retrospect, the most amazing point about these claims was that they achieved such instant credibility, though

they required such a complete rewriting of criminological theory, not to mention history. The falsehoods involved in this package can easily be enumerated, and I have discussed them at length in my 1994 book *Using Murder*. To take an obvious point, serial murder was neither new nor distinctively American. Multiple homicide is the prerogative of no particular society; serial murder has always existed in the United States, and has often been the subject of extensive writing and debate. Even so, it is a highly infrequent phenomenon, accounting for at most one or two percent of all homicides—nothing like a quarter.

Offenders, too, are very diverse in terms of gender, race and age. Some are indeed white men in their 40s, but others are black men in their teens, white women in their fifties, and so on. At least a quarter of serial killers are women. And perhaps the most prolific killers of all never emerge in the traditional picture of “rippers,” because they are medical murderers who claim dozens or hundreds of victims over a period of many years, killing discreetly in circumstances that are difficult to investigate or prove. One recent example is the notorious British doctor Harold Shipman, who might have claimed two hundred lives. The stereotype that emerged during the 1980s was nothing more than that, a stereotype, which owed everything to social ideology and bureaucratic necessity. (For the realities of multiple homicide, see for instance Fisher 1997; Egger 1998; Holmes and Holmes 1998; and esp. Hickey 2001).

Though the claims made in the serial murder panic were demonstrably false, they were virtually never challenged

during the 1980s, even in the most reputable and supposedly sober media outlets. “Quality” newspapers like the *New York Times* became primary channels for developing and promulgating the emerging mythology. To understand this lack of criticism, we must appreciate the origins of the claims, and the reasons why they fitted so precisely with the political and cultural mood of the times.

There is no doubt that the whole serial murder idea derived exclusively from the Federal Bureau of Investigation, and specifically from the BSU that operated from the FBI Academy in Quantico, Virginia, with the goal of investigating violent crime – the same unit celebrated in *Silence of the Lambs*. Understanding the FBI role goes far towards elucidating the particular image of the “serial killer,” notably the claims about vast numbers, and the “roaming” quality of the offense. The FBI was in effect making a power grab, claiming jurisdiction over crimes which were beyond its legal scope, and this could only be achieved by presenting the offenders as itinerant, and therefore violating state boundaries. The vast majority of serial killers are in fact homebodies, tending to kill within one city or region, or even within a few city blocks, but all the attention during the panic was devoted to a few highly atypical cases of wandering killers. The gap between myth and observed reality may explain why, despite its global fame, the BSU and its successors have never yet caught an actual serial killer, nor have its much vaunted methods of “profiling” been particularly effective in criminal investigation.

The FBI had to make the menace suf-

ficiently frightening to demand public attention, and the best way to do this was to present awe-inspiring statistics. This was achieved by highlighting a few cases in which offenders boasted of two or three hundred killings. As we have seen, such a total is theoretically possible—witness the recent Shipman case—but such intense activity is very rare for sex killers or “rippers,” and it is now generally believed that most of the highly prolific cases adduced by the FBI were exaggerated, or indeed fictitious. The most publicized case was that of Henry Lee Lucas, who claimed to be guilty of three or four hundred murders, but who may in reality have killed at most three or four victims. This case suggests that the quantitative basis of the national panic was supported by the delusional claims of psychotics such as Lucas, a serial confessor rather than a serial killer.

American media are notorious for their credulous, if not obsequious, attitude towards federal criminal justice agencies, especially the FBI, and it is not surprising that FBI pronouncements about the new serial murder menace should have been published respectfully. What is more curious is why the general public would have believed them so immediately, and should within a few months have erected a whole subset of popular culture upon this very tenuous foundation. This response can only be understood in connection with the politics of the time, and the reaction against perceived national decay that was the centerpiece of the new Republican administration elected in 1980.

Through the early 1980s, conservative political rhetoric was permeated by

themes of external threat, national vulnerability, subversion, and internal decadence. These concerns focused on a number of “dangerous outsiders,” most obviously the Soviet Union, which Reagan famously characterized as “The Evil Empire.” There were a number of other panics or waves of concern about these various external forces which appeared to represent grave threats to the American people. These included not only serial killers but also drug dealers and drug kingpins, terrorists both foreign and domestic, and of course the child molesters and pornographers believed to pose such a danger to American children (Jenkins 1998). In the political context of these years, all these apparently diverse groups served essentially similar social and rhetorical functions, by personifying the immorality and outright evil that had arisen in consequence of the moral and political decadence of recent administrations. These outsiders were readily portrayed as the product of the family breakdown and sexual hedonism of the previous fifteen years. It was common to personify these dangers by focusing on a particularly notorious or unpopular individual, like Libya’s Muammar Qaddafi or Nicaragua’s Daniel Ortega in international affairs, Gacy and Bundy in domestic politics. Like the drug war and the child abuse panic of these same years, the movement against serial killers can be seen as part of a generalized moral reconstruction, a kind of revenge against the demonized era of the 1960s and 1970s.

The moral and political reaction of these years goes far towards explaining the “predatory” notion of serial violence,

and especially the choice of targets. During the 1960s and 1970s, libertarian rhetoric had enjoyed enormous success, so that it was difficult to win public support with a traditionalist argument about the need to regulate moral behavior. Large sections of the public had accepted the libertarian argument that consenting adults should be permitted to pursue their own individual paths, even if that involved hitherto illegal behavior involving drugs, pornography or homosexuality. The libertarian view could, however, be challenged by emphasizing the threat to innocent parties, especially to children, who could not give consent to deviant activities. Thus morality activists of the late 1970s campaigned not against sexual vice in general, but specifically against child pornography and prostitution, and not against homosexuality, but against child molestation. A movement against drugs in general would be futile at a time of pervasive middle class usage of cocaine and marijuana, but a vigorous assault could be mounted against the drug PCP, which found its chief market among young teenagers. In the religious area, similarly, the argument against cults and fringe religions was that their young adherents lacked real freedom either to join or remain within the movements; contrary to appearances, recruits were not consenting adults. Also, the alleged danger to children from homicidal Satanic gangs and ritual abuse rings began to be formulated in the early 1980s, exactly at the time of the serial murder nightmare. From the late 1970s, therefore, moralist campaigns emphasized threats to children and women, who were presented

as the victims of lascivious hedonistic males who pursued “anything goes” hedonism to an unacceptable logical conclusion. And serial murder pushed this logic to the point of violent death. Hedonistic America had become a society of wolves and lambs.

By about 1984, American media and popular culture were more dominated by scare stories about lethal dangerous outsiders than perhaps at any time in the nation’s history, and serial killers joined druglords, molesters and Satanists in the popular demonology. In keeping with the political circumstances of the time, it was critical to stress not just outsiders’ harmfulness, but their special danger to children and women. In the Congressional hearings of these years (and the media reports that drew uncritically upon them) serial murder becomes purely a matter of male violence, to the extent that experts denied even the theoretical existence of women serial killers. Since serial killers supposedly preyed on the young, the chief vehicle for the serial murder mythology was the Senate Committee chaired by Arlen Specter on “juvenile justice” (US Senate 1982, 1984). People believed the serial murder idea because it fitted so exactly with so many other contemporary images about the nature of violence and social danger.

The Evil of Seriality

Once the serial murderer was invented—as he was, suddenly and completely—the concept developed its own momentum, since it possessed a kind of internal logic. As presented during the 1980s, the image of the serial killer involved sev-

eral critical elements, which more or less built upon each other.

i. Compulsive

The serial killer is compulsive, not only in the sense of killing repeatedly, but of being unable to prevent himself from committing further crimes. A similar inability characterizes the serial rapist or molester. Logically, therefore, crimes will recur *ad infinitum*, and a common theme in criminological writings is that the rate of offenses accelerates over time. This idea makes it easier to accept claims about the very high numbers of victims claimed by fantasists like Henry Lee Lucas.

Although it was freshly applied to the serial killer, the notion of “compulsive” violence has deep roots in American thought. For much of the twentieth century, a common demon figure in popular culture was the psychopath or sexual psychopath who wrought untold harm in response to internal mental conflicts. As imagined during the 1940s and 1950s, the main characteristic of the psychopath was his inability to stop, to desist from serial offending. The most famous illustration of this theory was William Heirens, arrested in 1946 for a number of sex crimes and murders. He left at one murder scene a note reading “For Heaven’s sake catch me before I kill more. I cannot control myself,” a phrase which entered the language, and which was subject to endless parody.

Perhaps the best-known medical authority on sexual psychopathy was Benjamin Karpman, whose classic definition stressed the idea of “compulsive and ir-

resistible” behavior. He wrote that the condition was characterized by “socially prohibited aggressiveness, by lack of regard for the unwilling participant; by being compulsive and irresistible in character; and by being committed under the influence of an exceptionally strong overwhelming urge, the tension of which is released by the particular behavior” (Karpman 1954, 490). This language was echoed in legislation and official inquiries into the “psychopath problem.” New Hampshire’s 1949 investigation declared that “The sexual psychopath is interested only in the immediate satisfaction of his instinctive drive, irrespective of the manner of attainment or of consequences. His action is usually directed toward the innocent and the unsuspecting or helpless members of the opposite sex” (Guttmacher 1951, 11-12). Though such ideas had fallen out of favor in psychiatric circles by the 1970s and 1980s, they were still widely accepted in popular thought, and were easily revived during the serial killer scare.

Helping to sustain the “compulsive” notion of deviancy from the mid-twentieth century onwards was the closely related idea of addiction. Its Latin root implies slavery, but the English word “addiction” means the inability to resist some kind of behavior. From the nineteenth century onwards, the word was chiefly applied to substance abuse, and in this context, it expanded its meaning substantially. As used by politicians and law enforcement agencies today, a drug “addict” often becomes synonymous with a user, or even with a person who has had only one or two contacts with the substance in question, and is not ad-

dicted by any medical criterion. As in the case of multiple homicide, “serial” deviant behavior is attributed to slavish compulsion, despite a good deal of evidence indicating that both types of offenders are well able to exercise restraint when they choose. The emphasis on drug addiction as a social problem through the 1970s and 1980s helped prepare the way for the new serial violence panic, which in turn erupted just as the Reagan administration was launching its notorious “War on Drugs.” Though the individual enemies to be confronted might be diverse—drugs, molestation, murder—all were united by the central theme of compulsion. Serial killers were, in a sense, addicted to murder.

ii. Obsession and Repetition

The core idea of seriality is repetition, and the inability to avoid repetition. By definition, serial killers repeat their acts, perhaps not exactly, but in essence. They kill and kill again, and have no power to stop. This is what makes serial killing so much more terrifying than mass murder. To some extent, we can understand how people might lose all restraint on a single occasion, might “snap” and destroy those around them; but serial killing requires much more consistent behavior.

The idea of uncontrollable repetition has proven deeply frightening to many cultures because it denies the ability to choose that is essential to free will, and thus to full human-ness. It is also a common feature of insanity and psychiatric disease, and “obsessive-compulsive disorder” has been recognized for centuries. The behavior appears in myth and legend, for instance in concepts of the pen-

alties of the damned. In Greek myth, Sisyphus was doomed to the eternal repetition of pushing a rock to the top of a mountain, only to have it roll down again day after day. As a folk motif too, we might think of the story of the Sorcerer’s Apprentice, featured in Goethe’s *Der Zauberlehrling* and Disney’s film *Fantasia*, in which an over-ambitious but unskilled magician mobilizes brooms and buckets to wash the house, but loses control, so that the household implements begin endlessly repeating their assigned tasks, until he is threatened with apocalyptic catastrophe.

Similar ideas about the evil of repetition recur in Christian traditions. Throughout Dante’s *Inferno*, sinners are condemned to suffer eternal repetition, often of the wrongs that brought them under judgment. Protestant Christians emphasize Jesus’ words “Use not vain repetitions,” which they take as a condemnation of the rote prayers supposedly used by Catholics, like the Hail Mary. Protestants traditionally claimed that vain repetition was a denial of the God-given reason, a subjection to slavish and futile self-discipline.

There are many modern secular treatments of the same idea. One of the most frightening of modern films is Stanley Kubrick’s *The Shining*, based on the book by Stephen King, in which Jack Torrance demands seclusion in order to write a novel. In a climactic scene, his wife plucks up the courage to see what Jack has been producing over the previous weeks, and she is terrified to find that he has filled many reams of paper with nothing more than the same banal phrase, typed countless thousands of

times: "All work and no play makes Jack a dull boy." The scene is so frightening because such futile repetition suggests a total abandonment of reason. Jack has let his mind become subject to automatic forces, abandoning any form of self-control. The discovery is all the worse because of Jack's self-delusion that he has been writing a major and important work, so the repetition has also been concealing his failure of rational thought. In *The Shining*, the discovery scene leads immediately to a ferocious outbreak of violence by Jack, who tries to massacre his family. Repetition is not only futile, "vain," it is in itself obsessive, sub- or anti-rational, and perhaps symptomatic of extreme violence.

iii. Rootless

Serial killers lack the restraints that save "normal" individuals from succumbing to compulsive repetition. Bureaucratic self-interest demanded that the FBI stress the wandering and rootless character of serial offenders, their tendency to stray between jurisdictions, but this idea also meshed well with other key features of the myth. Rootless killers lack any ties that could keep them in one place, any conventional sense of home or family. Their lives are defined by routes, not roots, and they thus symbolize the failure of traditional ideals of community in modern America (Hume 2000). As itinerant killers, their threat potential is vastly magnified because they can strike anywhere at any time. This is one type of danger that cannot be avoided by staying away from "bad areas." Itinerancy makes the serial killer a ubiquitous threat.

iv. Irrational

Serial killers cannot prevent their actions, and lack normal standards and restraints. Nor do they even respond to the same stimuli that drive conventional offenders.

The deliberations of the various Congressional committees of the 1980s are fascinating for their almost theological quest for precision, and their handling of marginal cases. For instance, could a woman be a serial killer if she seemed to match the definition in every regard? Probably not. Could a man enjoy this status, if he killed for financial motives, for instance as part of an insurance racket? What about a professional contract killer? Again, definitely not. A serial killer was not just a repeat killer; he was a man who killed for *no known motive*. The problem concerned "patterns of murders committed by one person in large numbers with no apparent rhyme, reason or motivation." The contract killer and insurance ring did not count because however perverse or sinister, these acts had rational and comprehensible motives. The essence of serial murder was that it was irrational, "motiveless" at least in the sense of lacking any motive that could be understood by the normal run of humans. As a television documentary stated at the height of the 1984 panic, the United States suffered "Four thousand a year—dead. Killed by total strangers. It's an epidemic of murder in America—murder with no motive" (Horvath 1984). The act denied, defied reason.

v. Lustful

Insofar as serial killers act for motives,

these are purely individual, pathological, and above all, sexual. Offenders are engaged in “lust-murder,” an eloquent phrase suggesting the overwhelming sexual urge that drives them to kill, to torture and mutilate. In fact, the term lust-murder and its variants, like “lust-killer” are based on a simple mistranslation of the German phrase *lustmörd*, murder for pleasure, or as it sometimes translated, “recreational homicide.” Nevertheless, the sexually oriented phrase “lust-murder” proved invaluable in offering an explanation of the otherwise inexplicable. Serial killers followed the compulsion of lust, and specifically male lust, which explains why no woman could ever be a true serial killer. The first publicly admitted exception was Florida multiple killer Aileen Wuornos, who was identified in 1991 as “America’s first female serial killer,” even though cases of such multiply homicidal women had been appearing in the American media for over a century. Perhaps helping explain why she was now admitted to the select club of newly reimagined serial killers, Wuornos was a publicly identified lesbian, who (according to the mythology) might be expected to succumb to distinctively male behavior patterns.

The “lustful” interpretation contributed mightily to the political implications of the new formulation of serial murder. If the offense was so closely identified with uncontrollable lust, this further linked this apparently new and heinous crime to the hedonism of the previous two decades, as the nation now agreed to subject itself to a new regimen of self-control, of social and sexual purity.

vi. Violent

By forfeiting the ability to choose, serial killers have abandoned their full humanity. This dehumanization, this reversion to a subhuman or bestial state, is confirmed by the extremely bloody nature of their crimes. Again, the Congressional investigations debated the modes of killing that characterized a true serial killer, and expressed skepticism that the genuine article might employ less obviously violent methods like poisoning. Once again, this tended to exclude the bulk of female candidates for the rank. The true serial killer was a bloody creature, who most often claimed victims with knives or cutting instruments, and inflicted extreme mutilations.

Monsters and Dark Dreams

According to the myth, then, serial killers are compulsive, irrational, rootless, driven by lust, obsessive, and ultra-violent. If we take these elements together, then serial offenders are so fundamentally different from “normal” people—even from most brutal criminals—that it is scarcely adequate to describe them as a new personality type. They seem instead to constitute a different and utterly aberrant race. It is scarcely surprising, then, that their acts so often involve behaviors that violate every known social taboo, especially the infliction of sexual violence upon the very young. Nor should we be surprised that accounts of serial murder have used this model to explain the legendary figures of the vampire and werewolf: those were just terms that an unscientific age used to describe the depredations of what we

today know to be serial killers.

Serial killers were monsters, animals, predators. This last word has an interesting and rather contorted history. During the 1980s, the word was used in a sexual sense in the literature of serial murder, both crime fiction and true crime, where it appeared in book titles and blurbs, alongside phrases implying primitivism, animal savagery, stalking and hunting. Particularly influential in this regard were popular crime writers like Andrew Vachss who regularly used the word in his novels and newspaper columns, often in the context of revealing pseudo-scientific language. In a typical passage, he argued that:

Chronic sexual predators have crossed an osmotic membrane. They can't step back to the other side—our side. And they don't want to. If we don't kill them or release them, we have but one choice. Call them monsters and isolate them.... I've spoken to many predators over the years. They always exhibit amazement that we do not hunt them. And that when we capture them, we eventually let them go. Our attitude is a deliberate interference with Darwinism—an endangerment of our species. (Vachss 1993)

The word “predator” is of course a metaphor. A predatory animal is one which survives by hunting and eating other animals, and only by analogy is this compared with the pursuit and sexual exploitation by humans of less powerful strangers. Since about 1990, though, it has entered serious debate as something like a technical term. In the early 1990s, the identification of serial sex offenders

with “predators” became so widely accepted that states began passing especially punitive laws against “sexual predators” or “sexually violent predators.” While no state has a law against monsters or werewolves, most now have laws that use the closely related term “predators.”

Serial offenders are also, explicitly, “monsters,” a word freely used in popular culture accounts of the phenomenon. Former FBI investigator Robert Ressler has written memoirs entitled *Whoever Fights Monsters* and *I Have Lived in the Monster*, and in 1993, CNN ran a major documentary on serial murder under the title *Monsters Like Us*. Some recent popular culture treatments have included titles like *Monstrum*, *Monster*, *Eye of the Beast*, and *Shadows of Evil* (James 1997; Jackson 1998; Adams et al. 1999; Smith 2001; Ressler and Schachtman 1992, 1997). Developing the notion of predatory wolves, the 1996 film *Freeway* overtly used the fairy tale “Little Red Riding Hood” as its plot framework, with its itinerant killer named “Bob Wolverton.” Equally folkloric in its structure is the whole sequence of Thomas Harris novels and films, in which the relationship between FBI agent Clarice Starling and serial killer Hannibal Lecter is roughly that of Beauty to the Beast (Warner 1994, 1999).

In these treatments, the word “monster” sometimes ceases to be a metaphor, as serial killers acquire supernatural and demonic traits. This is apparent in films like the *Nightmare on Elm Street* series, in which the demon killer materializes in dreams, or *Candyman*, where the homicidal ghost is summoned into the world

of the living through a mirror. Long-running franchises like *Halloween* and *Friday the Thirteenth* likewise exist on the assumption that the killer who dies at the end of each episode can be resurrected for the next installment. At the end of the first *Halloween* movie, it is the psychiatrist who explains that the killer Michael Myers was in fact the bogeyman. In the 1995 film *Seven*, the killer is a Mephistophelean figure whose violent deeds are shaped by the traditional concept of the Seven Deadly Sins. The young heroes of *The Blair Witch Project* (1999) seem to fall victim to an undead killer who survives through pagan and supernatural rituals.

Such predatory beings must be “hunted down,” and we read of investigators being engaged in “mind-hunting.” One leading exponent of this idea is former FBI agent, John Douglas, whose books include such potent titles as *Mind Hunter*, *Journey into Darkness* and *Obsession* (Douglas and Olshaker 1995, 1997, 1998). With few exceptions, “serial murder” books or films describe the tracking and capture or destruction of monsters on their home territory, in their lairs, as reason and courage triumph over chaos and evil. The conflict, this “journey into darkness,” fits naturally into a Freudian interpretation, with serial killers being portrayed in terms of the unchecked, lustful, and destructive qualities of the id, while the heroes who challenge and suppress them epitomize the controlled and rational forces of the superego. BSU “mind-hunter” Roy Hazelwood describes the sinister region that he explores as one of *Dark Dreams* (Michaud and Hazelwood 1998;

Hazelwood and Michaud 2001).

This Freudian analogy also makes sense in terms of the concept of seriality, which is so often viewed as a feature of childish behavior. Small children love ceaseless repetition, and frequently act in ways that in an adult would be regarded as obsessive and compulsive, patterns that normally fade with growing maturity. Especially in the Freudian tradition, seriality and repetition are signs of immaturity that require suppression. Detectives and mind-hunters perform this function by ending what would otherwise be an infinite sequence of crimes—by writing a conclusion to seriality.

The triumph of rationality and the discourse of science is at its clearest in the case of Thomas Harris’ “mind-hunters,” who perform tasks that fit well into the roles traditionally assigned to heroes and shamans. They are agents of justice and science, but they gain wisdom by venturing into the prison cells of multiple killers, the hostile domain dominated by the rival forces of irrational violence and savagery. They do this in order to gain critical knowledge that will permit them to comprehend and defeat the forces of chaos still at large. They confront seriality with rationality.

In Harris’ books and the related films, the boundaries between rationality and savagery are given literal form through the glass walls or metal cages used to restrain Hannibal Lecter, to prevent him attacking prison guards or hospital staff. In television news reports on serial murder, one of the most frequently employed visual images is the scene from *Silence of the Lambs* in which the caged Lecter talks

with Clarice Starling, the two being divided by the impenetrable glass wall. Even so, Clarice succeeds in forming a bond with Lecter, a link symbolized by the single physical contact of their hands. Conversely, the two guards who venture into Lecter's cell without the appropriate skill and preparation are killed and mutilated. Mind-hunters can cross the boundaries dividing the worlds of good and evil, of right and wrong. To quote the dustjacket of a book on the experts of the BSU: "They think like a serial killer. They know his habits and his twisted fantasies. They walk the edge between good and evil, sanity and insanity" (Jeffers 1992).

Yet the voyage into the land of monsters is fraught with dangers. In the familiar mythical model, detectives and mind-hunters undertake real personal risk by undertaking such interviews, in terms of physical violence, but more subtly in the contamination they might acquire from the values and characters of such alien beings. A strikingly common theme in serial murder fiction is that of the detective who somehow goes over to the enemy, who faces the temptation to become a serial killer him- or herself. In Harris' novel *Hannibal*, Clarice accepts her destiny by becoming Lecter's lover and partner, a betrayal of the principle of order that proved unacceptable for the 2001 film version. Such morally ambiguous depictions emphasize the extremely dangerous quality of the "enemy realm" inhabited by the killers, and the iron reality of the frontier dividing the two worlds. Though dressed in the language of behavioral science, the stories ultimately tell of a fear as ancient perhaps

as any in the shamanic tradition: that sometimes the shaman will not be able to return home. Both in its subject matter and its appeal, serial murder fiction is a deeply atavistic genre.

The Opposite of Serial Murder

The deeper we delve into it, the more the social ideology represented by the serial murder panic looks like a reversion to the most primeval instincts, ideas that would have required little explanation in the barbaric Europe of a thousand years ago. But these ancient ideas were so influential in the 1980s because they resonated precisely with social and political conflicts of the modern age.

To understand this appeal, we might ask a question that sounds like an impossible riddle, a word game: what is the opposite of serial murder? If in fact the crime just involved killing more than once, then the "opposite" might be not killing at all, but as we have seen, the concept of serial murder is far more ideologically complex than this. If we imagine the "opposite" of serial murder, then we can see the values and mores that are being held up for emulation, and which the serial killers are so conspicuously flouting, or actively inverting (Warner 1995). And these approved ideological patterns are deeply conservative and traditionalist, exactly in keeping with the reaction against the decadence attributed to the 1960s and 1970s.

According to the mythology, serial killers have certain prime characteristics or markers. Approved, regular citizens, therefore—those not subjected to the curse of seriality—have exactly opposite

features. If serial killers are compulsive and addictive, normal people exercise choice and free will. They reject and condemn substances and behaviors that can entrap them by leading them into slavish repetition. They are drug-free, and support the war on drugs. If they ever experimented with these substances, then they reformed, broke with abuse or addiction, perhaps through one of the twelve-step groups that became so immensely popular during these years: as a result, proper Americans are clean and sober. They exercise rational calculation; they exemplify *homo economicus*. They have roots; they value home, family and community. Crucially, they possess the control that serial killers so egregiously lack. They have self-control, and they acknowledge the need for control by the state and by other social institutions. If that control flags, they know what horrors wait to be unchained: the uncontrollable lusts, passions, and destructive urges that stand on the other side of the boundary. If control weakens again—as it did in the decade after 1965—then the serial killers offer fair warning of the fate that awaits us. The wolves are out there, waiting.

The opposite of serial murder, therefore, is control, in self and society. The more luridly and improbably we portray serial murder (or rape, or molestation), the more we are exalting the need for control, restraint, and authority. The package of ideas with which we are presented is hence deeply conservative. To put the contrast in terms of official national ideologies, the United States is indeed founded on life, liberty and the pursuit of happiness, but the conserva-

tism of the 1980s also extolled the ideas stated in Canada's founding document, namely "peace, order and good government."

A serial killer is a monster, a word that in its origins suggested not just something threatening, but also a figure that was a warning or sign, a *monstrum*. To take a cognate word, a "monstrance" in Catholic liturgy is a richly ornamented object in which the sacred Host is displayed, to be "shown" to the adoring faithful. A "monster" is just as much an object for display, though in this case, observers are meant to draw negative messages—that the times are evil, that we are suffering the wrath of supernatural forces, or (in secular terms) that something has gone very wrong with our society. A monster is a warning that we must set things right, and the exact nature of the monstrosity is a lesson in how we must rectify our behavior. We must be what the monster is not. If the monster exemplifies seriality, we must exercise choice and control, and respect those forces when they are imposed upon us.

Making Seriality

Public panic over serial homicide peaked between about 1983 and 1994, and since that date, scholars have paid less attention to the phenomenon itself and more to the culture that it has provoked, the question of why serial killing should be so endlessly interesting. This means above all studying the reactions of the mass media to this uniquely perverse culture of celebrity. For all the scholarly work devoted to this issue, some of the shrewdest comments are to be found in

Oliver Stone's 1994 film *Natural Born Killers*, in which serial murder becomes a symbol of moral pollution. For Stone, public fascination with his fictional pair of killers Micky and Mallory indicates the extent to which vulgar popular culture has saturated American life, at once shaping the deeds of the violent and perverted, while simultaneously preventing the masses from viewing these acts as anything other than entertainment. The vision of media irresponsibility produces some memorable images, like the crowd greeting the captured pair with placards reading "Murder me, Micky!," or the talking head shots of young aficionados comparing the current "superstars" with past demigods. Only Charles Manson, it seems, had anything approaching the same charisma, but Micky and Mallory are "way cooler."

In this context, we recall the claim made by investigator Robert Ressler who argued that he coined the term "serial murder" about 1976 on the analogy of the movie "serials" he had enjoyed as a child, dramatic stories of crime and pursuit. I believe his claim is incorrect, since the term does appear before his time, but his idea is fascinating because it explicitly locates the origin of the serial murder concept in popular culture. Scholars like Philip Simpson, Richard Tithecott, and Christopher Sharrett have shown how the concept of serial killing is formed by an elaborate process of interaction between the ostensibly "real" world of criminal justice and the "fictional" realm of popular culture (Jenkins 1994, 1998; Tithecott 1997; Sharrett 1999; Simpson 2000). Ideas and images travel freely between the two in a highly

postmodern way, so that some books and media accounts present Hannibal Lecter as an authentic criminal mastermind, who is listed alongside Bundy and Dahmer. The makers of *Natural Born Killers* were sued by the family of a murder victim, who felt that the fictional portrayal had directly incited the crime (Bischof 2001). It sometimes requires genuine mental effort to recall which are the "real-life" killers: Lecter or Dahmer, Micky and Mallory or Bianchi and Buono.

The irony of all this is that the popular construction of serial murder has involved some of the characteristics that I identified earlier as key building blocks of the mythology of seriality itself. As we see the constant creation and recycling of media accounts, the proliferation of texts and images, and above all the endless repetition of claims, it is difficult not to describe this process as compulsive, irresistible, obsessive, lacking any natural ending. It is stereotypically "serial" in its worst sense. And no matter how parlous the offenses described, they are always presented in terms of prurient sexuality, of the vulnerability of "lovely victims," "beautiful victims." Descriptions of serial murder, like the behavior itself, are primarily motivated by lust. Seriality, it seems, is the product of seriality.

Works Cited

- Adams, Terry, Mary Brooks-Mueller, Scott Shaw. 1999. *Eye of the Beast*. New York: St Martins.
- Bischof, Dan. 2001. Incitement lawsuit against Stone, 'Natural Born Killers' dismissed. *News Media and the Law* 25(2):22.
- Douglas, John E., and Mark Olshaker. 1995. *Mind Hunter*. New York: Pocket Books.
- Douglas, John E., and Mark Olshaker. 1997. *Journey into Darkness*. New York: Scribner.
- Douglas, John E., and Mark Olshaker. 1998. *Obsession*. New York: Scribner.
- Egger, Steven A. 1998. *The Killers Among Us*. Upper Saddle River, NJ: Prentice Hall.
- Fisher, Joseph C. 1997. *Killer Among Us*. Westport, CT: Praeger.
- Guttmacher, Manfred S. 1951. *Sex Offenses*. New York: Norton.
- Hazelwood, Roy, and Stephen G. Michaud. 2001. *Dark Dreams: Sexual Violence, Homicide, and the Criminal Mind*. New York: St Martins Press.
- Hickey, Eric W. 2001. *Serial Murderers and their Victims*. Belmont, CA: Wadsworth.
- Holmes, Ronald M., and Stephen T. Holmes, eds. 1998. *Contemporary Perspectives on Serial Murder*. Thousand Oaks, CA: Sage Publications.
- Horvath, Imre. 1984. *Murder: No Apparent Motive*. An HBO Presentation. New York: The Cinema Guild.
- Hume, Kathryn. 2000. *American Dream, American Nightmare: Fiction Since 1960*. Urbana, IL: University of Illinois Press.
- Jackson, Steve. 1998. *Monster*. New York: Kensington Publishing Corporation.
- James, Donald. 1997. *Monstrum*. London: Century.
- Jeffers, H. Paul. 1992. *Who Killed Precious?* New York: St Martin's Paperbacks.
- Jenkins, Philip. 1994. *Using Murder*. Hawthorne, NY: Aldine de Gruyter.
- Jenkins, Philip. 1998. *Moral Panic*. New Haven, CT: Yale University Press.
- Karpman, Benjamin. 1954. *The Sexual Offender and His Offenses*. New York: Julian.
- Michaud, Stephen G., and Roy Hazelwood. 1998. *The Evil That Men Do*. New York: St. Martin's Press.
- Porter, Bruce. 1983. Mind Hunters. *Psychology Today*, April.
- Ressler, Robert K., and Tom Shachtman. 1992. *Whoever Fights Monsters*. New York: St. Martin's Press.
- Ressler, Robert K., and Tom Shachtman. 1997. *I Have Lived in the Monster*. New York: St. Martin's Press.
- Sharrett, Christopher, ed. 1999. *Mythologies of Violence in Postmodern Media*. Detroit: Wayne State University Press.
- Simpson, Philip L. 2000. *Psycho Paths*. Carbondale: Southern Illinois University Press.
- Smith, Carlton. 2001. *Shadows of Evil*. New York: St Martins.

- Tithecott, Richard. 1997. *Of Men and Monsters*. Madison: University of Wisconsin Press.
- Toufexis, Anastasia. 1994. Dances with Werewolves. *Time*, April 4.
- US House of Representatives. 1996. *Serial Killers and Child Abductions: Hearing before the Subcommittee on Crime of the Committee on the Judiciary, House of Representatives, 104th Congress, 1st session, September 14, 1995*. Washington: US Government Printing Office.
- US Senate. 1982. Committee of the Judiciary. Subcommittee on Juvenile Justice. *Exploited and Missing Children: Hearings before the Subcommittee on Juvenile Justice of the Committee on the Judiciary, US Senate, 97th Congress, 2nd Session, on S. 1701 . . . April 1, 1982*. Washington: US Government Printing Office.
- US Senate. 1984. Committee of the Judiciary. Subcommittee on Juvenile Justice. *Serial Murders: Hearings before the Subcommittee on Juvenile Justice of the Committee on the Judiciary, US Senate, 98th Congress, 1st Session, on Patterns of Murders Committed by One Person in Large Numbers with No Apparent Rhyme, Reason or Motivation. July 12, 1983*. Washington: US Government Printing Office.
- Vachss, Andrew. 1993. Sex Predators Can't be Saved. *New York Times*, January 5.
- Warner, Marina. 1994. *From the Beast to the Blonde*. London: Chatto and Windus.
- Warner, Marina. 1995. *Six Myths of Our Time*. New York: Vintage Books.
- Warner, Marina. 1999. *No Go the Bogeyman*. New York: Farrar, Straus, and Giroux.

Covers, Copies, and “Colo[u]redness”¹ in Postwar Cape Town

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To copy [note] for [note], word for word, image for image, is to make the known world your own ... It is within an exuberant world of copies that we arrive at our experience of reality.

Hillel Schwartz 1996, 211-2

Despite their prodigious use of recordings in formulating perspectives on jazz history, historians have tended to avoid theorizing the actual status and function of these artifacts—the very artifacts that ... would seem to constitute primary evidence about jazz music.

Jed Rasula 1995, 134

There was a time when radio was pure magic...the magic [came] from entering a world of sound, and from using that sound to make your own vision, your own dream, your own world.

Susan Douglas 1999, 28

Just to sit in this dark place, and magic takes place on the wall. For a moment, we forgot apartheid, we forgot there was another world that wasn't good; we sat there, and were carried away by the dream of these American movies.

Actor John Kani to Peter Davis 1990, 23

On January 25, 1959, a short but rather glowing review appeared in *The Golden City Post*, one of South Africa's most popular newspapers targeted at a “non-white”² audience. It read:

There is no doubt about it, Beatrice Benjamin is the mostest, the greatest and the most appealing girl singer in the Cape, whispers Howard Lawrence. What she did to the audience at Post's show, “Just Jazz Meets the Ballet” was wow. I got it bad when she sang “I Got It Bad.” Everybody else got it bad too and they kept shouting for *more of that feeling*. Most promising singer for 1959. Agreed. [my emphasis]

Five decades later the performance of Duke Ellington's music in Cape Town, South Africa may not seem particularly noteworthy. In its historical moment, however, it was a remarkable achievement for a local singer of mixed race to move her interracial audience emotionally with a “foreign” repertory, i.e., a style of song performance far removed from the site of the music's original production. It begs the question of how jazz had become both a naturalized discourse in Cape Town and part of the individual

and collective experiences of so many who lived through that period of South African cultural and political history. For this Cape Town-born singer, “I Got It Bad and That Ain’t Good” has a certain aura. Sathima Bea Benjamin³ recalls that this Duke Ellington tune created an immediate and steadfast bond between herself and internationally acclaimed South African jazz pianist Abdullah Ibrahim (aka. Dollar Brand).⁴ Benjamin and Ibrahim were each working separately on the piece when they first met at the jazz fundraiser mentioned above. Unbeknownst to them in 1959, through an extraordinary sequence of events, they would come to meet and record with Duke Ellington and his musical partner, composer-performer Billy Strayhorn in Switzerland four years later. Benjamin and Ibrahim memorialized that encounter by performing “I Got It Bad” once again, but this time in the presence of its composer.

Two records came out of the 1963 encounter, one featuring Sathima Bea Benjamin (*A Morning in Paris*, 1997) and the other Dollar Brand, (*Duke Ellington Presents the Dollar Brand Trio*, 1963, reissued 1997). These records signified a climactic moment for South African jazz because while many South African musicians had performed the music of Duke Ellington and Billy Strayhorn in Johannesburg and Cape Town, few imagined they would ever have the opportunity to meet these musicians, or witness them performing live, let alone record in the presence of such internationally acclaimed artists. As the Cape Town jazz pianist Henry February commented to me, at that time for people in

his community, travel to America was like travel to the moon. “The only experience I ever had with Americans was through records.”⁵ Similarly, when South Africans began to travel in Europe in the 1960s and 1970s, they report that they rarely met anyone abroad who had any knowledge of South Africa’s vibrant jazz communities.⁶

In this paper, one of a series of meditations on postwar performance amongst people classified as “Colo[u]red,” I examine the media through which ordinary people like Sathima Bea Benjamin, Abdullah Ibrahim, and their peers learned American popular music and jazz performance in the port city of Cape Town. The materials derive from a long-term research project I have been conducting with Ms. Benjamin since the early 1990s. While much of that project is concerned with the auto/biographical details of her life and music, including a move into cultural and later political exile initially in Europe and ultimately in New York City, this paper takes a more generalized approach to musical practices in Cape Town, South Africa from the end of World War II to the early 1960s. Although the musicians I have interviewed were all somehow connected to Ms. Benjamin at the time, I have integrated additional primary sources, including discussion of archival film and newspaper material, to enhance and enlarge upon the ethnographic particularity.

Ms. Benjamin and her peers in 1940s and 1950s Cape Town initially honed their musical skills by taking cover in the imported sounds of American (and to some extent British) popular music and

big band jazz performance. These styles came to the port city through a range of personal contacts with visiting American sailors, occasional tours by English and American musicians,⁷ but more profoundly through the importation of Anglo-American entertainment media and technology, specifically radio programs and commercials, sound recordings, and Hollywood films. Without the opportunities for formal musical training, South Africans absorbed and listened closely to the recordings, copying and covering them live in local venues, creating what some in South Africa have called a culture of “carbon copies” of foreign music and musicians.⁸ Dovetailing with the experiences of a small group of men, who drew on their recent experience as wartime entertainers to train young musicians in the new repertory, many in Postwar South Africa had come to believe in European classical and American popular music as universal languages, languages that could be both understood and mastered.

