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A Lesson from the Pueblo Revolt of 1680 about Cultural Appropriation and Tribal
Sovereignty: What Santa Clara Pueblo Can Do to Protect Tewa Cultural Property



A thesis submitted in partial satisfaction
of the requirements for the degree Master of Arts
in American Indian Studies

by

Patrick Victor Naranjo

2012

ABSTRACT OF THE THESIS

A Lesson from the Pueblo Revolt of 1680 about Cultural Appropriation and Tribal Sovereignty:
What Santa Clara Pueblo Can Do to Protect Tewa Cultural Property

by

Patrick V. Naranjo

Master of Arts in American Indian Studies

University of California, Los Angeles, 2012

Professor Angela R. Riley, Chair

This article advocates for the development of American Indian tribal legislation as a focal point, regardless of jurisdiction limitations to protect cultural property, focusing in particular on the problem presented in this project through the active appropriation of sacred Tewa ceremonies. By drawing a contrast to the Pueblo Revolt of 1680, in which the various Pueblo villages coordinated a successful rebellion to expel Spanish missionaries, the article urges Tewa governments and other American Indian tribes to draw on their long history of religious oppression to formulate modern tribal laws to protect against religious and cultural appropriation.

Protection of cultural property is essential for American Indian tribes because cultural knowledge, practices, and ceremonial items are central to tribal identity and religious beliefs.

Cultural properties also form the basis for tribal sovereignty as it is recognized by the U.S. government today. These ceremonies are the binding social structures for indigenous communities and kinship that establish the sovereign capacity in which they operate and the authority of indigenous legal claims. The appropriation of these ceremonies directly threatens Tewa survival. It facilitates harmful misuse and misunderstanding of the life-affirming rituals through which the Tewa people ensure their continued existence. It also threatens to erode the cultural and religious distinctions on which the tribal-federal relationship is based. At a representative level, it erases Tewa tribal identity, replacing it with historicized representations of Indians in popular culture.

This thesis focuses on explaining why the organized protection of Native American cultural properties must be a paramount concern for modern tribal governments. My primary audience is modern tribal leaders. Faced with a wide variety of governmental concerns, including economic development, land management, natural resource management, and administration of social welfare programs, tribal leaders today do not always prioritize protection of cultural properties.

The thesis of Patrick Victor Naranjo is approved.

Mishuana R. Goeman

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Angela R. Riley, Committee Chair

University of California, Los Angeles

2012

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Unbi A' gin di (with your blessings)

I. Introduction



"Santa Clara Pueblo Cloud Dance" circa 1940s – Photo by: T. Harmon Parkhurst
Courtesy Museum of New Mexico – Negative Number: 4220

Santa Clara Cloud Dance

In 2010, I observed on Facebook photos of a student group in La Junta, Colorado imitating present day Tewa dance ceremonies, which the Tewa regard as highly sacred practices central to their identity and cultural survival. The group, which call itself the Koshare Indian Dancers, is affiliated with a museum and trading post, all created by local non-Native boy scout leaders (Koshare 2012). The photographs were a particular instance of cultural appropriation (Riley 2005) providing insight into a descriptive theater of performance platformed on very accurate depictions of

Native American dance and ceremony. The dance costumes depicted Tewa and Plains Indian dance regalia and the background displayed mock ceremonial items considered sacred.

Within Tewa culture, the dance event is possibly the most central expressive form - the key to Tewa beliefs, values, and worldview. If something is important to the Tewa, it most likely will be explored or celebrated through dance and the accompanying songs. Further, this expressive complex - including costume design, music, drama, and unified rhythmic motion - is ultimately tied to Tewa identity and cultural survival (Heth 1992, 83). As an active member of the winter moiety in the Tewa community of *Kha' Po Owinge*¹ or Santa Clara Pueblo, I was astonished to see the extent of ceremonial items and description of these performances. Seeing the photos, I recalled the scholarship of Erica Irene Daes, founding chairperson and special Rapporteur of the United Nations Working Group on Indigenous Populations, who mentioned specifically that a major problem confronting indigenous populations of the future will not be gaining access to the internet, but keeping the most private and sacred knowledge off of the internet (Daes, 2001, 144). The photographs generated much discussion within the religious community of Santa Clara Pueblo concerning appropriative depictions of Tewa dances and raised key questions about the cultural appropriation of sacred events.

It quickly became clear that none of the various federal laws designed to protect Native cultural properties applied to this situation, clearly permitting members of a student performance group to present Tewa ceremony and traditional Tewa knowledge on the internet and within their performances. This lack of protection identifies a critical gap within tribal and federal structure where there is no legal mechanism for the sovereign, federally acknowledged indigenous

¹ I utilize a writing system in this project representing the Tewa language that used in *The Tewa World* by Alfonso Ortiz (1969).

community of Santa Clara Pueblo to protect the ceremonies that establish them as separate from the now colonizing United States. Santa Clara, like many federally recognized tribes maintain the capacity to create and enforce their own legislation, however these laws are only applicable within tribal reservation boundaries, lacking a jurisdiction comparable to federal law. The Tewa Pueblos of Okeh Owinge, San Ildelfonso, Tesuque, Santa Clara, Pojoaque and Nambe are left with no legal redress for their concerns of religious misrepresentation because federal law currently provides no broad-based protection against appropriation of indigenous cultural properties (Riley 2005, 8).²

This realization led me to address the primary question: why should tribal governments rely on federal legislation to provide a remedy addressing their individual claims of ceremonial appropriation? These ceremonies are significant to the tribal autonomy of Santa Clara Pueblo and surrounding Tewa communities and represent central characteristics of Tewa identity, so tribal governments ought to invest their own resources to identify and protect them, rather than relying on federal protections. The development of tribal legislation outlining protection for these ceremonies as active components of sovereignty serves as an opportunity to organize tribal institution to self address these issues. After investigating this issue and the various elements that surround the endless debates and conflicts of indigenous cultural property in the United States, I have determined that the development of tribal legislation addressing the significance of religious ceremonial items both tangible and intangible is the premise for protection of indigenous political and cultural sovereignty. Drafting such legislation also contributes to filling

² I use the term cultural properties to refer to various forms of property items associated with the unique cultures of indigenous people. Cultural properties serve as the foundation for indigenous cultures and include intellectual properties of all forms. Most cultural properties are regarded as spiritual objects that directly represent the ancestral use and philosophies or traditional knowledge maintained by indigenous people in North America. These cultural items are the *tangible* representation of the uniqueness which tribes maintain through their cultural and political sovereignty. A more detailed definition is provided in Part II of this paper.

the void regarding contemporary representations of tribal peoples (Fryberg, Markus, Oyserman, & Stone 2008, 2) and asserts the indigenous voice in the American social fabric regardless of the confines of tribal jurisdiction.

