

## Creative Economy

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### Cultural appropriation: Claiming Mayan community property right

Daniela Chavez, Jeonghyun Kim  
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The creative economy has emerged as a powerful force in economics, creativity of societies as well as identity and development of community. Especially, 2013 UNESCO Creative Economy report<sup>1</sup> emphasized the importance of creative economy for local development. However, pervasive cultural appropriation and lack of legal framework to protect cultural rights have been an huge obstacle for creative economy of local community. In this report, we give an account of cultural misappropriation based on Mayan community's case where traditional symbols, patterns and indigenous intrinsic works have been commercially applied without proper permission of the community as

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<sup>1</sup> UNESCO (2013). Creative Economy Report. Retrieved from <https://en.unesco.org/creativity/publication/creative-economy-report-2013>

well as the producer, appropriating their culture. The establishment of legal framework and engagement of the Guatemalan state are highlighted.

Cultural appropriation, is defined by the Oxford Dictionaries as “the unacknowledged or inappropriate adoption of the costumes, practices, ideas, etc. of one people or society by members of another and typically more dominant people of society”. Particularly in the 21st century, cultural appropriation is often considered harmful, and to be a violation of the collective intellectual property rights of the originating, minority cultures, notably indigenous cultures and those living under colonial rule.<sup>2</sup> It can sometimes be referred to as cultural misappropriation, and understood, according to Galchen and Holmes as expressions of ignorance or aggression, when objects, ideas, lived experiences or points of view are not so much examined as exploited and performed<sup>3</sup>.

Cultural appropriation has been debated across numerous sectors, and the fashion industry is no exception. For several decades, some fashion brands commercialise and profit from the ancient heritage of indigenous cultures, often without consent, acknowledgement or compensation. These brands, when confronted, often argue that they get inspired by other cultures (appealing to a cultural appreciation) rather than cultural appropriation. They claim that the use of unique cultural symbols is an effort to recognize and pay homage to that specific culture.

However, there is a thick line between appreciation and appropriation. We chose the topic about cultural misappropriation of Guatemalan culture (and consequently, the reappropriation movement), because we want to contribute to the discussion on how to make a distinction between these two very different conceptions. While appropriation, as mentioned above, is seen as harmful, appreciation is not. By appealing to appreciation, what the companies are doing is morally detaching from a clear act of plagiarism. Reappropriation movements are important mainly to raise the voice for clearly stating that appreciation is not possible when it directly harms a specific culture. These voices are important to counter appropriation activities disguised as appreciation ones.

The Mayan culture has been one of the many cultures that has suffered the impact of cultural appropriation. The Guatemalan Mayans have endured the theft and co-optation of their textiles for years, both from foreign corporations and domestic non-indigenous

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<sup>2</sup> Declaration on the Rights of Indigenous Peoples (2007), The United Nations General Assembly.

<sup>3</sup> Galchen, R. and Holmes, A. (2017) *What Distinguishes Cultural Exchange from Cultural Appropriation*. The New York Times. Retrieved on November 6, 2018.

designers. From local Guatemalan brands, however detached from the Mayan culture , to multinational high-couture brands, the Mayan culture has been trivialized as a simple trend in fashion. This is problematic in many senses, but mostly because it directly damages the communities that belong to this culture. “White culture has found a way to use the Mayan culture as something exotic, something different, but they have failed to accept it as a whole. Instead white culture has picked apart the Mayan culture, it has adapted many of its traditions without asking for permission” (Martinez, 2017).

Various Mayan communities have risen their voices to claim the reappropriation of their culture. This has been particularly relevant within the weavers communities, that have had an active participation since the early 2000's. Weavers represent a large part of the artisanal activities and have ancestral techniques for completing their art. Whereas art is considered in the Western thought from an individualistic perspective, it is not the case in the Mayan weavers community. Their art is ancestral, and they have a shared baggage of techniques, symbols and other elements.

Elements of the Mayan culture are trivialized and used for commercial aims, rather than respected within their original cultural context. Often, the original meaning of these cultural elements is lost or distorted, and such displays are often viewed as disrespectful. While disdaining this important culture, brands that profit with Mayan culture face no legal or economic consequences. Profits for Mayan communities on the other hand, remain marginal and their culture disdained.

While the Mayan culture represents a huge economic asset (over 87%<sup>4</sup> of the tourist sector relies on elements related to it), the Mayan people remain unprotected and with no means to profit from their own culture. Mayan weavers face huge economic pitfalls, not being able to get raw matter from fair markets and having little tools for accessing large markets (contrary to other international players). If to these economic pitfalls, they have to confront the stealing from their culture, they have ever decreasing opportunities to achieve a dignified life. The market ground will be an ever unequal one if no legal consequences are to be faced by those who profit from cultural appreciation.

Confronting this reality, by 2014, women from the Women's Association for the Development of Sacatepéquez (AFEDES) gathered enough motivation to initiate a litigation process to demand that the state generate the regulations needed to protect indigenous peoples' art. Among other things, they promote the existence of a patent for the Mayan weavers' community property rights. By doing so, they attempt to claim their

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<sup>4</sup> Bolaños, M. (2018)

intellectual collective property and thus reappropriating their own culture. AFEDES leader, Sandra Xinco stated “It is not just about a handmade piece of cloth, since our hand-woven products are made based on our nations’ worldviews, philosophy and history. They speak about inspiration, but really it is cultural appropriation and we must begin to see it as stealing”.

They also attempt that with this recognition, the community will have more elements to compete in a fair ground. The community designated representatives to negotiate on their behalf with companies seeking to use their designs, and manage the distribution of funds back into the community. The Maya community would have more autonomy and control over their heritage and culture, thus alleviating two of the major hardships the community faces: cultural appropriation and dispossession. Angelina Aspuac, from AFEDES, puts it “They call for tourists to come to the country and they use us as bait. Our clothes, our culture, our work, but none of the money they make is returned to the Indigenous communities. This is what we’re denouncing with the patent.”

The prevalence of this kind of cultural appropriation and plagiarism led 189 delegates from indigenous communities from around the world to gather in Geneva in June 2017, and convene a special committee within the World Intellectual Property Organization (WIPO) to ban the appropriation of indigenous cultures around the world. This and other kinds of efforts lead to the view that in cultural policy frameworks, particularly in Latin America, cultural rights are a source of legitimacy. Unfortunately, in Guatemala it is not the case.

Even when Guatemala became signatory to the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions (which on its article 7 and 8 explicitly states the protection and promotion of cultural expressions of women and minorities), it has done little effort in this regard. Guatemala must strengthen the state-civil society relation, actively enable civil society participation, promote, cultural policy innovation and strive for consensus building regarding relevant cultural issues for the communities

Whereas the international efforts are important, the role of the Guatemalan state is crucial for the recognition of the cultural rights of Mayan communities. National law should protect community rights acknowledging their enormous cultural heritage. Acknowledgement is more than necessary as “heritage exists only because it is named as such” (Hertz, E. & Chappaz-Wirthner). The inclusion of collective property rights in national law, as well as recognition of indigenous peoples as authors (individuals and enterprises are already recognized as such), would be a first step.

However, the role of the state must limit not only to this, but to enhance better holistic policies, that include Mayan communities as Guatemalans, providing them with economic and social benefits. It must ensure equal and just access to market to these communities, like facilities for exports and just access to inputs

Cultural appropriation is not only the steal of elements of a culture, but it is also a barrier that hinders economic and human development amongst several peoples. Cross-sectorial efforts must collaborate further to make the voices of Mayan weavers heard and make less and less accepted the misappropriation of any culture among any society.

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