Postwar South Africa must also be characterized as a period of growing anomaly. On the one hand, there were several “collaborative” musical projects between English-speaking liberal whites, people of mixed race, and African descent. These included production of the films *The Magic Garden* (1951) and *Jim Comes to Joburg/ African Jim* (1949), *Song of Africa* (1951), *Zonk!* (1950) (see Davis 1996), the continued (state) support of the Eoan Opera Company⁹ for “Colo[u]red” youth in Cape Town, and the organization of traveling performance troupes like *The Arthur Klugman Show* (or *Coloured Jazz and Variety*), *African Jazz and*

Variety (changed to *African Follies*), *Township Jazz*, *Golden City Dixies*, and *King Kong: An African Musical Opera*. Even though they were heavily loaded towards white direction of “non-White” talent and there was, for example, little “African” in *African Jazz and Variety* other than black bodies performing, such initiatives surely signaled a measure of hope in some for racial or at least cultural integration in the future. For many who participated in their performances, they also held the promise (though usually not the realization) of international travel, particularly to England and Europe. On the other hand, for those of African and mixed racial descent like Abdullah Ibrahim and Sathima Bea Benjamin, it was an era of increasing state surveillance and exclusion in which the scaffolding of apartheid was legislated if not yet fully enforced by the Afrikaner Nationalist government. The political climate changed dramatically with the Sharpeville Massacre in March 1960 in which the National Security forces opened fire on black protesters, killing several.

In other words, in contrast to this period in the USA, which may have started out completely segregated but was slowly transformed, at least legally, through the Civil Rights Movement, by the early 1960s the outcome in South Africa was legalized apartheid enforced with draconian measures. “Colo[u]red” and other forms of African¹⁰ racial classification became increasingly problematic especially in urban areas like Cape Town and Johannesburg. The ideas and sounds of middle class respectability expressed in “Colo[u]red” dance bands

and those of political liberation suggested in the racially mixed or ideologically non-racial membership of the small but progressive jazz avant garde contrasted with the expanding force of state control and the repression of individual and collective expression. For some the response was to engage politically, to become more outspoken; some withdrew in fear; yet others used jazz performance to articulate ideals of political and cultural freedom and racial integration.

The first part of this paper situates so-called “Colo[u]red” racial classification in the postwar era from the perspective of the musicians I have interviewed. This narrative of the complexity of “Colo[u]red” identity in Cape Town in this period suggests why at least some people in that community opened themselves up to the possibilities of new and “modern” musical sounds and practices not historically germane to the region or regarded as articulations of “South Africanness.” The second part is largely ethnographic with a focus on the participation of Ms. Benjamin and her peers in a Cape Town culture of “carbon copies” and covers from the 1940s through the 1960s. This narrative, or series of narratives, is about the transplantation of foreign mediated performance onto local culture. It tells of the translation of “American” music into a form of performance that was more culturally coherent, and one that occurred largely through live reenactments. In other words, this is a history in which objects more than people bring the sounds of jazz and popular music to communities far from the sites of first/original performance. People posturing as “Cape

Town’s own” Frank Sinatra, Doris Day, or Bing Crosby brought these traditions to life. “Enlivening” distant voices on stage by using local singers and instrumentalists was a common practice for white musicians in the South African record industry i.e., studios produced foreign music under license using the voices of locally known performers.¹¹

In the third part, I reflect on the metacultural practice of creating “carbon copies” of recordings of foreign musical performances in postwar Cape Town by people labeled “Colo[u]red.” While the “culture of the copy” is not peculiar to the twentieth century or to South Africans in Cape Town (cf. Schwartz 1996), it assumes particular characteristics in the postwar period depending first on the ways in which originals were heard through different media—film, radio, and sound recordings—and then repeated or re-presented in the Cape; second, on how fertile the musician’s imagination was in determining his/her capacity to take on and reshape the social and musical self through copying the voices, gestures, and clothing of the objectified performances of “American” others; and third, how mediated originals were copied (transcribed/memorized, or performed) by local musicians. In this context, Cape copies sustained two broad kinds of performances: exact copies of foreign models with/without some improvisation or “ad libbing,” and the more intellectual and politically progressive world of the Cape jazz avant garde that strove for creative, original expressions in a non-racial social milieu. It was the latter performance that troubled the Afrikaner Nationalist gov-

ernment because it countered ideologies of racial purity and separate cultural development.

“Cape Colo[u]red” as Racial Classification

It would be a grave error not to provide some understanding of the deeply embedded sense of place that Cape Town’s residents, regardless of racial category, historically attributed to that city. Cape Town is a place of exquisite beauty. Its physical landscape, with Table Mountain in the center, and the Indian and Atlantic oceans surrounding it, has long provided for its residents a specific sense of locality. This was true for people of African and mixed racial heritage until about 1950. Within the space of about twelve years, 1950-1962, the “Mother City” changed from one which evoked a profound sense of place, home, and community belonging, to a space of exclusion, fragmentation, boundary marking, and inevitable transgression. It was certainly true for Ms. Benjamin and all the others who participated in Cape Town’s avant-garde jazz community. These changes were inflicted on those labeled “Cape Colo[u]reds” by a series of laws made by the Afrikaner Nationalist government in the early 1950s for the country at large. They had a particular kind of impact in Cape Town because this legislation intentionally sought to keep people categorized as “Colo[u]red” out of white space. State enforcement of these laws played a critical role in the transformation and often destruction of these communities, and of jazz performance itself.

To talk about “Colo[u]redness” in Cape Town is therefore extremely prob-

lematic. This complexity was poignantly exemplified, for example, in the results of the first democratic elections in South Africa in 1994 when to the surprise of many, the majority of people categorized as “Colo[u]red” voted the Afrikaner Nationalists back into power in the Western Cape, defeating the bid of the more politically progressive African National Congress. “Colo[u]red” is thus a label fraught with ambiguity because, like the notion of *metissage* elsewhere,¹² to be labeled “Colo[u]red” in South Africa has never translated into a positive form of identification. Though the label itself gained currency in the early 19th century in Cape Town the “Colo[u]red” label was ascribed to those who were originally slaves but who had sexual relations with Europeans in a period of greater freedom in interracial social relationships (February 1983). It is worth noting in this context that slavery in the Cape was not limited to people of African descent because many slaves were imported to Cape Town from places along the 17th and 18th century Dutch trade routes: Malaysia, Indonesia, Madagascar, Ceylon, and Bengal (Western 1996, 12-13). Unlike some of those of African descent in the US, many “Cape Colo[u]red” people had largely participated in European- rather than African-derived cultural practices.¹³ Under the apartheid government, however, all people of mixed racial heritage or married to someone who was mixed, were legally required to identify themselves as “Colo[u]red” regardless of their cultural orientation. In other words, the category of “Colo[u]red” became an ideological and political rather than a “natural” or cultural one.

Early twentieth century Cape Town has been described by Ms. Benjamin as a period of “relaxed apartheid,” when people of color mixed with those of European descent though always in quite controlled frames. Social restraint not only characterized social convention for “Colo[u]red” people once the Afrikaner Nationalists came to power in 1948; it had also been an effective strategy under British governance prior to that. For example, it was under the British that “Cape Colo[u]reds” were removed from the Common Voters’ Roll in 1936. Sathima recalls that two social principles were inculcated into her as a child of mixed race in that period: (a) know your place and (b) do not look for trouble. Culturally, the social rules were transferred into “Colo[u]red” dance band performance in which adventurous musicians were held to a stringent set of rules about permissible “deviations” from performance conventions. Jazz musicians like Henry February and Abdullah Ibrahim have provided humorous accounts of their attempts to improvise over set tunes and fixed rhythms in the dance band contexts (see further Layne 1995 for discussion of these two styles of performance).

Without the right to vote equally with whites, the Afrikaner Nationalist government proceeded to separate “Cape Colo[u]reds” socially from Europeans (the label for “Whites”) through a series of legislative acts starting in 1950. This was their strategy of “nation”-building: of forging a “nation” of European peoples at the center with all “others” geographically, economically, and politically marginal. The 1950 Population Reg-

istration Act (amended in 1966) created legal definitions for racial groups, defining “Colo[u]reds” as persons not native or European, or persons married to a man or woman *classified* as “Colo[u]red” (Western 1996, 9). The Immorality Act (passed in 1927 and amended in 1950 to include a ban on interracial marriages) made all sexual relationships across what was called the color bar illegal. The Group Areas Act (1950) required racial groups to live in specific areas, seeking to separate out the “Colo[u]reds” from “Europeans” to preclude any further racial mixing in Cape Town specifically (though it had wider ramifications in the rest of the country as well). The Separate Amenities Act (1950) forced racial segregation in all public venues.¹⁴ So the naming of “Colo[u]reds” legally became a means to divide, rule, and marginalize rather than to unite and empower.

The racial category “Colo[u]red” is therefore a label of ethnicity that has never represented any kind of homogeneous group in South Africa, except in the eyes of the apartheid regime. I have specifically chosen not to use the word “identity” in the Cape Town context because few of those classified as “Colo[u]red” identify with the category. Some reluctantly accept it publicly but privately resent its application to them. Some have rejected it entirely. A few have sought to “pass” for white. Many never use the word “Colo[u]red” without the preface “so-called,” because this kind of racial categorization underpinned the apartheid government’s policy of racial purity, the denial of European participation in biological miscegenation, and exclusion of people labeled “Colo[u]red”

from the larger nation-building project of the Afrikaner Nationalists. “Colo[u]red” intellectuals, some of whom were also members of the South African Teachers’ League, completely rejected social identification through racial categories, projecting instead ideals of a non-racial democracy (February 1983). In this instance, people prefer to be identified individually, and in terms of categories other than race. Some use the label “Colo[u]red” to assert their difference from people of African descent. Others preferred to be identified as African.¹⁵ More recently “Colo[u]red” identification has also been re-appropriated by some for political and economic mobilization and gain.

Sathima Bea Benjamin’s own family heritage adds a new twist to the question of being labeled “Cape Colo[u]red” because they were never “Cape Colo[u]reds” in the historical sense of the term. Half her family¹⁶ hailed from the remote Atlantic Ocean Island of St. Helena ruled by the British. Sathima’s father, Edward Benjamin’s family, had immigrated to Cape Town from St. Helena in the late 19th century when his older sister, also named Beattie, was a young girl. The Benjamin family arrived on boats in the Cape Town harbor and settled with other St. Helenians. This group of immigrants lived in three places in the city: District Six before its destruction, the Rondebosch-Claremont suburbs (on the “Colo[u]red” side of the railroad tracks), where Sathima spent her early childhood, and Athlone, a more settled “Colo[u]red” area where she lived in her late teens and early twenties with her mother.¹⁷ Many St. Helenians of

Sathima’s father’s generation kept themselves apart from others of mixed race who were called “Cape Colo[u]red.” Unlike some “Cape Colo[u]reds” who spoke Afrikaans, who were part of the working class or variably employed, and who danced to Afrikaans-derived live band music (called “langarm,” the “long-arm” style of the tango) on weekends, St. Helenians aspired to participation in a milieu of English language middle class cosmopolitanism and “respectability.”¹⁸ Some never took South African citizenship but remained British subjects, engaging exclusively with the English-speaking world. Certainly, most St. Helenians in South Africa were proud that, prior to 1948, their birth certificates stated, of “mixed St. Helenian” rather than “Cape Colo[u]red” descent. On weekends, this community gathered the extended family to play cards and sing around the piano. Most were church-going Christians. This would change with the next generation, which sought to assimilate more into South African society, but they were forced to identify themselves as “Cape Colo[u]red” from the late 1940s.

In addition to policies of exclusion from South African citizenship and nationhood, instituted by the Nationalist government from the early 1950s, “culture” was used to demarcate differences on the basis of race and class. The European classical tradition signaled good taste and middle class membership for the “Colo[u]red” (and African) elite. Nationally it was the standard by which musical talent and excellence were evaluated. The distaste for jazz amongst the “Colo[u]red” elite is expressed as follows:

When the child has been allowed to cultivate a soul we shall find a new illumination in the remaining cultural subjects, for he will be able to respond to the works of great masters of creative spirits [i.e., European masters], music will not need to be rendered to jazz nor the sensuous, and literature to vulgarity, before he can find genuine pleasure in them.¹⁹

Most of the musicians I have interviewed who were situated on the proverbial fence between working class and an emergent professional membership of the middle class had little music education. Sathima went for some piano and theory lessons, as did Henry February and Jimmy Adams. Even if you could afford the tuition, training in European classical music and syncopation were the only two styles available, so it was more common for “Colo[u]red” musicians to be self-taught. Big band arranger Jimmy Adams recalls borrowing tuition books from his teacher. On the back of one of these manuals he found there was the “United States School of Music” in Washington D.C. that offered training through correspondence. By combining superior aural skills with a close listening to borrowed recordings, Adams taught himself jazz harmony and arrangement from the books he ordered from America.²⁰

Contrasting with the peculiarities of local experiences, it would seem from the films shown in Cape Town cinemas and sound recordings sold in the city’s stores that jazz, particularly as dance band accompaniment but also as avant-garde artistic performance, were the sites through which people of color were negotiating a fair and respectable place for

themselves in the United States in the 1940s and 50s. The increased availability of sound recordings and films in the postwar period added to the more usual sheet music, enabling individuals to learn the repertory by listening rather than reading the score, which corresponded more closely with the particular skills available to most in this community at the time. In this section, I shift focus to Sathima, or Bea Benjamin as she was known in Cape Town, and her musical peers’ responses to foreign sounds in their home environment in these years. I shall discuss three mediated sources: radio, sound recordings, and film, and round off the ethnographic materials with selected examples of “enlivened” repetitions and representations of this music in Cape Town through the early 1960s.

Radio

When I asked veteran Cape musicians, Jimmy Adams and Harold Jephtah, where they first heard American music, they replied, “It was in the air.” Jimmy qualified, “In the air, on the radio.”²¹ Initially there was only the English language station, then an Afrikaans language and culture station was developed, and a third, called the Klipheuvel Station, aired for several years and then shut down. In 1950 the first semi-commercial radio station, Springbok Radio, was made available through state controlled broadcasting. Henry February explained that his move from English style syncopation to American jazz on piano occurred after he heard the Benny Goodman Trio with pianist Teddy Wilson on radio. The piano playing “hit

[him] like a thunderbolt.” In response, February who had had some piano lessons, purchased books that taught the Teddy Wilson style. Later he heard the music of Nat King Cole. He taught himself how to play in the Cole style, and in the 1950s called his jazz ensemble the Nat King Cole Trio.²²

Born a few years after Adams, Sathima recalls that as a young girl she absorbed American popular music and jazz through listening to her grandmother’s radio, which played daily in their home. From the age of about ten she used to keep a pen and notebook hidden in her grandmother’s wind-up gramophone. The notebook was hidden because her grandmother did not think the young girl should be wasting her time writing down the words in order to perform them on stage, at intermission in the cinema, and later in clubs and at jazz gatherings. To hear the musical sounds as background music was safe; to memorize the words, to transform them into your own texts, was troublesome because the public nature of dance band and stage performance was not considered appropriate for respectable young girls, especially not those from the St. Helenian community. Nevertheless, because she could not afford to buy the sheet music, sound recordings, or fake-books, Bea Benjamin painstakingly copied the words of tunes as they were broadcast repeatedly through the week. Once she heard a song at the movies or on the radio, she would take ownership of its melody by repeated listening. Through this medium young Bea listened to English and American popular music and big band jazz per-

formed by artists like Duke Ellington, Nat King Cole, Ella Fitzgerald, Doris Day, Joni James, Frank Sinatra, Billie Holiday, and many others.²³

Film

While the radio broadcasts were an integral aspect of the everyday chores in Bea Benjamin’s childhood, the cinema proved to be the social space that brought the most complete package of the magic of faraway people and places close to home. In contrast, Jimmy Adams rarely visited the “bioscope” (movie theater),²⁴ and Henry February does not consider the movie fare influential on his development as a jazz pianist—the audiences were looking for images, not good artistic sounds.²⁵ Harold Jephtah, however, recalls attending the theater two or three times a week in his youth.²⁶ As diverse as the acts in the live variety shows that preceded film screening in theaters, a night at the local movie theater included two full-length feature films (usually “Wild Westerns,” action, or monster films), a serial, the news, and a cartoon. Jephtah’s favorite serial was “Terry and the Pirates,” but the monster movies were his passion. It is to his avid viewing of those movies that Jephtah attributes his desire to learn the European orchestral repertory²⁷—prompting Jephtah to train as a classical clarinetist and bassoon player in Sweden in the early 1960s.

In the 1940s, when the young Ms. Benjamin and her friends began viewing American movies, the theater offered more than mere consumption of audiovisual images. For these young Cape teenagers and aspiring performers, Hol-

lywood films provided clearer models of popular performance, largely by people of European descent. There were, nonetheless, one or two films that stand out in South African film history because they starred people of color. *Cabin in the Sky*, starring Lena Horne as singer and Duke Ellington as band leader, and *Stormy Weather*, featuring a range of African American jazz performers and variety entertainers, were two of the most popular movies shown to “non-white” audiences in South Africa in the mid-1940s.²⁸ These two films were the cinematic models for the handful of local productions, live and filmed, of the 1940s and 1950s in which largely black South African performers in Johannesburg starred. There were other films in which performers like Billie Holiday, Cab Calloway, and the Ink Spots appeared (Davis 1996). Furthermore, in the increasingly repressive public environment, the “bioscope” theater was the only space that allowed a measure of freedom in social (and romantic) interaction between young “Cape Colo[u]reds” in Cape Town in the 1940s and 1950s. There were no other contexts in which, for example, “Colo[u]red” girls were permitted to appear publicly without their parents. With its mix of reality and fictional material, the program at the theater, much like television in the United States and Britain in the same period, kept the community in touch with the outside world. The darkness of the cinema allowed audiences to sit back, open their eyes to an otherwise inaccessible world of glamor and enchantment, or to keep them closed and to dream.

South African historians Nasson

(1989) and Jeppie (1990) both argue that “going to the movies” was a ritualized, often boisterous, communal activity in Cape Town’s “dream palaces” in the mid-1940s through to the late 1950s. Nasson explains:

The local “bioscope” occupied a very special niche in the recreational life of the community, a place to which both adults and children went in order to be cocooned in the dream world of the flickering screen. Attendance was regular and habitual, as films continually widened their audience appeal and imaginative power to transport people out of themselves, and the humdrum confines of their work and domestic lives at least once a week...While [cinemas] tended to be fairly small and unpretentious in appearance, their names—the Star, the West End, the Empire, the British Bioscope—dripped with the promise of glamour or old imperial splendor. (Nasson 1989, 286-7)

Shamiel Jeppie summarizes the experiences as follows:

Sitting in often-crowded cinemas and on hard benches was a common experience for many of these cinema-goers. From these packed seats audiences would frequently audibly engage with the film; as one letter to a local newspaper put it:

I refer mostly to the talking aloud and passing comments on the players, besides reading aloud subtitles ... and the sympathy and advise [sic] given out to players by some persons. Some ladies again, bring their babies to the show in the evening.²⁹

Amorous couples, and sporadic fights in the plebeian cinemas added to the texture of the Cape Town bioscope. Moreover there were the scenes of the audience bringing their snacks with them—from smelly fish and chips to milk chocolates. (Jeppie 1990, 120)

Hollywood films with mostly white actors and stars provided the bulk of the entertainment for these largely working class communities: westerns, thrillers, and horror movies were the favorites for men and boys, while women preferred the musicals and “weepies” as they were called (Nasson 1989). It was the bioscope that promised the fantasy and magical sounds that so many “Colo[u]red” people aspired to copy. Sathima recalls that every Saturday for seven or eight years, she would make the trip to the weekly *matinée* to get her “big dollop of American culture.”³⁰

Retrospectively, Sathima Bea Benjamin suggests there were three levels on which American and British films shaped her individually and musically. She identified with child stars of the movies, and recalls that her aunt even braided her hair in the style of girl stars of the period. Film culture inculcated a particular notion of romance and romantic love, that even if she was never to really find it in daily relationships, she could express desire for in song. For the young Benjamin, the emotional force of romantic love she witnessed in the realistic images of the cinema was enhanced by the rich sounds of film melodies.³¹ Many of these old tunes remain archived in Sathima’s memory, and are an integral to her current performance reper-

tory. She reinvents these “straight” melodies with a jazz sensibility that enables her to reflect temporal displacement and imaginative play as musical attributes.

Sound Recordings

Though Bea Benjamin could not afford to buy 78 discs of her favorite performers, three of her jazz colleagues tell wonderful stories of the impact of film and sound recordings on local culture. Jimmy Adams recalled the influence of sound recordings on black South African musicians from a trip he made to Johannesburg with Sathima, after the sponsor of the their show, Arthur Klugman, abandoned the performers while on a tour of Southern Africa in the late 1950s. Adams and Benjamin ventured into the Bantu Men’s Social Center, a mission initiated community center that sponsored musical training and performances of jazz and classical music by African musicians in this period. Distributed around the walls of one of the rooms at the center were “holes in the wall with phonograph players inside. Musicians were sitting in front of the holes, listening to the records and copying the sounds.”³²

Jazz musician and community librarian, Vincent Kolbe, explained that in his youth musicians did not just play exact renditions of the music they heard in the cinema or on these discs. They also drew on the images on record covers to construct hair and clothing styles.

If you were “Cape Town’s Dizzy Gillespie,” you took the album cover of Gillespie to the barber and had the appropriate haircut, and then you

went to the tailor who would cut you an outfit that duplicated what you could see on the album cover.³³

During the mid-1950s Kolbe worked at the public library in Kew Town, where Sathima was living with her mother. The community was largely a generation of “Colo[u]red” men who had participated in World War II, and their children were aspiring artists, teachers, and musicians. At Kolbe’s initiative, this group of “bohemian” artists listened to recordings of jazz and discussed African American literature that emerged out of experiences of segregation in the United States. Harold Jephthah, one of Cape Town’s best-known Charlie Parker soloists in the late 1950s, recalls that he would use whatever means necessary to buy the latest 78 record of his favorite musicians. “I lived in the record shop!” laughed Jephthah. He remembers as a young boy telling his mother that he had a toothache. She provided money for a visit to the dentist. Scheming Harry proceeded directly to the record store and returned home with a Coleman Hawkins record.³⁴

In contrast to Kolbe and Jephthah, Jimmy Adams refused to buy any recordings. He feared that if he owned the records he would listen to them too closely, and lose a sense of his own sound and musical identity. This did not stop him, however, from regularly borrowing the recordings purchased by Jephthah in order to shape his sense of the American jazz available in Cape Town. Anxiety about a loss of individual voice is exemplified in the following anecdote. Adams tells of having once borrowed a Lee Konitz recording of “All the Things You

Are.” After listening very carefully, he transcribed the music he heard, exactly. When he gave the arrangements to the musicians in his band, they told him the music sounded like Lee Konitz. In desperation, Adams responded, “But when are you going to hear Jimmy Adams?”³⁵

In her late teens and early twenties it was through the record collections of the local library and that of Swiss entrepreneur and friend Paul Meyer that Bea Benjamin listened closely to the world of American blues and jazz in the late 1950s, though the cost of hearing was high. Meyer lived in the elite, politically liberal coastal suburb of Camps Bay in which Ms. Benjamin, now classified as “Cape Colo[u]red,” was only allowed to stay if she had a permit to work as a housemaid. To her family’s chagrin, Meyer would take the young woman on the back of his motorcycle from Athlone, where Bea was living with her mother, to Camps Bay to hear his records. Both feared being arrested for breaking laws pertaining to racial segregation, like the Group Areas Act. But, Sathima recalls, she was so desperate to hear this music that she was willing to take the risk. Several years after she began singing in public, it was Billie Holiday’s voice, heard on record in the backyard of one of Cape Town’s most elite neighborhoods, that made this young woman realize her own sound held a place in the world of jazz.

From Hearing to Performing

From the 1940s through 1960s, young South Africans heard and performed live music in Cape Town in several interrelated contexts. These included perfor-

mance at home, singing in the church and at school, live music on the streets, live and mediated musical performances in Bob³⁶ parties and the cinema/“bioscope,” and the live dance band sounds of teenage Bop clubs. In this Cape Town realm of popular culture, a song first heard in a movie on a Saturday afternoon, for example, was reinforced through repeated hearing in the following week. It could be heard over the air, on record, and performed live in a cover version by local dance bands or in subsequent talent contests held at the cinema or at fundraising events organized in various churches and community halls. This community of aspiring musicians thus absorbed the sounds and images of the imported, largely American-mediated culture through what seemed to be a completely natural process of total immersion, of secondary orality, and then reproduced these performances as an integral part of local culture in the Cape.

Cape Town’s “Colo[u]red” movie audiences supported a longstanding tradition of live and mediated experience inside the walls of the theater. Audience members recall singing along with popular songs that accompanied “Tom and Jerry” cartoons, for example. At the time the words and music would appear on the screen, encouraging collective participation (Nasson 1989). “Just a Song at Twilight,” a tune Ms. Benjamin vividly remembers from her childhood, was one of these songs. Many local theaters also staged elaborate live variety acts and hosted talent competitions between movies. Sathima recalls those events as ones in which one could watch the

“originals” in their cinematic representation, and then have live versions of the models impersonated on stage at intermission.

Cape Tonians are very good at imitating. Excellent. We always had the Cape Town Jerry Lewis, the Cape Town Bing Crosby. I think for a while I was either Doris Day or Joni James, before I went into the other thing [i.e., jazz].³⁷

Bea Benjamin first appeared in public as a singer when she was about eleven years old. She entered a Talent Contest held one Saturday afternoon at intermission and won. The prize: 8 free tickets to return her to the movies time and again. In this more popular period of her life, Sathima sang the songs of white singers Doris Day, Joni James, and others: “Mr. Wonderful” and “Somewhere over the Rainbow” were her two signature tunes. Despite singing a cover version of the song, however, Bea’s close friend Ruth Fife recalls that when she heard her at that first talent contest it was clear that even if she was using the words and melodies of others, Bea Benjamin already had her own distinctive style, a characteristic signaling the move towards jazz performance early on in her life.³⁸

The musical content of the films provided models of performance in two other places: first, local bandleaders “borrowed” movie melodies for Saturday night dance band performances; and second, they were used for amateur performances at local hotels. In the first instance, Bea’s friend Vincent Kolbe recalls that he and a friend would be given money by one of the local bandleaders

to go and repeatedly watch the newest movie arrivals as soon as they came to the local bioscope. They were instructed to memorize the words and melodies of a song sung, for example, by Nat King Cole. Once they knew the song they would give the information to the bandleader. The next Saturday night, Cole's latest melody would be played live at social dances for the "Colo[u]red" community.³⁹ In the dance band context, the tunes were played "straight" to sustain regular rhythms required of ballroom dance. It was through these live renditions of dance band performances by musicians known in your neighborhood, rather than through the impersonal objects of sound recordings, that the majority of Cape Town's "Colo[u]red" community remembers hearing the "sounds of Hollywood."

Film melodies were also heard in local hotels and at fundraising events. Sathima's mother was a self-taught ragtime pianist.⁴⁰ On occasion Sathima, her mother, and her sister Joan would go to a nearby hotel where there was always a piano and a place to sing. While Eva Green could only play in the keys of C, F, and G, she knew the melodies of old songs like "Up the Lazy River," "Chicago," "Come Back To Sorrento," and "Sweet Mystery of Life." Ms. Green rarely accompanied Sathima but she would willingly work with some of the local talent. There was one man, Joey Gabriels, who sang "Come Back to Sorrento" (Gabriels changed his name to Giuseppe Gabriello when he left South Africa to study opera in Italy).⁴¹ Sathima described a typical performance by the young man at a talent contest:

When the emcees would announce Joey Gabriels, they had their way, the emcees, he would come on and they would announce, he was Cape Town's Mario Lanza or Caruso or whatever, and he would walk. OK, we would all be back stage and just walk on the stage and go to the microphone (which probably wasn't working or working and making squeaks)...and there comes Joey Gabriels. He would not come from backstage. When they announced him, he came from the back of the cinema. You know, with a big chest and everything, just so pompous and full of conceit.

This was all part of the act. He'd get to the stage and walk to the middle and he would take the microphone stand and walk over to the side and put the stand down there, like I don't need this. And he'd just stand there, a gorgeous tenor, you know. It was always the same thing; people always wanted the same thing. He would just get these ovations; he was so flamboyant.⁴²

Sathima's recollections are remarkably vivid for the forty-year time gap between original performance and its remembering. They are remarkable because through her words readers of the text can almost imagine the stage persona of Mr. Gabriels. It echoes the image one creates in the mind's eye of a similarly self-possessed Caruso or Mario Lanza. For Joey Gabriel's audiences, it was the power of his voice and the air of self-confidence he exuded on stage that called for repeat performances. It was his capacity to refashion the self in performance, but, in the eyes of his audiences,

to do it better than the movie stars. His flagrant disregard for the crutch of the voice, the technology of amplification, signaled to his audiences an improvement on the original because Cape Town’s very own Joey Gabriels had no need for the mic: the unmediated strength of his voice was sufficient. In each reenactment Joey Gabriels’s performances served to articulate membership, for the young man and his audiences in Cape Town, in a larger tradition of popular song in which they were now inextricably entwined.

Standing ovations were rather unusual amongst Cape Town’s “Colo[u]red” audiences. Sathima recalls that the community that came to hear you sing was your harshest critic. Little attention was paid to these sites of popular performance by the largely white dominated media. Rather the real critics were those of your own community. It was only when “Colo[u]red” singers and instrumentalists played in white or mixed venues (such as the venue cited at the top of the paper) that anyone in the press paid attention. Instead, community audiences provided instant feedback. If a performer was not able to measure up to their standards he or she would be booed off the stage immediately. For those deemed of adequate standard, however, the audiences were warm, alive, and supportive. They had clear aural and visual templates of the sounds and sights they desired from other live renditions and recorded versions, and performers were expected to meet them.

Expanding Political Consciousness

In the late 1950s participation in this vibrant musical community began to be accompanied by individual reading amongst a few of the more intellectually oriented musicians and artists. For example, Sathima remembers that while she was still teaching school, she would spend her evenings in the local library where her friend and jazz performer Vincent Kolbe was librarian. She read about “Negro”/colored experience and listened to jazz recordings as part of a Jazz Appreciation Club. Kolbe recalled that the library was the hub of social and artistic activity—he described the community as “bohemian,” with several sensitive, artistic but politically conscious schoolteachers in its midst.⁴³ It was at this library that Sathima and others began to really listen to African Americans playing jazz, and to read the writings of African Americans in the United States. Kolbe provided her with books by Richard Wright, Langston Hughes, W.E.B. du Bois, and others. She found the autobiography of Billie Holiday, *Lady Sings The Blues: The Searing Autobiography of an American Musical Legend* (1956), before the book was banned in South Africa.

As a woman now classified as “Colo[u]red” it is clear that Sathima read the texts in particular ways. First, she recalls that in these books authors like W.E.B. du Bois and Richard Wright would use the racial categories of “Negro” and “colored” interchangeably. With black South Africans and “Colo[u]reds” all lumped into the category of “non-European” this was not unusual for South African readers. What was peculiar however was the way in

which Sathima recalls identifying with the word “colored” though she did not necessarily sense a connection with the word “Negro.” It does seem that, prior to the Afrikaner Nationalist Population Registration Act (1950) in which “Colo[u]red” became a separate racial category, there was a similar kind of ambiguity in the minds of people of mixed race in South Africa. This is demonstrated in a newspaper article published in Cape Town in 1936 about the visit of Paul Robeson’s wife to the city. Reporting on Ms. Robeson’s speech to a “non-white” audience it reads:

“Too often,” said Mrs. Robeson, “we have that inferiority complex, and although gifted in many ways, a *Coloured* man never feels quite certain of himself.” ... She said that she felt so at home that the meeting might have been a *Negro* one anywhere in the USA or in England. She said that she had promised her husband that she would not discuss politics on her present tour, but she would nevertheless like to say something on the fault of the *Coloured* race. “Too often we have that inferiority complex.” [my emphasis]⁴⁴

Presumably quoting Ms. Robeson directly, the Cape journalist plays with the same ambiguities in racial categories that one finds in the literature of Du Bois and Wright, though the writer spells the word “Coloured” as it was spelled in South Africa, localizing the identification.

Second, it seems to me that texts were read much like South Africans read the Bible, not as historically situated, but as

texts that contained eternal truths and might have application to your life. In other words, these books on the African-American experience were not read as history so much as a kind of testimony to experiences of racism elsewhere in the world. As was the case elsewhere in South Africa, the introduction of literacy and mission activity are closely intertwined, and much “Colo[u]red” education lay in the hands of missionaries and church schools. The consequence of this kind of approach to reading is that individuals may well identify with the experiences articulated in the book, but not necessarily take note of the specific historical period elsewhere in the world in which these books were written or consumed.

In addition to reading, listening, and meeting with this library-centered community, Sathima was introduced to the small community of jazz musicians operating in the Cape. The late 1950s was the time when she began to question her identity, a process correlated with her definitive move into the music produced by people called “colored” in the United States. It was at this moment the young woman began experimenting with the music of Ellington and met Dollar Brand. By reading of the experience of a people often called “colored” in the United States, Sathima concluded that she and her people were not alone in their experiences of the harshness of racism, and that other “Colo[u]red” people were making music in a similar style, i.e., hers was both an ideological and musical/aural identification. Jazz was the more inclusive musical language that both Sathima and Abdullah hoped would be

the passport to a transnational family of like-minded musicians. It was in this period that she self-consciously moved away from copying the voices of white women, like Joni James and Doris Day, to the more emotionally evocative “blues” sounds of African-American women like Billie Holiday. This was the moment when the young woman began to search for her own “voice” in her sound and as a composer.

Reflections on the Cape “Culture of Carbon Copies”

In the last part of this paper I offer a series of reflections on taking cover in American music as a cultural practice amongst people classified as “Colo[u]red” in postwar Cape Town. In the spirit of the improvising musicians I am writing about, these reflections are shaped out of a playful treatment of secondary literature that suggests possibilities for interfacing with the primary materials presented. They come in three phases: first, by refracting the ethnographic material through other writings on the subject of covers and copies; second, by honing in on the specific nature of this culture metaphorized in the scribal image of “carbon copies,” and a culture shaped by ongoing practices of oral transmission into which disembodied musical products were inserted and imaginatively reconstituted to cohere with local histories, characters, and sensibilities; and third, by situating struggles for individual and group identity in the tensions created by an increasingly repressive social environment with the sense of possibility conveyed by the popular media.

Pico Iyer’s quintessentially post-modern text *Video Night in Kathmandu* (1989), a narrative on his travels in the tourist zones of the “not-so-far-East,” provides a first site for refraction. Specifically, it is his tale of the culture of copies of American popular music in the Philippines that suggests the most pertinent companion to the Cape story. Reading Iyer’s chapter one is tempted to dismiss the Cape culture of copies as just that, only a copy, lacking originality, authenticity, and an emotional vocabulary of its own in the way that Iyer implies is the case with Filipinos in Manila. Iyer remains, however, a travel writer operating in the world of tourism.⁴⁵

A more textured reading of the culture of the copy comes in Michael Taussig’s (1993) reflections on a cinematic scene invoking a moment at the end of the Second World War. Taussig reads the encounters of the “Third” world with “First World” technologies of repetition and its music by focusing on the ironies of such engagement. Critiquing the West’s loss of a cultural memory of its own initial intrigue with the mysteries of mechanical reproduction through the display of “frontier rituals of technological supremacy,” Taussig reminds the reader of one consequence of the African “other” appropriating European sound recording specifically. He comments on a moment in Senegalese filmmaker Ousamane Sembene’s 1988 film, *The Camp at Thiaroye*, in which a black Senegalese soldier who has fought for the French in World War II awaits discharge. In the waiting period, Sembene portrays the soldier with his favorite possession: the phonograph playing

European classical music. Taussig remarks:

On the one hand, it is pleasing to the officers to see this man becoming like them through a machine whose job it is to reproduce likeness. On the other, it is profoundly disturbing to them because this man is using this machine to manufacture likeness. Thanks in part to this machine, he is not only too comfortable with European culture, but he shows the way for a “new man” who can be both black and white, Senegalese and French. (Taussig 1993, 206)

In Taussig’s reading, there are two issues, one of technology and the other of race. On the one hand, the Senegalese man’s imitations of European-ness reveal a hollow display of technological mastery, the African man equally able to play at passive consumption albeit of a complex musical culture: the recorded European classical tradition. In so doing, he reveals and unravels the web of European power. On the other hand, it demonstrates a one-up-manship as the black man is able to code-switch culturally, performing European-ness with the same facility as he performs African-ness.

The process by which copies were made depended on the medium of transmission—radio, recording, or film—but also on access to financial resources, as well as on gender, and on what forms of cultural production were permissible by the larger community. If you owned a sound recording, you could manipulate and control when and in what context you heard its contents, though as Jimmy Adams suggests, one had to be wary of

the consequences of ownership because ownership always threatened a loss of the qualities of personal voice by transforming the bounded self into a body possessed by other voices. As the case of Jimmy Adams suggests, if you listened without owning, you could still strive to retain a sense of your own identity. Once you owned the record through purchase, however, you opened yourself to its power over your personal voice and identity.

In other words, hearing and possessing the recorded object differed from the possibilities of possession by listening to the radio as Sathima had done in her childhood. Supplementing the images and sounds absorbed in her weekly trips to the “bioscope,” the radio played all day long in the girl’s childhood home. Its words and music intermingled with household chores, and was interspersed with other activities and sounds. Never allowed to sit down and listen to the radio, Sathima’s relationship to the radio was as daily companion. Through total immersion, the melodies she heard in the cinema or live performance were supplemented with the visual images provided by the movies. She accumulated fragments of the words to create a whole text. She memorized the melodies and wrote down the words in her secret little notebook, out of her grandmother’s sight. This process of repeated listening, of partial inscription, and the accumulation of textual fragments enabled her to listen with greater accuracy. The unpredictable repetition of a song she loved enabled her to capture a few more pieces, w/o/r/d by w/o/r/d until the text was complete and she was ready to perform it in

public. This was a kind of additive hearing, a progressive habitation of the foreign repertory through copying.