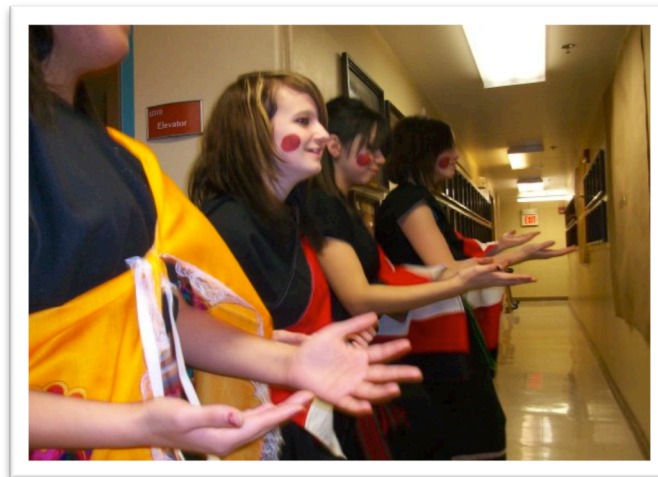
This article advocates for the development of American Indian tribal legislation as a focal point, regardless of jurisdiction limitations to protect cultural property, focusing in particular on the problem presented in this project through the active appropriation of sacred Tewa ceremonies. By drawing a contrast to the Pueblo Revolt of 1680, in which the various Pueblo villages coordinated a successful rebellion to expel Spanish missionaries, the article urges Tewa governments and other American Indian tribes to draw on their long history of religious oppression to formulate modern tribal laws to protect against religious and cultural appropriation.

Protection of cultural property is essential for American Indian tribes because cultural knowledge, practices, and ceremonial items are central to tribal identity and religious beliefs. Cultural properties also form the basis for tribal sovereignty as it is recognized by the U.S. government today. These ceremonies are the binding social structures for indigenous communities and kinship that establish the sovereign capacity in which they operate and the authority of indigenous legal claims. The appropriation of these ceremonies directly threatens Tewa survival. It facilitates harmful misuse and misunderstanding of the life-affirming rituals through which the Tewa people ensure their continued existence. It also threatens to erode the cultural and religious distinctions on which the tribal-federal relationship is based. At a representative level, it erases Tewa tribal identity, replacing it with historicized representations of Indians in popular culture.

Given the importance of these ceremonies to Tewa self-definition and political sovereignty, protection of the cultural properties which identify Indian cultures as distinct must become a priority for future tribal community development. A handful of federal statutes provide piecemeal protection in specific situations but, as described in more detail in Part I, the situations of Santa Clara Pueblo and many other tribes fall between the cracks of federal law. The failure of federal Indian law to protect against cultural appropriation in this context allows ceremonies to become forms of appropriation within the public domain. In order to avoid these harms, and because federal law provides little or no protection against appropriation of intangible cultural property, this article argues that American Indian tribes must make such protection a priority (Riley 2005, 1). The article further suggests that tribes do this through tribal legislation, and it provides recommendations intended to guide tribal governments in doing so, to identify the emerging concern to establish forms of protection for these ceremonies.

The Tewa people have historically been responsible for safeguarding the authoritative performance of these ceremonies within their homelands. Tribes have always possessed the inherent powers to create their own destiny (Coffey & Tsosie 2001, 2, 7; Riley 2005, 1), intrinsic authority affirmed by the United States government in various court decisions, federal laws, and proclamations, including the Supreme Court's decision in *Worcester v. Georgia* (31 U.S. 515, 547 (1832)) and the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450 et seq.). Allowing groups such as the Koshare to appropriate these forms of culture is to assert their use independently from Tewa culture delineating the authority of the indigenous Tewa peoples and their religious practices which identify them as tribal sovereigns. Many scholars have suggested that development of legislation in the tribal federal framework geared toward protecting the cultural property interests of tribal sovereigns, as identified in this project, would

contribute to the further positioning of the American Indian as a temporal “other” based upon provisions to support a unique form of knowledge protection, opting them out of the dominant American social fabric (Brown 2004 248; Anderson 2012, 4). However, I will argue that without the establishment of tribal legislation as the primary method to acknowledge and protect cultural properties, these effects of colonialism will continue to operate unaware of the harm they present to Indian communities, overlooking the sovereign rights and culture of the Santa Clara Tewa within the colonial United States framework through this paradox of cultural appropriation.



Koshare Dancers #1 performing Tewa dances

This thesis focuses on explaining why the organized protection of Native American cultural properties must be a paramount concern for modern tribal governments. My primary audience is modern tribal leaders. Faced with a wide variety of governmental concerns, including economic development, land management, natural resource management, and administration of social welfare programs, tribal leaders today do not always prioritize protection of cultural properties. Focusing on the example of Tewa religious appropriation, I hope to demonstrate why they

should. Section II provides background on the study of Native American cultural property within law. It examines the gap in federal protection for this kind of appropriation, describing the various federal laws that might potentially protect cultural properties and explaining why each one fails in this case. It also considers proposals put forth by American legal scholars and found in international law that aims to improve protection against this type of cultural appropriation. Section III describes the significance of particular forms of cultural property in Tewa religion and Pueblo culture. To do this, it looks back at the history of efforts to erase Pueblo religion and culture and the Pueblos' tradition of resisting this oppression, focusing specifically on the Pueblo Revolt of 1680. Section III also describes the way that modern day cultural appropriation presents some of the same dangers as Spanish religious oppression. It describes how appropriation of cultural items undermines Tewa tradition and group identity, explaining why something as seemingly minor as a boy scout wearing a scarf is actually a matter of great concern and significance for Tewa identity.

Section IV elaborates on the ways that cultural appropriation threatens the political and governmental status of tribes by replacing images of Indians with stereotypical representations and by threatening the control over culture that is central to tribal existence and sovereignty. It argues that the development of tribal legislation to protect cultural properties is an important expression of political and cultural sovereignty. First, unlike federal law, tribal legislation can better express the reasons why cultural properties need to be protected and can more accurately describe the boundaries of the protection, addressing questions like: who is entitled to use and represent cultural properties and when; how can cultural properties be shared between the various tribes that rely on them; and what actions should be taken in response to illegal

appropriation. Second, as described in Section II, cultural and religious property is central to Tewa cultural survival. Without it, Tewa people would lose the core of what makes them Tewa, and what sets them apart from other peoples. Because political and legal protection of tribal sovereignty is based largely on this difference, tribal legislation to protect cultural property is critical to tribal political survival. Although the precise content of this legislation is something each Tewa community must decide on its own, Section IV offers some recommendations to guides tribes in developing their laws and organization.



Santa Clara Pueblo Singers/Drum Group

II. The Evolution of Cultural Property and Protection

In this project I use the term *cultural property* to refer to property that has some significant relationship to a particular culture or nation state, including objects found at archeological sites which identify a separate civilization, and artworks which embody or represent a distinct culture (Posner 2006, 1) (Harry & Kanehe 2006, 3)(Riley 2005, 6). This definition has shifted to incorporate indigenous aspects of intellectual properties of all forms, genetic, tangible and intangible, oral and written, ancient and contemporary, which are under constant threat from theft, exploitation, misrepresentation, misuse, and commoditization from colonial influence (Harry & Kanehe 2006, 1)(Riley 2005, 7). Although sacred sites and tangible property are the most widely considered categories of cultural property, this project focuses on the photographs of mock Tewa ceremonies by the Koshare scout group, ceremonies which involves appropriation of both tangible (regalia made with *tse* (Ortiz 1969, 167) or Douglas fir greens) and intangible (dances, songs) cultural properties. They identify a culture or group of peoples as distinct and support the maintenance of a separate Tewa culture and religion. The appropriation of these ceremonies through dress and inaccurate performance have damaging effects upon the identity and culture of the Tewa people of Santa Clara Pueblo, as these cultural properties serve as the foundation for Tewa culture. The problem presented in this project is not with the definition of cultural property but the lack of enforcement, where disputes cross international, state, and local boundaries with no mechanism for enforcing indigenous rights (Daes 2001, 146) (Harry & Kanehe 2006, 1)(Riley 2005, 7) (Carpenter, Katyal & Riley 2009, 180). These cultural properties are regarded as spiritual events that represent the ancestral philosophies and traditional

knowledge maintained by the Tewa which serve as a catalyst for prayer performance within the Tewa cosmology, strictly regulated within each of the six Tewa villages.