The Cape capacity to imitate stars from afar by striving for faithful mimesis, to looking and sounding alike, speaks of a particular kind of repetition in cultures shaped by modern technology. And it resonates with Iyer’s reading of Filipino covers of American popular music. In this frame the mediated “original” is played and heard over and over again, relentlessly unchanging, so performers are able to present, and audiences come to expect, the perfect likeness. In the postwar era, Cape Town’s own Frank Sinatra, Doris Day, and Bing Crosby were measured by the exactness with which they could reproduce the “original” in body—how they dressed, their hairstyle, gesture; and voice. Performers aspired to, and audiences always demanded, “the same thing.” In this version of the copy, performers and audiences sought membership of a white English language cosmopolitan modernity, proving they qualified by being as good as, or better than, their European and Euro-American models.

In some respects, however, the Cape Town culture of the copy presents a contrasting case suggested by the idea of the “carbon copy.” Here, the carbon copy invokes Taussig’s two dimensions, technological mastery and ideological identifications with race, though the scriptural analogy to a musical and performative process requires further discussion. On the one hand, Hillel Schwartz’s reflections on the culture of the carbon copy as a scribal practice are insightful (1996). He suggests that in this

culture reproducing the original involves a relationship between human labor, in the s/t/r/o/k/e by s/t/r/o/k/e or w/o/r/d by w/o/r/d actions of typists and writers, and the technologies of inscription—the typewriter and sheets of carbon paper covered by individual leaflets of plain white paper. By analogy, the labor-intensive process of musical transcription, of creating a text of words and possibly tunes: making scripts for live performance is paralleled in a n/o/t/e by n/o/t/e and w/o/r/d by w/o/r/d practice. In this instance, it is the labor entailed in producing the copy that carries value.

On the other hand, the “carbon copy” is enmeshed in another kind of “master” narrative. Here, the original script, called a “master,” is transcribed as multiple copies are simultaneously [re]produced under the cover of sheets of carbon, typically in shades of black or blue. In this mode of production, copies are made out of the deep impression left by the production of a master. The master is valued as being the first, the original, while the copies are simply lesser quality replicas. This would be the view of those producing the master. From the perspective of the copies, however, the technology of carbon sheets is an enabling and more democratic one because it allows for a greater distribution of the contents of the master into multiple sites of repetition. And there is a possibly ironic twist in the choice of carbon color: black or blue. Regardless of the color of the master, the color of the copied scripts may be produced or mediated through tones of blackness or even just the blues.

The evidence suggests then that there

were several ways in which the foreign repertory was translated into the Cape Town community: first as human copies, exact renditions of the voice and repertory as the “original” represented, and you could achieve the replication by owning the recording; second, as covers, you sang the words and music of others, perhaps even wore clothes modeled on the visual representation, but your “voice” was your own because you learned the repertory by secondary orality through the radio or live performances; and third, as a springboard for your own creativity, you developed a sense of your own style using the words and music as the source for your own musical renditions. Finally, a few highly skilled individuals created musical transcriptions that people could perform from. In order to create a written transcription or arrangement one had to have a finely tuned capacity to hear, and the skills to translate sound into visual signs. Because there were no institutions that taught this kind of popular and jazz performance in Cape Town, musicians taught themselves about musical processes while transcribing the music. Their value lay in the capacity to reproduce the sound as written copy, flawlessly.

Through these four processes, individual musicians who could not read or write music inhabited the repertory through the techniques of primary and secondary orality: they taught each other, or they listened closely to the sounds on record and painstakingly made human copies. Thus “original” performances distributed into multiple sites of repetition through recorded objects enabled

“others” to imagine themselves as displaced members of the audience of these great moments. In turn each enactment was localized. In a cultural practice I call “reel to real,” American voices and sounds of the world’s greatest performers could be heard, copied, and embodied in the familiar spaces of home, club, community hall, or school.

The postwar era was, nevertheless, an historical moment of growing contradiction. While the state legislated to deny people of color citizenship in political terms, the media continued to embody a more democratic sensibility. This continued until 1960 when political and social life changed dramatically with the Sharpeville Massacre, the invention of “Bantu Radio” by the Nationalist Government, and the pervasiveness of “light” (read only European) music on commercial and state-controlled radio. Until the early 1960s, however, the American popular music and jazz commodities of the free market economy set the “standard” of performance. For these largely working class communities with a few emerging professionals, the measure of good performance was established by the imported musical objects on the one hand, and the very personal and immediate audience responses to exact copies in enlivened renditions of this music on the other. The repertory worked in South Africa because its appropriation drew on the qualities of secondary orality that local musicians already had: good listening ears, passion for the music, and a willingness to get out there and perform. Through its images and objects, “America” was perceived to hold out possibilities for, if not

the full achievement of, freedom, of racial and cultural equality. Its representations in the Cape fueled the consciousness of many performers, even if they did not consciously seek to engage politically. This was a kind of cultural democracy in action.

Through the period of intense political turbulence from the late 1950s, inner reflection, and encounters with the small community of avant garde jazz musicians in Cape Town, all of whom were experimenting with new sonic possibilities, Sathima and a few others finally moved over into the improvised and more spontaneous world of jazz performance. It is in this moment that Baudrillard’s discussion of the mirror as an object in the home provides a useful metaphor for Sathima’s relationship to the technology and mediation of foreign sounds in domestic space. Along with Baudrillard, “[w]e may say that the mirror is a symbolic object which not only reflects the characteristics of the individual but also echoes in its expansion of the historical expansion of individual consciousness” (1996, 22-23). These two elements—the capacity to reflect, to see oneself and aspects of one’s environment from a distance or from a different perspective, and the possibility of the historical expansion of consciousness through the mirror image—resonate with the way in which recordings of American jazz in particular operated for Sathima. They operated as “acoustic mirrors”⁴⁶ rather than as the media of carbon copies. In particular, it was after she read the life story of Billie Holiday and had heard her voice repeatedly on record that this young woman from Cape Town, South Africa knew that her

sound had a place in the transnational world of jazz. While she had probably heard the music of Billie Holiday before, it was when Sathima was in her early 20s, a time when she was self-consciously listening for a sound with which she could identify, that she heard it in the distant voice and experience of America’s own Billie Holiday. This was the moment when Sathima’s version of the copy became decidedly blue in tone and ideological position.

Ultimately, I am arguing that the imported music translated into the postwar Cape Town functioned as either a model for carbon copying or as an acoustical mirror. The first enabled Cape musicians to fashion selves modeled on others. These selves were valued locally for the ways in which they insisted on a kind of cosmopolitan citizenship, a membership of a truly imagined community of English-speaking, modern people of color. The second created a dual sense of self, you could look in/at the mirror (book or recording) and see your own image from a distance, and use that mirror image to reshape yourself in a more self-conscious fashion. This is not the culture of the copy so much as an ideological identification—through voice, instrumental performance, and body gesture—with others elsewhere in the world who had had similar experiences of the pain of institutional racism and the sense of internal exile.

Notes

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¹ An explanation for the use of quotes and the insertion of [u] in "Coloured" is necessary because it speaks to the processes of cultural [mis]translation of rhetorical practices in liberation struggles for people of color in South Africa and the United States in the twentieth century. Quotation marks are used because "Colo[u]red" was an ideological tactic by the state, to racialize and create division amongst people of mixed racial heritage. Many intellectuals prefaced the term with "so-called," continually reminding their audiences of the constructed and

ideological nature of the category. I have inserted the [u] to indicate that "Coloured" didn't mean "black" but people of mixed race in this period of South African history. Prior to the rise of Afrikaner nationalists, "coloured" was a more ambiguous label, possibly parallel with its interchangeable use in writings of early 20th century African-American writers, e.g., Richard Wright and W.E.B. du Bois. However, after 1948 the state imposed the label on all those who were of mixed racial heritage or married to someone who was, i.e., anyone insufficiently white or sufficiently black African. This is discussed further in the body of the article.

² While "non-white" may seem to some to be a natural category, I have inserted the quotes to signify a rejection by many of African and mixed racial descent in South Africa of being defined in terms of an absence of whiteness. The quotes are intended to disturb fixed categories.

³ Bea[trice] Benjamin changed her name to Sathima Bea Benjamin while in exile.

⁴ "Dollar" was the nickname given to Brand to reference his exchanges with American musicians and sailors who visited Cape Town in the postwar period.

⁵ Henry February, interview, September 1996, Cape Town.

⁶ See other writing on South African jazz, Allen (1997), Baines (1996), Ballantine (1999 and 1993), Coplan (1985), Jeppie (1990), Layne (1995), and Molefe and Mzileni (1997).

⁷ Touring musicians were almost always white, and there was usually some discussion about whether "Colo[u]red" people would be included in the tour program. Audiences in this period were always segregated.

⁸ Jimmy Adams is the one who coined the phrase "carbon copies" in my interviews with musicians. Chris Ballantine (1999) simi-

larly uses the phrase in his discussion of similar practices amongst musicians of African descent largely in Johannesburg in about the same period.

⁹ The Eoan Opera Company became extremely controversial in the 1950s because it was revealed that the Afrikaner Nationalist government was financing its operations. Such support was believed by the larger community to constitute a sell-out to apartheid ideology.

¹⁰ African here refers to Bantu-speaking peoples from the continent of Africa, and is contrasted with European peoples. In the current political climate it is more usual to talk about people of European descent living in South Africa as African as well. This was not the case in the period under discussion, however. “African” might be substituted for “Black” South African. “Black” was itself a contested racial category in this period because it was argued that it reinforced the apartheid government’s privileging of racial category in social and political life (see February 1983).

¹¹ In the early 1990s South African record company Gallo Records reissued white hits from the period 1960-1990, claiming it was the time when “Local was Lekker” [Cool]. Ironically, few of the songs were locally composed, what was local was the voice of the singer, but not the song itself.

¹² Françoise Lionnet (1989, ch. 1) argues that the notion of *metissage*—cultural and/or racial mixing or hybridity—does not exist in the English language in a positive sense. The word translates into “half-breed” or “mixed-blood,” both of which carry negative associations. While European languages like Spanish, Portuguese, and French do have words for this kind of cultural identification, she argues that each word has very specific meanings.

The Anglo-American consciousness seems unable to accommodate mis-

cegenation positively through language. It is a serious blind spot of the English language which [sic] thus implies that persons of indeterminate “race” are freaks. It is another way of making invisible, of negating, the existence of nonwhites whose racial status remains ambiguous. (13-14)

Lionnet suggests the use of the Greek word *metis* that refers to an art of transformation and transmutation, “an aesthetics of the ruse that allows the weak to survive by escaping through duplicitous means the very system of power intent on destroying them” (18).

¹³ Eileen Southern (1999) argues for a similar distinction in African American cultural history. According to her, differences emerged between African slaves who assimilated more European-style culture and those who retained African derived performances. The differences depended on whether slaves worked inside the houses of their masters or out in the fields.

¹⁴ Each of these laws is succinctly discussed in Barker et al. 1992, 374-381.

¹⁵ One of the earliest political organizations for “Colo[u]red” people called itself the African Political Organization (APO) and founded the first newspaper aimed at a “Colo[u]red” readership in May 1909 (Adhikari 1996, 1).

¹⁶ Little is known about Sathima’s mother’s family heritage. Of mixed Filipino and Mauritian descent, Evelyn Henry was orphaned at a young age after her parents died in the Flu Epidemic of 1918. The young Ms. Henry was sent from her home in Kimberley to live with her mother’s sister in Cape Town where she met Edward Benjamin. Bea[trice] Benjamin was born to Edward Benjamin and Evelyn Henry in Johannesburg on October 17, 1936.

¹⁷ John Samuels. Interview by author, Cape Town, September 1996.

¹⁸ See Bickford-Smith, van Heyningen, and Worden 1999 (43) for a discussion of early efforts of the “Colo[u]red” elite to internalize European middle class values.

¹⁹ Walker, Evelyn. 1963. *The Educational Journal* 35 (4). Cited in February 1983, 205.

²⁰ Jimmy Adams. Interview by author, Cape Town, September 1996 and December 1999.

²¹ Jimmy Adams and Harold Jephthah. Interview by author, Cape Town, December 1999.

²² Henry February. Interview by author, Cape Town, September 1996.

²³ Sathima Bea Benjamin. Interview by author, New York City, April 1990.

²⁴ Jimmy Adams. Interview by author, Cape Town, December 1999.

²⁵ Henry February. Interview by author, Cape Town, December 1999.

²⁶ Harold Jephthah. Interview by author, Cape Town, December 1999.

²⁷ Caryl Flinn cites film composer George Antheil’s disdain for the gap between public taste and film music composition in which Antheil scorns “Mr. Average Listener” for turning the radio dial to hear Benny Goodman or Paul Whiteman rather than listening to a symphony broadcast over the air. He continues by arguing that the best way to “emotionally condition” Mr. Average for better music is to insert orchestral performance into his “favorite movie theatre for three hours a week” by using the style in the film score. The viewer unwittingly becomes partial to the world of symphonic music (Flinn 1992, 29).

²⁸ Peter Davis (1996, 26-7) remarks that even though American movies were admired, the very rare local productions featuring African performers were extremely popular with African audiences. One example is the film *Jim Comes to Joburg*, which featured Johannesburg artists Dolly Rathebe and Daniel Adnewmah, and was shot in the streets of Johannesburg. The familiar location caused enormous excitement for black

South Africans who delighted in recognizing the streets in which their own film heroes were filmed.

²⁹ This excerpt comes from a local newspaper, *The Sun*, January 2 1948.

³⁰ Vincent Kolbe, who grew up in the more culturally diverse District Six in Cape Town’s inner city, comments that in his community Saturday night was the time for the movies. Everyone in his family would dress for the occasion. He would attend with his mother and grandmother. They would take sandwiches and a thermos of coffee for the evening. The standard fare from 7:30 to 11:30 P.M. was a comic strip, the weekly serial (the forerunner of the soap opera), a western, and a love story or musical (Vincent Kolbe. Interview by author, Cape Town, September 1996).

³¹ Commenting on the relationship between music and emotional currency, Caryl Flinn remarks:

During the Hollywood studio era, film music was assigned a remarkably stable set of functions. It was repeatedly and systematically used to enhance emotional moments in the story line, and to establish moods and maintain continuity between scenes (1992, 13).

³² Jimmy Adams. Interview by author, Cape Town, December 1999.

³³ Vincent Kolbe. Interview by author, Cape Town, September 1996. See also Ballantine 1999 for a discussion on this practice amongst Johannesburg musicians.

³⁴ Harold Jephthah. Interview by author, Cape Town, September 1999.

³⁵ Jimmy Adams. Interview by author, Cape Town, December 1999.

³⁶ Bob parties were like rent parties in the United States. Those who came were re-

quired to pay “one bob” (ten cents) to enter.

³⁷ Sathima Bea Benjamin. Interview by author, New York City, October 1996.

³⁸ Ruth Fife. Interview by author, Cape Town, September 1996.

³⁹ Vincent Kolbe. Interview by author, Cape Town, September 1996.

⁴⁰ Sathima’s mother came from Kimberley in South Africa, the site of a global influx of fortune seeking diamond prospectors in the latter part of the 19th century. This is clearly where ragtime and syncopated piano styles were heard and copied.

⁴¹ Italians mixed freely in Cape Town’s District Six, the site of the most controversial form of mass removal by the apartheid government in the 1960s. Remembered now as a “Colo[u]red” community, its members hailed from all parts of Europe, and on arrival in the Cape, intermarried with local residents. These were the people later labeled “Cape Coloured” by the state. Joey Gabriel’s darker toned skin later enabled him to blend in more easily in Italy than in South Africa. Similarly, I have been told that when Frank Sinatra, also of Italian descent, appeared in public in the USA, many thought him to be too dark, to be almost “colored” when compared with lighter skinned Europeans (Jodi Billinkoff, pers.comm., April 2000, National Humanities Center, NC).

⁴² Sathima Bea Benjamin. Interview by author, New York City, October 1996.

⁴³ Vincent Kolbe. Interview by author, Cape Town, September 1996. Vernie A. February (1983, 16) explains that the South African Teachers’ League played a critical role in shaping the political consciousness of “Colo[u]red” youth through the activist roles played by League members in the classrooms of three “Colo[u]red” high schools in Cape Town: Trafalgar High School, Harold Cressy, and the Livingstone High School (which Sathima attended).

⁴⁴ *Cape Standard*, June 23 1936, 4.

⁴⁵ Iyer occupies a space that Bodley (1999) and Dennis O’Rourke (1987) remind us might appear to perform an “educational” function for the First World to learn about the Third, but more typically produces “experts” on others who are often more dangerous for the superficiality of information gained than valuable for their insights. In addition, Iyer fails to acknowledge that the tourist culture he operated in works on the principles of supply and demand: where the demand for the familiar in contexts of strangeness results in the supply of that kind of “culture.” In the spirit of Barbara Kirshenblatt-Gimblett (1998) the process might be expressed as follows: American/Western tourists want American/Western popular music but in an exotic context. Iyer was not a member of the communities of performers, all he heard was the familiar sounds of American pop. He was unable, for example, to distinguish local identities through the grain or tone color of the individual voice as those in the Cape clearly could do. The lack might perhaps not have been on the Filipino side as much as indicative of Iyer’s own cursory involvement with that performance culture.

⁴⁶ Before coming across Kaja Silverman’s work on *The Acoustic Mirror* (1988), I had been using the idea of the mirror as an analogy for the kinds of reflections facilitated by sound recordings and other imported objects like books. That insight drew on Baudrillard’s discussion in *The System of Objects* of the mirror and the non-reflective television screen in contemporary homes (1996). While I use Silverman’s term (borrowed from Guy Rosolato) I am doing so somewhat differently. She talks about the female voice as a kind of acoustic mirror, one that simultaneously exteriorizes and interiorizes in every utterance, and spills over into the boundaries between subject and object (Silverman 1988, 80).

Works cited

- Adhikari, Mohammed, ed. 1996. *Straatprattijes: Language, Politics, and Popular Culture in Cape Town, 1909-1922*. Cape Town: L. Van Schaik.
- Allen, Lara. 1997. Introduction: South African Women of Song, Their Lives and Times. In *A Common Hunger to Sing: A Tribute to South Africa's Black Women of Song, 1950-1990*, edited by ZB Molefe and Mike Mzileni. Cape Town: Kwela Books.
- Baines, Greg. 1996. "The Little Jazz Town:" The Social History and Musical Styles of Black Grahamstown in the 1950s and 1960s. In *Proceedings of the Fourteenth Symposium on Ethnomusicology*. Grahamstown: International Library of African Music.
- Ballantine, Christopher. 1993. *Marabi Nights: Early South African Jazz and Vaudeville*. Johannesburg: Ravan.
- _____. 1999. Looking to the USA: The Politics of Male Close-Harmony Song Style in South Africa During the 1940s and 1950s. *Popular Music* 18 (1):1-17.
- Barker, Brian et al. 1992. *The Reader's Digest Illustrated History of South Africa: The Real Story*. 3rd ed. Cape Town: Reader's Digest Association.
- Baudrillard, Jean. 1996. *The System of Objects*. New York: Verso.
- Bickford-Smith, Vivian, Elizabeth van Heyningen, and Nigel Worden. 1999. *Cape Town in the Twentieth Century*. Claremont, South Africa: David Philip.
- Bodley, John. 1999. *Victims of Progress*. Menlo Park, CA: Cummings.
- Coplan, David B. 1985. *In Township Tonight! South Africa's Black City Music and Theatre*. Johannesburg: Ravan Press.
- Davis, Peter. 1996. *In Darkest Hollywood: Exploring the Jungles of Cinema's South Africa*. Athens: Ohio University Press.
- Douglas, Susan. 1999. *Listening In: Radio and the American Imagination from Amos 'n' Andy and Edward R. Murrow to Wolfman Jack and Howard Stern*. New York: Times Books.
- Ellington, Duke. 1973. *Music is My Mistress*. New York: Da Capo.
- February, Vernie A., ed. and comp. 1983. *From the Arsenal: Articles from the Teachers' League of South Africa (1913-1980)*. Leiden: African Studies Center.
- Feld, Steven. 2000. Sound Worlds. In *Sound*, edited by Patricia Kuth and Henry Stobart. New York: Cambridge University Press.
- Flinn, Caryl. 1992. *Strains of Utopia: Gender, Nostalgia, and Hollywood Film Music*. Princeton: Princeton University Press.
- Hajdu, David. 1996. *Lush Life: A Biography of Billy Strayhorn*. New York: Farrar, Strauss, Giroux.

- Holiday, Billie. 1956. *Lady Sings The Blues: The Searing Autobiography of an American Musical Legend*. With William Dufty. New York: Doubleday & Company, Inc
- Iyer, Pico. 1989. *Video Night in Kathmandu, And Other Reports from the Not-So-Far-East*. New York: Vintage Departures.
- Jeppie, Shamiel. 1990. Aspects of Popular Culture and Class Expression in Inner Cape Town, 1939-1959. Master's thesis, University of Cape Town.
- Jeske, Lee. 2000. Cape Town Love. In *Sathima Bea Benjamin: Embracing Jazz*, compiled by Lars Rasmussen. Copenhagen: The Booktrader:103-105.
- Kirshenblatt-Gimblett, Barbara. 1998. *Destination Culture: Tourism, Museums, and Heritage*. Berkeley: University of California Press.
- Layne, Valmont. 1995. A History of Dance and Jazz Band Performance in the Western Cape in the Post-1945 Era. Master's thesis, University of Cape Town.
- Lionnet, Françoise. 1989. *Autobiographical Voices: Race, Gender, Self-Portraiture*. Ithaca: Cornell University Press.
- Molefe, ZB and Mike Mzileni, eds. 1997. *A Common Hunger to Sing: A Tribute to South Africa's Black Women of Song, 1950-1990*. Cape Town: Kwela Books.
- Muller, Carol. 2000. Sathima “Beattie” Benjamin Finds Cape Jazz to be her Home Within. In *Sathima Bea Benjamin: Embracing Jazz*, compiled by Lars Rasmussen. Copenhagen: The Booktrader: 21-38.
- _____. 2001. Capturing the “Spirit of Africa” in the Jazz Singing of Sathima Bea Benjamin. *Research in African Literatures* 32 (2):133-152.
- Nasson, Bill. 1989. “She preferred living in a cave with Harry the snake-catcher:” Toward an Oral History of Popular Leisure and Class Expression in District Six, Cape Town, ca. 1920-1950. In *Holding Their Ground: Class, Locality, and Culture in 19th and 20th Century South Africa*, edited by Philip Bonner. Johannesburg: Ravan.
- O'Rourke, Dennis. 1987. *Cannibal Tours*. Los Angeles: Direct Cinema.
- Rasmussen, Lars, comp. 2000. *Sathima Bea Benjamin: Embracing Jazz*. Copenhagen: The Booktrader.
- Rasula, Jed. 1995. The Media of Memory: The Seductive Menace of Records in Jazz History. In *Jazz Among the Discourses*, edited by Krin Gabbard. Durham: Duke University Press.
- Rosenzweig, Roy. 1983. *Eight Hours for What We Will: Workers and Leisure in an Industrial City, 1870-1920*. New York: Cambridge University Press.
- Schwartz, Hillel. 1996. *The Culture of the Copy: Striking Likenesses, Unreasonable Facsimiles*. New York: Zone Books.
- Silverman, Kaja. 1988. *The Acoustic Mirror: The Female Voice in Psychoanalysis and Cinema*. Bloomington: Indiana University Press.

Carol Muller

Southern, Eileen. 1999. *Music of Black Americans*. New York: Norton.

Taussig, Michael. 1993. *Mimesis and Alterity: A Particular History of the Senses*. New York: Routledge.

Western, John. 1996. *Outcast Cape Town*. Berkeley: University of California Press.

Scenes from the Colonial Catwalk: Cultural Appropriation, Intellectual Property Rights, and Fashion

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INTRODUCTION

In 1907 the English manufacturer Royal Doulton introduced porcelain featuring a design called “Maori Art”: cups, saucers and plates glazed with red, black, and white to reproduce a suite of interlocking patterns that are generically known as “koru.” From the 1930s similar patterns have appeared on New Zealand postage stamps, and the koru is currently employed in a decorative border on the two-dollar coin. Since the 1960s Air New Zealand has ferried people around the country and the globe, a koru design on its tail and until the late 1970s plastic tiki given to every passenger. In 1985 packets of New Zealand butter included a small graphic which told consumers a portion of the purchase price was going to support the America’s Cup Campaign in Freemantle, Australia. That graphic was a blue and yellow triangle containing a series of alternating bar-stop figures derived from the mature style of the modernist New Zealand painter Gordon

Walters; his style, in turn, was based on a geometric version of the koru. Currently, numerous Government departments have stylized koru or Maori weaving-derived patterns in their letterheads, and tourists clamor for Maori art products made both in New Zealand and overseas. Fashion houses, both at home and abroad, have appropriated Maori design as modish. It appears painted on the faces of famous men adorning the covers of fashion magazines, or as part of a global advertising campaign for a sporting goods manufacturer. It enters the world of the pop music market through a tattoo on Robbie Williams’ left shoulder by Maori tattooist Te Rangitu Netana. Maori intellectual property would seem from this to be global—certainly it is more widely and more casually received than it has been in the past.

In this same year, 2002, Te Waka Toi (the Maori-funding arm of the national arts funding agency) launched “Toi Iho” a Maori-made mark, which is intended

to function as a mark indicating Maori authorship of products and as a quality mark. In addition, the Waitangi Tribunal (the national body established to hear claims arising out of New Zealand's 1840 Treaty of Waitangi/Te Tiriti o Waitangi signed between the Crown and many Maori iwi) is still hearing evidence in one of the most complex claims likely to come before it: the Wai.262 claim on Matauranga Maori (knowledge) and Taonga Maori (treasures). Unlike previous claims, which have focussed on real property or specific resource rights, this claim focuses on the intellectual resources of Maori. The mark and the claim are indicative of the currency of the issues raised in this article; they also register the reality that contemporary indigenous peoples continue to engage with these issues and to develop new strategies in order to shape the manner of the reproduction of indigenous cultural heritage.

In the broadest sense, this article sits in a similar time and space inasmuch as it is a discussion of some of the ways in which Maori design has been copied and utilized by non-Maori. Its predominant focus is drawn from two fields of inquiry: cultural appropriation as this has been figured in art history and cultural studies, and the law pertaining to intellectual property. These are, of course, enormous fields in themselves, so to try to come to a closer focus, the article seeks to analyze one part of Maori intellectual property rights, those pertaining to graphic works, and position this analysis in relation to one aspect of their use, the fashion industry. In doing so I register that such a division of cultural terms (intel-

lectual from cultural, taonga from Maturanga Maori, graphic from performance) is, in some sense, artificial, for Maori culture is informed and strengthened by the interaction of its many facets. I declare, at the outset, that I am not Maori myself but claim pakeha identity – which, for me, is a specific identifying nomenclature given by Maori to people who, like myself, are of nominally European, predominantly British descent. I also register that the article is somewhat wide-ranging in its discussion. The intention of this is to try to reflect the range and interrelatedness of the many issues that emerge in any discussion of the reproduction of indigenous cultural heritage and issues surrounding its reproducibility.

THE KORU: A SEMIOLOGICAL ANALYSIS

In general terms, the koru is the design form of a curvilinear element punctuated with a circular stoppage. It serves as the central design feature of a number of modes of traditional Maori artistic practice; moko (tattooing), heke (rafter) painting, and hue (gourd) and hoe (paddle) decoration are the principal examples of these. As one part of what is often a complex interaction of attenuated and tense schemes, formally resolved within an overall compositional scheme on skin or wood, the koru is both clearly identifiable with Maori artistic practice and an indication of the formal sophistication of that practice. It speaks both of the generic identity of Maori art-makers as tangata whenua (indigenous peoples) and of either the specific individual identities of wearers of moko¹ or, by its inclusion in

the interior of whare runanga (meeting house; center for the community), of the collective identities of specific iwi, hapu, or whanau (tribe, sub-tribe, extended family).

W.J. Phillipps posited a definition of the koru in a 1938 article in *Art in New Zealand*. He described the design as organic in origin, referring to the apparent morphological similarity of the single koru to a curving stalk with a bulb at one end (Phillipps 1938). This interpretation linking the koru to unfolding plant growth is one which, as Roger Neich notes, “is now very strong in the Maori view” (Neich 1993, 39). This is, to some extent, the result of apprehending an apparent visual similarity between the design and flora, desiring, perhaps, some connection of human culture and the natural world and implying, positively, a sense of growth. An alternate natural form is claimed by Augustus Hamilton in *The Art Workmanship of the Maori Race in New Zealand* where he claims a connection between the koru and the form of waves beating upon the shore (Hamilton 1896). Again, the assumption seems to be based on a morphological analysis of the design and the known natural world of the artists who used it. Nevertheless, this denotational reckoning of Maori iconography is inherently misleading. What is absent from such a focus on the potential visual sources for the form in the natural world is the recognition of the important connotational significance that applies in the use of the koru. These are often complex semiological constructs that afford deeper and broader patterns of meaning to emerge than something as defined as “fern

frond” or as banal as “stalk and bulb.”

The important factor in making this distinction lies in that between denotational and connotational meaning. Roland Barthes writes of the character of connotation that it is “at once general, global and diffuse; it is, if you like, a fragment of ideology” (Barthes 1967, 151). This fragment is of considerable relevance to any analysis of Maori art, a point pursued by Neich when he writes:

[it] has limited denotative meaning but a wide, rich field of connotative meaning, which finds its reference in the total cultural ideology. Thus the signifieds of denotation are the few limited meanings that can be obtained by direct questioning, while the signifieds of connotation require a familiarity with the cultural ideology for their appreciation.

Connotation takes one away from the immediate context to the general diffuse culture. This probably explains why European investigators, lacking the conceptual tool kit for asking relevant questions about Maori art, could rarely penetrate below the superficial denoted meanings. (Neich 1993, 36)

A pertinent example of this may be found in the rafters of the meeting house and on some tombs and monuments—many of which are painted with kowhaiwhai (a system of attenuated interweaving koru elements). In the case of the meeting house, kowhaiwhai are frequently painted along the tahu (ridge-pole) and down the heke (rafters). These standard sites of kowhaiwhai significa-

tion are symbolically important to the whakapapa (genealogy) of individual tribes. The tahu, for example, refers not only to the ridgepole of the house but also to important tupuna (ancestors), starting with the original tupuna. The heke, regularly spaced rafters, symbolize the lines of descent from these tupuna or to their migration (heke as a noun means rafters and as a verb can mean both descend and migrate). In this respect, the decorative scheme takes its place within the overall symbology of the house, linking the eponymous ancestor at the front apex of the house to the subsidiary tupuna lining the walls. Within this overall system, Anne Salmond “has identified a series of associations through Maori words relating images of hill ridges, house ridges, lines and threads through a broad concept of mediation and linking, to express aspects of descent, authority and communication” (Neich 1993, 38; see Salmond 1978, 9).

Of course, the koru can communicate to other people and in other ways. In an impoverished semiological field, for example, it can refer more generically to Maori and Maori artistry. Beyond this, its increasing use by non-Maori designers and artists since the late 1920s can refer to a new signification of the koru as an important part or, indeed, basis of a nationalistic graphic enterprise. Its emergence as an important feature of currency, postage stamps, national pamphlets and magazines, or in the architecture of important institutions (the cornices of the Auckland War Memorial Museum or of the Napier Bank of New Zealand, for example) suggests it was utilized to forge a sense of design that

was unique to place. In this rubric, meaning is made over from a specific connection to the implications of individuals or individual structures to a more broad-based national identity. This strategy was adopted by a number of New Zealand pakeha artists in an attempt to develop a distinct strain of modernist practice. This was, to varying degrees, founded on a process of mutual racial assimilation with the notion of something new and different emerging from the connection. The koru, as a specific element of Maori art, served that desire for novelty and difference. This power of art to transform experience was given its most powerful and ambitious application in respect of the koru with the introduction of an education scheme in the 1950s. Initiated by Gordon Tovey, this scheme saw the introduction of koru painting as a part of the art curriculum – initially at elementary school but it now forms part of the syllabus at high school as well. The mode of expression was deliberately selected to be something that was available for those with elementary skill levels, was capable of increasing complexity, and, most importantly, spoke of local content.

The incorporation of the koru into the national art identity (in galleries and in schools) also suggested for some the emergence of a bi-cultural nation. This important connotational meaning has been seized upon, increasingly over the past two decades, by tourist operators, by corporations, and by government in an attempt to portray the divergent ethnic make-up of the country. The proliferation of Walters-inspired bar/stop derivations of the koru, in logos or on

the covers of books addressing issues of importance to Maori as well as books addressing Maori-pakeha relations, for example, is indicative of the suggestive power of a modernized, standardized formal version of the koru. In government it creates the appearance of a dualistic principle (complemented by Maori transliterations of ministry names) but which some would argue is a screen to monocultural practices and policies. Similarly, its use by corporations, smaller companies, and/or tourist operators involves the presentation of an outwardly New Zealand identity—a signification carried by the association of the koru with a specific geographical and socio-cultural location

Perhaps the most resonant example of this was in the mind of the Crown Counsel at the opening hui (meeting) of the Wai.262 claim (in Kaitaia, September 15, 1997) when he asked “who owns the koru?” in reference to the symbol of Air New Zealand. This reveals the complex interplay of issues at stake here. The logo uses an element of Maori design as if it held no intrinsic meaning of its own; even so, it originally symbolized the country. Its use on something as impressive and romantic as an airliner might seem complimentary; yet, it remains just another corporate logo. At the same time, it is a logo that carries considerable weight as an evocation of the nation as a whole—whether or not it is overlaid with images of native birds, smiling New Zealanders of all creeds, the voice of a great Maori opera singer, and the words of an iconic Maori song as in the current television advertising campaign. As Ngahaia Te Awekotuku, a trenchant

critic of cultural appropriation, puts it:

[well, the koru] becomes a plastic symbol. And, admittedly, we look at the Air New Zealand tail and think “there is a koru,” and we can’t argue . . . (Te Awekotuku 1986, 52)

Interestingly, when the company went through a re-branding exercise in the mid-1990s a decision was made not to register the famous tail decoration as a trademark. Rather, the company asserted its trademark over what it calls “the Pacific wave,” a simple stylized serpentine curve in two colors that adorns the fuselage of the company’s aircrafts. This was apparently a deliberate decision made in order to maintain the goodwill of the airline’s prime consumer base (New Zealanders) and to avoid risk of engaging in any sort of conflict over asserted interests that different Maori tribal groups might claim with respect to this form of the koru.

In this way, the koru on the tail of an Air New Zealand plane, on the cover of its annual report, on the numerous promotional materials produced by the company (whether sports sponsorship or plastic give-aways), and as the name of the airline’s business class lounges is a figure of protracted ambivalence. On the one hand it is of considerable commercial value to the airline. On the other any attempt to capture the value of that symbol might well have proven alienating for a company that wished to maintain the aura of being the national carrier but was, at the time, a private company.² Indeed, the auratic value of the koru as a logo for Air New Zealand is

writ large because it seems to connote more than that of a generic corporate logo (the Nike swoosh; the roar of the MGM lion; the Coke wave). In 2002 it seems to speak of a specific, though non-ethnocentric, collective identity, of contemporary nationhood for New Zealand. Ambivalence regarding this declaration stems from the fact that it is a nation still coming to terms with its violent colonial history and the on-going implications of its past for its present citizens.

THE APPROPRIATION OF CULTURAL HERITAGE

It is a dull fact that the initial phase of modern cultural heritage appropriation was underscored by the twinned ages of Enlightenment and Empire, during which all the world was made over to fit the intellectual, economic, and cultural requirements of first Europe, then the United States. All manner of tangible cultural heritage of indigenous peoples (from design patterns to artifacts to body parts, even the people themselves) were looted, stolen, traded, bought, and exchanged by colonials of every status (from Governors General to itinerant sealers). These were studied, admired, looked at, and forgotten; created manias of taste and connoisseurship or never saw the light of day again, whether in the private houses, the palaces, or the museums of Empire. There many, *many* remain.

Because of their display, they became available for appropriation into the cultural language of the very colonizers who had initially dislocated them. This is equally true of their use in spectacu-

lar, if bizarre, *mises en scènes* in nineteenth century anthropological museums (the Pitt Rivers Museum, Oxford, and the upper level of the museum in Adelaide, Australia, are excellent extant examples of these) or in formal isolation in houses of modern art (of which *Art of the South Pacific* curated by Rene d'Harnoncourt at the Museum of Modern Art, New York, in 1946 is a watershed in the reclassification of indigenous cultural heritage from artifact to art-object). The zenith of this approach is, famously and controversially, the 1984 exhibition "*Primitivism*" in *20th Century Art: Affinity of the Tribal and the Modern* at MoMA (Rubin 1984). Importantly, this seemingly hybrid language of the "primitive" or "tribal" and its putative other, "modern," represents one if not the key moment of cultural production in the twentieth century. It would seem, by industrial liberals' enthusiasm for "ethno-" and "eco-" tourism, "world music," debased forms of shamanism, pastiches of ritualized body marking, "third-world tat," or mystical, New Age experiences, that attraction for Otherness remains an important feature of Euro-American cultural values. Clearly there is the potential for significant, indeed, world-changing benefits from this – witness the significance of indigenous peoples' perspectives, arguments and, to a much lesser degree, claims in environmental planning; or the rise of a new dialogue in human rights, initiated by indigenous peoples of the world. Thus, in 2002, one may observe that objects are being returned, ideologies are being respected, permission is being sought – just not enough and too infrequently. With these

ideas in mind, there are three aspects of the appropriation of visual arts that I want to note: modernist affinity, postmodernist quotation, and commercial exploitation.

Modernist appropriation is seemingly straightforward. Representative artists from Paul Gauguin forward were attracted to the potential for their work they saw in indigenous cultural heritage.³ They both copied individual examples into their work and emulated styles; they even presented their work as capturing the essences they asserted were present in such indigenous objects. The re-statement of this position in the “*Primitivism*” exhibition at MoMA positioned examples of indigenous cultural heritage in formal connection with modernist artworks in order to pursue the principal theses of the exhibition: that both “sets” of work revealed key expressive tendencies of humanity and that the

concerns of modernist artists squared with those asserted to be in the minds of indigenous artmakers. The accompanying advertising campaign put this in the shape of a series of crude comparisons of indigenous and modernist objects with the byline “Which is ‘primitive’? Which is modern?” as if this were somehow at issue, when very few of the “primitive” objects in the exhibition registered what might be described as overtly “modern” responses – whether in materials or subject-matter (the exhibition was the subject of intense criticism, most notably reviews such as Clifford 1985; Foster 1985; McEvelley 1985; see also Clifford 1988; Hiller 1991; Rhodes 1994; Shand 1997).

The marriage of a high-modernist abstraction with, in the present case, the koru is a complicated affair. On the one hand, with reference to a work such as, say, *Painting #1*, 1965, by Gordon Walters

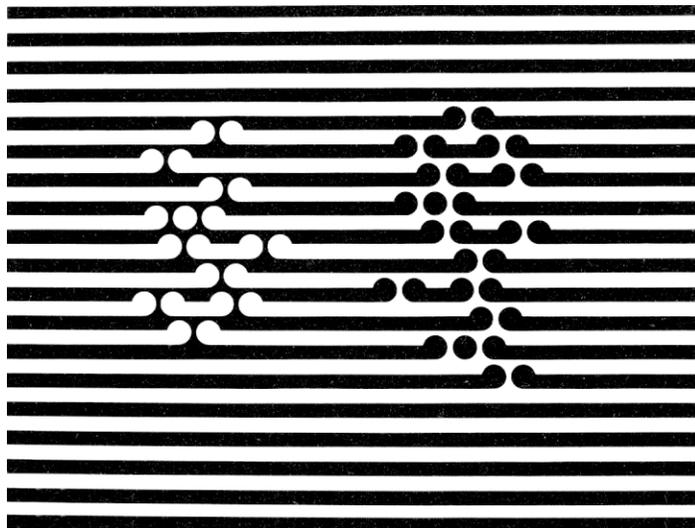


Figure 1: Gordon Walters, *Painting #1*, 1965, pva on board, Auckland Art Gallery.

(fig. 1), the original is an example of design surely at least as sophisticated as the original examples of kowhaiwhai with which he was familiar. Nevertheless, in his appropriation of the form Walters affects a dislocation of the source form from its initial cultural context. In so doing, specific meanings are erased and cultural significances shift and slide to the point that some have argued the appropriation to be an equivalent of colonial occupation of indigenous art and design, a silencing of the koru (see, e.g., Te Awekotuku 1986; Panoho 1992; Shand 1997; and compare with Bell 1989; Pound 1994). Yet, when on the cover of a book about cultural relations, images like this one garner admiring or at least accepting comment from many citizens, including Maori academics, as it seems to them to signify a “bi-cultural” national style. In a similar vein, versions of the princi-



Figure 2: Dick Frizzell, *Grocer with Moko*, 1992, 700mm x 600mm, oil on canvas, private collection.

pal design aspect (the bar and stop) crop up as logos for nationalist enterprises: from government agencies to nationalized corporations. The “affinity” here is one of visual similarity overlain with at least one layer of additional interpretation derived from the beholder.

Of course, the certainty of signs and signification is said no longer to be available—certainty itself is presented as an illusory commodity in much contemporary art. Post-modern quotation reflects a pervasive sense of contingency and dislocation in which all forms, regardless of their original cultural context, are available for re-inscription. New Zealand artist Dick Frizzell’s *Grocer with Moko*, 1992, shows an apparently humorous juxtaposition of two feted local icons (fig. 2). One is the face of the “Four Square Man,” a logo for a chain of convenience stores. The second is the ta moko (facial tattoo) of Maori warriors. This finds itself replicated in a variety of forms in the local and international context. It is still tattooed on the faces of Maori men, often as a symbol of political resistance and tribal pride as much as the personal mana of the carrier. It is drawn with marker pens or eyeliner on the faces of Maori and non-Maori performers of Maori dance and song. It is presented in the global market in pastiche on the face of the French footballer Eric Cantona on a cover of the men’s style magazine *GQ* or employed seriously in campaigns for Air New Zealand or Adidas, sponsors of the national rugby team, the All Blacks. The fusion of high and low cultures in this example is a useful illustration of the opportunities for cultural critique and revelation made possible

through dislocation. There are meshes of the authoritative and the quotidian, the “sacred” and the commercial, official and unofficial, culture and advertising, two forms of cultural specificity, and two systems of meaning. Nevertheless, the exhibition in which this and other appropriations of Maori forms appeared was a *succès de scandale* for Frizzell. He was vilified and championed, both. Importantly, these positions did not simply split along racial lines, as the catalogue contained essays by Maori writers and a few pakeha academics rose to the bite of the images (see *Dick Frizzell “Tiki”* 1992; and compare with Te Awekotuku 1992).

Many commentators draw a distinction between use of indigenous design in art and its use in commercial enterprises. This is particularly true of the instances where individuals or groups have gone to court to try to affect some protection of designs. In Australia, for example, which has the richest case law regarding cross-cultural appropriation, the instances that have occasioned litigation conspicuously have not involved the appropriation of Aboriginal Australian cultural heritage by non-Aboriginal artists for use in works of art, although this practice is widespread. There is, if you will, an invisible division that seems to have separated a commercial use with high intellectual pretensions (the fine arts market) from more base and explicitly commercial exploitation. Hence, the cases brought as a result of the unlicensed use of designs by contemporary Aboriginal artists include such items as tee-shirts (*Bulun Bulun and Another v. R & T Textiles Ltd.; Minister for Aboriginal and Torres Strait Islander Affairs, interven-*

ing, 175 ALR 193 [1998]) and industrially manufactured woolen carpets (*Milpurrurru and Others v. Indofurn Pty. Ltd. and Others*, 30 IPR 209 [1994]). In addition, there was a case that spoke to national identity and governmental responsibility issues when an artist sued in copyright for the unauthorized reproduction of his work on the Australian Bicentennial ten-dollar note (*Yumbulul v. Reserve Bank of Australia and Others*, 21 IPR 481 [1991]). While appropriating artists and the galleries that represent them might risk the opprobrium of some critics, they have not, as yet, been sued for breach of copyright.

In this context, an interesting legal skirmish that did not proceed to the courts occurred in New Zealand in 2000. Auckland-resident Samoan artist Fatu Feu’u threatened to bring an action against New York-based pakeha artist Max Gimblett for infringement of a “frangipani” design (*Tangata Pasifika* 2000). Feu’u states he uses it by permission of his matai (chiefs),⁴ an authorization that Gimblett lacks if, indeed, he is using the specific design as asserted. There are important issues in this example of whether this represents a situation of cross-cultural plundering or an analysis based on pseudo-morphological analysis. It is noted here as a rare example of the debate crossing what I suspect is a divide that characterizes core assumptions about whether or not it is worth pursuing copyright infringement cases in colonial-derived legal systems. Industrial and manufacturing sectors are viable defendants, whereas cross-cultural appropriation based on Romantic notions of authorship is seldom litigated.

That this (non-litigated) example is exceptional may be due to a number of reasons. For example, it could be a recognition of the asymmetries of the relationship between intellectual property rights and customary indigenous rights (the presumption that the case could not be won or could only be won by adherence to Anglo-American codes discussed below). Alternatively, it may be because of a specific though limited preparedness not to intervene too strenuously in free intellectual exchange and/or artistic development (an adoption, to an extent, of Euro-American notions of authorship and creativity).

At play behind many of these situations is the observation that responses vary according to political interpretations of the images (and, perhaps, are unstable even then). What I might say is prescient criticism might seem censorious forms of political correctness to you; what you might regard as somewhat naïve readings of cultural symbols I might see as the potential of signs to overcome their original cultural contexts. This is the direct consequence of a hybridizing of languages. The efficacy of these connections is important to the claims of both appropriating non-indigenous artists and designers and those indigenous artists and designers who work in traditional or authentic methods—for these have as surely been affected by the contact of peoples as have their colonizing Others.

Appropriation as a mode of cultural engagement is dependent on an ability to separate a given object or design from its cultural milieu for the purposes of its employment in a different one. To that

end it is predicated on formalist assumptions as to the recognition and meaning of cultural heritage. For example, the inclusion of the koru as part of a general page in Owen Jones' *Grammar of Ornament* of 1868 betrays a reduction, isolation, and re-designation of a culturally specific design. A more violent dislocation occurs in Immanuel Kant's canonical text, *The Critique of Judgement*, from 1790. In the "Analytic of the Beautiful" he explicitly isolates the formal quality of the koru, in moko (tattoo) in this case, from its social and cultural significance for Maori. He writes: "[a] figure might be beautiful with all manner of flourishes and light but regular lines, as done by the New Zealanders with their tattooing, were we dealing with anything but the figure of a human being" (Kant 1952, 73). It is this association that prevents moko from assuming the status of *pulchritudo vaga* or free beauty in Kant's scheme. The moko is considered because of what it might mean if, and only if, it can be lifted off the person wearing it. The koru is interesting as a design feature but has no meaning attached to it other than the declaration of its formal properties.

In New Zealand, some commentators on appropriation have looked to Julia Kristeva's metaphor for language: "[every] text takes shape as a mosaic of citations; every text is an absorption and transformation of other texts" (Kristeva 1969, 146; see, e.g., Bell 1989, 16). In doing so it seems to me that they ignore two crucial issues. First, language is not static (which is her point, in part) but is also dependent on who is speaking and who is listening. In a dialogical system such as authorized cultural appropri-

tion this is extremely important. Secondly, the use of the mosaic metaphor is dependent upon the severing of language from specific meaning. It is the dominant assertion of the age that all forms of cultural production occur within a complex field of interaction, quotation, and re-quotation. In respect of this, to try to isolate the koru in any way would stifle its ability to communicate and participate in contemporary culture. This may be described as a post-modern position, not least because of its denial of truths or fixed meanings and its embracing of shifting and multiple interpretations of all aspects of contemporary culture. Whereas modernist appropriation was essentially mimetic (attempting to represent physical and/or metaphysical truths distilled from non-Western practices), post-modern reproduction is semiotic, and so appropriation is argued to carry its own validity irrespective of the meanings of the original. In this scheme, the koru is neither an original nor unique design but one caught within a complex series of textual relationships as in Kristeva's mosaic metaphor.

The difficulty here is that it potentially risks the compromising of sure or precise meaning within a specific linguistic and/or cultural *milieu*. While such an experience may well square with that of Euro-American academics, it is not clear that the languages (linguistic, artistic, symbolic) of indigenous peoples are so "cut loose." To the contrary, language is what sustains people. For Maori: "Ko te reo te mauri o te mana Maori" (The language is the life force of mana Maori); "Ke ngaro te reo, ka ngaro taua, pera I ta

ngaro o te moa" (If the language is lost, humanity will be lost, it will be as dead as the moa – an extinct large flightless bird) (Waitangi Tribunal 1986, ¶6.1.21 and 3.1.4; from oral submissions made by Sir James Henare).

It is in light of this sense of the potential for lost or erased meaning that an alternative position is sketched here. It looks to the retention of the philosophies, significations, knowledges, and strategies of indigenous peoples as being the key to any consideration of the cultural expressions of their making. More importantly, the maintenance of control over those expressions is presented as an important site of resistance to colonial, imperial or, in recent years, global capitalist assaults. The principal reason for this is founded on the idea that indigenous peoples remain at risk to new and various forms of colonial violence – physical, environmental, economic, and epistemic. More importantly, cultural resistance with respect to the arts is a means of retaining the strength and resonance of original voices and avoiding co-option into a dominant cultural ethos. As Frantz Fanon writes:

[every] colonized people – in other words, every people in whose soul an inferiority complex has been created by the death and burial of its local cultural originality – finds itself face to face with the language of the civilizing nation; that is, with the culture of the mother country. The colonized is elevated above his jungle status in proportion to his adoption of the mother country's cultural standards. (Fanon 1986, 18)

In this way, the ongoing sense that colonization is not an historical phase that has passed, the effects of which are known and finite, informs the arguments mounted by proponents of this position. This is a strategy of resistance founded on the apprehension that the loss of specific cultural knowledge or means of expression, or their being refigured in the dominant language of the colonizer, is akin to a cultural death. In maintaining an essentialist position, advocates of this position often strike out against a form of cultural genocide.⁵

A resonant metaphor for the competing claims sketched here is that of translation. The central concepts that govern translations from one language to another are fidelity and license. These tenets create an antagonistic but not irreconcilable tension. A translation too close to the individual meanings of words can create a dull, pedestrian text, voided of any poetic significance or emotional resonance. Too liberal a translation and any intended meanings can be obscured or lost. The genuine relationship of original to translation, as Walter Benjamin (1984a) sees it, is based on the transformation and renewal of the original rather than a replacement of it. Jacques Derrida develops this by responding to Benjamin's notion that the original demands to be translated, to be made over. Derrida argues that there is a necessary disassociation between the meaning and the letter in an original text, a "disschemination" named after the Shems who constructed the Tower of Babel: "[you] will not impose your meaning or your tongue, and I, God, therefore oblige you to submit to the plural-

ity of languages which you will never get out of" (Derrida 1985, 122). Conversely, Trinh Minh-Ha suggests that the poorest translation is the one that tries to erase from the original text its own resonances and makes the translation sound as if the original had been written in the translator's mother tongue.⁶

At the heart of this is the question of whether the koru has anything to fear from its potential for translation into works of art or designs that are not those for which it had traditionally been used. The "formalist" and "quotational" positions noted here would suggest not, for its involvement in the works outside of a customary frame allow it to speak of universal humanism, be appreciated for its own self, or reflect the shared cultural dilemmas of the current age. The alternative resists this sense of a collapsing view of everything necessarily being available for translation. It focuses, instead, on the specific social and political climate of indigenous experiences, which, although different, are founded on a shared experience of colonial violence. Lands, peoples, places, treasures, and resources that have been looted during the different phases of colonization suggest the need for a certain wariness when confronted by a demand for intellectual freedom and for the availability of indigenous peoples' knowledge to be served up as the latest course in the global colonial banquet. Resistance to a deconstructive model re-centers Maori perspectives. This overcomes what Rosemary Coombe gives the pertinent nomenclature "Representation without Representation: Visibility Without Voice" (Coombe 1993, 272), the idea that with-

out sufficient formal protection, indigenous arts and cultures may be made over in the mode of the dominant colonizing language and then made to speak in place of legitimate indigenous voices. At the same time, it also centers indigenous concepts in the discourse. In the case of Maori art, for example, it is crucial that all work is a reflection of cultural and spiritual values, all work is an expression of human spirituality and carries the essence of life or *mauri*.

INDIGENOUS PEOPLES AND INTELLECTUAL PROPERTY RIGHTS

The fundamental concern of intellectual property rights in an Anglo-American system at the present time is to protect the proprietary interests of identifiable authors and/or owners of identifiable material works. It serves as a partner protection to the interests in property that are protected with respect to real and personal property. It speaks, then, of ownership in a way that affects exclusive or semi-exclusive rights to particular things. In this way, the overall system of the law of property reflects a Cartesian dualism, which is to say it makes clear a split between the body and mind in respect of one's property. This is reflected in the fact that one person might own a physical object but another the intellectual property interests in that object. The specific contribution of intellectual property rights is that they protect the expression of one's ideas, the products of the mind, as it were. Importantly, the governing philosophy of its codification in the eighteenth century was a focus on the desirability of progress. It

was assumed in this period of early capitalism and nascent industrialization that society needed to move forward. Individuals needed to be encouraged to assist in that development, and it was assumed that they would only act if they were able to take the benefit of their inventiveness and their creativity. This situates early intellectual property legislation and case law within the realm of an emerging market economy.

The historical timing of the development of intellectual property rights is a pertinent element of the gaps noted above. The first English legislation, for example, was in 1709 and granted rights to the author of books in a move to circumscribe the indiscriminate printing of texts without the author's consent, a practice that was rife at the time. Importantly, then, it develops as a result of an attempt to retain the authority of the expression of knowledge for the expresser—it reveals a Foucauldian connection between knowledge and power. At the same time, the Enlightenment's philosophical focus on individualism and humanity's power over nature coincides with the growth of this set of rights. It also coincides with the escalation of colonial activities by the European superpowers of the time, through to the introduction of an imperial phase of colonization after the Battle of the Nile in 1798. Later formalization of these rights also reveals a co-incidence with the economic and political drives of Europe. The Paris Convention of 1883 (the base international document for trademark protection), for example, was signed during the Paris Exposition of that year, a marker

of economic and imperial might (Patel 1996, 311-313).

Foundations of indigenous peoples' critique: what intellectual property lacks

In raising some consistent features of indigenous peoples' customary rights in cultural heritage it is beholden on me to make certain interjections by way of disclaimer. The key concepts noted derive from both specific tribal concepts of customary law and those of broader racial groups such as Aboriginal Australian, First Nations, or Maori. It is necessary to state that these generalizations are in no way intended to attempt to define indigenous cultural heritage for indigenous peoples. As Article 1.1 of the 1993 *Mataatua Declaration* states, "[in] the development of policies and practices, indigenous peoples should: Define for themselves their own intellectual and cultural property." Nevertheless, the ideas that are stated are, for the most part, assumptions broadly held by indigenous peoples. This may be witnessed in their appearance in international documents of declared understanding between indigenous peoples and in the documents issued after indigenous peoples' fora (e.g., UN's *Draft Declaration on the Rights of Indigenous Peoples* 1993; UN's *Draft Principles and Guidelines for the Protection of the Heritage of Indigenous Peoples* 1993; *Mataatua Declaration* 1993; *Julayinbul Statement on Indigenous Intellectual Property Rights* 1993; *Final Statement of the Regional Consultation on Indigenous Peoples' Knowledge and Intellectual Property Rights*

Statement [Suva Statement] 1995). The principal concepts named here are the relationship to land and an holistic worldview. Together, these reflect and shape indigenous peoples' concerns.

Specific expressions of culture in narratives, fashioned objects, and performances are not easily divisible. Whereas Anglo-American law, for example, might treat tangible cultural heritage differently from knowledge, indigenous peoples resist this separation of aspects of their cultural expression because it does not conform to their sense of the interconnectedness of things. There is no taxonomic division of intellectual or other areas as is the case with Eurocentric systems since the Enlightenment. Law, science, biotechnology, culture, government, medicine, knowledge of the natural world, religion, performing arts, all are part of a matrix of mutually re-enforcing systems of knowledge and ways of living. As a result, to separate out any one area of concern for specific and/or divergent treatment is to create an artificial distinction. This can be witnessed in the growing acceptance of the term "cultural heritage" in place of "cultural and intellectual property" in the international arena (Blake 2000; Daes 1997; Janke 1998).

Yet cultural heritage is split up into numerous different rights under a parallel number of different legislative regimes. In New Zealand, for example, this can involve protective coverage under the heads "cultural" and "intellectual" property. The former category includes the Antiquities Act, 1975; the Conservation Act, 1987; the

Plant Varieties Rights Act, 1987; and the Resource Management Acts, 1991 and 1993. The latter includes the Copyright Act, 1994; the Designs Act, 1953; the Fair Trading Act, 1986; the Patents Act, 1953; and the Trade Marks Act, 1953. Such a collection of enactments might create the appearance of adequate coverage, but they do not, by and large, reflect specifically Maori concerns for cultural heritage.

This, perhaps, is why there are two significant changes on the table in New Zealand. The first is the Taonga Maori Protection Bill, a piece of proposed *sui generis* legislation that is currently being strenuously revised. The proposal seeks to provide a protective scheme for cultural heritage under one act. Significantly, in its original form the Bill reflected, almost clause for clause, the principles outlined in the *Mataatua Declaration* and would result in a significant shift in the form, objectives, and philosophy of indigenous cultural heritage protection. The name, "Taonga Maori," for example, reflects the Maori conceptualization of taonga (treasures) for cultural heritage. This is an inclusive term for both tangible and intangible aspects of Maori culture; it would, for example, bring legislative protection for a traditionally woven garment into the same arena as the Maori language and principles of environmental management. The second major development in New Zealand is the awaited findings of the Waitangi Tribunal on the Wai.262 Mataranga Maori and Taonga Claim currently before it. This revolutionary claim brought by Maori seeks a declaration on

the position of Maori cultural heritage in its very widest sense and represents an attempt to elicit formal recognition of self-determination over cultural heritage from a government body. Both the bill and the claim represent resistance by an indigenous people to the divisionist and disempowering nature of legislative regulation of their cultural heritage. While the response of Maori might show that legal systems may change in order to accommodate alternate needs (although this has yet to be proven), it is noticeable that both endeavors reject or at least side-step traditional intellectual property classifications. This is a strategy of disordering that illustrates the depth of indigenous antipathy for the principal effects of cultural heritage regulation.

This antipathy finds a parallel in outsiders' criticisms of the failure of copyright to accommodate the particulars of indigenous perspectives. Indeed, copyright is commonly rejected as the most unpalatable form of protection of indigenous heritage rights available. For example, Erica-Irene Daes, Chairperson of the United Nations' Working Group on Indigenous Populations, declares existing forms of legal protection of intellectual property such as copyright to be "not only inadequate . . . but inherently unsuitable" (Daes 1997, ¶32) to indigenous peoples' needs. A communality of analysis holds that Eurocentric systems of intellectual property regulation fail to accommodate the unique relationship between indigenous peoples and their knowledge systems (e.g., Coombe 1997; Janke 1998; Johnson 1996; McDonald 1997; Tunney 1998; Wright 1996). Importantly, too,

there has been registration of this lack in the courts. In the “Carpets Case,” for example, Justice von Doussa stated: “[the] statutory remedies do not recognise the infringement of ownership rights of the kind which reside under Aboriginal law in that traditional owners of the dreaming stories and the imagery such as is used in the artworks of the present applicants” (*Milpurrurru and Others v. Indofurn Pty. Ltd. and Others*, 30 IPR 209, 239 [1994]). Such a failure includes the refusal to recognize and endorse the central fact of indigenous cultural heritage: that in its many forms it articulates and contributes to indigenous identity, heritage, and the relationship of different tribal and linguistic groups with the world. Instead of being commodities owned by individuals produced for potential economic benefits (as is the presumption of the Anglo-American model), indigenous heritage registers relationship, survival, struggle, and, most importantly, identity.

Property

Property is arguably the dominant focus of Eurocentric legal systems. The Anglo-American notion of protecting against unauthorized infringement, for example, is a metaphorical extension of the notion of trespass of real property. Yet the same concept does not necessarily exist in all indigenous systems; certainly it does not assume central importance. As Daes articulates the issue:

indigenous peoples do not view their heritage in terms of property at all – that is, something which has an

owner and is used for the purpose of extracting economic benefit – but in terms of community and individual responsibility. Possessing a song, story or medicinal knowledge carries with it certain responsibilities to show respect to, and maintain a reciprocal relationship with, the human beings, animals, plants and places with which the song, story or medicine is connected. For indigenous peoples, heritage is a bundle of relationships, rather than a bundle of economic rights. The “object” has no meaning outside of the relationship, whether it is a physical object such as a sacred site or ceremonial tool, or an intangible such as a song or story (Daes 1997, ¶26).

Setting aside any issues of essentialism strategically adopted in Daes’ report, there are two conclusions to be drawn from this. First, indigenous “property” is not part of a Cartesian proprietary scheme – a subject does not possess an object as a sign of the subject’s domination of the object world. Secondly, and as a result of this, indigenous “property” is inalienable, unlike Eurocentric views of property (Moustakas 1989). Given the importance of the proprietary scheme for Anglo-American copyright and its delineation of economic rights over aspects of intellectual property, it is not surprising that there is no match with indigenous concepts of heritage.

Material form

In a legal sense, materiality remains a fundamental presumption of a quality essential to art, as two English cases

indicate. Lord Justice Lawton in *Merchandising Corporation of America Inc. v. Harpbond Ltd.*, for example, responds to the idea that make-up could be analogous to a painting:

it seemed to me fantastic . . . a painting must be on a surface of some kind. The surface upon which the startling make-up was put was Mr. Goddard's face and, if there were a painting, it must be the marks plus Mr. Goddard's face. If the marks were taken off the face there cannot be a painting. A painting is not an idea: it is an object; and paint without a surface is not a painting. (FSR 32, 46 [1983])

Similarly, in *Creation Records Ltd. v. News Group Newspapers Ltd.*, Justice Lloyd refused the designation "sculpture" for a collection of disparate objects arranged for a photographic session with the band Oasis on the grounds of it being temporary. Having declared he did not regard the claim that the object might in fact be sculpture as "seriously arguable," Lloyd J. continues:

[this] composition was intrinsically ephemeral, or indeed less than ephemeral in the original sense of that word of living only for one day. This existed for a few hours on the ground. Its continued existence was to be in the form of a photographic image. (EMLR 444, 450 [1997])

The idea that a temporary work is somehow less of a work than one intended to last for more than a day (apparently Lloyd J.'s standard term) stretches the normal understanding of

materiality, which is a physical presence only, not a physical presence over any specific period of time. By the same token and despite what Lawton LJ. declares, make-up is a material expression of an idea once it is applied (the very term for putting one's face on charts its distance from an "idea"). As a result, it would seem that a copyright focus on material form implies more than a desire for fixedness as a purely materialist concern; it implies fixedness in the sense of stability or permanence.

Two major problems result for indigenous peoples with respect to this. First there are forms of heritage that, by these decisions, will not attract protection. Maori performers, for example, will paint designs, sometimes with specific tribal and/or familial significance, on their faces. Aboriginal Australians will on occasion have designs on their bodies as an important part of particular ceremonies. At these and other times, impermanent works will be created, earth paintings for example, which last only as long as a particular ceremony or performance. Moreover, songs, dances, temporary artistic works such as body designs, and earth paintings and artifacts do not exist in isolation from one another but form an holistic milieu of the performance. In terms of materiality, designs on the body, the performance itself, and any associated impermanent works fail a copyright test of material form. For indigenous peoples, however, there is nothing to separate these aspects of cultural heritage from the paintings, linocuts, or sculptures of the successful copyright infringement cases brought by

Aboriginal Australian artists.

Although untenable from a customary rights perspective, material form is the normative position of Anglo-American copyright, a condition closely allied with the proprietary focus of Euro-American law in general. What it ignores in terms of indigenous peoples' interests is that the "things" that most warrant protection are often not physically manifested. The ideas behind the works (performances, narratives, principles of design, the meanings of these, the secret and/or sacred nature of these interwoven concerns) can be of greater and more lasting "value" to peoples. In painting, the narratives and styles of works remain unprotected, for example. In the case of performances of oral traditions, Janke records the alarming prospect that although there are minimum standard performers' rights in Australia:

[performance] of Indigenous music, dances and stories are not eligible for copyright protection unless they are original and recorded in material form. Thus, under existing copyright legislation, traditional custodians of an important sacred dance or ceremony may not be able to stop unauthorised performances of the dance. (Janke 1998, 56)

Authorship

The subject of Anglo-American copyright is the individual author. In the context of art making, this often squares with the naïve and Romantic image of the lone artist struggling away in a garret, wrestling with creative dæmons.

Protection for indigenous notions of authorship or creativity is not considered. This is because of three basic dissimilarities with the dominant model, presented here as questions. First, are there indigenous "artists" as such? Secondly, how do they conceptualize themselves and does that square with the demands of authorship? Finally, what happens to the indigenous artist when she stands in court? The significance of these dissimilarities is that they reveal a central asymmetry with respect to the place of indigenous artists in relation to authorship.

"Artist" (or "author") is not necessarily an indigenous conception of the role played by creative individuals. At the outset, there are etymological difficulties with the very term. As First Nations artists Lou-Ann Neel and Dianne Biin state:

[as] with many Indigenous groups throughout the world, our respective languages [of the Mamalillk^ula, Da'naxda'xw, Ma'amtigila and Kwagiulth peoples for Neel; and of the Tsilqhot'in people for Biin] have no one-word for "art." We also do not have a singular word for "artist."

Instead, we have words and phrases that describe individuals or groups of individuals as being knowledgeable or skilled in a particular area of creative works—professionals who are, for example, "knowledgeable in the way of songs" (composers, singers) or "knowledgeable in the legends and histories" (storytellers, painters, carvers, etc.).

...

While we would prefer to use a more suitable designation, for ease of discussion we will use the terms “artist” and “artistic” but offer a definition of our own making to define artists as “*Trained practitioners and masters of the formal artistic and creative disciplines of our people.*”

In Kwakwaka'wakw, we would say “*Xa nax'wa ni'nogad kotla'xees dlax-wa-tla-as*” (“*those who are knowledgeable know where they stand*”). Many languages speak this same truth. (Neel and Biin 2000)

By approaching the law as artists, those who speak, sing, dance, make or otherwise create indigenous cultural heritage are having to stand as translations of themselves.

Secondly, the assumption of self-authorizing production underpins the Anglo-American conceptualization but indigenous artists manifestly do not share this experience. Their work may be subject to controls and they themselves are answerable to the people for whom they speak. In parallel, Martha Woodmansee contrasts individuated authorial responsibility with a medieval European concept of authorship wherein the author makes a contribution “as part of an enterprise conceived collectively” (Woodmansee 1994, 17). In the present context, this suggests that for indigenous artists working with traditional content and/or methodologies there is an absence of what Michel Foucault terms “the author function” (Foucault 1991). To this end, the artist is not the determining factor in the “value” or “significance” of a work nor in the way it is received. Rather, even artists of great skill may be appreciated for the way in which they

relate the content of a work. Like St. Bonaventura in Woodmansee’s example, neither Neel nor Biin acts alone. In a way, the process of authorization of indigenous art-makers through instruction and/or initiation is analogous to the training of medieval artists through long periods of apprenticeship in both methodologies of art and the Word to which they were giving form.

This is not to say that individual indigenous artists are not granted and have not found some satisfactory protection in copyright actions (the Australian case law refutes such a conclusion). Nevertheless, those appearances also see the interests of those artists and the communities of which they are a part translated into interests that would exist were the claimants non-indigenous. By this it may be that “equality before the law” results in an erasure of what may be a crucial part of an artist’s identity and the reason she might bring a claim: her indigeneity.

Originality

Originality poses two difficulties for indigenous peoples. The first relates to whether or not indigenous cultural heritage, especially contemporary evocations of traditional narratives and/or designs, for example, may be said to be “original.” The second, significantly more subtle problem, is more structural in quality. It arises from affirmation of the first issue. Rather than offer a positive conclusion, I would contend that concern regarding originality in indigenous cultural heritage illustrates a clear

instance of the pervasive imbalance of copyright in favor of the Euro-centric conceptualization and the seductive ease with which alternate systems or positions may be incorporated within it. For many years the single “originality” difficulty for indigenous peoples’ cultural practices arose with respect to the realization of known narratives or re-articulations of established designs—copying and reproduction sanctioned and moderated by a collective. It is conceivable that any difficulty was based on one of two positions. One may have been the protectionist concern that copyright regimes were so strict that they might not extend to “known” or “traditional” elements. An alternative position is the fallacious notion that careful and exact repetition of images (and histories, narratives, and performances, which remain unprotected) was the result merely of slavish copying. This position conceives of indigenous cultures as synchronic, with peoples doomed to repeat a diminishing range of known devices (Talal Asad 1973; see also Freud 1913; Lévi-Strauss 1955).

The key decision dispelling the idea that the contemporary expression of traditional Aboriginal Australian cultural heritage might not be original is *Milpurrurru and Others v. Indofurn Pty. Ltd.*—the case of indigenous paintings copied onto industrially manufactured woolen carpets. In his decision von Doussa J. notes a series of texts such as the Working Party Report that addressed this concern and states that the problem is:

whether works incorporating [traditional narratives] satisfied the requirement of originality so as to attract copyright protection. In the present case that issue has not arisen, and by the end of the trial the copyright ownership of the artists in each of the eight works was admitted. Although the artworks follow traditional Aboriginal form and are based on dreaming themes, each artwork is one of intricate detail and complexity reflecting great skill and originality. (30 IPR 209, 216 [1994])

Even in respect of traditional methodologies, works are found to be original; it is enough that there has been some visible presence of the hand of an individual artist and the recognition by artist and community that she is responsible for a particular version of a narrative. In this respect, case law appears to have accommodated indigenous interests insofar as they are compatible with original artworks made by individual artists. Narratives do not garner protection in and of themselves, only as “original” manifestations by authors. Nevertheless, all appears well because “Aboriginal artworks,” by being declared to satisfy an origination test of originality, are not rendered ineligible for protection.

Reproducibility

At this point, it is as well to identify what might be an ironic reflection of the status of original and reproduction in the context of non-indigenous legislation pertaining to indigenous art and design. A number of commentators have focused on Walter Benjamin’s text “The

Work of Art in the Age of Mechanical Reproduction” as a modern theoretical source for a defense of the uniqueness, the partiality of indigenous cultural expressions. In the introduction to the exhibition catalogue *Copyrites: Aboriginal Art in the Age of Reproductive Technologies*, for example, Vivien Johnson extends the obvious reference to Benjamin in the title by opening with a quotation: “[the] presence of the original is prerequisite to the concept of authenticity” (Johnson 1996, 3; see Benjamin 1984b, 220). The quote is used to center a discussion about the non-approved use of Aboriginal Australian art, how such practices necessarily breach both intellectual property and cultural integrity, and how this relates to the distinct understanding of authentic Aboriginal art. One of the key observations raised in the essay is that non-Aboriginal people do not understand the particular auratic qualities of the things they copy and that any reproduction should only progress from the position of informed consent. To this end it repeats some of the conclusions reached in this article in the articulation of interwoven concepts of identity, authenticity, and the specific attachment of indigenous epistemologies to particular forms of cultural expression. Johnson turns Benjamin’s phrase to make her point: “[the] presence of the Aboriginal is prerequisite to the concept of authenticity” (Johnson 1996, 3).

Interestingly, the same position that defends the need for authenticity of expression as a means of dislodging the assumption that non-indigenous people may have access to certain objects or

knowledge for exploitation will invariably register that normative rules of copyright are inherently unable to respond to the requirements of that authenticity. Indeed, these two points look as though they go hand in hand. What is potentially ironic about such a link is that the security of the first point rests in large part on the notion of originality, an issue that is, in fact, defended in particular forms by the very system that is criticized in the second point. Originality in copyright is a theoretical construct intended to establish and defend the originating author’s economic interest in the products of her labor—it establishes an original proprietary interest that the author may then use to restrict copying. “The presence of the original,” in this context original (indigenous) peoples and original (first) expressions linked to membership of that group, may, likewise, presume a proprietary interest and may well foreground that interest. Coombe, usefully, has warned against the ease with which concepts such as culture, authenticity, and identity may be posed as proprietary terms, wherein such arguments are “constructed upon the same philosophy of possessive individualism that grounds our legal categories and historically supported practices of colonial expropriation” (Coombe 1997, 80). Both originality in copyright and (Ab)originality as representative of indigenous interests in cultural heritage turn on the notion of origination—my right in my work stems from the fact that the particular expression of it originates with me as its first author; indigenous rights in cultural

systems and their expression stem from the fact that these expressions originate with them as first peoples.

My concern in raising this is to register that there is at least a split in the logic in how originality (as prerequisite to authenticity and as a basis for refusing reproducibility) operates in cultural-legal terms. Those of us who do support the notion that there ought to exist specific sets of ethical and maybe legal criteria that inform and shape the ways in which non-indigenous peoples encounter, research, and/or reproduce indigenous knowledge need to come to terms with what we think originality imputes. If by originality we wish to invoke a sense of exclusiveness for some and exclusion for others, then we must accept that this is a shared concept of that version of indigenous rights and copyright. This is not necessarily a bad thing in a practical sense, for it manages to speak the language of the colonizer in order to articulate an interest of the colonized and so may be heard. Yet herein lies a dilemma because, as Coombe goes on to argue, this effects a normalizing of discourse, one, moreover, in the language of colonization. It repeats the concern noted in this article about indigenous peoples (or in this context indigenous concepts) having to stand as translations of themselves in order to be heard, to be accepted, or to enter into discourse. In the context of cultural expressions, the translated document, artwork, or performance remains dependent on a prior document, artwork, or performance (hence it is unoriginal or inauthentic). This is why the very notion of translation of

indigenous concepts has the potential to be inherently dislocating.

At the same time, the inversion of this position bolsters an *a priori* assumption of the superiority of indigenous heritage when it is appropriated out of its cultural context. Translation in this instance recognizes that, regardless of the qualities of the derived work, it is dependent on something that went before it. Further, translation in copyright terms can produce certain positive outcomes. Indigenous authors will find protection in that different legislative systems state that originators retain adaptation rights (of which translation is one). Translation in the practical legal sense refers to cross-language translation, and adaptation does not extend beyond literary, dramatic, or musical works, which is a limited field admittedly. Nevertheless, the notion that translations and adaptations require permission of copyright owners creates the inference that translations of cultural material do not take place in an open environment without an interceding principle of authorization. Thus, the technical understanding of legal translation rights may go some way to modifying the sense that translation is quite so free and open in broader cultural terms. While translations may have their own originality or authenticity as translations (and this creates certain intellectual property rights) they are neither original nor authentic in the way Johnson, say, uses Benjamin to enunciate a conceptualizing of Aboriginality.

I am not sure Benjamin on his own is all that helpful, though. His discussion of the original's aura's dissipation by

reproduction in the context of single paintings is not necessarily borne out. Indeed I may suggest that one is more inclined to valorize the original when encountering it because of prior familiarity with its look from reproductions—thousands of visitors a day venerate the *Mona Lisa*, and cynics test their experience against its primacy in certain visual languages, but how many actually *see* it? We perform its aura by our recognition of it in any given context—in the Louvre or on a chocolate box lid. Moreover, Benjamin’s affirming discussion of film in his essay is, it should be noted, a discussion of a medium of *reproduction*, what we see are projections of prints. Is there no aura emanating from this projection, from this copy? I am unsure. When Johnson wittily interposes Aboriginality in a sentence on originality it looks like an affirmative gesture; it looks like a strategy whereby a form of primacy or prior claim is asserted. She’s fencing territory. My concern with this is not that she looks to be staking proprietary claims—Coombe’s concerns about the dominating logic of proprietary analysis are certainly not a cunning means of dispossessing indigenous peoples of their heritage by declaring property to be an ethically bankrupt basis for analysis, thereby rendering everything available for everybody, far from it. Rather, what interests me is what is consequential from the assertion of originality. This gambit can run from strategic essentialism (original as exclusive and exclusionary—like the original author’s rights) to a principle of respect, consultation, and authorization (original

as permissive—again, an author’s prerogative in copyright). In this way it looks to me increasingly less like a question of reproducibility framed exclusively by proprietary interests (legal territory) and more like one concerned with articulation (ethical and behavioral territory) (cf. Coombe 1997, 93).