A. Western Origins of Cultural Property

The language of cultural property was first defined in the 1954 Hague Convention which came out as the UNESCO 1954 Hague convention (UNESCO HAGUE 1954). The first notable shift in defining cultural property was the expansion of associated cultural property to a component of cultural heritage, a broader definition which embraces the significance of cultural properties to the history of a particular nation and may even embrace intangible cultural properties. This is exemplified in the language of the UNESCO 1970 convention. The second shift in cultural property refers to the international level of *indigenous* claims regarding the association to cultural property as central components of their existence and efforts to establish protection for the significance of these properties within the American colonial framework (Carpenter, Katyal, & Riley 2009, 112).

In international law, the term cultural property refers to items that have a special relationship with a particular culture or nation state. The universal language of cultural property protection as western law was first developed in 1954 by the United Nations Educational, Scientific and Cultural Organization (UNESCO), during the Hague Convention for the Protection of Cultural Property in the event of Armed Conflict with Regulations for the Execution of the Convention. Language within the definition from the Hague Convention associates cultural heritage with property items from “every people,” and the Convention serves as a foundational document in recognizing the rights associated with cultural property as characteristics of a nations cultural

heritage (Merryman 1986, 841). This association of cultural items to the identity of the nation state under Hague 1954 outlines the importance of cultural properties within its definitions and internationally calls upon a requirement for protection of these items. The Hague 1954 convention only applies to the protection of cultural property during acts of war, however the convention is a form of international legislation that exerts an influential way of considering cultural property significant for indigenous cultures, known as a view of cultural internationalism (Merryman 1986, 842). The Hague definition focuses only on immovable and movable cultural property, including monuments of architecture, art or history, archaeological sites, works of art, manuscripts, books and other objects of artistic, historical or archaeological interest, as well as scientific collections of all kinds regardless of their origin or ownership (UNESCO HAGUE 1954, Article 1).

The other notable international source of property protection was drafted in Paris in 1970 by UNESCO on the means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, which calls for the facilitated return to of these properties to source nations, supporting a cultural nationalist view (Merryman 1986, 846). Article 1 of the convention defines the wide spectrum of items considered cultural property. It specifically lists artistic items, items of ethnological interest and photographic, sound and cinematic archives, and may also include intangible properties, such as songs and dances. This definition recognizes that cultural property includes anything of cultural significance to a nation and encourages nations to designate and take steps to protect such those properties. The 1970 convention further outlines adequate measures of protection for these items significant to the cultural heritage of the nation and its development of institution. The UNESCO 1970 convention was designed primarily to protect the continuous illegal removal and trade of cultural properties if ratified by a nation,

rather than implementing property protective efforts during acts of war as outlined in Hague 1954. The 1970 UNESCO convention attempts to counter the illegal market of cultural property and identifies more adequate measures for protection, validating the process of repatriation and providing the nation with special legal interest in cultural properties. It permits nations the ability to organize accordingly to secure property interests through enacting laws, supervising excavations, and establishing ethical guidelines for the benefit of curators, collectors, antique dealers, and others regarding the use and handling of cultural property items (UNESCO 1970, Article 5), establishing a more developed guideline for cultural property protection.

B. Indigenous Claims in Cultural Property

To define the unique position of indigenous claims within the realm of western property law theory and the transitional shift that has embodied indigenous interests and controversy by scholars, the claims of tribes must be further clarified to identify the “cultural stewardship” role which tribes communally regard cultural property (Berman 1997, 21; Carpenter, Katyal and Riley 2009, 153). The obligations indigenous peoples have as religious custodians to cultural properties predate the establishment of western concepts of property law and identify the unique tribal perspective consistent with their unique tribal government status. Cultural stewardship is an emerging concept developed in Carpenter, Katyal, and Riley’s article *In Defense of Property*, which puts forth a legal framework for tribal entities to pursue protection for these kinds of properties, as components of their human rights (Harry & Kanehe 2006, 1)(Riley 2005, 8)(Carpenter, Katyal and Riley 2009; Tsosie 1997). Cultural property has provided sustenance for tribal communities considering their separate function outside of a western based economy, and in U.S. law have been regarded as resources which require authenticity for mercantile

purposes, as identified in the Indian Arts and Crafts Act. (Carpenter, Katyal and Riley 2009,182). These cultural items (both tangible and intangible), along with sacred locations, embody the representation and uniqueness maintained by Tewa Pueblos through their cultural and political sovereignty as the distinctiveness that is central to the identity of Santa Clara Pueblo, because culture is essential to the survival of native nations as distinct cultural and political groups, particularly within the United States (Tsosie 2002, 300).

While international law definitions identify cultural items in the realm of property law theory, cultural property belonging to indigenous peoples has also developed to fit within these definitions, shifting from encompassing an individual perspective of property ownership to incorporate the group interests of indigenous peoples along the same methods of identification, to support their rights (Carpenter, Katyal and Riley 2009, 106; Tsosie 1997). Many international bodies, including UNESCO, The World Property Organization WIPO, and Convention for Biological Diversity (CBD) are all posing new measures for protection of indigenous cultural properties to identify the rights associated with indigenous peoples operating under similar frameworks (Harry & Kanehe 2006, 1). Unlike personal property and intellectual property, cultural property resides within a separate category of legal theory, as it draws upon the concept of culture as its guiding principle, unlike individual rights of property ownership, defining the steward role of tribal cultures and respected cultural items (Carpenter, Katyal and Riley 2009, 107).

I rely primarily on legal frameworks to define and protect cultural property, let alone indigenous cultural property, who's claims are largely absent from existing U.S. property law. Western

understandings of property have dominated our understanding of cultural property. The context of cultural stewardship or an indigenous concept of communal ownership regarding indigenous cultural properties has become a frightening concept of operation as opposed to individual, private property concepts of ownership derived from the western sense (Carpenter, Katyal and Riley 2009, 116; Tsosie 1997, 7). Indigenous theory concerning cultural property ownership has always existed among tribal groups prior to western influence. However, tribal perceptions of ownership for these properties do not align with concepts of western property principles, as ownership for tribal cultural property is mostly grounded in community based sanctions that are supported by collectively recognized precedents and evidence (Carpenter, Katyal and Riley 2009, 106; Tsosie 1997). Most tribal property systems focus upon the collective ownership of cultural properties, usually identifying certain individuals to operate as primary caretakers of certain resources, yet the items remain significant to the group identity and may not be alienable outside of the group (Tsosie 1997, 7). These collective rights of stewardship or a cultural stewardship, is a concept defining indigenous property ownership articulated by Carpenter, Katyal, and Riley, who discuss how federal laws fall short of protecting native stewardship interests and call for a more relevant form of property protection which better fits the claims of American Indians (Carpenter, Katyal, and Riley, 2010 591). These indigenous principles of ownership operate differently from western principles of property law and ownership which focus on individualism (Carpenter, Katyal, and Riley 2009, 149; Tsosie 1997, 7; Berman 1997, 24) and support the emerging views consistent with indigenous cultural property claims, and the criticism for materializing such a form of protection within a possessive based framework of Euro-American concepts. These concepts of property theory have prevented Indian nations from

asserting claims of protection for their tangible and intangible cultural property rights within a dominant western framework (Tsosie 1997, 10).