Authenticity

The notion of defining a specific set of conditions through which one might define what is “authentic” Maori art or language is the most serious philosophical problem in this area. As an example, the koru as a graphic is far from a unique cultural phenomenon. A curvilinear form is widely used, and spiral forms are present in the ancient and contemporary art of many cultures: one can think of ancient Greek acanthus designs, decorative markings from the Sepik, heraldic decorations surmounting shields, Lebanese iron work, Native American spiral mounds, and Renaissance Italian *voluté* as an eclectic and random selection of the form in art.⁷ The artist, satirist, and theorist William Hogarth’s treatise, *Analysis of Beauty* (1753), asserts (in chapter X) that most elegant of lines is the serpentine line. His engraving of this involves a long gently curving line with a twist at the end to effect closure that has the same fundamental features as the koru. In specific cases of application and use, however, the particular demands of makers, users, and materials render such generic forms dissimilar beyond any but the most casual of observations. Moreover, confusion (or at least connection) of these forms based on

morphological analysis does not of itself suggest protection is unwarranted. The koru carries particular and specific connotations, which means it warrants protection. As I see it, there is sufficient distinction between the different graphic manifestations of the curvilinear pattern, and such a distinction is made plain when the koru is used in connection with associative or connotative meanings.

The second problem of definition is that it can seriously delimit notions of art. The Maori Arts and Crafts Act of 1926 attempted to define Maori art. Sub-section 4.1 established learning institutions “for the study and practice of the arts and crafts as known to and practised by the Maori people.” On the face of it there is little problem with this, but in relation to whakairo (carving), for example, there have been sweeping changes in the way in which it has been articulated in the thousand years since Maori first came to Aotearoa/New Zealand. Moreover, the principle of aesthetic faithfulness that is articulated in the Act is based on an analysis of one house, Te Hau ki Turanga from 1842, made by Raharuhi Rukupo and others, which is now in Te Papa Tongarewa, The Museum of New Zealand. The implication is that the house is treated as an idealized model of Maori artistry rather than being a specific and excellent example of work made in the Poverty Bay area in the middle of the nineteenth century. The obvious problem with this is that it normalizes one institutional style and determines it to be “authentic.” In the words of the Act, the purpose of defining the content of a Maori School of Art was to prevent new materials and

applications from leading to “the production of un-Maori works of art” (Page Rowe 1928, 60).

More recently, Hirini Moko Mead has adopted an eight-point definitional approach. Most of these are unproblematic, but when first promoted at the Toioho ke Apiti Maori Art Conference at Massey University in 1996, three of the eight conditions elicited less than unanimous support. The idea that “[the] primary purpose of Maori art is to give expression to the creative genius of Maori artists to satisfy Maori social, political, cultural, and economic needs” (Mead 1997, 231) squares with an orthodox view of Maori art making but falls short of allowing for more independent spirit within Maori visual artists. It runs the risk of introducing a prescriptive element into Maori art. The succeeding condition was to note: “Maori art is social art that is created within a cultural and social environment, such that artists are in touch with their tribal roots and with their people” (ibid.), which is prescriptive. As with the recent bout of fisheries decisions, this approach of Mead’s effectively distinguishes between urbanized Maori and rural Maori and/or those who remain in contact with their iwi or other tribally-based group. The difficulty of this means of identification is difficult to downplay, but it needs to be remembered that not all urban and/or de-tribalized Maori have selected that state. For many it is the result of decades of cultural negativism and the drift to urban centers for work which they and their families have engaged in. Mead’s point seems to try to avoid some of the painful

sociological facts of twentieth century Maori experience. The next definitional moment suggests that “[changes] in Maori art are brought about by Maori artists who employ new technologies, introduce new images, and recombine elements of Maori art in new and exciting ways that are accepted by the Maori people” (ibid.). The last clause of this is problematic, for just as a tourist public can endorse orthodoxies of style, so can a general Maori public. The risk here is of a mode of practice that is more often than not reactionary in quality. In terms of its application to a legislative approach, there is a very real danger of ensuring a regime that results in stasis for Maori arts.

THE COLONIAL CATWALK: AUTHORITY, FREEDOM, AND FASHION

One of the general principles underpinning the *Mataatua Declaration* is one of authorization. What it in part seeks to reverse is the sort of subject/object split that sees active colonizers exploiting and utilizing the cultural heritage of passive colonized in a manner that re-inscribes and thereby makes more powerful the speaking/silencing, active/passive binarism of this crude model. Active involvement, the seeking of permission, and, most importantly, a desisting from any form of involvement where permission is denied deflect the hegemonic privileges of the singular speaking subject. In the context of visual culture, where dialogue between culturally divergent parties is entered into and maintained (especially

if indigenous systems, structures, and/or restrictions shape that dialogue), there is at least the first step in dislocating the assumed authority of the colonizer to exploit whatever she might choose in respect to her own, independent intellectual creations. This discussion returns us to the question of reproducibility and the attendant questions: Is the original diminished through different forms of reproduction? Has the koru (in this example) anything to fear from its potential for translation into works of art or designs that are not those in which it had traditionally been used? Is there something integral to it that refuses the possibility of appropriate reproduction?

Indigenous design and non-indigenous fashion

In lines marketed four years ago, the New Zealand swimwear manufacturer Moontide included women’s suits made from material patterned with interlocking curvilinear koru designs (fig. 3). The managing director, Tony Hart, and the firm’s designers developed this swimwear line with a Maori entrepreneur. Buddy Mikaere, a kaumatua (elder) in the local community, negotiated the use of the koru motif. According to Hart, two concerns governed the design element’s use: commercial viability and cultural respect. In recognition of this dual aim, part of the royalty from sales goes to the Pirirakau hapu (sub-tribe) of the Ngati Ranginui people.⁸ Not surprisingly, when the line debuted at Sydney Fashion Week in 1998 it garnered considerable

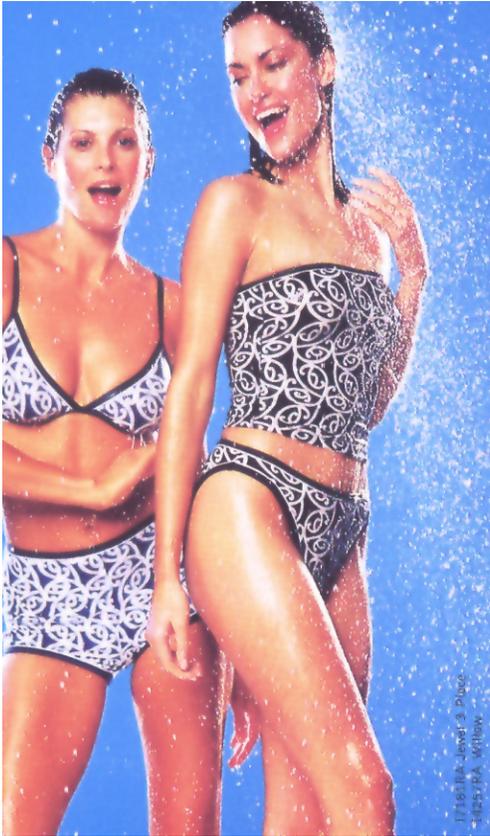


Figure 3: Moontide Swimwear, Jewel 3 piece and Willow from promotional brochure 1999/2000.

press interest for its apparently ethical handling of indigenous interests.

What this example represents is a discrete arrangement between two parties: the manufacturer and the indigenous entrepreneur acting on behalf of a tribal group with direct responsibility to that group. At first glance it would seem that any absolute sense of intellectual or creative freedom in the manner that dominates Euro-American discourse on art and design has been sublimated to some degree of duty or responsibility. More remarkably, perhaps, commercial imperatives have

also been toppled as the prime determinants of exploitation and marketability. Not unlike the Air New Zealand marketers and designers during its re-branding, there is an interesting interplay between cultural sensitivity and commercial reality – indeed, I would argue it is more finely balanced in this case because the issues at stake have been openly and frankly addressed by the company. At any rate, the independent designer and manufacturer are supposedly held accountable for the manner in which the indigenous design module is employed.

An obvious comparison may be made with the unauthorized use of indigenous Pacific and Maori graphic design in Paco Rabanne's *haute couture* line from January 1998 and Jean-Paul Gaultier's Spring/Summer 2000 lines and perfume bottling. In the former, the use of shiny black fabric cut in deliberate echo of koru design, high-cut at the hips, barely covering the breasts and coming up to the face as a mask-like accouterment, plays with a close alignment of exotic and erotic spectacle. The costume registers with some level of equivalence two primary sources and effects. First, the erotic allure for some Europeans that moko holds – think of the attraction of European seamen for tattooed Polynesian belles. Secondly, the appeal of sexually assured and/or aggressive clothing such as that associated with domination and/or sado-masochistic sexual practices – think dominatrices of sex clubs or of popular culture such as Catwoman from *Batman*. In combination these suggest a sexual *frisson* that interrogates and

extends that commonly held to be present in “the little black dress.” In this example, the dense black of the garment oscillates with the flesh of the model in an almost *fort/da* manner that can serve to heighten desire. Like the body of the Polynesian woman for non-travelers, the body of the model for fashion pundits or magazine grazers is an exotic/erotic fantasy figure. The “tattoo” marks heighten the experience and potentially suggest a libidinous puncturing of the flesh in a manner of attraction and repulsion that has a strange echo of Kant’s discussion. One may stand this interpretation of koru-derived design next to Neich’s discussion of the originating form to chart the level of dissimilarity. At the same time, however, there is not necessarily an attendant sense of indecency or inappropriateness on the part of every critic. Much as older and/or more conservative people might shy from or actively regard as wrong the body additionally sexualized by the use of the koru, younger and/or more fashion-conscious or modish types might find humor or absurdity in the use.

The Gaultier lines and marketing strategies are somewhat differently inflected. Like Rabanne, Gaultier has a reputation in both the fashion and pop culture industries for employing a knowing and often humorous sexiness in his designs. To that extent, the diaphanous printed fabrics of his shirts and sarongs may play a similar peek-a-boo game. At the same time, the sources for his quotation are wider than Rabanne’s; for these lines he appropriated images by Gauguin as well as direct images of Maori use of the koru.

This may typify the notion of the knowing Gaultier as a leading nominally post-modern designer. Not only does he register the sort of pliant sexuality that Euro-Americans continue to dream is the condition of the Pacific but he does so by utilizing the key high art formulation of this presupposition—Gauguin’s *Noa Noa* woodcuts. The images and the journal of the same name are synonymous with the sexual and artistic freedom Gauguin maintained he found in the numerous islands of the Tahiti group where he lived between 1891 and 1903. They establish his sense of a rich and magical Otherness to the “filthy Europe” he had escaped. In addition to these woodcuts, Gaultier incorporated the profile self-portrait of Gauguin and the “PGO” signature he developed. In the lightness of the fabric and the sense of the fashion season to which they relate, Gaultier imbues a sense of a similar dreamy other-worldliness of the Tahiti of popular European imagination. To be fair, this is endorsed by the local tourist trade—soft, smiling bodies are more encouraging of potential tourist dollars than the nuclear test sites that characterize a crucial aspect of the French colonization of Polynesia.

To the Gauguin mix Gaultier introduces the image of a Maori warrior with ta moko—not unlike that of Frizzell’s image. Clearly there is the sort of non-specific geography that characterizes artistic appropriation of indigenous cultural heritage, wherein the precise meanings are evaded in search for a more generalized and imagined locale. To an extent, this place is like to an imagined land, perhaps a

nave nave fenua (fragrant land) to utilize the term Gauguin coined. In this respect, there is a shift from a specific (often contested) location that one could align with a sense of the real to the realm of the imaginary as figured by the designer's creative inventiveness and *savoir faire*. Certainly the moko in the marketing campaigns register some degree of "Maoriness" but, at the same time, are entirely in keeping with what "Gaultierness" has come to represent in fashion – the conflation of sexiness, "bad-boyness," and inventiveness that are the hallmarks of his style are present in equal measure here.

Still, there are other problems. These are most notable in the men's swimwear of the Gaultier line, where, depending on the cut of the fabric, the warrior's face with ta moko is repeatedly situated on the ass. Whilst this might contain a sense of general insult to non-Maori it is of specific offense within Maori culture, with an entirely inappropriate confusion of the relative states of tapu (the head, and the head of a tattooed person of rank and mana in this case) and noa (the bottom). Things tapu and things noa are to be separated. One ought not to sit on a table that will take food, for example. Hence, to place a representation of the part of a person that is most important, most sacred if you will (and one that shows the status of the person through the wearing of the moko), where it will be sat on is, in Maori terms, a grave matter. It is a factor that does not seem to even enter into the ken of a blithe spirit of contemporary fashion.

Fashion in the field

There is, too, a local variant on this problem. For many years the Christchurch-based sports apparel manufacturer Canterbury of New Zealand had a contract for supply with the New Zealand Rugby Football Union. Prior to the 1999 Rugby World Cup held in Britain and France, however, that contract was not renewed and the NZRFU entered into a deal with the global sporting goods manufacturer, Adidas. Importantly, both companies have subsequently used Maori design in order to further product visibility and/or desirability.

Canterbury has produced a new range of rugby boots, launched in London in 2001 and released on the New Zealand market in 2002. The promotion of these products suggests that there have been important modifications to the existing design, especially in relation to the soles of the boots and the placement of sprigs. Of more importance here is the look that has been generated in association with the new product and the nomenclatures associated with the different examples within the line. Three of the eight new boot designs incorporate explicit koru-based designs in the form of differently colored leather decoration on the outside of the boot. These were designed by a Maori designer and carver, Riki Manuel. The energy of the forms, perhaps even an intimation of wind or movement, has been carried over into the cosmetic features of the boot (fig. 4). These come to function as positive connotational meanings for rugby players. At the same time, there may be a direct appeal to a nationalistic spirit

within the local market or an exoticness or recognition of the formal appeal of the motif internationally. The company's involvement with an indigenous designer looks to bolster the appropriateness of its use and, furthermore, there is no intention by the company to assert any claim of ownership over the designs or words used (acc. to the *Sunday Star Times*, 4 Nov. 2001).



Figure 4: Canterbury of New Zealand, Moko rugby boot, 2001.

More problematic is the incorporation of words in the boot promotion. The eight names given to the range are as follows (the translations are the author's own): Rangatira (chiefly person); Tane-Toa (champion);⁹ kaha (strength); whetu (star); moko (tattoo); toa (warrior); hiko (flash, zigzag, shine; all qualities of the good rugby player); and haka (fierce chanting dance)¹⁰. There are two problems in this. One is the potential for the trademarking of Maori words—which could amount to a ring-fencing of the language when employed overseas where the words cannot be said to have

generic use. This is an important concern in the face of global marketing, and several examples have already caused consternation.¹¹ Outside of the trademarking issue (which Canterbury has stated it will not seek), there are residual concerns regarding the tapu/noa disposition of having words such as Rangatira, in particular, for a range of footwear. The notion of stepping over or on someone of rank is culturally offensive. Hence there is a distinct tension in the naming of the product between a desire to capitalize on the positive attributes of status but, at the same time, significant questions as to the neutrality of doing so.

Eighteen months prior to the Canterbury launch, during the latter stages of the 1999 Rugby World Cup, Adidas' campaign included the image of a Maori warrior with moko filling up the billboard, page, or other site of advertisement, the company logo placed discreetly underneath. Presumably the campaign sought to connect the New Zealand All Black's reputation as rugby players of high caliber with general associations of strength, energy, and vitality that may be set alongside Polynesian warriors. Implicit in this, too, may be a certain sexualization of the powerful, aggressive indigene. In terms of the issues raised in this section, the moko on the model pulls together markers of reputation, exoticism, masculinity, physicality, and sexuality and markets these as the associated values of the brand. This may work well internationally or locally, for that matter. Although, in the latter context, it is the habit of many rugby union and rugby

league fans, both Maori and non-Maori, similarly to paint moko on their faces in support of their local or representative teams, the campaign's "exoticism" indices might not be so strongly felt outside of Europe. The others, however, remain, for the most part, intact.

The Moontide lines look to come out of these comparisons in a positive light, mostly due to the consultative process that was used prior to and during the manufacture of successive season's lines. Perhaps, too, there is a similar hint of allure and location in the use of the koru designs, and this may also speak to the development of a specific clientele—in this case New Zealand women who enjoy supporting local industry and wearing clothes that disport that enjoyment. Canterbury would seem to have the same market for rugby players of either gender. Nevertheless, there remain questions regarding the appropriateness of the authorization of this design for this purpose. In the case of a scanty bathing costume, a similar divide between conservative and more modern morality may be imputed here—certainly not everyone who sees these images is unconcerned by them. The presumption of the consultative process, though, mitigates any potential discomfort inasmuch as there is the stated position that this use has been authorized. Thus the ability to question or interrogate that use with respect to some sort of indigenous moral perspective is seemingly curtailed.

What this introduces is a more serious problem at the heart of the authorization issue. That is to ask: "who may authorize and to what end?" I should say that I do

not mean this to be a question that results in disenfranchisement or alienation of decision-making from indigenous peoples. Nevertheless, there remain open questions as to the ability and/or advisability within Maori custom for individuals to assume that they may authorize the use of designs that may more properly be considered the cultural heritage of the collective. Te Rangitu Netana working on Robbie Williams in a tattoo studio in Amsterdam may carry with him the authorization of his teachers and/or his relatives, but he will, inevitably, have to make sole judgment calls on whether or not to work on particular clients. The distance of Amsterdam from Aotearoa/New Zealand (almost the very opposite end of the earth) may suggest a sense of isolation that is as much cultural as geographical. In place of this gap, Netana may assume a self-authorizing position that bears little or no connection to those who trained him or, in a broader sense, whose designs he copies and interprets. Nor is there consensus regarding the appropriateness of the tattoo Williams now sports. The designer may speak of the specific story he designed for his client using his stylistic signature, but this becomes problematic in terms of the relationship between his own authorial signature in the sense of an individual subject-author and the signature of the people who would seek to control its disposition and dispersal. To this end, some Maori question the appropriateness of Williams wearing what is a mark of belonging and, moreover, of status when he clearly lacks the former and, to some, lacks sufficient

mana to boot. This becomes more complicated when the factor of international recognition is added to the discussion. The issue here is whether mere visibility (for those who are skeptical of the moko's appropriateness) can offset what might be seen as dislocation from or harm to the specific cultural construct in which moko holds a meaning other than mere fashion-credibility.

At the same time authorization leaves open concerns that might be raised about the ability of groups such as tribes or sub-tribes independently to sanction the use of a motif or design module or to register an interest in it as this might exclude both indigenous and non-indigenous further use. In the case of Moontide, for example, the exertion of an intellectual property interest in the fabric design, say, could be exercised against a "passing off" swimsuit by an unscrupulous, indigenous copier manufacturer; even if the manufacturer claimed a general right to that use by customary practice, for example. It may be that the quality of negotiation that initiated the Moontide collaboration might prevail, but it is also important that one registers current economic realities and their relationship with some indigenous peoples' goals, most notably self-determination. Economic exclusion and resultant disadvantage are part of the colonial experience for indigenous peoples. In the move to an assertion of rights of self-determination, economics is an important factor—so important as to raise the possibility that a capitalist mode of competition might be used by different indigenous groups to protect

what economic interests they have from unsanctioned exploitation or some other form of unfair competition. The irony here is that this could conceivably result in a delineation of intellectual property rights, the determination of which is dependent on the action of the courts.¹² While it is certainly a positive example in the immediate case at hand, and a useful model for artists and commercial interests, the negotiated agreement is certainly not a panacea for the difficulties of reconciling indigenous interests with differing modes of cultural appropriation and the potential intervention of intellectual property laws.

Labels, authorization, and authenticity

Since February 2002, a bureaucratic mechanism is available that might strengthen the elements of authorization, declaration of that condition, and any resultant positioning of products in the market that for the moment are covered by Moontide's arrangement with the Ngati Ranginui sub-tribe. Artists and manufacturers now have recourse to apply a label of cultural authenticity to their works. Toi Iho, the "Maori Made Mark," parallels developments in Australia (the "Label of Authenticity" developed by Australia Council, the Aboriginal and Torres Strait Islander Commission, and the National Indigenous Arts Advocacy Association), First Nations, Canadian Provinces, and US States (the New Mexico Indian Arts and Crafts Protection Law, 1988, for example).

The drive for the Aboriginal

Australian mark came from the considerable exploitation of indigenous design within the tourist industry in Australia. These examples of passing off (or rip-offs, to use the plain words of the report into the matter) are largely unregulated. Unsuspecting tourists may assume the designs on consumer products to have been knowingly made for that purpose by indigenous artists, perhaps even a substantial economic benefit accruing to them, but there is no guarantee of the veracity of such an assumption. To the casual eye, one t-shirt, for example, might look much like another, but to the indigenous producer there may well have been specific and deliberate limitations placed on the iconography applied to any design, and profits may be serving indigenous communities. Marianna Annas, one of the architects of the Australian proposal, sees it:

as a means of giving Indigenous people a marketing advantage in an environment where there is an increasing number of cultural products which are "Indigenous" in appearance, but in fact of non-Indigenous origin. The object of the Authenticity labeling system is to assist consumers in identifying authentic cultural products, and thereby improve the economic benefits flowing to Indigenous people from the commercial use of their cultures. (Annas 1997, 4)

It has the additional advantage of helping to regulate the type of imagery that is reproduced, which will be of importance to indigenous communities

as well as individual indigenous artists. Importantly, it would not, as Kathryn Wells puts it, "be a measure for what is 'real' in modern indigenous Australian culture" (Wells 1996, 38); rather, it is focused on the commercial end of the art market. To this end it parallels developments in North America. The New Mexico Law, for example:

makes it a duty of anyone who is showing or selling Indian arts and crafts to inquire into the origin of objects to determine a) if the maker was an Indian as defined by tribal enrolment or certificate of Indian blood, b) if the object is hand made or machine made, and c) if materials are authentic (naturalness) or semi-processed. If the item can meet this test, then it can be labeled as an authentic, Indian, hand made piece. (Greaves 1994, 47)

The central focus of both examples given here is the identity of the author. Although it may be focused on a collective or tribal identity (a sense of belonging to a group), the authorial focus parallels the similar presumption of an author-centric intellectual property regime. There are important flow-on benefits from the Australian mark, and the New Mexico regulation includes additional conditions of process and material, but these bolster the central concern of identification of "authentic" makers.

The New Zealand mark goes a step further, even than the New Mexico Law, because it will serve two goals. First, it serves what looks like the key objective of authenticating marks because it is a

mark denoting indigenous authenticity. To be eligible to utilize the mark, purveyors of goods will need to be able to prove their ethnic identity as Maori. This will then result in one of three levels of demarcation: the Toi Iho Maori Made Mark; the Toi Iho Mainly Maori Mark; and the Toi Iho Maori Co-production Mark. These indicate that ethnic descent is of central importance to eligibility but is not exclusive – non-Maori may be part of an enterprise awarded the second two of these three marks, but even here there must be a level of Maori involvement that imputes control or leadership.

Secondly, it is a quality mark. A regulating body of experts in different fields will have the mandate to determine whether or not an applicant's product is up to the mark, as it were. This qualitative assessment factor has been one of the most controversial aspects of the consultative meetings that Te Waka Toi engaged in to promote the idea of the Maori Made Mark. The principal problem with the quality aspect of the mark is that it does not match the criteria that are more generally applicable to marks of quality. The International Woolmark, for example, indicates that products bearing the mark are 100% wool – that is to say it is a mark descriptive of material characteristics. To place a quality mark on cultural expression, however, is not to avoid imputations of value-judgements being made. Moreover, it seems to posit a more difficult and controversial question in that in this context it asks the members of the registration board to determine what is a quality Maori cultural product. Attached to the question of quality is a

hidden question as to what Maori cultural products are – what they involve, how they may be recognized. Mead's analysis of this question, "What is Maori Art?" (1997), has been noted above and reminds one that a number of competing problems remain to be addressed. It is questionable whether a governmental bureaucracy is the appropriate forum in which to answer such questions, even if it is made up of a panel of indigenous experts. The specter of an overly deterministic approach looms over the horizon, although it is too soon in the life of the Toi Iho Mark to be able to make any concrete observations regarding its operation.

What is pertinent to the examples at hand is that the Maori Co-Production Mark is available to enterprises where Maori are working with non-Maori and where the process has been significantly guided by Maori concerns. On the face of it, Moontide or Canterbury might be eligible for such a mark because of the companies' engagement of Maori designers. Moreover, if international companies were to behave in a similar fashion, they too could meet the criteria for having the mark attached. Success in gaining it would give the product the advantage of a degree of official endorsement of the overall project. This would seem unlikely to result in short-term competitive advantage in the international market and so looks to be focused on the local and tourist markets. Nevertheless, the mark is being promoted at a time of increasing awareness of the complex issues of intellectual property and at a time when some would argue there is a new growth

market in ethical products. It may be that the confluence of indigenous marks and a possible increase in corporate awareness of the issues involved may create an environment for change.

There remain stings to this tail, however. The effectiveness of such labels in the market is dependent on their visibility to and recognition by target groups. The Aboriginal Label of Authenticity, although currently being used by some artists and manufacturers, is all but absent in such centers of the Australian Aboriginal art trade as Alice Springs. Indeed, the first time I saw the mark myself was at a presentation given by Terri Janke in July 2002 – and this was immediately upon my return from a trip to Alice Springs. Without take-up by those engaged in the market there is little hope that the mark may sustain, let alone develop, “ethical tourism.” Further, tourists have to want to change and conflicting examples from the Australian desert make this want seem fitfully observed, at best.

There are two levels to such take-up. One is to respond positively to stated indigenous peoples’ positions. Uluru, the iconic red rock in the Central Desert, is part of the Uluru – Kata Tjuta National Park, itself a World Heritage site listed with UNESCO. Management of the Park is jointly the responsibility of the Uluru – Kata Tjuta Board of Management (on which sit a majority of Aboriginal persons) and Parks Australia, both operating under methods governed by Tjukurpa, Anangu Law – Anangu being the traditional owners of the land. (Uluru – Kata Tjuta Board of Management 2000). As part of that management process,

visitors are told on their tickets “we don’t climb,” in reference to the conflict between Anangu respectfulness of the sacred site and the tourist practice of scrambling over it. They are further asked not to take stones or soil away with them. Both of these “requests” are repeatedly ignored by visitors (although there is a curious new feature in the information area with the display of letters from previous visitors apologizing for and returning stone and soil they had removed).

The second level is effectively one of self-education and a will to act ethically. There is, for example, a thriving trade in didgeridoos in Alice Springs. Many of these bear labels by the manufacturers stating the product to be “authentic.” In so doing, they refer to a list of criteria that pertain to the material characteristics – that it is of native timber, eaten-out by termites, has a bee’s-wax mouthpiece, is hand-painted, and so forth. These confirm the authenticity and quality of the instrument *qua* object but elide other “authenticities” and “qualities.” Not only do the objects feature designs based on Aboriginal models that are neither painted nor sanctioned by Aboriginal people, but the didgeridoo is not an authentic cultural item for the Alice Springs or Central Desert areas, coming, as it does, from further north. Still, they are purchased and may turn up as part of the student/hippie/New Age *milieux* of Covent Garden, Haight-Ashbury, Toronto’s Queen Street, or the pedestrian mall in Frankfurt-am-Main, played by blonde-dreadlocked “alternative lifestylers.” Authentic objects, after a fashion

perhaps, but authentic cultural objects? My concern here is not with a rigid prescription of who may or who may not play the didgeridoo; rather, I simply want to register that assumed affinities or simplistic takes on cultural universalism seem mostly to square with one party – the one clutching the tourist dollar.

Similar issues of take-up and manufacturers' subtle evasions of "authenticity" will, doubtless, present themselves to the administrators of the Maori Made Mark. At the same time, an additional issue emerges from the coverage of the mark. Even with a population that is as urbanized and in some cases as estranged from their tribal roots as the Maori population, authentication of genetic ethnicity is relatively straight-forward. Individuals can recite genealogy or, where they have lost this knowledge, their right to be declared a Maori producer can be endorsed by individual kaumatua (elder) or by the Justice Department (through birth certificates). Quality, on the other hand, could well become an extremely vexatious question. In the case of the koru on swimwear, for example, it is certainly plausible that individuals on boards determining such matters will be able to find an equivalent of Kant's *pulchritudo vaga* with respect to applied designs. Similarly, the cultural mores of individual iwi may be sufficiently divergent to suggest an incipient form of cultural relativism in an example such as this one. Quality is inherently mutable, and although it may achieve levels of certainty with respect to product finish (if the swimsuit falls apart at the beach

it's not a quality garment), qualitative assessment of design is fraught with difficulties. Even at this point there is an assumption that any assessment of the form of the design may be separated from its function—a tension that is of long standing in the fine arts and design. Whilst the process of negotiation and authorization might be above reproach, it remains likely that some individuals may dismiss the scant costume on cultural and/or aesthetic grounds, whereas others will endorse it. Is a swimsuit with this pattern on it authentic? appropriate? customary? colonizing? debased? By taking the fabric design of the line out of a discrete arrangement (which, to an extent, protects it from searching analysis and scrutiny as to its relationship with indigenous cultural heritage), large and complex questions concerning engagement, appropriation, creation, and regulation emerge to trouble those of us who consider the issues presented here.

CONCLUSION

As noted in the introduction, this article is largely declaratory in intention. It is motivated by the observation that what might already be a certain antipathy between art (as a practice of creative freedom) and its putative other, law (with a focus on the establishment and maintenance of order), is rendered exponentially more complex by the introduction of indigenous rights in cultural heritage and any attempt to accommodate indigenous peoples' worldviews. It does not propose any radical solution or program of action

with respect to what I believe are fundamental asymmetries between intellectual property rights as they are currently theorized and how they might be developed in order better to accommodate indigenous peoples' interests. This should not, however, be taken as betraying any serious degree of ambivalence or lack of enthusiasm for large-scale solutions such as are discussed at international governmental (initiatives such as the UN *Draft Principles and Guidelines for the Protection of the Heritage of Indigenous Peoples*, 1993) and non-governmental (the *Mataatua Declaration*, for example), municipal, and local levels. Indeed, a comprehensive revision of international intellectual property agreements and/or a new convention specifically targeted at realizing indigenous peoples' aspirations in the area may be the most profoundly significant long-term goal for intellectual property regulation. In nominally post-colonial nations, municipal programs of similar type are urgently needed in order to redress the imbalances of the past and create an equitable platform from which to move forward. Nevertheless, such goals are predominantly long-term objectives and the vicissitudes of political power mean it is unlikely that there will be any comprehensive reform in the short- to medium-term.

There is a similar potential for despondency with respect to behavioral change. First, the question of the management of reproduction of indigenous cultural heritage needs to be addressed. If there are competing (or at least divergent) interests and understandings, are there some that

assume priority? The position taken in this article is to affirm that indigenous peoples may wish to assert specific interests and this ought to be respected and supported. What is not quite so certain, however, is whether that priority (first, preferred) derives from any sense of the prior (before, original) status of indigenes. The prioritization of indigenous interests in the context of this discussion looks increasingly like the adoption of a strategic position. It registers that there may be different conceptions of art and law in terms of indigenous and non-indigenous systems and posits some of the situations in which and reasons why the indigenous ought to be preferred. Moreover, it is suspicious of the capacity for one system concerning reproducibility to be determinative in cross-cultural contexts, especially when it is predicated on a dislocation of precepts of cultural identification and expression.

In light of this and without repudiating any sense of long-term engagement with the issues raised, discrete and specific examples, such as that afforded by Moontide, offer glimpses into the possibilities and problems of how to manage these issues in the present time. They are, refreshingly, "real world" examples, ways in which essentially positivist attitudes to use and re-use can generate working solutions. While the manufacturing industry is hardly an innocent in the global economy, moments of resistance to or at least partial evasion of the dominant presumptions of that system are interesting. They are, moreover,

moments where we are forced to be self-reflexive about our roles, not only as designers and/or academics but also as consumers.

Notes

I would like here to thank: Valdimar Hafstein for his subtle and generous editing of this piece and for his forbearance; and Tara Winters for her technical support.

¹ The number of rangatira (chiefs) who signed Te Tiriti o Waitangi by drawing their moko as their mark is indicative of this.

² Air New Zealand returned to 86% state ownership in September 2001 following a government bailout.

³ Gauguin is simply the most significant artist in this context. Naming him here is not to claim that he was the first artist to engage in cross-cultural appropriation, as this is a practice that can be noted between even ancient trading nations. What is different about his enterprise, however, is that he characterized his successive flights from civilized Europe as an attempt to get in touch with the primitive within. As a result of that he may well represent the first systematic appropriation of non-European philosophies, narratives, and visual cultural expressions to serve a specific European aesthetic philosophy, in this case syncretism.

⁴ Fatu Feu'u. Interview by author, Auckland, March 1992.

⁵ If you would permit an observation regarding essentialism, which for some has become something of a *bête noir* of cross-cultural theory. There is an inherent risk in the blanket critique of essentialist positions that they are, inevitably, estranged from the

more complex (more appropriate? more intellectual? more valid?) arguments that eschew the apparent certainty and fixedness of essential claims. While this may be so, it may also be the case that in crying "essentialist" one seeks to subordinate and render ineffective both the specific claims and the underlying position of the argument or assertion so labelled. Put this way, it can come to look like a tactic of discounting contrary positions—not, I hasten to add, counter-examples or alternative factual situations, but contrary positions that might derive from a worldview that is utterly different from the dominant, nominally Euro-American one. It is plausible that in this clash of positions (assumptions? presumptions?) the dismissal of alternative (read "essentialist") worldviews acts as a screen to what is really going on—the reassertion of a dominant position that, presumably, is founded on core assumptions (presumptions? essential positions?) such as the neo-liberal intellectual tradition of Euro-American academies. At the same time, however, it is true that essentialism can also be a screen, a screen that freezes the multiple and changing worlds of those brought together under its label. Maori, with respect of this article, is a generic term that cannot convey the range of positions that best express the individuals who make up different tribal and non-tribal groups. It is impossible to state that Maori speak as one, and, to an extent, it is difficult to argue that there is such a thing as a Maori worldview (particularly for non-Maori). Nevertheless, and this is significant even if it is essentialist, Maori do in general claim an engagement with the world that is sourced from a recognition, for them, of the essential life-force of all living things, *mauri*. For many Maori, certainly all who identify culturally as Maori, understandings or beliefs such as this underpin what it means to be Maori, as much in the con-

temporary world as in the past. To this end, and as Leonie Pihama has asked, what is to be feared of such an essence that it should be decried and marginalized under the negative label “essentialist”? (the point was raised in an address to the Indigenous Art and Heritage Conference, July 2002, at Massey University, Palmerston North).

⁶ Trinh Minh-Ha, discussion following a showing of *Shoot for the Contents*, 21 August 1993, at Auckland City Art Gallery Auditorium.

⁷ Leonard Bell (1989) lists examples of koru-type imagery in other cultures; his intention, in part, is to de-center the meaning of the koru for Walter’s work.

⁸ Tony Hart. Interview by author, Auckland, November 1998; see also Moontide press release, 1998.

⁹ Tane means male and toa warrior, which, in this combination, is evocative of the champion as opposed to the warrior as such.

¹⁰ Haka are performed by many sporting teams prior to a match or in celebration of a win as well as in cultural life more generally. The most well-known internationally is Te Rauparaha’s haka of the nineteenth century that precedes All Blacks games.

¹¹ The most significant of these has been the settlement of a dispute over the use of words in the Maori lexicon by the Danish children’s toy manufacturer Lego. The company had developed a computer game, *Bionicle*, where characters with names such as Toa, Whenua (land), Pohatu (stone), and Tohunga (learned person) were engaged in a struggle over the island Mata Nui (which could mean big green [island] in this context). Maori representatives met with Lego executives in 2001 and 2002 to voice their concerns at the inappropriate use of Maori language and Polynesian culture in

this game. So far, the results have been very interesting indeed, with Lego now committing itself to adopting an ethical stance with respect to such appropriation in its products.

¹² This has been the case in the disposition of fishing assets among Maori, for example. In the cases that were litigated, the Privy Council in London (the final authority in the New Zealand legal system) was required to define what an iwi was for the purposes of settlement. This, at the very least, is a remarkably ironic situation where an establishment of a former colonial order is required and empowered to tell contemporary Maori what one of the key determinants of Maori identity is.

Works Cited

- Annas, Marianna. 1997. The Label of Authenticity: A Certification Trade Mark for Goods and Services of Indigenous Origin. *Aboriginal Law Bulletin* 90:4-8
- Asad, Talal. 1973. *Anthropology and the Colonial Encounter*. London: Ithaca Press.
- Te Awekotuku, Ngahuia. 1986. Interview by Elizabeth Eastmond and Priscilla Pitts. *Antic* 1:44-55.
- Te Awekotuku, Ngahuia. 1992. Interview by Peter Shand. *Stamp Magazine* 37:24.
- Barthes, Roland. 1967. *Degree Zero and Elements of Semiology*. London: Jonathan Cape.
- Bell, Leonard. 1989. Walters and Maori Art: The Nature of a Relationship. In *Gordon Walters: Order and Intuition*. Edited by James Ross and Laurence

- Simmons. Auckland: Private Press:12-23.
- Benjamin, Walter. 1984a. The Task of the Translator. In *Illuminations: Essays and Reflections*. London: Jonathan Cape:69-82.
- Benjamin, Walter. 1984b. The Work of Art in the Age of Mechanical Reproduction. In *Illuminations: Essays and Reflections*. London: Jonathan Cape:217-251.
- Blake, Janet. 2000. On Defining the Cultural Heritage. *International and Comparative Law Quarterly* 49:61-85.
- Clifford, James. 1985. Histories of the Tribal and the Modern. *Art in America* 73:164-177.
- Clifford, James. 1988. *The Predicament of Culture*. Cambridge: Harvard University Press.
- Coombe, Rosemary J. 1993. The Properties of Culture and the Politics of Possessing Identity: Native Claims in the Cultural Appropriation Controversy. *Canadian Journal of Law and Jurisprudence* 6:249-285.
- Coombe, Rosemary J. 1997. The Properties of Culture and the Possession of Identity: Postcolonial Struggle and the Legal Imagination. In *Borrowed Power: Essays on Cultural Appropriation*. Edited by Bruce Ziff and Pratima V. Rao. New Brunswick: Rutgers University Press:71-96.
- Daes, Erica-Irene. 1997. *Protection of the Heritage of Indigenous People*. New York and Geneva: United Nations.
- Derrida, Jacques. 1985. *The Ear of the Other*. New York: Schocken.
- Dick Frizzell: "Tiki." 1992. Exhibition catalogue. Auckland: Gow Langsford Gallery.
- Draft Declaration on the Rights of Indigenous Peoples*. 1993. UN Doc E/CN.4/Sub.2/1993/29. Reproduced in *Cultural Rights and Wrongs*. Edited by Halina Nie_. Paris and Leicester: UNESCO and Institute of Art and Law, 1998:191-197.
- Draft Principles and Guidelines for the Protection of the Heritage of Indigenous Peoples*. 1993. UN Doc E/CN.4/Sub.2/1995/26. Reproduced in *Cultural Rights and Wrongs*. Edited by Halina Nie_. Paris and Leicester: UNESCO and Institute of Art and Law, 1998:198-202.
- Fanon, Frantz. 1986. *Black Skin, White Masks*. London: Pluto.
- Final Statement of the Regional Consultation on Indigenous Peoples' Knowledge and Intellectual Property Rights (Suva Statement)*. 1995. <<http://users.ox.ac.uk/~wgtrr/suva.htm>>
- Foster, Hal. 1985. The "Primitive" Unconscious of Modern Art. *October* 34:45-70.
- Foucault, Michel. 1991. What is an Author? In *The Foucault Reader*. Edited by Paul Rabinow. London: Penguin:101-120.
- Freud, Sigmund. 1913. *Totem und Tabu*. Leipzig: Hugo Heller.
- Greaves, Tom, ed. 1994. *Intellectual Property Rights for Indigenous*

- Peoples: A Sourcebook.* Oklahoma City: Society for Applied Anthropology.
- Hamilton, Augustus. 1896. *The Art Workmanship of the Maori Race in New Zealand.* Dunedin: Fergusson and Mitchell.
- Hiller, Susan, ed. 1991. *The Myth of Primitivism: Perspectives on Art.* New York: Pantheon.
- Hogarth, William. 1753. *The Analysis of Beauty.* London: Hogarth.
- Janke, Terri. 1998. *Our Culture, Our Future: Report on Indigenous Cultural and Intellectual Property Rights.* Sydney and Canberra: Michael Frankel and Company and the Australian Institute of Aboriginal and Torres Strait Islander Affairs.
- Johnson, Vivien. 1996. *Copyrites: Aboriginal Arts in the Age of Mechanical Reproductive Technologies.* Exhibition catalogue. Sydney: National Indigenous Arts Advocacy Association.
- Jones, Owen. 1868. *The Grammar of Ornament.* London: B. Quaritch.
- Julayinbul Statement on Indigenous Intellectual Property Rights.* 1993. Reproduced in *Our Culture, Our Future: Report on Indigenous Cultural and Intellectual Property Rights.* Written and researched by Terri Janke. Sydney and Canberra: Michael Frankel and Company and the Australian Institute of Aboriginal and Torres Strait Islander Affairs, 1998:310-313.
- Kant, Immanuel. 1952. *Critique of Judgement.* Oxford: Clarendon Press.
- Kristeva, Julia. 1969. *Semeiotikè: recherches pour une sémanalyse.* Paris: Seuil.
- Lévi-Strauss, Claude. 1955. *Tristes Tropiques.* Paris: Plon.
- Mataatua Declaration.* 1993. Reproduced in *Our Culture, Our Future: Report on Indigenous Cultural and Intellectual Property Rights.* Written and researched by Terri Janke. Sydney and Canberra: Michael Frankel and Company and the Australian Institute of Aboriginal and Torres Strait Islander Affairs, 1998:306-310.
- McDonald, Ian. 1997. *Protecting Indigenous Intellectual Property: A Copyright Perspective.* Sydney: Australian Copyright Council.
- McEvelley, Thomas. 1984. Doctor Lawyer Indian Chief. *Artforum*, 32:54-61.
- Mead, Hirini Moko. 1997. Maori Art Restructured, Reorganised, Re-examined and Reclaimed. In *Maori Art on the World Scene.* Wellington: Matau:228-237.
- Moustakas, John. 1989. Group Rights in Cultural Property: Justifying Strict Inalienability. *Cornell Law Review* 74:1179-1227.
- Neel, Lou-Ann, and Dianne Biin. 2000. By Design: The Protection of Intellectual and Creative Rights. Paper presented at the conference, Protecting Knowledge: Traditional Resource Rights in the New

- Millennium, February 2000, hosted by the Union of British Columbia Indian Chiefs and University of British Columbia, in Vancouver, BC.
- Neich, Roger. 1993. *Painted Histories: Early Maori Figurative Painting*. Auckland: Auckland University Press.
- Nie_, Halina, ed. 1998. *Cultural Rights and Wrongs*. Paris and Leicester: UNESCO and Institute of Art and Law.
- Page Rowe, W. 1928. *Maori Artistry*. Wellington: Board of Maori Ethnological Research.
- Panoho, Rangihiroa. 1992. Maori: At the Centre, On the Margins. In *Headlands: Thinking Through New Zealand Art*. Sydney: Museum of Contemporary Art:122-134.
- Patel, Surendra J. 1996. Can the Intellectual Property Rights System Serve the Interests of Indigenous Knowledge? In *Valuing Local Knowledge: Indigenous People and Intellectual Property Rights*. Edited by Stephen B. Brush and Doreen Stabinsky. Washington, DC: Island Press:305-322.
- Phillips, W.J. 1938. He koru. *Art in New Zealand* 11:35-40.
- Pound, Francis. 1994. *The Space Between: Pakeha Use of Maori Motifs in Modernist New Zealand Art*. Auckland: Workshop Press.
- Rhodes, Colin. 1994. *Primitivism and Modern Art*. London: Thames and Hudson.
- Rubin, William, ed. 1984. *"Primitivism" in 20th Century Art: Affinity of the Tribal and the Modern*. Exhibition catalogue. New York: Museum of Modern Art.
- Salmond, Anne. 1978. Te Ao Tawhito: A Semantic Approach to the Traditional Maori Cosmos. *New Zealand Journal of the Polynesian Society* 87:5-28.
- Shand, Peter. 1997. Adrift on an Ocean of Affinities: Modernist Primitivism and the Pacific 1891-1984. Ph.D. diss., University of Auckland.
- Tangata Pasifika*. 2000. 18 June. Auckland: Television New Zealand.
- Tunney, James. 1998. E.U., I.P., Indigenous People and the Digital Age: Intersecting Circles? *European Intellectual Property Review* 9:335-346.
- Uluru - Kata Tjuta Board of Management and Parks Australia. 2000. *Uluru - Kata Tjuta National Park Plan of Management*. Canberra: Commonwealth of Australia.
- Waitangi Tribunal. 1986. *Findings of the Waitangi Tribunal relating to Te Reo Maori and a claim lodged by Huirangi Waikerepuru and Nga Kaiwhakapumau I te Reo Incorporated Society*. Wellington: The Waitangi Tribunal.
- Wells, Kathryn. 1996. The Development of an Authenticity Trade Mark for Indigenous Artists. *Alternative Law Review* 21:38-39.

- Woodmansee, Martha. 1994. On the Author Effect: Recovering Collectivity. In *The Construction of Authorship: Textual Appropriation in Law and Literature*. Edited by Martha Woodmansee and Peter Jaszi. Durham: Duke University Press:15-28.
- Wright, Shelley. 1996. Intellectual Property and the "Imaginary Aboriginal." In *Majah: Indigenous Peoples and the Law*. Edited by Greta Bird, Gary Martin, and Jennifer Nielsen. Sydney: Federation Press:129-151.

Discussions

Obsessive-Compulsive Disorder: Comments on Cape Town Covers, Colonial Catwalks, and Getting Caught

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Not the return of the repressed but the return of the *ex* pressed: OCD, Obsessive-Compulsive Disorder.

"Obsession" [*ob*, before + *sedere*, to sit], a 16th-century reference to laying siege, slipped instantly away from the military toward metaphor under the sway of witchtrials: in contradistinction to those inhabited or *possessed* by evil spirits who moved their victims from within, some poor souls were besieged or *obsessed* by evil spirits who manipulated them from without. A century later and beyond the jurisdiction of most witchhunts, obsession moved into the neutral territory of *l'idée fixe*, haunting but rarely demonic fixations on building a perpetual motion machine or believing oneself the rightful heir to a throne. *Possession* and *obsession* merged in 18th-century Gothic novels of horror and paranoia, where the one in pursuit was ever the one pursued. Later Romantic idylls of ennobling quest would internalize *obsession* just as psychiatrists, quit of obstreperous devils and intrusive deities, were objectifying *possession* in terms of ceremonial theater, ritual vertigo, hallucinatory drugs, communal pressure. *Obsession* soon became implicated in mental pathologies, *possession*

in primitive anthropologies.¹

Insinuated then insulated completely within the person, obsession could be magnificent but it was also difficult to exorcise, since there were no longer any obvious handles, no demons to yank away. Obsession was not a result of illusion but the consequence of a flat-out cultural investment in illusions, themselves chief and profitable products of industrial modernity: technical feats of stage magic, photography, motion pictures, cartoons, synthetics, television, Walkmen (its disembodied voices following you everywhere), superrealism, appropriationism, computer graphics... How to disabuse people of obsession when society rewarded them for their tight purchase on, and gamboling with, illusions?

Obsession worked well for capital accumulation and the manufacture of profitable illusions, but by the mid-20th century we had need again of obsession's vanished twin, that evil force acting from without. In the aftermath of the Nazi collective, within the binary math of Cold War socialities, and across the divisive math of Viet Nam, North and West required a new anthropology, one that reasserted the meddling presence of external disturbing powers.

Wherefore the resort to "compulsion"—"to urge irresistibly, to constrain, oblige, force," as the *OED* tells us. Leon Salzman traced the contours of obsession and obsessive personality in 1968, summing up a century of therapeutic experience and exasperation with "obsessives" just as the war in Vietnam entered its most divisive stages, and in the same year, Erwin W.M. Straus's 1948

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study, *On Obsession: A Clinical and Methodological Study*, was reprinted. Nonetheless, the hyphenate disorder Obsessive-Compulsive became thoroughly conjoint only in the 1980s while Calvin Klein was introducing its own Obsession, "a blend of vanilla, amber, orange blossom, oak-moss, and other oriental spices" for women in 1985 and a "refreshing, oriental, woody fragrance . . . a blend of lavender, mandarin, clove, nutmeg, and amber" for men in 1986, both "for romantic wear." Despite—or due to—the introduction and success of the tricyclic antidepressant clomipramine (Anafranil) in Europe around 1980 and the United States in 1990, OCD was soon epidemic, or so one might gather from Ian Osborn's *Tormenting Thoughts and Secret Rituals: The Hidden Epidemic of Obsessive-Compulsive Disorder* (1998) or from taking a whiff of the Cicara Company knock-off of Obsession for men, called, oh yes, Compulsion.²

Compulsion and obsession are both engaged by Philip Jenkins, but the hyphenate disorder that arose concurrently with the specter of the serial murderer is surprisingly absent from his essay, as is also the idea of "copycat" crimes, a phrase new to the 20th century and more deeply etched in the 1990s in terms of copycat murder. If serial murder, "ultimate evil," was conceived as an absolutely antisocial impulse, thoroughly unresponsive to therapy and impossible to suppress, then copycat murder was its socialized twin, complexly mediated and dependent upon acknowledgment of verisimilitude or upon blatant confusion with the original. While serial murder has been terrifying because the ostensible mediocrity,

silence, and isolation of the murderers made their crimes, once uncovered, loom up out of a social nowhere, copycat murder was covered by news media as a normal outcome of publicity itself, and an unavoidable outcome of the attempt to resituate the murders and the murderer along a scale of sociability.³

One might explain the link between serial murder and copycat crime in the context of a resurgent Cold War that cinematically consolidated binary patterns of opposition and momentarily reestablished the eschatological tandem of two great matched powers, one good, one evil, each declaring the other an atavism, an artifact of history doomed to be subsumed. Such an explanation, however, is insufficient, since fears and images of serial murderers and morbid curiosities about copycat criminals survived the end of the Cold War, the crumbling of the Berlin Wall, the end of Apartheid, the decline of the Hoover FBI, and iterations of political conservatism. To argue that "Once the serial murderer was invented . . . the concept developed its own momentum, since it possessed a kind of internal logic," is to endow it with an internal animating force (logic *possesses* it) and divorce the concept from its continuing context.

We can better appreciate the context of serial murder and its complement, copycat murder, through the more pervasive, persuasive cultural construct of Obsessive-Compulsive Disorder, whose key symptoms echo behavior both serial and copycat: a rigorous sequentiality of personal rituals; constant, exact, anxious repetition; awkwardness with the Many; desires always to be in control and con-

comitant fears of losing control, hence extreme discomfort, à la Jack Nicholson in *As Good As It Gets* (1998), with the unpredictable, the unscheduled, the animal, the spontaneous, the unique.

I am reluctant to maintain that the relatively sudden conjoining of obsessive and compulsive prompted the cultural construction either of serial or of copycat murder, but I do maintain that obsessive-compulsiveness was sufficiently powerful a mythopoetic figure that it could propel both well beyond Reagan's America. The hyphenate disorder arrived on the scene in sync with personal computers, laser copiers, satellite dishes, and compact disks, none of which has left the stage or become senile, and all of which make the world ever-more quickly serial and irresponsibly reproducible. The hyphenate disorder helps us understand how a serial murderer could be seen to have an "absolute lack of self-control" yet conduct the "repeated premeditation" crucial to committing murders that sternly replicate format, victim, and situation. OCD may even help us understand why the serial murderer is supposed usually to be male: an obsessive woman has more approved or conventional gender-biased outlets in arenas of finicky detail (housecleaning, hygiene, cosmetics, food/dieting rituals, sewing) than does a man, whose obsessions may go unrewarded and unacknowledged until more drastic action is taken, but for such action to be sanctionable, the more stolid man must feel that he is yielding to a force not his own. Culturally integral to obsessiveness in men is therefore (?) a compulsiveness that releases one from guilt even as it

encourages what Jenkins neatly terms "serial confession." The social construction of Obsessive-Compulsive Disorder answers nicely to the social construction of serial murder.

Readers may see where I am going: obsessive-compulsiveness is richly expressive of our culture of the copy, where to be in control is to be able freely to repeat (owning syndication rights or committing copycat crimes ranging from piracy to murder); where to be out of control is to be compelled to repeat (assembly-line work, interrogation in emergency rooms, or serial murder) or to lose track of all pattern; and where uniqueness puts everything in quadruple jeopardy—isolation and exposure, absolute value and absolute insignificance. Conjoining obsessive and compulsive, our era has moved beyond Lacan's joking Freud and criticism's literary Lacan, beyond a core individual who, experiencing alack a loss, must express itself in order to make itself known *per se* and viable *extra se*. Underlying the taxonomy by which there has come to be this hyphenate disorder is a revised psychological anthropology grounded not in loss but in plethora and indeterminateness.

That last is no typo: for several decades we have been working ourselves into a stage of confusion about originality and causality in which indeterminateness has become a subset of something vaguely larger, like the Ness of Loch Ness. Here I must move on from seriality, murder, and monsters to obvious intersections with a "Colonial Catwalk." Peter Shand's essay, elegant, piercing, and Peircian, suffers—as perhaps we all

henceforth must—from indeterminatenessness. It seems that we are, as upright human beings, obliged to honor the wholeness and aesthetic integrity of a culture out of which comes a visual devise (to be eventually confused with a device) that closely resembles devises characteristic of other distant, distinct cultures. At the same time, then, that commercial appropriation by foreigners or estranged descendants may act as a blood thinner, reducing and redistributing the protein of the *koru* symbol more globally, it also paradoxically strengthens the connection between *koru* and Maori culture by referring the devise regularly and exclusively to that originating context by which the *koru* "seems to speak of a specific, though non-ethnocentric, collective identity, of contemporary nationhood for New Zealand" and not to those in Egypt, Greece, China, or Peru who may have created and integrated a visually similar devise or motif.

What is a "specific, though non-ethnocentric, collective identity"? As Shand himself demonstrates, the *koru* is no isolated or hegemonic visual element but something woven, with other devises, through Maori language, architecture, and habits of mind. It draws its power from the weave, an open weave with room for many new maneuvers. To the degree that the *koru* is woven determinedly but indeterminately through the weave, to that degree it is Maori.

Is it useful to worry over "a dislocation of the source from its initial cultural context" (Shand, on a painting by Gordon Walters)? Too much anxiety and we would be forced to entertain so weak a

theory of the power of symbols to transfer meaning that Peirce himself would shudder at the untoward outcome, in which communication is paralyzed because no two exactly share life experiences; or barbed and barricaded, because no two want to share what they have seen or felt or learned, for fear of being exploited, abused, mistaken; or trademarked and commercialized, because each of us deserves to be rewarded for any insight, invention, and cultural production to which we are privy. A successful defense of proprietary (notions of) devises plays into the grasping hands of multinational monopoly capitalism, which prefers to localize, objectify, legalize, brand, sterilize, and then market for profit.

Indeterminateness is one tactic for avoiding that subtly circular coercion through which self-defense tightens into self-definition, self-definition locks down into proprietary restrictions, and proprietary restrictions sanction more secure self-defense. An indigenous group may choose not to enter into this tightening noose by ignoring or denying the cultural particularity or dominance of any and all devises others may happen upon, but this does not assure that it will escape all market devices, some of which are quite effective at restrictively defining groups who want rather to be left alone and indeterminate. What, these days (would that Shand had posed this question more explicitly), given the economic and legal systems under which we labor, is "self-determination"? What can it possibly be?

Indeterminatenessness is the atmo-

sphere in which one no longer knows whether the diffusion (and consequent diffuseness) of an object, symbol, idea, or identity is morally and politically for the better or worse. Is it better that Maori institutions define and restrict the use of the *koru* and other Maori devices, so that at least the Maori profit from their uses and control their contexts, though in so doing they isolate and make proprietary what before was woven through and shared among them? Or is it better for the sake of human relations and global intercourse that an international language of shared symbols develops that may eventually subvert its current vehicle, multinational proprietary capitalism?

Art to be sure has an unusual if not unique role here. Once detached from other cultural activities either by the market or in defense against or exploitation of that market, artmaking shifts from the obsessive to the obsessive-compulsive. That is, it moves from a paramount concern with materials, craft tradition, intricate detail, and inherent *mana* (a word long misappropriated from another set of Pacific islanders), to a concern with forces beyond oneself that are disturbingly seductive. To be blunt, in a world that suddenly desires *koru*, why not make what you have always made, with your individual flair, for a greater profit than you had ever expected, and make it again and again, sometimes under deadline, sometimes in entirely new environments? How can you *not* do this? How can you not see this as an opportunity to give others a sense of your own tradition, your own values? How can the request not also be taken as a command?

How can you resist?

Paul Carter, in response, has introduced and expanded upon the notion of *The Sound In-Between* (1992). His work is most relevant here because his inquiry into the peculiar historical processes of "first contact" and auditory transmission is equally attentive to aboriginal and European sound systems, aboriginal and European notions of landedness, causality, and time. Carter presumes that, at least in the beginning, strangers are eager to communicate with each other. In their eagerness they listen hard and always mis-hear the sounds of the other. From these mishearings they build a soundscape and collaborate in the invention of sounds foreign to both sides, words and pidgin tongues by which to make themselves intermittently knowable to each other, however misconstrued. The misunderstandings are mutual and often mutually innovative as they ravel themselves into new acoustic structures, names, phrases, lexicons, and songs. Indeterminateness need not lead to indeterminateness but to unanticipated forms of expression that work imperfectly but impressively across many levels (Carter 1992).

Carter's writings are curiously absent from Shand's bibliography, but Shand and the Maori do struggle with "in-betweenness," mostly with regard to time. Fundamental to Shand's legal discussion is the commonplace oxymoron of a "dynamic tradition" and the battle to protect what has been one's patrimony even as one continues to invent toward the future. Modernism and capitalism are grand at the latter, so long as the future is indeterminately short-term. How can

moral beings, let alone "tradition" in its wider senses, survive modern and postmodern worlds of highlights, digests, episodes, and repeats? How can time be reconfigured so that the future is not discounted even as the past is burped and usurped? Can one arrange a slow future to accommodate a thoughtful past? Or is this notion of the past too romantic, given the violent changes, social upheavals, and power realignments that have been elemental to Maori "traditions" as to many others well before the flood of Europeans and their entrepreneurial economies?

Admiring as I am of Shand's essay, I find it exemplary of other failed attempts to fend off the obsessive-compulsiveness and indeterminateness of monopoly (or oligopoly) capitalism by putting in question various "asymmetries." Flippantly, one might say that obsession with profit-no-matter-what in no-time-at-all compels people and groups on all sides of the global market to be obsessed with defending the proprietary nature of what they do and who they are, to so great an extent that eventually human rights become intemperately fused with property rights, including but not limited to so-called intellectual property rights. Less flippantly, one might observe that obsessive-compulsiveness, though mayhap a customary trait of the legal mind since the time of Sumer, has come to its current hyphenated fore precisely because who we are and what we do is increasingly defined by acts of repetition: constantly re-representing ourselves, or having ourselves willynilly re-presented, re-screened, re-recorded; doing over and over again what we do in order to demonstrate either our love of doing it, our

skill at doing it, or our need to continue doing it for the sake of our sense of ourselves or preservation of a vanishing way of life.

It occurs to me that the hyphenate disorder arose not only in conjunction with a host of new duplicating devices and electronic media but also in conjunction with a host of newly elaborated forms of investment banking, stock brokerage, accounting practices, and corporate profit-taking. These latter were inextricably bound to the former, for their success depended upon rapid massive calculations, instant replication, and cheap distribution—of initial prospectuses, of announcements of expected profits and future dividends, of repeated statements of confidence, of electronic encouragements to invest—all within a more hectic, "noisy" market for which sets of new, nonlinear algorithms were invoked. In economic, social, and psychological frames, obsessive-compulsiveness produces at best a paradise of fractal detail, obstinately repeating itself at each scale. Its complement is indeterminateness, for *in extremis* there is no end and no out to obsessive-compulsiveness; it demands constant vigilance and invention.

How might one escape? Carol Muller would no doubt talk about playfulness, about the many ways that "covering" songs and performances in postwar Cape Town facilitated a proximate subversion of White rules. The obsessiveness with which Sathima Bea Benjamin, Abdullah Ibrahim, and their peers listened repeatedly to American pop and jazz could have become what European

explorers since the Greeks have seen as the marvelous "apishness" of indigenous peoples, but instead (as usual in the Caribbean, in South America, in Oceania . . .), these acts of mime became transformative, helping the "Colo[u]red" population handle the anomalies and astonishing contradictions of Apartheid.

Their learning and their transformation would have been impossible without the plethora of sound recordings and films to which they were avid audience, whether on phonographs or "in the air," on radio. Too often, acts of obsessive cultural imitation have been explained sociologically and psychologically by pointing toward deprivation (lack), loss, fear, and emptiness, or socio-historically by the "understandable" desire to become modern and up-to-date. To her credit, Muller shows us how the enthusiastic working-class response to American jazz and popular music was conditioned far less by poverty or fear than by the "mixed" backgrounds of so many Cape "Colo[u]reds," who came to the music from such rich pathways that they had substantial recourse for recalling their own voice.

But Muller struggles to show us how their obsessive musical and stylistic imitation or the concomitant habits of mind—accuracy, patience, close listening—worked somehow to undermine Apartheid. Jimmy Adams and fellow jazz musicians were well aware, as Muller shows quite nicely, that they were working with "the sound in-between," hearing jazz as Cape musicians would hear it, not as African-Americans or Hollywood heard it, so they would eventu-

ally hold to their own voices after years of obsessive imitation. How did this perhaps contribute to resistance to Apartheid? Muller cites the work of Michael Taussig and looks toward "code-switching" as a significant form of alterity. It is true, code-switching could empower, but it was widespread long before jazz, and was not necessarily transformed by the "covering" of jazz or pop. Cape musicians could become superb exemplars of the process, but Muller does not show that the music or the obsessive imitation of the music did anything to change it.

I would suggest a more homeopathic, if still incomplete, explanation. The obsessiveness with which Cape musicians imitated Western jazz and pop music and singers was simultaneously an obverse expression of and an excellent inoculant against the increasing obsessiveness of the Apartheid regime in the 1950s. As the regime became not only obsessive but compulsive, insistent on obedience to a set of illogical, incommensurate, and administratively impossible categories of race and parentage, Cape musicians, singers, and jazz lovers were exploring the limits and consequences of obsessiveness.⁴ Managing to avoid compulsiveness and retrieve their own voices, they had expertise in anticipating the deathliness (and musical deadness) of obsessiveness become compulsive. Experience with acts of obsessive copying across cultures and sounds enabled them to work their way around some of the traps of Apartheid and eventually, perhaps, to show up the regime's true disorder behind its compulsiveness: the return of the politically repressed by way of the obsessively expressed.

At this point, I should be upbraided for having granted an elevated reality to a social construction of the 1980s, Obsessive-Compulsive Disorder, which may not have had much more original grounding than the specter of serial murder tracked over the same years by Jenkins. Although laboratory evidence for OCD as a neurobiological disorder was soon developed, the diagnosis was earlier invoked in other contexts that predetermined the fold of symptoms, the shape of treatment, and agreeable prognoses. What then could justify my leap, first, from a social constructionist model of the hyphenate disorder to a mythopoeic mode, and next to claims for OCD not only as analogical but explanatory?

I have, I admit, built this commentary on a house of bards, in part because the subjects of the essays themselves—serial murder in North America, the *koru* in New Zealand, and jazz "covering" in Cape Town—all seem to beg for a mythopoeic exploration generally neglected by the three essayists, in part because the academic tone and stylistics of each essay apparently led each of them away from the heart of the matter. The heart of the matter in each case is not panic and complicity, copyright and co-optation, or performance and race, but likeness and how it works in a world so accustomed by its media, legal systems, economics, and technologies, to repeated instances of seriality, a plethora of knock-offs, and the indeterminatenesses of authenticity.

That's our job, I suspect, for the next decades of this new millennium: to re-

consider (and revamp?) the rhetoric of likeness by which so much is made monstrous (see Jenkins), so much is belittled (see Shand), and so much is lost only to be regained (see Muller). We will need to begin with sounds in-between (listen to Carter). From there, who knows—a new poetics? a new pedagogy of simile and metaphor? a wildly impulsive disorder?

Notes

¹ All extrapolated from the 2nd revised edition of the *Oxford English Dictionary*.

² For works on OCD, see Yaryura-Tobias 1983; Jenike, Baer, and Minichiello 1986; Hendrix 1989; and Zohar, Insel, and Rasmussen 1991. The *OED* lists earlier uses of the phrase "obsessive-compulsive" in psychiatric (1927) and political contexts (1965 *New Statesman*, "Reagan has been associated with the obsessive-compulsive faction of the Republic right"). However, the major monographs cementing the hyphen do not appear until the 1980s—with Reagan and his "obsessive-compulsive faction" in office.

Some readers with a more historical bent may be surprised by my claim that Obsessive-Compulsive Disorder was fully constituted only in the 1980s, given the work of German E. Berrios, who has claimed in two articles (1989, 1995) that the current working definition was established a century earlier. The comprehensive nosology available for OCD in 1880s Europe did not however lend itself to any larger cultural or popular notions; for example, obsession is never

linked to compulsion in Poole's index of periodical literature for the 19th century. Instead, obsession was filtered through Freudian lenses of neuroses for another seventy-five years at least. Cultural expansions of OCD began only after World War II as the spectra of symptoms and severity were themselves gradually extended. See, e.g., Skoog and Skoog (1999), with a somewhat defensive commentary by Lawrence H. Price et al. (1999). See also Dai (1957) and Regner (1959). One index of the cultural expansion of OCD was the shift, not clear until the 1970s, from OCD as an "illness" or "neurosis" to OCD as a more generic and more widely applicable "disorder." Contrast Gutheil (1959) and Goepfert (1960) with Derogatis et al. (1974) and Moore (1974). We can observe the next stage, in which OCD, now fully culturally constituted, supports a popular notion of daily behaviors that are notably obsessive-compulsive but not necessarily malignant, in Searle (1981); cf. O'Guinn and Faber (1989) and Dulaney and Page (1994). Indeed, some of the possible malignancies of OCD were transferred over to new disorders, one of the 1980s (panic disorder) and one of the 1990s (stalking); see Angst (1998) and Lowney and Best (1995).

³ Also surprisingly absent is reference to any of the works that use social constructionist theory to address parallel developments, as in the sudden escalation of rhetoric over kidnapped children, for which see Joel Best (1990), who also led an NEH Summer Seminar on Social Constructionist theories. On the copycat's history, see Freeman (1914) and Moran (1998). On copycat murder, see

esp. *Copycat* (1995) and Connelly (1995). Consider also "Murder by Numbers," performed by Sting/Police for the soundtrack of the motion picture *Copycat* (1995):

Once that you've decided on a killing,
first you make a stone of your heart.

And if you find that your hands are still willing,
then you can turn a murder into art.

There really isn't any need for bloodshed,
you just do it with a little more finesse.

you can slip a tablet into someone's coffee,
then it avoids an awful lot of mess.

chorus:

It's murder by numbers 1, 2, 3.

It's as easy to learn as your ABC.

Murder by numbers, 1, 2, 3.

It's as easy to learn as your ABCs.

If you have a taste for this experience,
and you're flushed with your very first success,

then you must try a twosome or a threesome,
and you'll find your conscience bothers you much less.

Because murder is like anything you take to,
it's a habit-forming need for more and more.

You can bump off every member of your family,
and anybody else you find a bore.

chorus, etc.

⁴ Here it would be helpful to consult Bowker and Star (1999) on classification issues under Apartheid.

Works Cited

- Angst, J. 1998. Panic Disorder: History and Epidemiology. *European Psychiatry* 13 (suppl. 2, April):51s-55s.
- As Good as it Gets*. 1998. Directed by James L. Brooks. Culver City, CA: TriStar Home Video.
- Berrios, German E. 1989. Obsessive-Compulsive Disorder: Its Conceptual History in France during the 19th Century. *Comprehensive Psychiatry* 30 (4):283-95.
- Berrios, German E. 1995. Obsessive-Compulsive Disorder. In *A History of Clinical Psychiatry: The Origin and History of Psychiatric Disorders*, edited by Roy Porter. New York: New York University Press.
- Best, Joel. 1990. *Threatened Children: Rhetoric and Concern about Child-Victims*. Chicago: University of Chicago.
- Bowker, Geoffrey C., and Susan Leigh Star. 1999. *Sorting Things Out: Classification and Its Consequences*. Cambridge, MA: MIT.
- Carter, Paul. 1992. *The Sound In-Between: Voice, Space, Performance*. Kensington: New South Wales Press.
- Connelly, Michael. 1995. *The Concrete Blond*. New York: St. Martin's.
- Copycat*. 1995. Directed by Jon Amiel. Los Angeles: Warner Brothers.
- Dai, Bingham. 1957. Obsessive-Compulsive Disorders in Chinese Culture. *Social Problems* 4: 313-21.
- Derogatis, L. R., et al. 1974. The Hopkins Symptom Checklist (HSCL): A Self Report Symptom Inventory. *Behavioral Science* 19 (1):1-15.
- Dulaney, Siri, and Alan Page. 1994. Cultural Rituals and Obsessive-Compulsive Disorder: Is There a Common Psychological Mechanism? *Ethos* 22 (3):243-83.
- Freeman, Mary Eleanor Wilkins. 1914. *The Copy-Cat & Other Stories*. New York: Harper & Brothers.
- Goeppert, H. 1960. Zur Psychopathologie der Zwangskrankheit (On the Psychopathology of Obsessive-Compulsive Illness). *Zeitschrift f_r klinische Psychologie, Psychopathologie und Psychotherapie* 7 (1-2):38-47.
- Gutheil, Emil A. 1959. Problem of Therapy in Obsessive-Compulsive Neurosis. *American Journal of Psychotherapy* 13:793-808.
- Hendrix, Mary Lynn. 1989. *Obsessive-compulsive Obsessive-compulsive Obsessive-compulsive Disorder: Useful Information*

- from the National Institute of Mental Health. Washington: US Department of Health and Human Services.
- Jenike, Michael A., Lee Baer, and William E. Minichiello, eds. 1986. *Obsessive Compulsive Disorders: Theory and Management*. Littleton, MA: PSG.
- Lowney, Kathleen S., and Joel Best. 1995. Stalking Strangers and Lovers: Changing Media Typifications of a New Crime Problem. In *Images of Issues: Typifying Contemporary Social Problems*, edited by Joel Best. 2nd ed. Hawthorne, NY: Aldine de Gruyter.
- Moore, Robert L. 1974. Justification without Joy: Psychohistorical Reflections on John Wesley's Childhood and Conversion. *History of Childhood Quarterly* 2 (1):31-52.
- Moran, Albert. 1998. *Copycat Television: Globalisation, Program Formats and Cultural Identity*. Luton, Bedfordshire: University of Luton Press.
- O'Guinn, Thomas C., and Ronald J. Faber. 1989. Compulsive Buying: A Phenomenological Exploration. *Journal of Consumer Research* 16 (2):147-57.
- Osborn, Ian. 1998. *Tormenting Thoughts and Secret Rituals: The Hidden Epidemic of Obsessive-Compulsive Disorder*. New York: Pantheon Books.
- Price, Lawrence H., et al. 1999. The Natural History of Obsessive-Compulsive Disorder. *Archives of General Psychiatry* 56 (2):131-32.
- Regner, Ellis G. 1959. Obsessive-Compulsive Neuroses in Children. *Acta Psychiatrica et Neurologica* 34:110-25.
- Salzman, Leon. 1968. *The Obsessive Personality: Origins, Dynamics, and Therapy*. New York: Science House.
- Searle, Maureen. 1981. Obsessive-Compulsive Behavior in American Medicine. *Social Science and Medicine* 15E (3):185-93.
- Skoog, Gunnar, and Ingmar Skoog. 1999. A Forty-Year Follow-Up of Patients with Obsessive-Compulsive Disorder. *Archives of General Psychiatry* 56 (2):121-27.
- Straus, Erwin W.M. 1968. *On Obsession: A Clinical and Methodological Study*. New York: Nervous and Mental Disease Monographs, 1948. Reprint, New York: Johnson Reprint.
- Yaryura-Tobias, Jose A. 1983. *Obsessive-Compulsive Disorders: Pathogenesis, Diagnosis, Treatment*. New York: Dekker.
- Zohar, Joseph, Thomas R. Insel, and Steven Rasmussen, eds. 1991. *The Psychobiology of Obsessive-Compulsive Disorder*. New York: Springer.

Copy Wrong and Copyright: Serial Psychos, Coloured Covers, and Maori Marks

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The three papers, in very different ways, deal with questions of reproduction, from the good and the bad, so to speak, to the ugly—the assimilation of American popular music by "coloureds" in South Africa discussed by Carol Ann Muller; the appropriation of indigenous cultures in New Zealand, the subject of Peter Shand's paper; serial murder in the USA, discussed by Philip Jenkins. Each discusses the legitimacy of "copying," and shows how it can indicate both orthodoxy and deviance, self-expression and lack of originality, continuity and appropriation. It seems clear that the context of the copying as much as and perhaps more than the object of the copying is what raises the complex issues discussed by the three authors.

Seriality, reproduction, and copying are subjects that have been discussed in folkloristics mostly under other names. Hans Naumann's concept of "*gesunkenes Kulturgut*" in the 1920s saw the reproduction of elements of high culture by the lower social classes as characterizing much folklore materials. The passing of literary tales into oral tradition has been studied in many contexts. The notion of tradition, central to the discipline for much of its history, has conventionally been understood as a form of reproduc-

tion and in that sense the "tradition bearer" (a rather dubious term to say the least) is someone who copies. Ritual can be linked both to seriality, referring to regular succession, as well as to reproduction, since it should follow a prescribed form in its performance and often imitates a myth or an aspect of a myth.

But copying presupposes that the copy is as stable a form as the original. The difficulty of the notion of the copy in folklore is that folklore itself—rather like language—is usually understood as being anonymous, communal, and characterized by variation, where the superorganic "original" exists only in the virtual world of *langue* or competence or Aarne-Thompson type, and the "copy" alone—*parole*, performance, version—has an objective existence, even if only in the moment of utterance. If variation characterizes an art form, then can the notion of ownership even exist, and if ownership, copyright? Copying, after all, presupposes an original. Still, J.H. Delargy has shown in "The Gaelic Storyteller" that storytellers could have some sense of ownership of tales. He tells of a storyteller who was anxious that his rival should not hear a tale he told and was particularly proud of. About to begin his tale in a house one night he asked was his rival present. Satisfied that he was not he told his favorite tale, whereupon the rival emerged from hiding calling out "I have the tale now in spite of you!", immediately began to tell it, and finished as dawn was breaking (Delargy 1945, 200).

The jealous storyteller, of course, did not invent the tale, which he had ac-

quired in the same way that he acquired the rest of his repertoire. But the fact that the tale was not widely known gave him a certain advantage over his rival, and the advantage depended on the rival remaining ignorant of it. This is still not the same as intellectual property, though ownership of a kind may accrue from an admired individual interpretation. Anthony McCann's work on the controversial expansion of the Irish Music Rights Organization into the domain of traditional music shows how it led to an eventual contractual agreement with the principal traditional music organization under the terms of which "traditional music in its original form" was free of copyright, whereas recognized individual interpretation was not (McCann 2002, 70). This question of authorship and authorization is one of the issues discussed in depth in Peter Shand's complex and enlightening article on intellectual property rights and indigenous arts.