For instance, intellectual property law, such as trademark and the moral rights element of copyright law, could be a source of protection for indigenous cultural properties. (Anderson 2012) (Brown 2003) (Harry & Kanehe 2006) (Riley 2005) (Carpenter, Katyal & Riley 2009; 2010)(Coffey & Tsosie 2001) (Tsosie1997). However the concern identified in this project outlines the explicit requirement for indigenous protection within the federal tribal paradigm. In particular, because trademark and copyright law are established in western based notions of individual creativity, they cannot address the concerns of indigenous communities (Brown 2003, 74). The guiding principles of trademark and copyright law are a poor fit for protecting ceremonies central to the identity and governance of tribal sovereignty. Copyright and patent protection, for example, are not substantial methods of remedy for indigenous communities, as these forms of protection legally shelter only new forms of knowledge, and cultural property maintains long standing information considered traditional knowledge requiring protection. Oral traditions which have defined the significance of these items may also encounter legal problems becoming attached or fixed to a tangible medium (Tsosie 1997, 8). More importantly, copyrights and patents are responsible for conferring rights towards individuals and do not reflect the communal interests of ownership within this project. While many tribal entities have pursued trademark and copyright law to address issues of cultural appropriation, this project will focus instead on analyzing the few federal laws intended to protect indigenous cultural properties and, ultimately, on the development of tribal legislation to address these instances.

Because it is based on western principles, U.S. property law continues to fail to provide an adequate remedy for misuse, appropriation, and theft of these items from indigenous communities (Carpenter, Katyal, Riley, 2009, 111). The lack of a legal mechanism to protect indigenous cultural property is critical to this project, as it refers to cultural property central to the identity of Santa Clara Pueblo as a sovereign nation, a status associated with a unique indigenous worldview that predates the establishment of any western form of government. This lack of protection requires a tribe to engage independently on many levels, tribal, state, national, and international, to protect its cultural property and reaffirm political and cultural sovereignty (Harry & Kanehe 2006, 1; Riley 2005, 1; Coffey & Tsosie 2009, 9; Carpenter, Katyal, Riley, 2009, 103).

The idea of extending legal protection to tribal cultural properties, however, presents difficult unanswered questions concerning whether all intangible cultural heritage is worthy of protection (Brown 2005, 40). The problem with cultural property is that the concept is based on active thriving cultures seeking to affirm their rights within a structure that has historically excluded their recognition. Several scholars have raised critical questions concerning the expansion of the U.S. property law to include indigenous claims to intangible property protection, and the problems that are associated with incorporating these interests within the traditional legal domain (Brown 2005; Anderson 2012). These inquiries stem from the basis of humanity having access to multiple cultures which establish the diversity and concept sharing among humankind.

Anthropologists have focused on the dynamic process of exchange considering cultural items and the ways which objects acquire meaning and value as they change possession (Welsh 1997 12). The current conditions of colonialism raise questions of privileging certain forms of

knowledge over others (Anderson 2012, 4), identifying concerns for the implications of legally regulating a culture and the problems that may arise from establishing such protection (Brown 2003, 252).

C. Federal Statutory Protections

Certain federal laws, while not strictly property laws, do recognize indigenous cultural and religious practices and items as deserving of protection. These laws, some of which address the control and repatriation of indigenous knowledge, have helped support the development of a literature that raises complex questions regarding indigenous property claims and the rights associated with these claims. Although tribally-initiated protection of cultural properties is important for other reasons, my project would be less urgent if federal laws provided significant protection for Tewa culture at Santa Clara Pueblo, but each law falls short somehow. These laws were developed by the United States to provide avenues of protection for Native American cultural properties and they embody the language of cultural property protection. Yet, they fail to display any “teeth” or severe legal consequences for the violation of appropriating Tewa ceremonial items. Furthermore, while they touch on cultural properties, they generally protect against a very different harm of constraining the interaction of culture which some legal scholars have identified. Through analyzing these gaps in federal law regarding protection for Tewa cultural properties, I identify the importance of tribal legislation as the premise to legally convey the interests of Santa Clara Pueblo concerning the role of cultural properties in Tewa religion and their significance to the autonomy of each Tewa individual.

i. Religious Freedom Laws

In the context of this project, religious freedom laws are arguably the most relevant, including The First Amendment, and the American Indian Religious Freedom Act (AIRFA)(42 U.S.C. § 1996), and the Religious Freedom Restoration Act (RFRA)(42 U.S.C. §§ 2000bb-2000bb4). The First Amendment protects the free exercise of religion, a protection applicable to all religions, including Indian religions. AIRFA, passed in 1978, declares specifically that the federal government will protect and preserve the inherent rights of American Indians to believe, express and exercise their traditional religions including, but not limited, to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites (42 U.S.C. § 1996). Finally, RFRA, passed in 1993, strengthens the First Amendment's protections against government actions that impose a substantial burden on a person's free exercise of religion (RFRA)(42 U.S.C. §§ 2000bb-2000bb4). While not limited to Indian religions, RFRA was passed in response to a case in which a practitioner of a Native religion sought an exemption from a state criminal law. The Supreme Court held that the First Amendment does not provide a religious exemption to laws of general applicability (Employment Division of Oregon v. Smith 1990). RFRA was also passed to strengthen protection of Indian religious freedom. Because these laws are intended to protect the ability of all people, including Indian people, to practice their religions one would assume they would offer protection against cultural appropriation, as it involves the replication of symbols and practices that are indispensable to Tewa religion.

However, these laws offer little protection for four reasons. First, they prohibit federal and state governments from infringing upon the free exercise of religion, but they do not protect against

the appropriation of Indian religious items by other individuals. They may prohibit outright governmental oppression like that practiced by Spanish settlers, but they fail to address the modern threat of appropriation. Second, there is no penalty associated with the violation of the statutes, leaving tribes with no mechanism of redress for religious infringement in a colonial setting. Third, courts have largely failed to use these laws to protect the sites and items sacred to Indian religions, in part because judges unfamiliar with Indian religions fail to understand the kind of threat posed by taking sacred sites or cultural items (*Lyng v. Northwest Indian Cemetery Protective Association* 1988) (*Employment Division of Oregon v. Smith* 1990). Fourth, and perhaps most important in the context of the Koshare appropriation, these laws are used by non-Indians to protect their free exercise of Indian religions by preventing Congress or the federal and state courts from limiting appropriation of tribal religious items by non-Indians who are interested in practicing tribal religions. Despite their promises, religious freedom laws permit the Koshare group to replicate Tewa ceremonies through the use of cultural objects or property items, leaving no mechanism for Santa Clara or any tribal entity in the American structure to assert a claim for a violation of these specified rights. This identified gap of protection compels tribes politically and culturally to emphasize the significance of these violations and the damage it has upon their indigenous communities, as they are the only entities to experience the harmful effects of religious appropriation.

ii. Indian Arts and Crafts Act

The Indian Arts and Crafts Act (IACA) (25 U.S.C §§ 305-310; 18 U.S.C. § 1158-1159) is a truth-in-advertising law that prohibits misrepresentation in marketing of Indian arts and crafts products within the United States. Under this law it is illegal to offer or display for sale, or sell,

any art or craft product in a manner that falsely suggests it is Native produced, a Native American product, or the product of a particular Indian Tribe (25 U.S.C. § 305E(b); 18 U.S.C. § 1159(b)). The Act requires that all products must be marketed authentically regarding tribal heritage and tribal affiliation of the producer. This law is limited in that it only offers protection for arts and crafts created after 1935, and only protects cultural authenticity where sale or profit is involved, primarily within an American economy setting. The economic focus of the IACA can be found in the process which is identified on the U.S. Department of the Interior website for reporting instances of cultural fraud:

If you purchase an art or craft product represented to you as Indian-made, and you learn that it is not, first contact the dealer to request a refund. If the dealer does not respond to your request, you can also contact your local Better Business Bureau, Chamber of Commerce, and the local District Attorney's office, as you would with any consumer fraud complaint. Second, contact the Indian Arts and Crafts Board with your written complaint regarding violations of the Act. Before buying Indian arts or crafts at powwows, and events if the event organizers make no statements on compliance with the Act or on the authenticity of Indian arts and crafts offered by participating vendors, you should obtain written certification from the individual vendors that their Indian arts or craftwork were produced by tribal members or by certified Indian artisans (DOI website U.S.C 101-644).

As this process for identifying fraudulent products highlights, this Act is tailored for consumer protection, placing the individual buyer in a position to uphold the integrity of tribal properties by obtaining written certification. This is similar to a law preventing fraud in any common

transaction, and it seems most protective of the interests of non tribal members in purchasing authentic native goods, rather than serving as a tool that tribes can use to protect of their cultural properties. To illustrate, the IACA does not apply to Koshare replication of Tewa ceremony and appropriation of cultural knowledge because the Koshares do not overtly disclaim native based authenticity and are not falsely marketing or selling their representations as Indian-made.

What is most problematic with the IACA as a model for expressing ownership interest in cultural property, however, is that it relies primarily upon a notion of membership and Indian authenticity. The requirement of identification of tribal affiliation (25 U.S.C. § 305E(a)(1)) reinforces colonially-imposed tribal boundaries, even though many cultural items are shared and borrowed among tribes and cultural groups (Alfred 2009, 51). While this legislation may serve its purpose to provide income for Tewa artists, it reinforces a foreign system of membership boundaries that is not authentic to Santa Clara Pueblo. Joanne Barker critiques the parameters of IACA legislation and the state imposed notion of membership criteria, focusing particularly the tribal membership criteria for Santa Clara Pueblo (Barker 2011, 99). She discusses the negative implications of membership rules for community members who may not meet membership requirements of the tribe, as identified in *Santa Clara Pueblo v. Martinez* (436 U.S. 49 (1978)), but still reside in the community and engage within the Tewa religious culture. *Martinez* is one of the most often cited and important cases on the issues confronting tribal governments with regard to membership because it affirms tribal self-determination to establish and enforce membership ordinances (Barker 2011, 11), yet it also raises questions about the outside influences that have shaped modern tribal ordinances and the harm done by acceptance of external criteria within a tribal institution (Barker 2003).

In the context of the IACA, would the tribal affiliation rule require development of a far-reaching certification process by the tribe to acknowledge non-members within the community who produce cultural items as a means of their individual expression and limit forms of cultural expression within the tribe? The problem with any governmental definition of Indian status lies not so much in the substantive definition of Indianness the government employs, but rather in who creates such a definition and from where it originates (Woltz 2007, 500). Although Santa Clara currently maintains strict patrilineal membership guidelines, community members who are not enrolled in Santa Clara still reside on the reservation and participate actively in ceremonial practices regardless of membership status within the Pueblo, an aspect which must be considered when drafting any tribal ordinances regarding cultural properties and considering how such legislation will help protected cultural properties central to the autonomy of the people and government of Santa Clara. This topic is further developed in the context of recommendations for tribal legislation in the last Section of this article.

iii. Human Remains and Burial Grounds

The Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. § 3001 et seq.) provides the legal framework for the return of human remains, burial goods, and religious objects to tribes and individuals that can substantiate claims of descent or prior ownership.

However, where cultural affiliation cannot be verified under NAGPRA, the repatriation process does not kick in. The primary benefit of NAGPRA is that it allows the repatriation of remains and cultural properties from federal agencies and museums, a very useful mechanism in returning the remains of community members. However, in this instance of Tewa appropriation, this law has no application as these are not the physical remains of ancestors from Santa Clara

Pueblo, nor are they tangible objects taken from Santa Clara Pueblo. Rather, it involved appropriation of intangible religious rituals and unauthorized, inaccurate copies of sacred ceremonies.

Examining NAGPRA within this project, however, does help to underscore a shared tribal and federal interest in the repatriation of the Tewa cultural items which are subject to appropriation by the Koshare group. NAGPRA specifically refers to many of the same types of cultural items and philosophies in cases where those items are unearthed with the remains of Tewa ancestors. Although primarily focused on human remains, NAGPRA does recognize the significance of “cultural items,” identifying the significance of objects to American Indian tribes. It does so primarily through its definitions of Sacred Objects and Cultural Patrimony:

“Sacred objects” . . . shall mean specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents, and

“Cultural patrimony” . . . shall mean an object having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian tribe or Native Hawaiian organization and such object shall have been considered

inalienable by such Native American group at the time the object was separated from such group (25 U.S.C. § 3001(3)(C),(D)).

These definitions support the tribal concerns associated with the photographs of Tewa cultural appropriation, indicating a shared understanding of these objects as deserving of protection.

NAGPRA works best to protect items that have historical significance, but it does little to protect against the kind of copying and appropriation demonstrated by the Koshare group's use of Tewa symbolism. While NAGPRA serves as a very important article of legislation in tribal federal relations and has been a critical tool in ensuring the return excavated tribal ancestors and burial items, its terms do not apply to the appropriation discussed here. What NAGPRA presents informally to tribal institution is the ability for a tribal organization to develop programs or legislation responsible for the repatriation of human remains and associated cultural properties. This arrangement establishes the foundation for tribal repatriation programs to create contemporary forms of legislation as dialogue to confront instances of cultural appropriation such as the Koshare replications.

The purpose of developing tribal legislation pertaining to certain religious items is to acknowledge the cultural stewardship maintained by Santa Clara and surrounding Tewa Pueblos concerning the tangible and intangible properties of their culture that have been maintained for thousands of years within their traditional homelands. These aspects of Tewa heritage bear spiritual and ancestral meanings central to their survival during various events of European colonization. They also demonstrate Tewa cultural resiliency, which is recognized today through a sovereign political status and the self-governance capacity to create these kinds of legislation.

The replication of Tewa ceremonies by the Koshare scout group identified in this project is a prime example of the type of appropriation and harm that is not remedied by current U.S. law, and the concept of cultural stewardship can serve as the foundation for tribal governments to establish legislation to protect these claims (Carpenter, Katyal, and Riley, 2010 591).