Copyright can threaten as well as protect a community's cultural heritage. Privatizing the cultural resources shared by a community is a form of alienation and— notionally, at least— breaks the chain of transmission by which cultural traditions span the past, present, and future. According to Sven Lütticken, "[w]e have reached a strangely archaic state of civilization, where the idea of emulation has given way to the taboos of copyright—as if Barbie and Harry Potter were images of gods guarded by a caste of priests, and to make unsanctified use of them were blasphemous" (Lütticken 2002, 90). The band Negativland argue that "cultural evolution is no longer allowed to unfold in the

way that pre-copyright culture always did. True folk music, for instance, is no longer possible" (Lütticken 2002, 89). Capitalist society at least acknowledges this problem with time limitations on copyright, after which the work of art falls into the public domain. At the time of writing, a case in the US Supreme Court is challenging the success of major players in the culture industries, such as Disney, in repeatedly extending their copyright beyond the usual expiry date ("Larry Lessig vs. Hollywood," *Chicago Tribune*, 9 October 2002).

Culture as an intellectual commons, to which all members of a community have access as a resource for building the future, is a metaphor widely used in the context of the privatization of the world's cultural and natural heritage. While the medical and agronomic knowledge produced by non-Western cultures—referred to as indigenous or traditional knowledge—has been treated as nature, and subjected to various forms of exploitation from patenting to genetic engineering, the Romantic cult of the artist's originality and autonomy underlies the copyrighting of cultural heritage in the West (cf. Sheri J. Tatsch, review of *On Biocultural Diversity: Linking Language, Knowledge, and the Environment*, edited by Luisa Maffi, in this volume).

(i)

The intellectual commons is very different to the right to appropriate at will from other cultures. The concept suggests a reciprocity based above all on relative equality, which is not a characteristic of the relationships between indigenous

peoples and settler peoples. But neither is it a characteristic of the relationships between the traditional arts and the formal systems of commerce and law. In practice it is often difficult to distinguish between notions of the indigenous, the traditional, and the popular, which are modern notions and indeed are constructed as the other of modernity. In some ways they coincide with Gramsci's notion of the subaltern. Both the indigenous and the traditional may also rest on ethnic distinctiveness, and the former nearly always so, but they are subject to the control of the state and national society.

The modern state wishes to integrate both "the traditional" and "the indigenous" into national life. The industrial era, contends Ernest Gellner, is the age of a universal high culture (Gellner 1983, 35), and he argues that in the development of the modern European nation-state the options for folk culture were either "induced oblivion" or "created memory" (Gellner 1996, 139). In the latter case, where high culture was usually of foreign origin, traditional culture was appropriated to provide a symbolic underpinning for the modern nation-state. Traditional cultures since the time of Herder have been appropriated as national culture: this is Gramsci's notion of the "national-popular," exemplified in the creative ambiguity of the German word "Volk": nation, people, and plebs (see Forgacs 1993, 187-188). The value of traditional culture to Herder was that it reproduced the *Volksgeist*. This did not preclude high culture from doing likewise, although in practice it did not; that was the reason for Herder's project of cre-

ating an authentic German literature.

Indigenous groups, though incorporated into the wider society through state institutions and capitalism, have rarely (the exceptions being Latin American) provided a symbolic foundation for the modern nation-state. Indigenous cultures, like European traditional cultures, have been idealized from the pre-Romantic to the postmodern eras as implicit or explicit challenges to modernity, but their specificity, their authenticity, depended on their distance from modernity. The "noble savage" to Rousseau and folk culture to the Romantics were meant to relativize the universalist claims of European high culture in the way that "indigenous knowledge" today relativizes the Western episteme (cf. Gupta 1998, 172, 179). European folk culture's symbolic value, though, unlike that of indigenous culture, was above all in the national domain, and copyright of the consequent folklore archives rested not so much with the contributors or their descendants as with national institutions.

It is dominant groups in society who determine which cultural elements are superior and worthy of being preserved. Subaltern groups may create cultural products of great aesthetic value, as Néstor García Canclini points out, but they have not the same possibilities to accumulate these products over time, to elaborate them through formal training and institutionalization, and to gain recognition for them as part of the general cultural heritage (García Canclini 1995, 137). Gramsci depicted folklore as "a conception of the world and life" that was not elaborated or systematic since these

latter qualities are in fact characteristic of hegemony (Gramsci 1985, 189). Without this elaboration, it is more difficult to protect cultural products through copyright.

Claude Grignon and Jean-Claude Passeron see cultural relativism as attributing autonomy to popular cultures, but to do so "it must . . . treat dominated cultures as if they were not so." An alternative position they outline refuses to ignore the relationships of force underlying the various statuses of different groups constituting a legitimate social order. Where "the populist marvels at discovering the symbolic treasures in a popular culture . . . the bourgeois like the *misérabiliste* sees only penury" (Grignon and Passeron 1989). Néstor García Canclini extends this argument. He argues that "the majority of the texts on craftwork, festivals, and traditional music catalogue and exalt popular products without situating them in the logic present in social relations. They limit themselves . . . to listing and classifying those pieces . . . which stand out by their resistance or indifference to change" (García Canclini 1993b, 65-67, 71-73). The process of identifying this "resistance or indifference to change" is a form of elaboration whereby popular artistic forms are "fixed" by the collector. As such they are more easily owned and copyrighted. Barbara Kirshenblatt-Gimblett has pointed out that the process of collection creates scarcity, and turns serial ethnographic objects into singular artifacts that, because of their singularity, acquire the aura of the art object (Kirshenblatt-Gimblett 1991, 388-393).

The development of markets for

"primitive art" and "folk art" in the twentieth century led both to their "promotion" to high art, through institutions of patronage such as collectors, specialist journals, and galleries, which emphasized singularity, and to the place-specific, "typical," qualities of tourist kitsch, which depended on mass production. But these cases may not represent appropriation as such since the indigenous or folk producer may supply the market. It is when the outsider enters the picture that the accusation of appropriation comes into play. Hence, looking at the appropriation of indigenous cultural products, Peter Shand sees a divide in practice between "a commercial use with high intellectual pretensions (the fine arts market)" and a "more base and more explicitly commercial exploitation." He defines appropriation "as a mode of cultural engagement [that] is dependent on an ability to separate a given object or design from its cultural milieu for the purposes of its employment in a different one," pointing out that "it is predicated on formalist assumptions as to the recognition and meaning of cultural heritage."

This definition is not that far removed from Lauri Honko's notion of "the second life of folklore," referring to folklore material being used "in an environment that differs from its original cultural context," and Honko makes a convincing case for the rejection of more negative notions in order "to try to restore the research value of events in the second life of folklore to something approaching their indisputable cultural value" (Honko 1991, 43). Néstor García Canclini argues that what he calls "cultural recon-

version" prolongs the existence of traditional cultural forms by articulating them to modern processes:

cultural reconversions, in addition to being strategies for social mobility, or for following the movement from the traditional to the modern, are hybrid transformations generated by the horizontal coexistence of a number of symbolic systems. . . . High, popular, and mass art nourish each other reciprocally. (García Canclini 1992)

Still, Shand does not quite accept the postmodern position that "all forms of cultural production occur within a complex field of interaction, quotation, and re-quotation." He supports the contention that "to try to isolate the koru [a much appropriated Maori pattern] in any way would stifle its ability to communicate and participate in contemporary culture." Shand argues that "it is not clear that the languages (linguistic, artistic, symbolic) of indigenous peoples are so 'cut loose,'" though his contention that "language is what sustains people," backed up by a Maori saying that when language is lost "humanity will be lost," is a rather Herderian argument.

In settler societies, settlers' culture is often experienced as imitative and provincial, a copy lacking both the metropolitan sophistication and the sense of place of its European source. "We Brazilians and other Latin Americans constantly experience the artificial, inauthentic and imitative nature of our cultural life," as Roberto Schwarz has put it in a celebrated essay (Schwarz 1992, 1). Elements of indigenous culture have often been subject to appropriation for that

reason, though within limits, since indigeneity also points to prior ownership of and a continued moral claim to the land. Symbols of national identity or national qualities taken from nature in settler societies—bald-headed eagles, maple leaves, kiwi birds, kangaroos, sabras (though let it be said that this is a special case)—in part sidestep that problem.

Colonialism has decimated indigenous communities. Every indigenous language in the Americas, Australia, and New Zealand is endangered. Indigenous peoples are alienated from their own ethnic traditions and yet excluded from equal membership in the dominant settler society. Not unaware of modern political ideas, they have a variety of attitudes towards their own heritage. Defining a community is difficult in ethnographic practice, while legal definitions are inevitably conservative and fossilizing. The community's own depiction of itself may represent a traditional ideal of cultural reproduction, while the state's understanding of the community may be the product of the bleak statistics of its own most interventionist agencies. The ideal self-definition of the community may be part of an attempt to "hold" history when history has been experienced as a succession of catastrophes, but it can also silence voices within itself. Definitions of the community essential to the legal protection of community-based cultural products are thus fraught with difficulty.

If indigenous culture has become greatly weakened, it may be more difficult to distinguish its products from those of the rest of the population. Beate

Sydhof has referred to such a problem in the case of European "folk art": "We have assigned it the role of a concept from the old rural society and set it in the mould of an antiquated relic." She shows that after its alternate idealization and commercialization, it emerged "in the shape of specific objects destined mainly for the mass tourist market." The problem is that "any connection with 'the people' has long since disappeared," the "people" "have gone on to create quite different things," and "a gulf has arisen between the conception of folk art and the reality of folk, or popular creativity" (Sydhof 1992, 185).

The colonizer and the colonized are not foreign to one another in the postcolonial society. Gramsci's notions of the hegemonic and the subaltern are useful here since they are premised on participation in a single social system, though they may cut across colonial divisions premised on race. The colonized and the colonizer come to co-exist in the one culture and indeed in the one individual; this after all is the nature of hegemony, and points to the problem of defining an "authentic" indigenous culture in the absence of its complete and utter segregation. Discussing originality, Shand argues that what matters is "what is consequential from the assertion of originality," with a gambit running from "strategic essentialism (original as exclusive and exclusionary . . .)" to "a principle of respect, consultation, and authorization"

He points out the continuous risk to indigenous peoples of different "forms of colonial violence—physical, environmental, economic, and epistemic." His

position "looks to the retention of the philosophies, significations, knowledges, and strategies of indigenous peoples as being the key to any consideration of the cultural expressions of their making," showing how control over them is "an important site of resistance to colonial, imperial or, in recent years, global capitalist assaults." Moreover, "cultural resistance with respect to the arts is a means of retaining the strength and resonance of original voices and avoiding co-option into a dominant cultural ethos."

The question of indigenous rights to cultural property is part of the general question of the protection of folklore and traditional culture, as considered in the UNESCO's 1989 "Recommendation on the Safeguarding of Traditional Culture and Folklore" (Seitel 2001, 8-12). The Recommendation mentions intellectual property rights in passing, though it does not deal directly with issues of biopiracy. However, the participation of indigenous groups in the making of international legal frameworks is severely limited by the fact that such frameworks are usually worked out between representatives of states. Indigenous groups were thus refused admission to the decision-making sessions of various follow-up meetings to the Convention on Biological Diversity adopted at the 1992 Earth Summit in Rio de Janeiro, where state representatives monopolized the negotiations.

The UNESCO Recommendation acknowledges that "[w]hile living folklore, owing to its evolving character, cannot always be directly protected, folklore that has been fixed in a tangible form should

be effectively protected" (Seitel 2001, 9). It does assert that member states should "design and introduce into both formal and out-of-school curricula the teaching and study of folklore in an appropriate manner" (Seitel 2001, 10), but the dependence on member states to further the principles of the Recommendation reveals a key weakness when the traditional culture in question is that of stateless peoples.

Shand shows how these issues have been explored in New Zealand and elsewhere. The thorny questions of authorship, ownership, copyright, authenticity, authorization, and identity involved may never be satisfactorily answered. Still, the posing of these questions, and the legal formulations that try to do justice to them, are evidence of sincere attempts to move beyond Eurocentric models.

(ii)

If Hans Naumann could understand folklore as the copying of high culture in a debased form, high culture in turn can "copy" folklore, as indeed it always has. In any complex society high and popular cultures have always had a symbiotic relationship with one another that only extreme cultural relativist positions have sought to deny. Copying takes on a newer meaning in the modern age, with the development of industrial capitalism, increased competition in markets, growing commodification in ever wider domains of life, improved methods of mechanical reproduction, tighter legal and commercial definitions of originality—and all against a backdrop of greater social mobility, wider access to educa-

tion, and an increasingly democratic sensibility. The "authentic" domains of high culture and folk culture recede before a new popular culture that is a product of the new industrial and commercial worlds and owes much of its power—and its "inauthenticity"—to mechanical reproduction (cf. de Carvalho 1992, 27, 29).

The means of acquiring all cultural forms is imitation. The traditional apprenticeship to a master was a process at the end of which the qualified practitioner of a trade—and indeed, until the Romantic period, the artist—emerged. Everyone who has learnt a new language will remember the laborious imitation of the teacher. Before one can compose original sentences one must first imitate those of others. A similar process is an important part of the history of the acquisition of American popular musical forms in South Africa, as in other countries.

Carol Ann Muller's paper is an ethnomusicological study of the imitation of American music by the "coloured" inhabitants of Cape Town. European high culture provided a model for members of the coloured and African elite, whereas American popular culture appealed to other social classes. "While the state legislated to deny people of color citizenship in political terms, the media continued to embody a more democratic sensibility." In Cape Town the copying and covering of the foreign music led to what was locally called a culture of "carbon copies." The distinction Muller makes between the "carbon copy" and the "sonic mirror" is perhaps more apparent than real, more a question of early

and later stages in the assimilation of the new musical forms. American music was learnt in very modern ways—through radio, records, and films. This made it accessible to people who by and large could not read or write music, though they could and did write down the words of songs. The music reached a wide audience through live cover performances.

Muller clearly explains why coloureds should so assiduously learn this music the dissemination of which paralleled the extension of the political and commercial power of the United States. The music provided them with representations of people like themselves and offered "a kind of cosmopolitan citizenship, a membership in a truly imagined community of English-speaking, modern people of color," and it suggested "possibilities for freedom, if not its full achievement, and for racial and cultural equality." Another related reason, which Muller does not directly broach, is that modern urban society probably invalidated many of the models of folk culture while high culture was neither accessible to the popular classes nor relevant to their modern urban experiences. American popular culture, explicitly modern and with its seductively "democratic sensibility" that seemed to transcend the notorious inequalities of American society, showed millions of ordinary people a way to live in the modern city that they could identify with (cf. Schou 1992, 146; García Canclini 1993a, 68-69).

Muller does not discuss the question of appropriation as such: the fact that South Africans made their own of musi-

cal forms that initially were not theirs. The much more draconian copyright enforcement of today would probably have precluded the "carbon copy" culture of South Africa that was possible a generation or two ago. The "[p]eople posturing as 'Cape Town's own' Frank Sinatra, Doris Day, or Bing Crosby [who] brought these traditions to life" might have a legal case to answer.

(iii)

Philip Jenkins looks at repetition as a pathological problem. He explains the ideas of seriality and uncontrollable repetition as obsessive pathologies in modern society, examples of the irrationality that Protestants attributed to Catholicism or of the psychiatric diseases that are diagnosed by modern science. Citing the work of other scholars he shows how "the concept of serial killing is formed by an elaborate process of interaction between the ostensibly 'real' world of criminal justice and the 'fictional' realm of popular culture." He sees an archetypal figure given flesh and blood (in a manner of speaking) by a combination of sectional interests and a receptive public sphere (the latter largely articulated by the culture industries today as by oral tradition in the past). The interests involved were those of the FBI and particularly of its Behavioral Science Unit. They were served by the spectre of itinerant psychopaths at large who could not be combatted within the jurisdictions of state police forces alone. Jenkins shows that the notion of the serial killer was popularized in the 1980s and he sees the consequent fear being used by conservative political and moral agendas to

row back on the liberal gains of the 1960s and 1970s.

Jenkins argues that repetition is at the core of seriality, "and the inability to avoid seriality." He contends that "the idea of uncontrollable repetition has proven deeply frightening to many cultures because it denies the ability to choose that is central to free will." Still, his reference to myth does not follow through on the meaning of myth as sacred narrative, closely related to ritual. Repetition through ritual is at the core of religious systems and of communal identity. The relationship between myth and history is a sometimes explosive one, both through the reproduction of mythical archetypes over time—as in the shaping of historic lives by the heroic biography (see de Vries 1963, Raglan 1965, and Eliade 1971)—and through deliberate political appeal to them—the mythical reference in the name of Hitler's Operation Barbarossa gives chilling testimony to that (see Iesi 1993).

If one can speak of an interaction between the realms of criminal justice and of popular culture in the imagery of the serial killer, can one similarly speak of a relationship between an individual and an archetype? Mircea Eliade writes of what he calls "the mold of the archaic mentality, which cannot accept what is individual and preserves only what is exemplary." Thus events are reduced to categories and individuals to archetypes, and he points out that this is done almost to our own day (Eliade 1971, 43–44). The influence of the heroic biography on the lives of historical figures is one such example. In a number of celebrated cases from antiquity to the modern period

there has been a clearly political dimension to it, as when a series of individuals, often years apart, identified themselves with a lost leader who represented a heroic archetype. The most famous case is that of the Portuguese king, Sebastian, killed in battle with the Moors in 1578. Shortly after the battle, rumours of his survival came back to Portugal with the few boatloads of survivors. Over the next twenty years four false Sebastians appeared, causing disturbances and stirring up rebellion. At the beginning of the 19th century a sect of *sebastianistas* appeared and was opposed by the church. The tradition of "*o príncipe encuberto*," "the hidden prince," remained and was recorded in Brazil in 1838 (Caro Baroja 1979, 132).

Jenkins argues that the opposite of serial murder is "control, in self and society," and he shows the inverse relationship of the perversity of serial murder to the assertion of conservative values. But the notion of tradition itself, fundamental to conservative, if not only to conservative group identity, rests on the idea of repetition. As the Irish proverb has it, "*ná dein nós agus ná bris nós*" ("don't make a custom and don't break a custom"). Repetition is also a form of control and indeed of self-control—the following of rituals, the saying of prayers by the faithful, the observing of the Sabbath, the marching up and down of soldiers—that helps to structure life. Repetition is also central to oral, if not only oral, narrative. It is a central technique of the media, as is seriality: the soap opera and TV series were already prefigured in the nineteenth century publication of novels in serial form. The recent Washington

sniper case shows how 24-hour cable news coverage of the case—putting other stories into the shade for the best part of three weeks—played a major role in feeding public anxiety, despite the fact that the US crime rate is 26% lower than a decade ago ("24-hour news stokes nation's fear factor," *Chicago Tribune*, 11 November 2002).

Jenkins contends that serial murder made such an impact on public consciousness because of its "mythological connotations," arguing that the killer "fulfilled all the mythical roles of the supernatural night-prowlers of old." Straying from place to place, serial killers "lack any ties that could keep them in one place, any conventional sense of home or family" and "thus symbolize the failure of traditional ideals of community in modern America." Still, the more positive role of another figure distinguished by rootlessness, individualism, and violence as a central American symbol—the cowboy—could profitably be related to the question of the serial killer. According to Max Weber's sociological formulation, charisma, a special quality of an individual's personality setting him apart from others, was outside the domain of the everyday and opposed to authority, but tended to recede with the establishment of permanent institutional structures (see Morris 1987, 72). Jenkins suggests that the inadequacy of institutional structures was behind the FBI's promotion of the idea of serial killers. Is the serial killer a sort of cowboy who has outlived the frontier?

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From indigenous knowledge as the last frontier of capitalist exploitation to the Wild West-like criminal itineracy of the serial killer; from the appropriation of indigenous culture by dominant groups to the appropriation of American popular culture by oppressed groups; from imitation as compulsive pathology to conscious self-identification through imitation; from the copy as the rip-off to the copy as legitimate self-representation: reading the three papers raises a number of common questions despite the diversity of the perspectives. The authors of the three papers and the editors of *Cultural Analysis* are to be congratulated for the wideness of scope and for the keenness of analysis.

Works Cited

- Caro Baroja, Julio. 1979. Sobre la formación y uso de arquetipos en Historia, Literatura y Folklore. In *Ensayos sobre la cultura popular española*. Madrid: Editorial Dosbe.
- de Carvalho, José Jorge. 1992. O lugar da Cultura Tradicional na Sociedade Moderna. In *Seminário Folclore e Cultura Popular*. Série Encontros e Estudos, 1. Rio de Janeiro: Ministério da Cultura, Instituto Brasileiro de Arte e Cultura.

- Delargy, J.H. 1945. The Gaelic Storyteller. In *Proceedings of the British Academy* 31:177-221.
- Eliade, Mircea. 1971. *The Myth of the Eternal Return; or Cosmos and History*. Princeton, N.J.: Princeton University Press.
- Forgacs, David. 1993. National-popular; genealogy of a concept. In *The Cultural Studies Reader*, edited by Simon During. London and New York: Routledge.
- García Canclini, Néstor. 1992. Cultural Reconversion. In *On Edge. The Crisis of Contemporary Latin American Culture*, edited by George Yúdice, Jean Franco, and Juan Flores. Minneapolis and London: University of Minnesota Press.
- García Canclini, Néstor. 1993a. *Transforming Modernity. Popular Culture in Mexico*. Austin: University of Texas Press.
- García Canclini, Néstor. 1993b. Gramsci e as culturas populares na América Latina. In *Gramsci e a América Latina*, edited by Carlos Nelson Coutinho and Marco Aurélio Nogueira. São Paulo and Rio de Janeiro: Paz e Terra.
- García Canclini, Néstor. 1995. *Hybrid Cultures. Strategies for Entering and Leaving Modernity*. Minneapolis and London: University of Minnesota.
- Gellner, Ernest. 1983. *Nations and Nationalism*. Oxford and Cambridge, MA: Blackwell.
- Gellner, Ernest. 1996. The Coming of Nationalism and Its Interpretation: The Myths of Nation and Class. In *Mapping the Nation*, edited by Gopal Balakrishnan. London and New York: Verso.
- Gramsci, Antonio. 1985. *Selections from Cultural Writings*. Edited by David Forgacs and Geoffrey Nowell-Smith. London: Lawrence and Wishart.
- Grignon, Claude, and Jean-Claude Passeron. 1989. *Le savant et le populaire. Misérabilisme et populisme en sociologie et en littérature*. Paris: Seuil.
- Gupta, Akhil. 1998. *Postcolonial Developments. Agriculture in the Making of Modern India*. Durham, NC and London: Duke University Press.
- Honko, Lauri. 1991. The Folklore Process. *Folklore Fellows' Summer School Programme*. Turku: Folklore Fellows' Summer School.
- Iesi, Furio. 1993. *Cultura di destra*. Milan: Garzanti.
- Kirshenblatt-Gimblett, Barbara. 1991. Objects of Ethnography. In *Exhibiting Cultures. The Poetics and Politics of Museum Display*, edited by Ivan Karp and Stephen D. Lavine. Washington and London: Smithsonian Institution Press.
- Lütticken, Sven. 2002. The Art of Theft. In *New Left Review* 13:89-106

- McCann, Anthony. 2002. Beyond the Commons: The Expansion of the Irish Music Rights Organisation, the Elimination of Uncertainty, and the Politics of Enclosure. Ph.D. diss., University of Limerick. <<http://www.beyondthecommons.com/beyondthecommons.html>> (23 November 2002).
- Morris, Brian. 1987. *Anthropological Studies of Religion. An Introduction*. Cambridge: Cambridge University Press.
- Raglan, Lord. 1965. The Hero of Tradition. In *The Study of Folklore*, edited by Alan Dundes. Englewood Cliffs, N.J.: Prentice-Hall.
- Schou, Søren. 1992. Postwar Americanisation and the Revitalisation of European Culture. In *Media Cultures. Reappraising Transnational Media*, edited by Michael Skovmand and Kim Christian Schrøder. London and New York: Routledge.
- Schwarz, Roberto. 1992. Brazilian Culture: Nationalism by Elimination. In *Misplaced Ideas. Essays on Brazilian Culture*. London and New York: Verso.
- Seitel, Peter, ed. 2001. *Safeguarding Traditional Cultures: A Global Assessment*. Washington, D.C.: Center for Folklife and Cultural Heritage, Smithsonian Institution.
- Sydhof, Beate. 1992. The Unknown Folk Art. In *Folkkonsten—All tradition är förändring*, edited by Beate Sydhof and Sissi Nilsson. Stockholm: Kulturhuset.
- de Vries, Jan. 1963. *Heroic Song and Heroic Legend*. London and New York: Oxford University Press.

Reviews

Forestillinger om "Den Andre"—Images of Otherness. Edited by Line Alice Ytrehus. (Kristiansand, Norway: Høyskoleforlaget AS, 2001. Pp. 246.)

The current volume is an ambitious effort by a group of Nordic scholars to address the discursive construction of and subsequent representations of the "Other" in Europe. The approaches of the essayists reflect a broad series of disciplinary perspectives—linguistics, ethnography, cultural history, sociology, and folklore—and provide excellent insight into how an interdisciplinary approach to complex phenomena can lead to an understanding that is more than the sum of its parts. Although the majority of the articles deal with the Nordic countries, two articles move further afield to interrogate the impact of constructions of "Otherness" in European political discourse and action. The first of these articles engages Nazi-era Germany and the confluence of anti-Semitism and anti-modernism in the Third Reich's genocidal ideology. The second focuses on recent developments in Austria and Serbia. The volume is book-ended by two excellent critical essays by the editor, Line Ytrehus, a folklorist from the University of Bergen, that give analytical focus to what otherwise may have been a highly competent—yet slightly disjointed—series of articles. With Ytrehus's primarily historical introductory essay and her final theoretical essay revealing the challenges confronting scholars who

explore the status of ethnic minorities in the Nordic countries, the collection is properly situated in the context of European and global concerns surrounding the discursive construction of the "Other."

Ytrehus's opening essay provides an excellent historical overview of the construction of "Otherness" in Europe, highlighting the frequent representation in oral tradition and visual media of the ethnic "Other" as unclean, childlike, primitive, uncivilized, criminal, and a source of dangerous contagion. Using the early nineteenth-century public displays of the African woman Saartjie Baartmann (the Hottentott-Venus) as a starting point, Ytrehus traces the development of the category of ethnic "Other" in modern European thought, and emphasizes how "differentiation and hierarchies in interpersonal relationships can have dramatic consequences for the practical organization of everyday life" (13, my translation). She links the emergent category of ethnic "Other" to that of burgeoning nationalism(s) in the nineteenth century. This historical overview of the construction of the "Other" lays the groundwork for the ensuing articles.

In her lead-off article on the "Shifting notions of 'Us' and 'Them' in Norway," Marianne Gullestad reveals how the word *innvandrere* (immigrant) has, in Norway, become a rhetorically charged—and overdetermined—word that carries significant political weight, noting, "The meaning of the word

[*innvandre*] seems to oscillate between an implicit code based on 'race' (dark skin) and social class, and a dictionary definition in which these categories are not relevant. This span of ambiguity partly explains its rhetorical power" (49). Societal debate in Norway has shifted away from issues of class to issues of gender and cultural difference in recent decades, and these debates have accordingly raised significant barriers for immigrants' possibilities for being considered by non-immigrants as part of the overarching imagined community of Norway. In large part, the *innvandre* are seen as a threat to the imagined Norwegian community defined by a master narrative of the welfare state. Ultimately, because of the perceived differences—differences constructed by majority discourse—that separate the majority from the immigrants (this is an exclusionary process), the *innvandre* emerge discursively as a threat to what it means to be Norwegian. Although the particular importance of the social welfare state in Norway—and in the other Nordic countries—make Gullestad's argument immediately applicable to the Nordic countries, she correctly notes that a similar exclusionary process plays itself out to a large extent throughout Western Europe.

Pertti Anttonen's study of the emergence of the modern nation Finland provides an excellent historical overview of how folklore can be deployed in the highly political environment of nation building. While the role of Lönnrot's *Kalevala* in the imagining of a Finnish nation has been explored by numerous other scholars (indeed, it is a classic case

study in the relationship between folklore and nation building), Anttonen adds a significant dimension to our understanding of how, through the *Kalevala* and its attendant scholarship, "Sami" and "Karelians" were both mobilized as conceptual categories in the process of defining a Finnish identity. He reveals the ramifications of this "Othering" for the actual populations that were "Othered" in what turns out to be significantly different manners. Whereas the "Sami" were "Othered" and forced into a position where they were represented as the primitive "Other" (partly because of their nomadic life style), the Karelians became "Othered" in a manner where they emerged as a window onto a lost, earlier Finnish culture.

Stein Mathisen picks up the thread of the "Othering" of the Sami in his essay examining discursive constructions of the Sami in contemporary Norway. He explores in turn three of the main popular conceptions of the Sami: the magical Sami (often represented as a potentially menacing outsider in folk narrative), the primitive Sami (linked to a nomadic lifestyle, and reflective of the early anthropological notions of societal development), and the contemporary notion of the ecological Sami (an Othering akin to the process familiar in contemporary New Age practice where Indigenous peoples are seen as the guardians of ecological wisdom). As Ytrehus notes in her introduction, this final construction of the Sami as ecological sentinels, and the subsequent attempts at "cultural preservation" predicated on the need to safeguard this

ecological wisdom, is equally limiting as other, more deliberately exclusionary processes.

The subsequent two essays represent a marked shift in the direction of the volume and disrupt the primary focus on the Nordic countries. Although they quite competently address significant events in the history of ethnic relations in twentieth century Europe, indeed arguably the most significant, both essays seem oddly out of place. Christhard Hoffmann presents a commendably knowledgeable study of the confluence of anti-Semitism and anti-modernism as part of an emergent struggle over identity formation in pre-war Germany. This struggle laid the foundations for the success of Nazi ideology and allowed the vicious genocidal policies of that regime to reach fruition. Likewise, Martin Peterson provides an intriguing analysis of the rise of anti-foreign sentiment and violent nationalism in Austria and Serbia. The case of Jörg Haider's vituperative FPÖ has a disturbing resonance with the emergence of new ultra-nationalist parties throughout Scandinavia, such as the troubling emergence of Pia Kjærsgaard and her Dansk folkeparti as a major voice in Danish politics. Peterson's admonition that in order to combat these disquieting trends one must develop a deeper understanding of the processes that lead to a build up of nationalistic fervor and ethno-political mobilization is one well heeded.

Solveig Moldrheim brings us back to the Nordic countries in her essay, focusing on representations of *ikke-hvite* (non-whites) in Norwegian magazines

from 1952, 1975, and the 1990s. She explores the structure of stereotypes, offering a two-dimensional scheme for the classification of stereotypes, with the positive-negative dichotomy defining the x-axis and the exclusive-inclusive dichotomy defining the y-axis. On the basis of this model, Moldrheim is able to show both historical continuities and variation in the development of stereotypes of the *ikke-hvite* (and therefore not Norwegian) in the influential popular media. One could perhaps take issue with the underlying category, *ikke-hvite*, as Moldrheim's unsatisfactory explanation of her selection of the category (136-7) seems to fall prey to the exact phenomenon she explores; to an extent her argument begs the question. Despite this analytic lapse, she is able to reveal how there is a clear construction of a category of people who are not Norwegian based on perceptions of skin color among, at the very least, the magazine and ad-copy editors. The extent to which popular reception aligns with this construction of "Other" is open to debate.

Mette Andersson provides a fascinating exploration of how young Norwegians of Pakistani heritage negotiate identity in a society in which the negative stereotypes of South and West Asian immigrants are stacked against them. The manner in which these stereotypes have coupled to an intensification of anti-Muslim sentiment in the wake of the events of September 11 have made Andersson's research all the more important. She focuses her study on ambitious, young members of the Pakistani Student Association in

Norway. Through an analysis of her interviews, she reveals how an individual negotiates a series of identities on an on-going basis that, in the case of her informants, are deliberately and tactically deployed to undermine the narrative construction of Pakistani Norwegians in majority discourse. Calling these young men and women "ethnic entrepreneurs," she notes that "For these young people a central aim is to contribute to the invalidation of the stereotypes about immigrants and Pakistanis in Norway. They want to hold on to the minority traditions they consider to be good, and quit with traditions they view as oppressive and negative" (180). This development is consistent with the types of identity negotiation and cultural hybridity recognized in numerous immigrant communities across the globe.

In an essay describing SOSTRIS, (Social Strategies in Risk Society), Birgitta Thorsell and Peterson combine an overarching sociological methodology with an ethnographic focus on individual life histories. SOSTRIS is a project that looks at groups that have been locked out of the job market in Sweden, Germany, England, France, Spain, Italy, and Greece. As such, the project provides excellent comparative materials across numerous European countries for our developing understanding of the interplay between structural phenomena such as the job market and cultural phenomena such as the classification of some people as "ethnic others" and the closely related stereotypes that purport to describe these "Others." The final essay in the volume

explores how informal spoken language can act as a marker of in-group or out-group membership. Akin to the "valley girl" talk of Frank Zappa fame, Ingrid Hasund explores in depth how small word use in spoken Norwegian acts on both an inclusive and an exclusive level as a linguistic marker of group membership. Given the broken language that constitutes a significant element in the stereotypes of immigrants (see, for example, *Mujaffah spillet* on the website of Danmarks Radio), it is clear how conceptions of the "Other" are not limited solely to perceived differences in physical appearance or received notions of differences in cultural practices.

The essays all stem from an international conference held at the University of Bergen in 1999 entitled, "Images of Otherness: Tradition and Identity," which emerged from a larger research project focusing on "Det Nye" [The New] at the Center for European Cultural Studies and was funded in part by the now defunct Nordic Network of Folklorists (a successor to the ill-fated Nordic Institute of Folklore). Unlike many conference volumes that are marked by either far too much uniformity or far too little central focus, the current collection presents a series of competent essays all focused on a complex issue of considerable importance in contemporary society. Since many of the essays are in English, the volume is accessible to audiences outside of the Nordic countries. Of course, it would have been advisable for the introduction with its essay summaries to appear in English. The volume would make an excellent

addition to most classes focusing on contemporary Europe and will also be of interest to researchers engaging topics related to nationalism(s) and minority / post-colonial studies. Although some of the English is tinged by non-idiomatic expressions ("Swedish do-better" instead of "Swedish do-gooder" (191)), these minor gaffes—all of which could have been easily corrected by a native English speaker—should be overlooked given the volume's important contribution to our understanding of the construction of the "Other" in the Nordic countries and Europe.

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On Biocultural Diversity: Linking Language, Knowledge, and the Environment. Edited by Luisa Maffi. (Washington and London: Smithsonian Institution Press, 2001. Pp. xxi + 578, introduction, notes, bibliography, index, illustrations.)

On *Biocultural Diversity* approaches the dilemma of language loss, the deficit of knowledge, and the devastation of the environment on a global scale. Part of the problem is neatly summed up by D. Michael Warren: "The relationship between the viability of a language and the knowledge that has been created, preserved and maintained through that language is inextricable" (453). Biological loss is well recognized, but the loss of cultures, languages, and the knowledge contained within these human environments is ignored to a remarkable degree. The crisis now experienced by Indigenous peoples is far-reaching, possibly more so than many of these authors claim, and more so than what has been experienced ecologically.

The thirty-nine contributions in this volume treat this crisis in Papua New Guinea, Botswana, Amazonia, Indonesia, the Mayan lowlands, and the Sonoran Desert. The reader is exposed to topics including issues of globalization, the effects of ecotourism, human rights, language and politics, biological and ecological prospecting, intellectual property rights, and the domino effect of language death. The broader disciplines of the humanities, science, and law merge into an integrated approach to the

growth of uniformity and the loss of diversity taking place worldwide.

These essays are predominantly Euro-western in perspective, but they are an excellent collection of strong composition by respected scholars. This one volume makes significant additions to our base of knowledge. Among the contributors are anthropologists, linguists, sociologists, indigenous scholars, biologists, psychologists, agriculturists, resource economists, botanists, environmental researchers, and conservationists. The diversity located in the interrelationships between the human environments of languages, cultures, and knowledge within ecological environments is treated here as an essential aspect of our very existence.

Both a utilitarian imperative and an ethical imperative are enlisted here by a number of authors. In "Biodiversity and the Loss of Lineages," Brent D. Mishler states that we as a species have no moral right to despoil a four-billion-year history of ecological development. Within the utilitarian framework, biological losses are economic losses. He points to the evolutionary needs for maximal genetic diversity. As this line of reasoning relates to the human species, Mishler finds that we are witnessing the destruction of the "cultural species," moving towards an intellectual monoculture and depleting our human resources for sustainability.

However, David Harmon asserts the existence of what he calls a "species problem" in our notions of culture in "On the Meaning and Moral Imperative of Diversity" (58). The notion of human cultures as "species" is not conceptually available.

Therefore, alarm at the prospect of "cultural homogenization" is unwarranted. As Harmon notes, the "biological extinctions and cultural homogenization" are driven by "practical forces" (61). My question is, what are these practical forces? The forces that have that have led to the loss of language, culture, knowledge, and the unprecedented loss of biological species can be attributed directly to colonialism of past and present. What Harmon spells out clearly is that the logism *biodiversity* now "carries an explicit, unprecedented sense of urgency, of impending catastrophe" (62).

Along these same lines, Eric Smith looks to the essential points of connection between biological, cultural, and linguistic fields of study in his "On the Co-evolution of Culture, Linguistic, and Biological Diversity." For Smith, the imperative is that we must maintain and foster an environment that enables the natural growth and expansion or decline of diversity. Eugene Hunn makes the connection among linguistic, cultural, and biological species, and then brings us E.O. Wilson's words: "species extinction equates to the burning of a library" (120). How do we know what knowledge has been sacrificed due to the extinction of languages, cultures, and their environments? Gary Nabhan's subject in "Cultural Perceptions of Ecological Interactions" is "traditional ecological knowledge of plant-animal interactions" among the world's Indigenous populations (146). This knowledge is being lost to the Western consortium of world knowledge. Nabhan demonstrates the seriousness of this loss using a Western system of value, showing that Indig-

enous knowledge does give insights to "ecological and evolutionary theory" (148). From my perspective, Euro-western science is invoked here only to prompt an attitude of respect and legitimacy for Indigenous knowledge. We are faced, if we do not heed Nabhan's words and the words of others in this volume, with what Nabhan identifies as the "extinction of experience" (153), the results of which would be a loss of knowledge to all peoples, Indigenous and non-Indigenous.