D. Contemporary International Protections

This project is primarily concerned with tribal legislation as the initial foundation for cultural property protection. However, another possibility for Tewa cultural property protection exists in the U.N. Declaration on the Rights of Indigenous Peoples, to which the United States is a signatory (UNDRIP 2007). The Declaration outlines in various articles the rights of indigenous peoples and also outlines extensive protocols which specifically acknowledge the protection of traditional knowledge and cultural properties central to the existence of indigenous cultures. These international protections are more relevant to the topic of this thesis, as they provide an external framework regarding indigenous cultural properties internationally, however these guidelines do not apply to the tribal federal relationship in the United States (Carpenter, Katyal, Riley, 2009; Harry & Kanehe 2006, ; Riley 2005, ; Coffey & Tsosie 2009).

Article 31, Part 2 of the Declaration specifically requires that the issue of cultural appropriation shall be recognized by the state.

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the

properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights (UNDRIP).

Article 31 identifies a more accurate representation of indigenous human rights and provides more broad based recognition of cultural property rights than U.S. law. Yet, Article 31 unfortunately offers no remedy for the types of cultural appropriation identified within my research, as there is currently no enforcement mechanism. Instead, it leaves enforcement to the states. In this way, the Declaration promotes the existence of the social formations characterized by colonialism and identifies the vigilant efforts of dominant colonial powers that prefer indigenous people remain confined to their current legal context (Barker 2011,11). With state enforcement basically non-existent, it falls to tribally-initiated forms of legislation to further the implementation of international rights by incorporating these protections into tribal law. Incorporating international protections via tribal law would also underscore tribes' fundamental position of self-governance to acknowledge a tribal initiated arrangement concerning cultural property protection and intergovernmental relations.

The ceremonies discussed in this project are some of the most important autonomous expressions by the Santa Clara Tewa, representing prayers for moisture upon the land as a form of sustenance and growth. These philosophies are intricately connected to the daily lives of Tewa people. Their

continuation demonstrates the resilience of Pueblo culture through various stages of colonization. This resilience is recognized in the American political framework and interpreted as indigenous sovereignty, which brings to bear a particular set of legal guidelines separate from the nation state and serves as the basis in this project to identify specific measures to protect the Tewa rights associated with cultural property. As the colonial experience has allowed the appropriation of indigenous ceremony, the colonial experience has also shaped the political organization into which tribal governments have organized to seek remedy for their rights. The remedy for protecting Tewa cultural property must also exist within the colonial American framework of law (Coffey & Tsosie 2001, 8; Tsosie 1997, 10; Riley 2005, 28). It is from this basis that I seek to identify concerns for Tewa governments, particularly Santa Clara Pueblo, to politically organize forms of legislative cultural property protection to address these forms of ceremonial appropriation as forms of violence detrimental to the existence of Tewa communities in northern New Mexico. This project's purpose is to identify the importance of tribally initiated efforts as the responsibility of the Tewa people, in particular, *Kha Po Owinge*, or the people of Santa Clara Pueblo, to represent this position culturally as well as politically to the world. This project is centered within the arena of cultural property and its indigenous association to the Tewa culture as mentioned in the identified scholarship.

III. The Significance of Cultural Property in Tewa Religion and Culture and the Harm of Appropriation

Protection of cultural properties is a paramount concern for tribes because these items have important functions within their traditional Native cultures. For example, songs may communicate values and histories, objects may signify laws or relationships, and clothing or jewelry may indicate particular roles or identify important beliefs, beliefs that are integral to the Tewa community since time immemorial which create the social and thus political fabric of Tewa culture. I refer to the visible aspects of heritage practice in Tewa culture to identify the significance of cultural property items and the traditional knowledge associated with Tewa religious practice, as it was these items that missionaries sought to eradicate from the Pueblos to expedite the process of converting the natives to Catholicism. This section describes Tewa religion and a brief view into Pueblo and Spanish history in order to demonstrate the significance of these items within Tewa culture at Santa Clara Pueblo. An understanding of the religious significance of cultural items and the Tewa history of resistance to religious oppression is necessary to understanding the cultural harm caused by appropriation.

The Tewa were actively involved in the Pueblo Revolt of 1680, which is regarded in southwest history as the sole event where Spanish-Indian tension erupted in conflict, briefly forcing Spanish settlement out of the region for thirteen years following a united effort among all surrounding Pueblo communities (NMOH 18, 2012) (Dozier 1966, 9) (Gutierrez 1991, 420). A primary reason for unity and uprising among the Pueblos was the punishment for indigenous religious practice that came with the arrival of Spanish civil and religious authorities (NMOH 04, 2012) (Dozier 1966, 9) (Gutierrez 1991, 420). Religious oppression and forced labor, the impacts of Spanish colonization of the Rio Grande area, were the initial forms of cultural oppression and

western dominance experienced by the Tewa and resulted in their active participation in the Revolt.

Since church doctrine and Spanish law restricted initial indigenous forms of cultural preservation, the Pueblo Revolt served as an attempt by the Tewa people and other Pueblo peoples to protect their cultural properties from colonial occupation and the ongoing threats of Spanish religious officials seeking to abolish Pueblo religion (Knaut 1995, 53). These cultural properties consisted of religious knowledge, practices, and tangible items. Although the uprising only removed the Spanish from Pueblo territory for a little more than a decade, its effectiveness identifies a historic representation of cultural property protection, securing Tewa religion from these initial colonizing experiences. When colonizing Spanish officials outlawed and condemned the practice of Tewa religion, members of the Tewa communities chose to rise up against their oppressors, as the Tewa religion is an integral component of Tewa existence which can never be separated from the survival of the Tewa people (Sando 1992, 62). Tewa dance events are categorized in terms of seasonal theme and performance context, and consist of underlying private rituals to form the basis for prayer. These rituals and certain dances were once punishable as forms of “devil worship” by Spanish missionaries; however knowledge of these underlying rituals was able to survive underground as Tewa ceremonies became highly scrutinized during colonial contact (Heth 1992, 89). This same attachment to ancestral religious views by the Tewa and other sovereign tribal peoples are also interpreted as components of indigeneity by the United States government when referencing the establishment of legal mechanics for the tribal/federal relationship.

Reflecting on the Pueblo Revolt of 1680 as an act of cultural preservation highlights the need for Pueblo and other tribal peoples in the United States to take action to develop contemporary legislation to protect the practice of active ceremonies which represent their autonomy. Similar to most indigenous cultures experiencing the impacts of colonialism, forms of Tewa religion were lost during early Spanish contact and other elements were forced into underground secrecy; however, Tewa knowledge that was able to survive generationally through various forms of colonization has been maintained until present times, forming the present day structure of Tewa ceremony. The struggles to protect cultural properties are familiar to the six Tewa Pueblos considering their experience with Spanish missionaries. This initial experience of Spanish colonization which resulted in the Pueblo Revolt of 1680 underscores the importance of tribal protection of modern day Tewa ceremonies, which are thriving in postcolonial United States but subject to appropriation (Sando 1992, 30).

Understanding this history of oppression experienced by the Tewa and surrounding Pueblos is central to comprehending the significant role of cultural property and religious practice within Puebloan cultures, as this history of Spanish oppression had a tremendous impact on Tewa religion and vitality. These histories of European colonialism have also shaped contemporary views of indigenous ceremony and political operation within the United States (Alfred 2009, 29). Understanding this history demands recognition for the damage done to the Tewa people of Santa Clara Pueblo and indigenous peoples elsewhere; and their continued experiences of modern day cultural appropriation.