Jane Hill calls upon the reader in her contribution, "Dimensions of Attrition in Language Death," to see how the Euro-West is victimized by its notions of race and class, a cultural and linguistic positioning that she calls "ideological noise" (177). The "noise" of ethnocentrism interferes with the ability to look objectively at non-western cultures. This positioning results in a loss of languages, and that reduction leads directly to the irretrievable loss of knowledge. As Western notions of superiority are forced upon non-Western peoples, the damage occurs to the human species as a whole. Phillip Wolff and Douglas Medin regard this process as "devolution," and they present a hypothesis based within the Western historical present in their essay, "Measuring the Evolution and Devolution of Folk-Biological Knowledge."

What is knowledge? Andrew Pauley contends that it is "a subjective thing, encompassing 'perceptions,' 'beliefs,' and 'understandings'" (228). He calls to linguists to inform all disciplines by representing the knowledge held within a language community. Pawley suggests the illumination of a cosmology of knowl-

edge within the documentation process by what he terms "a subject matters language" (235). Grammars produce a list of words, while subject matters language seeks the contextualization of language in a culturally relevant process.

Jeffrey Wollock demonstrates patois eloquence with his contribution when he writes, "Language is a motion of the soul" (257). He then takes the necessary step towards opening the discussion of colonization as "mono-mentality" (251). As imperialism and monoculture are "imported and imposed, extrapolation occurs, societies destabilize" (252). Societies become disconnected from land, and "cultures homogenize and no longer uphold biodiversity" (252). According to Wollock, "The real cause of the environmental crisis is a particular way of thinking" (248). The symptom of this can be seen in the rapid decline we are witnessing in linguistic and biological diversity worldwide. Bioprospecting has claimed that its endeavors to preserve the knowledge of an Indigenous populace amount to a form of reparation. From my position, it is more akin to assault, as multinational corporations strive to lay claim to traditional Indigenous knowledge in the form of patents. What is experienced next by many Indigenous peoples is cultural death, language death, and physical death.

The protection of Indigenous peoples' knowledge base—language, political systems, ecological and biological analysis, law, i.e., culture—has been approached within the sphere of Intellectual Property Rights (IPR). IPR is addressed in this volume by Darrel Posey, Luisa Maffi, and Stephen Brush. The con-

tinued existence and protection of intellectual property is understood to be an integrated defense of culture(s) as a human rights issue, determined by international bodies (WIPO, UNESCO, WCCD, WGIP) and are inclusive of "traditional obligations" (416) as established by Indigenous norms.

All of these pieces have been written from the etic position. The salient issue for me is the threat to Indigenous epistemology. For an Indigenous perspective on the historical and current consequences of Euro-western ideology and the exigency of retention, look to L. Frank Manriquez's contribution to this volume: "Silent No More: California Indians Reclaim Their Culture—And They Invite You to Listen." All the contributors here have attempted to view the interconnectedness of separate and seemingly disparate disciplines. Finally, Western minds find their way to an Indigenous perception of equilibrium.

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On Holiday: A History of Vacationing. By Orvar Löfgren. (Berkeley: University of California Press, 1999. Pp. 320, introduction, notes, bibliography, index, illustrations.)

On *Holiday*, the sixth release in the on-going series, California Studies in Critical Human Geography, follows a generally linear path in its discussion of vacationing, but with a readable twist. Rather than struggle to digest and explain all contributing elements in relation to a stream of historic events or other emerging and interacting phenomena, the author prepares a sort of filet of the subject and sets it in an appropriate context. Orvar Löfgren opts to string together carefully chosen illustrative examples which link logically one with another. Drawing mostly from western Europe, England, and the United States, the author creates a broad introduction to what we call holidaying or vacationing.

These particular choices in no way preclude other workers with differing perspectives on analysis from grinding out some mighty tome or indeed from bringing into being another traditional social history. Löfgren leaves ground for other scholars of culture, leisure, and gender to till. Löfgren notes what he feels to be characteristic of class practice within the construction of the meaning of holiday.

By necessity and design *On Holiday* is selective of its coverage, offering a representative sample of issues within a consumable scope. This approach is fairly

standard. By way of comparison, John A. Jakle heaps item on item in his *The Tourist: Travel in Twentieth-Century North America* (Lincoln: University of Nebraska Press, 1985), with little emphasis on analysis, and MacCannell creates a more or less compelling analytical argument in his *The Tourist: A New Theory of the Leisure Class* (New York: Schocken Books, 1976) and offers only occasional necessary examples. *On Holiday* nestles at some point in between. In addition, the focus of Löfgren's book is in a real sense narrower than the basic topic of tourism. Here is an examination, and close discussion, of folks involved in leisure away from home, but not necessarily in foreign or exotic settings.

Orvar Löfgren is Professor of European Ethnology at Sweden's University of Lund, and he has penned about a dozen books. This current release, *On Holiday: A History of Vacationing*, has a clear connection with what has been suggested is his best-known publication (with Jonas Frykman), *Culture Builders: A Historical Anthropology of Middle-Class Life* (New Brunswick: Rutgers University Press, 1987). While *On Holiday* does not contest the area chestnut that "travelers are those who can travel" (implying that as the proof of the pudding is in the eating, the expenditure of resources is evident in mere observation), it does raise the interesting observation that class is often obscured on vacation, holiday, or in tourist events.

Löfgren writes tightly and parsimoniously, but he frames the information with a winning amalgam of straight reportage, occasional reference to rote data,

prudently chosen anecdotal material, and just enough personal narrative to be warm while avoiding identity overexposure. The transparent prose may be off-putting to that tribe of reader sutured to the idea that obscurity suggests profundity.

The text is developed through the presentation of details contemporary with the emergence of mass tourism, with obvious emphasis on the holidaymaker. These components, mostly dealing with the period from 1850 to 1950, are supported by earlier historical matter. Ideas of the picturesque and the sublime are important in the later growth of leisure travel, and while *On Holiday* is not a discussion of changes in intellectual perspective across the 1700s, this period is usefully brought to bear on vacationing in the 19th and 20th centuries. Most readers will be familiar with this period of social fermentation, so Löfgren limits himself to sketching the historical context in brief, using short but apt excerpts and quoted text from a number of sources. At the close of the book, the reader is brought through to the end of the 1990s.

Löfgren paces his book along three sections further divided into eight chapters. Thus, the text moves from "Landscapes and Mindscapes," with its three chapters, to "Getaways," and its pair of chapters, and finally "Between the Local and the Global" containing the closing three. This organizational scheme allows the scholar to follow threads—such as changes in the way the viewer "views" the natural world—across a terrain composed of technical and social shifts. The

more than thirty illustrations are well chosen, and they include many examples of art (the generic term for graphic imagery used in commercial advertising) as well as period and contemporary photographs. Again, not only do these illustrations help tease out the meaning of Löfgren's text, but the presentation as a whole should suggest opportunities for other work to readers involved in the areas mentioned above.

Especially useful is the coordination of Löfgren's description of change in holidaymakers' perception of the outdoors and wilderness with the examples of early advertising. One area which could certainly be extended and enlarged upon is the author's fairly brief discussion of the Mediterranean's manufacture of local "front" and "rear" stage areas (199). Do holiday participants seek to play out desired "roles," for which an authentic backstage would be a handicap, or do visitors want to gain insight into the daily life of "real folk"? MacCannell deals with this idea at some length, and Löfgren seems to confirm the theory that visitors stimulate the creation of complex double-voice social and political discourse.

Obviously, part of the value of survey projects such as Orvar Löfgren's *On Holiday: A History of Vacationing* is the emergence of connections and associations which bubble up while one reads chapter through chapter. Development of the means to move, the invention and eventual accessibility of steam power, for example, created the industrial warren while producing the mechanism for carriage to a natural setting. Odious indus-

trial settings have been transmuted into revenue generators as sites of "Industrial Tourism."

On Holiday makes a fine read for a motivated, curious consumer, even for those with little inclination to pursue the minutiae of these issues. Serious scholars on the topic may find themselves wishing that adult themes would have been more ardently and fully fleshed out. Happily, Löfgren does deal with the issue to some small degree—especially the reality of adults seeking sex on vacation. As a general rule, the text is more descriptive than analytical, with short shrift given to thick theory. It is far more relevant that the choices for inclusion were made with clarity and cohesion and that the book is useful to readers.

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When Law Goes Pop: The Vanishing Line between Law and Popular Culture. By Richard K. Sherwin. Chicago: The University of Chicago Press, 2000. Pp. xii + 325, introduction, notes, index.

How trustworthy are American juries? Can the courts be counted on for justice? *When Law Goes Pop* examines these questions and offers some pessimistic answers. According to the author, current trends in popular culture threaten to undermine public confidence in the legal system.

Richard Sherwin, a professor of law at New York University, thinks that boundaries between law and pop are rapidly disappearing. As a result, public belief in the law's legitimacy is eroding, and so is the public's ability to distinguish truth from fabrication. He locates the causes of this crisis in "an unprecedented convergence" (4) of intellectual, technological, and economic forces:

Constructivist ("postmodern") theory, communications technology, and the needs of the marketplace are coming together with tremendous synergistic impact. As a consequence of this impact we are seeing a marked destabilization in our sense of self, and in our social and legal reality. Legal meanings are flattening out as they yield to the compelling visual logic of film and TV images and the market forces that fuel their production (4).

Sherwin's argument has two parts. In the first, he shows that American trials have always enacted deeply held cultural val-

ues. Using Gerry Spence's masterful closing statement in the murder trial of Idaho militiaman Randy Weaver as an example, he depicts trial lawyers as storytellers who rely on myths to reach juries. He extends this analysis by considering the notorious trials of John Brown for the Harper's Ferry raid, Henry Ward Beecher for adultery, and Harry Thaw for the murder of architect Stanford White. In each instance, Sherwin explores how the events contested at trial symbolized central tensions in contemporary society, repressed issues of guilt and desire that the opposing counsels addressed through their stories. The verdicts in these trials, he suggests, turned on whether the public faced up to the issue or retreated into collective fantasy. Notorious trials are thus testing grounds of public sensibility.

Against this backdrop of trial-as-cultural-ritual, Sherwin pursues the second part of his argument, a diagnosis of the present. He uses *The Thin Blue Line*, Errol Morris's quasi-documentary film about a botched murder case, to describe "the postmodern challenge" (107). Morris creates two frames for understanding the events. The main plot, "causal and linear," is a straightforward exposé of the police and prosecutors' frame-up of the defendant. The shadow counterplot, "acausal and nonlinear," raises troubling doubts about the defendant's innocence and, indeed, the validity of "representational order" (126). Sherwin's point is that to be truthful to the real complexity of human conduct, as Morris tries to be, "chance and necessity must also be reckoned with when assessing individual accountability" (116).

This insight leads to the pivotal distinction in his argument between "affirmative" and "skeptical" postmodernism (131). Sherwin believes that the public, more aware than ever of the constructed nature of meaning, may go in one direction or the other, either towards renewed belief or towards disenchanting cynicism. The future of justice depends on the affirmation of meaning through a sense of "tragic wisdom" that "expressly takes into account the contingencies, uncertainties, and limitations of human understanding and the imbalances that exist in particular linguistic interactions" (237). This path represents a "fundamental epistemological shift" away from "the rationalist ideals and repressive impulses of the Enlightenment" (246). Skeptical postmodernism, however, threatens to take society in the opposite direction. It is characterized by "the substitution of virtual (electronically mass mediated, passively received) experience for real life—and the ensuing inability to tell one from the other" (260). Emblematic of this trend in the law is the Supreme Court's 1981 ruling in *Estes v. Texas*, in which Chief Justice Warren Burger justified the televising of trials. According to Sherwin, Justice Berger's reasoning implies that is not justice but "the appearance of justice that counts most" (158). Sherwin cites a number of instances of "the jurisprudence of appearances" (141), in particular of lawyers manipulating opinion through the media, which he dubs "litigation public relations" (152).

Does *When Law Goes Pop* prove its case about the perilous conflation of legal and popular realms? Readers who

feel that ordinary life is suffering a "leeching out of authenticity" (259) may easily agree that the same process afflicts the legal system. But Sherwin does not support the two parts of his argument equally well. The first part, about narrative and symbolic dimensions of trials, is convincing and at times compelling, with interpretations well grounded in records of actual cases. When Sherwin turns to the effects of postmodernity, though, he uses movies far more than law. (Besides *The Thin Blue Line*, he does illuminating readings of Lynch's *Twin Peaks* and *Lost Highway*, Kieslowski's *Red* and both versions of *Cape Fear*.) Maybe he takes this tack in order to introduce postmodern theory to lawyers and law students. Still, there's a paucity of evidence to back up his claim about image eviscerating substance in the legal arena.

This problem becomes apparent when the author tries to show how trial lawyers practice "in hyperreality" (23). His main example is an organized crime case in which attorney Jeremiah Donovan asserts that his client is not a mafia boss (as the prosecution contends), but a wannabe. By this strategy, "Donovan transformed his client into a harmless cartoon character, just like *Pulp Fiction*" (33). But just because *Pulp Fiction* makes gangsters so appealing that viewers laugh when they commit violence doesn't mean that Donovan's story is indebted to that ironic sensibility. Rather, Donovan is exploiting an old folk character type: the fool who pretends. To drive this persona home, the attorney relates a tale to the jury about an Irishman at a bar who gets himself

beaten to a pulp by claiming to be O'Toole and then proudly announces, "I sure pulled a fast one on that big fella"—I'm not O'Toole at all!" (32) Such use of a stock figure to underpin one's version of events may be sleight-of-hand, but it's hardly proof of a shift "to the hyperreal world of free-floating signifiers" (24). It's a time-honored tactic in the trial lawyers' craft.

For another example of hyperreality, Sherwin points to Johnnie Cochran's exhortation to the jury in the O.J. Simpson trial to "do the right thing" and "keep their eyes on the prize." Sherwin reminds us that "these neatly packaged soundbite phrases" (24) come from Spike Lee's film and PBS's documentary series on Dr. Martin Luther King, Jr. What's hyperreal about that? Smart lawyers recycle phrases that are on people's lips and in their memories.

At the root of what seems strained to me in Sherwin's approach is his view of the source of the stories that matter. "For most people," he says, "the source is not difficult to ascertain. It is the visual mass media. . . . This vast electronic archive provides us with the knowledge and interpretation skills we need to make sense of ordinary reality" (21). This statement misses the influence of family and friends, of schools and other institutions, of books and other arts, of a person's own life experience. All are sources of meanings different than the common currency of the mass media. Media stories affect us in important ways. But much of who we are and what we know comes from other contexts and traditions.

The trial court is one such context.

Skilled trial lawyers, as I found out when I did the fieldwork for my book *The Trial Lawyer's Art*, make the proceedings a performance that will hold jurors' attention for days or weeks on end. This sort of storytelling is the antithesis of the mass media's slam-bang techniques. True, most people get their notions of what trials are like from the media; yet once they become jurors they are inducted into another sphere with its own practices and expectations. True, lawyers may seize on the latest scandal in the news or the latest technological visual aid if they think these will help their case; yet the main coordinates they work from lie not in the media, but in a centuries' long, still vital craft tradition.

This tradition has evinced much interest in the very matters of contingency that *When Law Goes Pop* regards as the key to affirmative postmodernism. Read Clarence Darrow's closing statements—the Leopold and Loeb case is a good place to start—and you can see the presence of a double frame of reference: one speaking in blunt certainties, the other circling around painful mysteries of human conduct. A lawyer, after all, has to get the jury to act decisively, but the jury may balk if the account ignores life's complexity. Affirmative postmodernism seems less of a break from past understandings than a continuation. Dilemmas of necessity and freedom have been the most enduring of themes for artistic representation.

The main threat to justice in the United States is not, I think, that the public will lose sight of the difference between image and reality. It is that the

system will prove incapable of facing the reality of its failures to offer good legal representation to the poor and otherwise disadvantaged. If the law's direction is complacency rather than repair, cynicism will be well justified.

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Georges Bataille: A Critical Introduction. By Benjamin Noys. (London: Pluto Press, 2000. Pp. viii + 165, introduction, notes and references, bibliography, index.)

"If we do not read Bataille as a thinker of freedom, then we do not read him at all" (5).

Most English language readers of Georges Bataille are familiar with him as a peculiar *litterateur*, the author of *The Story of the Eye*, a sophisticated and disturbing novel about sexual deviants on a rampage. But interest has been gaining steadily in Bataille's other work, a startling oeuvre that includes writing in philosophy, history, anthropology, religion, art, and economics. Benjamin Noys's book, *George Bataille: A Critical Introduction*, alerts readers to the complexities involved in reading Bataille. Noys writes that Bataille "is an irruptive force of violent excitation, and this accounts for the pleasure in reading him" (5). But despite the pleasure we may find in reading Bataille, Noys argues, "to celebrate Bataille is to fail to read him" (4).

This paradox is at the heart of Bataille's work. Bataille tried to position his work as an inassimilable "foreign body" that could be neither appropriated nor rejected in the domains of literature or philosophy. Rather, his work would force these domains to open themselves to dangerous forces beyond their control, to irrationality and to excess.

Noys states that the key to Bataille's writings is the notion of waste or luxury. In his three-volume work, *The Accursed Share*, Bataille developed the argument that accumulation, which commands the attention of

most economists, is the overwhelming principle only of a "restricted economy" based on profit. This restricted economy replaces intimacy, desire, and the life of the moment with an interest in activities that have ends outside of themselves, usually material wealth. Bataille contrasted this restricted economy with the "general economy" which has ultimate authority in the cosmos and is governed by the principle of useless expenditure. Seen from the perspective of general economy, Bataille wrote, "a human sacrifice, the construction of a church or the gift of a jewel were no less interesting than the sale of wheat" (qtd. in Noys, 13).

Bataille attacked liberal democracies for their weakness, a weakness that created a vacuum for Nazism to fill. The justification for liberal democracies had been reason and utility, the great achievements of the Enlightenment. For Bataille, these achievements did not address life's important problems. Instead, they reduced human experience and human community to rational functions geared towards material ends. Primitive societies, in contrast, employed elaborate rituals of sacrifice to expel waste luxuriously. Bataille noted the need for these kinds of rituals: "A human society can have . . . an *interest* in considerable losses, in catastrophes that, *while conforming to well-defined needs*, provoke tumultuous depressions, crises of dread, and, in the final analysis, a certain orgiastic state" (qtd. in Noys, 105).

For Bataille, the expenditure of excess energy could be either glorious or catastrophic. He perceived that European nations, soon to begin a second world war, were preparing a catastrophic expenditure of excess energy. Bataille imagined instead a glorious expenditure that could avert the catastrophe.

Bataille experimented with the creation of communities that desired freedom rather than power, and to that end he and others formed a group called *Acéphale* (Headless). The group's goal was to release energies that could not be controlled by any leader. They planned a human sacrifice, but abandoned it because there were no willing executioners. However, the idea of sacrifice, particularly Marcel Mauss's work on the subject, continued to drive their thoughts.

Benjamin Noys set several difficult tasks for himself in his overview of Bataille: to explain how Bataille's work refuses both rejection and appropriation, the relationship between Bataille's life and work, the labyrinthine structure of Bataille's thought, and the influence of Bataille's work on other writers. He meets some of these goals, but falls short of others. Part of the problem is Noys's convoluted style, which hurts his efforts to clarify Bataille's work. For example:

Bennington is very critical of the pathos that Bataille reads into this problem of the limit, without perhaps recognizing that his own limitation of the problem of the limit to being a logical problem is reductive of the subjective, existential, ethical, and emotional effects that the limit can have (123).

When Noys cites the "irruptive force" of Bataille's writing, it makes us long for more of that force in his own writing.

While Noys argues that Bataille "wrote with his blood" (5), Noys does not provide many connections between Bataille's life and work, and there are few biographical details. Noys states, "I do not intend to provide an exhaustive description or chronology of his life but to select irruptive events from which

it overflows into his work" (5). Yet, because Bataille's work is so difficult, readers might have appreciated more contextual information than Noys provides.

Noys argues that Bataille was deeply affected by the Nazis' misappropriation of Nietzsche's work and wanted to make his writing "unusable." He did not, of course, succeed, for many people—most notably poststructuralist theorists from Lacan to Derrida—have appropriated Bataille to many ends. While Noys defends Bataille's claim to "unusability," a book on the many uses of Bataille might have been more enlightening, even with the caveat that "use" is a problematic term in Bataille's vocabulary. Noys assumes that Bataille's readers seek only to interpret his work, and he fails to address why work meant to be unusable has in fact been so generative for other writers.

Noys's overview of Bataille and relevant intellectual history is clearly organized and may be quite helpful to the scholar wishing to put the various pieces of Bataille's work into perspective. Though he argues forcefully that critics commonly misread Bataille, Noys's goal is not to redeem him. He castigates Bataille for his weaknesses, errors, and failures, and he is clear-eyed about the dangers inherent in Bataille's violently transgressive ideas.

George Bataille: A Critical Introduction offers some significant contributions to cultural studies. It describes Bataille's refusal of all limits and his desire to unleash heterogeneous forces in all domains of human knowledge. Bataille's perverse interventions in numerous and disparate fields and his attacks on the boundaries of established textual domains have implications for every cultural institution. *Cultural Analysis* readers may find inspiration in Bataille's crossing of

boundaries, his exploration of intensities and disruptive meaning, and his rejection of authorities who seek to control textual domains.

Noys contributes most significantly to cultural studies by elucidating Bataille's ideas about community. Media consumers frequently inaugurate their own experimental communities, such as those that make up "fandom," and Bataille would have been fascinated with those experiments. According to Noys, Bataille distinguished between open and closed communities. The closed community (read *fascism*) operates under the ideology of the intact subject and seeks to purify itself from outside contaminants. Bataille sought an alternative in the open community, in which the individual "as subject . . . ruins itself in an undefined throng of possible existences" (qtd. in Noys, 51). It is a community based on instability, laughter, failure, danger, and a continual inquiry into the nature of community itself.

As communities form around interests in particular texts and textual practices, they must choose between open and closed forms of community. Bataille was interested in redefining community, something that cult audiences do through their newly-formed identifications around chosen texts. Cult audiences yearn for the intimacy that Bataille argues has been lost under capitalism, but they risk reproducing the very forces that destroy intimacy. Noys's book on Bataille offers them some hope of finding that elusive prize.

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The Telling. By Ursula K. Le Guin. (New York: Harcourt, Inc., 2000. Pp. 264)

In the preface to her most recent book, *The Birthday of the World and Other Stories* (Harper Collins, 2002), Ursula Le Guin discusses the imagined universe of her Hainish novels, in which *The Telling* is set. The Hainish novels constitute a family, albeit a loosely connected rather than a closely knit one. In them, Le Guin posits the existence of a parent culture, the Hain, which has seeded the universe with interrelated (but not identical) humanoid species, including the people of Earth. In *The Birthday of the World*, the author asserts the hopelessness of trying to discover an underlying implied history that ties together the novels in a coherent and consistent design, pointing out that such a history (even if it were consistent) would consist mainly of gaps. While admitting the factors of "authorial carelessness, forgetfulness, and impatience," (vii) she also affirms the logic of such incoherence, given the vastness of space and the elasticity of time under the conditions of near light-speed time travel.

To place *The Telling* in this gap-ridden spatial/temporal/textual context, it may be useful to consider further in a broad way the gap-ridden seriality of much science fiction (and fantasy) and ask how this characteristic might illuminate how we make and preserve our stories. Le Guin is the author of two grand series—the Hainish science fiction novels and the Earthsea fantasy novels—each series with its cosmology and/or geography, and each with its own rules of technology or magic.

This extended world- or universe-building puts Le Guin in the tradition of J.R.R. Tolkien, C.S. Lewis, J.K. Rowling's *Harry Potter* novels, and Frank Herbert's *Dune* novels, for several instances. Nor is her authorship of two distinct series particularly unusual. Marion Zimmer Bradley, for instance, wrote science fiction set on her invented planet of Darkover (like Le Guin, moving around in time rather than writing her novels in chronological sequence) as well as a fantasy series based in terrestrial legends (*The Mists of Avalon* being the most familiar example). Octavia Butler is another author of several series, using science fiction to explore issues of gender and race, and the human proclivity toward violent competition and consequent self-destruction. Before Butler's novels came Doris Lessing's series of five "space fiction" novels, *Canopus in Argos: Archives*, which examine the devastating consequences of human activity from a "deep" interstellar perspective. But whether it's the social criticism of Lessing and Butler or the reproduction of "traditional" (Euro-American) values in space operas such as *Star Wars*, science fiction and fantasy invite seriality.

One reason for this is obvious: science fiction and fantasy invite world/universe-building, and this activity takes time and space. One might argue that the activity also requires (or creates) a special commitment or responsibility. It certainly invites collaboration. Bradley's Darkover is a territory that has been visited by other writers, much as the Land of Oz, after L. Frank Baum's discovery and initial explorations, was visited first by Baum's followers and then recently

by Oz's revisionist historian Gregory Maguire in his novel *Wicked*.

Unlike Oz, or the single extraterrestrial human-settled cultures of *Darkover* or *Dune*, Le Guin's territory is hugely vast. The Hain-originated humanoid species, despite their distance from one another and their physiological differentiation over time, are joined together in an interstellar cultural confederacy called the Ekumen. To locate and to connect these scattered people, the Ekumen uses a device called the *ansible* that permits instantaneous communication, but interstellar travel is still conducted at sub-light-speed. This means that the Ekumen's traveling representatives are permanent exiles from their home space-time, doing their best to reestablish extended family relationships with alien people and places, and occasionally achieving intimacy.

Le Guin's social and technical assumptions provide a common set of assumptions for most of her science fiction, occasional inconsistencies and gaps notwithstanding. This larger fictional environment also gives *The Telling*, a rather slight effort when considered on its own, value as a piece that fills in one of the holes in the vast interstellar Hainish map. Arguably, universe building transcends the particular merits of any individual text.

In general terms, *The Telling* depicts how the unified national voice of the state, using its human and technological agents of control, promulgates deception, drowning out the voices of individual people and seeking to rob them of their past. But the narrative reveals as well the hidden culture that persists un-

derground, in secret places, and reminds us how culture is not an abstraction, but is alive, vivid in its material forms, powerful in its retellings, precious in the mind.

In her comments on the origins of the novel, Le Guin points out a connection with Maoist China and its suppression of Taoism, but certainly *The Telling* has wider resonance than that. The powers of sight, sound, and smell operate more powerfully than sociopolitical critique or character development. The novel opens with these sensory evocations of a past that is like our own terrestrial past, so that the narrative is immediately knitted to the readers' universe as well as to the Hainish. But because the terrestrial past thus evoked is Indian, it is India, rather than a "progressive" Euro-Americanoid "First World," that is constructed as home/"Cradle of Civilization":

Yellow of brass, yellow of turmeric paste and of rice cooked with saffron, orange of marigolds, dull orange haze of sunset dust above the fields. . . . A whiff of asafetida. The brook-babble of Aunty gossiping. . . . Ganesh's little piggy kindly eye. A match struck and the rich grey curl of incense smoke: pungent, vivid, gone. (1)

As the paragraph closes we are conducted from that place of warmth into a colder, darker present in which Sutti, the novel's main character, recalls these fragments of her childhood as she walks, or eats, or takes "a break from the sensory assault of the nearreals she had to partiss in" (2). Thus the narrative moves with great economy from the rich sensory data of the "old world" of childhood and

of an ancient terrestrial culture to a "new world" characterized by technology, its jargon, its simulacra, and an ambiance of sensory assault and compulsion. One version of that new world exists on Earth, which (paradoxically) has fallen to the control of religious fundamentalists; another version exists on the planet Aka, a corporate state dedicated to the pursuit of progress and the erasure of history. It is here that Suttty has been sent.

The novel's opening passages also prefigure the essential dilemma of Suttty as an individual, with a personal past, and as an Observer, an official representative of the Ekumen. Suttty searches for lost language, its pictographic written forms, and its literature, which have disappeared to be replaced by an official Newspeak, disseminated via propaganda recordings. As Ekumenical representative, Suttty is required not to interfere in the local culture, to retain her objectivity and to avoid opinion: "The old farfetchers' motto: Opinion ends reception" (55). But as her observations take her from Aka's putatively progressive capital to the "backward" provincial city of Okzat-Ozkat and into the mountains beyond, she learns that objectivity is not possible. Her journey also shows that through knowledge and compassion come insight—not only into familiar principles of what we often term "common humanity," but also, even if partially and occasionally, into areas of blindness caused by cultural difference.

Suttty's journey is rendered more painful by her solitude; her lover, with whom she was hoping to share her life's work, was killed in the bombing of a library in their home city of Seattle. Initially char-

acterized as isolated and plagued with a sense of inadequacy, Suttty practices the receptiveness of the "farfetchers" and thereby enters into a sustaining network of connections with the underground practitioners of the Telling, preservers of the old texts. That network enables her to slip through the boundaries of official control and travel to the sacred caves at the heart of the Mother-mountain Silong, which she first sees looming like an immense white wall, "a wrinkled curtain of light halfway up the sky" (52) above Okzat-Ozkat.

The imagery of city, journey, and mountain is striking in its details and intricately patterned. From the capital, Dovza City, the voyage by boat to Okzat-Ozkat is, Suttty reflects, "longer. . . than [her] journey from Earth to Aka" (39). Her journey onward from there to Silong is, predictably, longer and more arduous than the mountain's dramatic visibility from the town would suggest. We have here a contrast between the technologically-manipulated "future" temporality of interstellar travel, in which huge distances are covered within humanly-achievable durations, and the "past" temporality of mythic journeys, in which time and effort are magnified by the operations of the spirit.

Suttty's pilgrimage takes place in company, but she remains singular and to that extent isolated as she approaches Silong. Silong also initially appears to be a strikingly singular entity, but close up is revealed to be one of a twosome, paired with Zubuam, the thunderer: "Old maz mountains. Old lovers" (186). The same pattern is articulated in the pairing of the *maz*, who are Aka's under-

ground professional Tellers. The maz, whose union is permanent beyond death, and who do not always follow the heterosexual official norm, are in those regards similar to Suttu and her dead female lover Pao, so that we readers begin to see Suttu differently than she (as yet) sees herself. The maz's essential two-in-oneness is inscribed in the old prohibited grammar common to all the major Akan languages, "a peculiar singular/dual pronoun" (112) that is ironically reflected even in the "producer-consumer heroes of Corporation propaganda" (112). It is also reflected in the mirror-image names of maz partners and for that matter would account for the name of the city Okzat-Ozkat. Thus the deep structure of a culture will surface in the face of all efforts to suppress it.

The power of the old culture to rise to the surface is also illustrated by the fate of Yara, an Akan Monitor (as such, the opposite number to Suttu in her official role of Observer). Initially appearing to be an emotionless extension of the Corporate State, the Monitor follows Suttu to Silong for reasons that turn out to be personal. Their initial opposition turns into another form of two-in-oneness, when at the caves they engage in their own private Tellings, exchanging their own unofficial, well-hidden stories. Yara thus for a brief time becomes a kind of shadow-partner for Suttu.

Silong's caves are strikingly envisaged as "endless bubble chambers inter-connecting, interfacing, dark walls, floors, ceilings all curved into one another seamlessly, so disorienting that sometimes she felt she was floating weightless" (194). The womb imagery is

elaborated by the function of these chambers as a kind of Borgesian library; within them are housed innumerable books, manuscripts, and fragments of text containing the accumulated culture of Aka: "the texts of blessings, the protocols of ceremonies, recipes, prescriptions for curing cold sores and for living to a great age, stories, legends, annals. . . herbals, bestiaries, anatomies, geometries both real and metaphysical, maps of Aka, maps of imaginary worlds, histories of ancient lands, poems. All the poems in the world were here" (197).

This library-as-microcosm is the treasure at the end of the quest, but it is clearly not a treasure for the individual taking. There is simply too much material, too randomly preserved. Its housing in bubble-caves is conceptually appropriate, analogous to the gap-ridden Hainish universe itself, which Le Guin compares to a partially unraveled piece of knitting.

Confronted with a treasure of such magnitude, Suttu is confronted with a dilemma: how to ensure its preservation without violating the Ekumen's non-interference policy. In the end she is able to do so because of her understanding of Akan culture; the novel concludes with a "tit for tat" (263) arrangement, technology for texts, a solution that holds out a promise of continued openness.

One finds a similar combination of social problem-solving and personal transformation in *The Left Hand of Darkness* as well as other, less widely-known Hainish fiction. *The Left Hand of Darkness's* main characters are far more complex, plausible, and engaging than *The Telling's* Suttu, and that novel is much

richer on the level of narrative, interweaving multiple strands of invented myth, legend, and folktale into a narrative of cultural thickness. Disappointingly, *The Telling* tells us that important narrative material is being preserved, but we do not get to read it for ourselves, as we do in *The Left Hand of Darkness*. Nonetheless, *The Telling*, for all its slightness, exhibits Le Guin's characteristic interest in the fragments out of which we reconstruct our visions of the past.

The fragments in *The Telling* consist most obviously of Aka's languages and literature, found in Silong's caves and in other hidden places, in physical documents and in the oral tales Suttu hears from the Tellers and the many other informal participants of the Telling, for the activity is not limited to the professionals. Early in her stay at Okzat-Ozkat, while visiting an old shop, Suttu sees inscriptions on the wall that she recognizes from her offplanet study as the old pictographs, and she receives in exchange for her insider's knowledge a gift from the shopkeeper. That early encounter proves to be one of her several points of entry into the underground culture. An even earlier encounter with the hidden culture comes by way of a few scraps salvaged from a lost interplanetary transmission: the picture of a fisherman on a humpbacked bridge, some bits of prose, a few lines of poetry. After arriving on Aka, Suttu must delete her copies of these prohibited materials, but she does not forget them. Thus they change their substance (original to physical copy to mental copy) but they do not lose their form, and their contextual significance turns out to be retrievable in the caves of Silong.

Suttu's memories and dreams of Earth constitute another set of fragments, as we see at the very beginning of the novel and repeatedly thereafter. She is in effect accompanied on her journey by her dead partner, Pao. Le Guin completes the linkage by having Suttu narrate the circumstances of Pao's death in her conversation with the Observer Yara. Two-in-one thereby become three, and the grammatical-interpersonal formula expands to include all who are linked in the Telling, a cosmic tree of myriad branches, "the being that can be told" of which "the mountain is the root" (96), as a maz tells her.

Turning again to the idea of the serial (or multiple-textual) nature of science fiction—the vehicle for Le Guin's ideas about the many-in-one/one-in-many, it may be worth reexamining the ground in which the novel itself is rooted.

Outside the Hainish textual universe and inside our own space/time, where, or how, is *The Telling* rooted? There is, of course, Le Guin's critique of Chinese Communism, which to my mind is not particularly effective, but neither is it intrusive. More problematic, for all that it is localized rather than widespread in the narrative, is the heavy-handed allusion to Starbuck's Coffee. Sharing Starbrew, the Corporation brand of *akakafi*, "was one of the few rituals of social bonding the people of Dovza City allowed themselves" (66). This allusion, doubtless designed to create a connection between the narrative space/time and our own, has instead the unfortunate effect of disturbing the imaginative integrity of the Hainish universe—a more serious problem than the "incoherence" that Le Guin

admits in *The Birthday of the World*. Starbrew violates our sense of appropriate connection between there/then and here/now.

Inside the Hainish textual universe—that is, viewed as one of a series—*The Telling* is rooted in Hainish history, but that history overlaps with our own via the conventions of historical-literary realism. That is, Suttty's Earth is consistent with our Earth as it might be in the future. (This is quite different from the illogical-to-make-a-point positioning of Starbuck's/Starbrew in Dovza City.) On Suttty's Earth (as on ours), on Aka, and on the other Hainish planets reintroduced in *The Birthday of the World*, this is a history that is repeatedly forgotten, so that the gaps in Le Guin's fiction exist both narratively and metanarratively:

... [Y]ou can ask the Hainish, who have been around for a long time, and whose historians not only know a lot of what happened, but also know that it keeps happening and will happen again. . . .

The people on all the other worlds, who all descended from the Hainish, naturally don't want to believe what the old folks say, so they start making history; and so it all happens again.

I did not plan these worlds and people. I found them, gradually piecemeal, while writing stories. I'm still finding them. (viii)

The very notions of forgetting—on the part of characters—and of finding—on the part of the author—contribute to our sense of actuality: something has gone on before the beginning of the first page

of the first book and continues after the last page of the last book, and things happen between one text and the next, far too many for us ever to learn about all of them. And we are also reminded that people don't always want to remember, so that even in this far future, the same terrible mistakes continue to be made.

And here we might turn from the relationship between Hainish past and Hainish present to that between our own almost-lost past and dimly haunted present. In her essay "World-Making" (1981, reprinted in *Dancing at the Edge of the World*, Grove Press, 1989), Le Guin calls us "the inhabitants of a Lost World" (47) annihilated by the European conquerors, the ancestors of many of us, including Le Guin herself:

The people who lived here, in this place, on these hills, for tens of thousands of years, are remembered (when they are remembered at all) in the language of the conquistadores: the "Costanos," the "Santa Claras," the "San Franciscos," names taken from foreign demigods. . . . Here is one. . . fragment, a song. . . . The people sang:

I dream of you,
I dream of you jumping,
Rabbit, jackrabbit, and quail.
(47-48)

In the essay Le Guin talks about the relationship between fragments from the past and the invented worlds she has constructed from sometimes culturally disparate pieces—bricolage: a bit here, a bit there, "and so patch together a world as best I can. But still there is a mystery" (48). So here we might stop and simply

consider the fragmentary poem from our own Lost World, so like the fragments Suttu retrieves from the ruined transmission. The poem represents the "I" who dreams and the life going on within the dream, a story within a dream within a song, all framed by Le Guin's own Telling—and then reframed, however modestly, by this essay you are reading now. Like the books stored within the bubble-caves of Silong, stories lie side by side and also within one another. Meditating on the writings of Ursula Le Guin and on their wider implications, we are likely to come away with a reinvigorated sense of our own participation in the great Telling, an activity of more than personal and surely of more than academic interest.

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Cultural Analysis

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