A. *Tewa Cosmology*

The Tewa people of northern New Mexico are an indigenous culture that has maintained distinct heritage and ceremonial practices that predate the arrival of western civilization and the establishment of the United States government. Commonly referred to as the six Tewa Pueblos of the northern Rio Grande region, the Pueblos of Tesuque, Santa Clara, San Ildefonso, Ohkay Owinge (formerly San Juan), Pojoaque, and Nambe all practice the same religion and speak the same dialect of language, different from other surrounding Pueblos in New Mexico, which speak dialects of Towa, Tiwa, Hopi, Keres, and Zuni. The relative Hopi village of Tewa, located on first mesa in Arizona is also of Rio Grande origin and its relocation was due to the colonizing impact on the area by Spanish settlers. (Dozier 1966, 18) (Heth 1992, 82) (Ortiz 2012) (Sando 1992, 8).

There are nineteen Pueblos that are located in what is presently the state of New Mexico. Each of these nineteen villages is a sedentary group and, although each maintained similar living patterns, beliefs, customs, and skills, these tribes do not all share a common language, which has always fostered a notion of autonomy and respect among the Pueblo peoples (Roberts and Roberts 1988, 15). This project is centered on Santa Clara Pueblo and the similar religious observances of the Tewa tribes of the northern Rio Grande region including Tesuque, San Ildefonso, Ohkay Owinge (formerly San Juan), Pojoaque, and Nambe, who are the original inhabitants of what is now the Espanola Valley area and represent the indigenous population that has occupied that region for over two thousand years. Originally migrating from the area near Mesa Verde, Colorado and settling in their present location in New Mexico, the Tewa speak a language that is a member of the Tanoan language group, which is a language different from

surrounding Pueblo communities that speak languages of Towa, Tiwa, Keres, Hopi, and Zuni (Sando 1992, 8). The Tewa community of Santa Clara Pueblo is the direct descendant of the community that lived in the Puye cliff dwellings located on the Pajarito Plateau in the Jemez Mountain range. *Puye*, which translates in Tewa as “place where the rabbits meet,” was inhabited from 900 through 1580 A.D. until drought forced the community to reside ten miles east at its farming location near the Rio Grande River, where the community currently resides. (Puye website 2012).



Puye Cliff Dwellings

Founded sometime in the fourteenth century, *Kha Po' Owinge*, or in the Tewa language “valley of the wild roses” is currently the village location of the Tewa community which would later be known as Santa Clara Pueblo. Located within the area archeologists refer to as the Tewa Basin, this site would later be renamed by Franciscan missionaries after the patron Saint Clare of Assisi during Spanish arrival sometime in the sixteenth century. Renaming of the Pueblos by Spanish missionaries occurred in each of the northern Tewa communities in the Rio Grande region and

also within the entire Pueblo population of the southwest (Pritzker 2000, 88). This renaming is where the term *Pueblo* becomes a reference among all of the New Mexico Pueblos. The word Pueblo in Spanish means “town, village” and was the name given to these communities after their notable adobe and stone apartment type structures they occupied during contact.

The Tewa cosmology shares a deep significance with the surrounding landscape to which the people are indigenous and serves as a reference to the Tewa origin, the story of when the first people emerged from the underworld of *Sipofine*’ or “sandy place lake” and came to occupy the region (Ortiz 1969, 13). The Tewa connection to the landscape takes many forms of representation through ceremony and symbolism, which are primary to the daily survival of the Tewa, and represent the responsibility of the Tewa people as the original caretakers of the land. The responsibility of caring for the land in the Tewa world requires daily prayer and recognition for all entities in the universe that share life and their association with Tewa survival. Prayers to these entities are characterized through tangible items of representation, which range from prayer feathers and cornmeal, to dance movements and songs. The most popular Puebloan item of religious representation is the Katsina or Kachina, which are commonly depicted as wooden dolls. The Kachina represents the supernatural concepts of the Tewa cosmology that are essential to their existence. These concepts take on many variations of Tewa universal elements, such as animals, plants, clouds, people, abstract forms, stars, and sky (Wright 1973, 3). These religious deities are impersonated by particular members of the tribe during certain events and represent another significant form of Tewa ceremonial practice where members honor the physical presence of these supernatural entities. Prior to Spanish arrival, Kachina dances and other ceremonies were a common and abundant practice among the Tewa as well as in the surrounding Pueblos (Heth 1992, 89).



Winter Kiva at Santa Clara

B. Persecution of Traditional Religions

There were several expeditions into the Southwest prior to the Spanish settlement, where the news of their imposing violence and search for wealth quickly spread throughout the indigenous communities of the southwest. Francisco Vasquez de Coronado introduced the first white men into the Tewa region during their two year journey crossing Pueblo country in search of the seven cities of Cibola in 1540 (Dozier 1966, 4). The practice of violence utilized by initial Spanish explorers Coronado and later Antonio de Espejo would be the catalyst that would alter the new terrain, as the practice of violence by western colonists was believed to enable the rapid accumulation of resources, lands, and subjecting peoples. These were concepts that were initially foreign to the epistemologies of the native cultures inhabiting the New Mexico landscape. The practice of violence and force upon contact with Pueblo peoples would forever transform their

indigenous ways of living, organizing the Pueblo communities' politics, economy, and religion creating the long standing resentment for Spanish newcomers.

The first expedition to settle the new terrain was sponsored by Juan de Onate in 1598, departing from Mexico City with intentions of colonizing the province in the name of New Spain. Onate settled the area known as Yungeh, near present day Ohkay Owinge or San Juan Pueblo where the first capital of New Mexico was established on July 11, 1598 centered in the heart of the northern Tewa region (Cajete 2010, 24). Much like previous explorers that did not hesitate to utilize force to meet their demands, Onate began a permanent campaign of violence to transfer power to the Spanish by forcing the indigenous population into servitude and converting them to the Catholic religion, possibly the most violent aspects of Spanish colonialism. It was during this campaign that each of the Pueblos was then dedicated after a Catholic patron saint and the development of a church within the community was assigned by Franciscan missionaries in each village. This process represented a coordinated effort to convert the Tewa and all Pueblo peoples away from their indigenous practices towards Catholicism (Pritzker 2000, 88; Dozier 1966, 6). Onate sought to gain the allegiance of each of the Rio Grande Pueblos to smooth the transition of his settlement and alter the political and religious structure of the Pueblo communities. In 1610, after successful establishment of the San Juan de Los Caballeros settlement, authority of Spanish power was centralized at a site further south near a Tewa village known as *Po'oge*, or "the place of white shells by the water," which would be later known as the capitol of the province, Santa Fe (Cajete, 2010, 23). These encounters served as the first assault of cultural property in the region as Pueblo communities began to experience the violent consequences for their religious practices, forcing many elements of Tewa culture into secrecy from missionaries to ensure their protection.

For eighty years after the initial settlement at San Juan, the Tewa would live among the colonists and would be subjected to the many changes that arrived with Spanish settlement until the first organized uprising in 1680. The primary purpose of the missionaries was to convert the indigenous population, a process that would begin immediately upon settlement (Sando 1992, 59). Franciscan friars would oversee the construction of churches sponsored by native labor located just outside of each village area and would rely on indigenous servitude for their operation (Dozier 1966, 6). The presence of Catholic missionaries began to transform the cultural practices of the Tewa by introducing marriages and baptisms, and also replacing traditional services for burial (Dozier 1966, 6). Each mission served as a gathering place for the native community where Catholic prayers were taught and the mandatory attendance of mass was held (Dozier 1966, 7). It was the Spanish missionaries' goal to completely eradicate any Tewa religious items and beliefs. Tewa religious chambers known as kivas were often raided for cultural items, and religious leaders were whipped and hanged for "witchcraft" (Dozier 1966, 7). These colonial forms of persecution and similar histories have tremendous impacts on indigenous peoples everywhere, and support contemporary claims for indigenous cultural property protection, so these histories are not repeated and human rights associated with these practices become recognized with tribal people.

During this time, however, no matter the degree of influence of Catholic practice upon the Tewa, the religious symbolism of Catholicism could never replace the religious connection maintained within the surrounding landscape and Tewa cosmology. Rather, the use of Catholic imagery among the Pueblos was reinterpreted and used as a form of resistance during the eventual colonization of the Pueblos (Liebman and Preucel 2002, 133). Tewa ceremony and knowledge was forced into secrecy from these experiences; many Tewa ceremonies were performed away

from the village area or at night in the kiva with war captains strictly on guard (Sando 1992, 78). This atmosphere of religious secrecy based on colonial contact has contributed to the closed practice of particular Tewa ceremonies and the overall concerns for privacy regarding underlying aspects of ritual preparation which constitute these dance events.

C. The Revolt

Since the arrival of Catholic religious influence and the prohibition of Tewa religious practice, resentment towards the Spanish began. Also contributing to the tension was the labor and taxation placed on the Tewa communities, which were offered very little pay if any within the newly imposed Spanish economy (Dozier, 1966, 8). A few years prior to the Revolt of 1680, there were several events of violence and minor uprising in the southwest concerning religious oppression (Roberts and Roberts 1988, 61). These were fueled by increasing raids by surrounding Navajo and Apache groups and a long drought in the region, which were believed to be caused by the negligence of prayer due to the prohibition of ceremonial practice by missionaries.

In the eyes of the Pueblo people the world was seriously out of balance and the Pueblos, seeing that Spanish authorities and the Franciscans could do or would do little to protect them, began to revert to traditional Native religious practices as they had done in the past, to address this imbalance and restore harmony to the Pueblo world (Cajete 2010, 26).

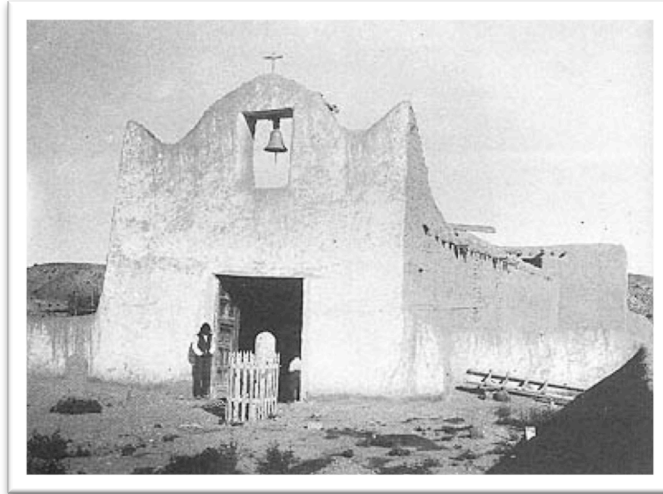
During this period, the first group to defy colonial rule and perform prohibited religious ceremonies were the Tewa acting within their capacity as stewards to the land, who also shared the closest contact among the other Pueblos with the Spanish colonists (Gutierrez 1991, 420), as

the settlers had intended on colonizing the Tewa basin for to its close proximity of the Rio Grande River and lush agricultural environment.

As the news of the incidents and growing tension spread among the settlers and Pueblo peoples in 1675, Governor Juan Francisco Trevino launched a formal campaign against indigenous idolatry in response to the growing insubordination (Gutierrez 1991, 421). This campaign targeted religious practitioners, priests, or caciques from all the Pueblos responsible for bearing the traditional knowledge associated with performing these indigenous ceremonies, and singled out men from the Tewa communities for punishment of religious practice and significance within the culture. Forty-seven Pueblo members who admitted to participating in ceremonies were brought to Santa Fe for trial and punishment; four of the men were hung and the rest were to be whipped publically for their crimes (Gutierrez 1991, 421; Sando 1992, 65; Dozier 1966, 9; Cajete 2010 26). Members from the surrounding Tewa tribes entered the capitol armed with clubs and shields, demanding Trevino release the caciques or face death himself along with the colonists. He complied by releasing the medicine men (Gutierrez 1991, 421). The rebellious effort by the Tewa represents an early form of cultural property protection to secure their religious practitioners and maintain their outlawed religious ceremonies during this period. However these actions were only interpreted by the colonizing Spanish as failed efforts to convert the natives, and were viewed as a demand for more Catholic/colonial influence upon the native population; very similar to the reception of the colonizing United States regarding modern indigenous claims of cultural property protection.

One of the forty-seven men who received a public lashing in Santa Fe that day was a religious official named *Pope* (Sando 1991, 167) pronounced Popay or “ripe pumpkin” from the Tewa

village of Ohkay Owinge who would later be responsible for organizing the most historic indigenous uprising in Pueblo history and the first successful expulsion of European settlers during the early period of colonization in what is now the United States. Tewa participation in the Pueblo revolt of 1680 was central to the organization of all the Pueblos in the Southwest to rebel against their oppressors and secure their religious beliefs. The Spanish were horrified to see the violence and animosity displayed by the Pueblos considering the Catholic presence and placed the burden solely upon the natives for adhering to the devil and idolatry based superstitions (Gutierrez 1991, 426). Later, the Spanish would learn from captive natives that this anger was the result of eighty years of formal religious persecution and the coordinated destruction of religious cultural properties that are central to the existence of the Tewa and surrounding Pueblo cultures (Gutierrez 1991, 426). Immediately following the removal of Spanish settlement, once previously desecrated shrines and Kivas were restored and the various religious practices that were deemed forbidden began to thrive once again in Tewa culture. Offerings of cornmeal, feather plumes, and ceremonial dances were properly bestowed and the cultural instability believed to have resulted from abandoning prayer for such a long period was restored in the Tewa world.



Church at Santa Clara Pueblo

D. Continued Resistance

Ultimately, the Spanish would return twelve years later to permanently colonize the region, which forced information of rituals and religious rights underground in fear of retribution. The notion of secrecy concerning outsiders surrounding Tewa ceremony and symbolism can be traced directly to Spanish colonization. The persecution for any reference to traditional knowledge during this time had tremendous impacts upon the Pueblo culture because these forms of prayer play such a vital role to the individual and cultural autonomy of Puebloan peoples in their daily lives. Integrated into the daily existence of the Pueblo people and reinforced by the surrounding landscape, the Tewa heritage is a component which cannot be separated from the Tewa people. Public forms of ceremonial practice have surfaced throughout the years into modern times representing more of an integrated practice between both cultures. An example of this incorporation is the honoring of patron saints at the particular villages that

survived persecution as “feast days” which take place within each of the Tewa and Pueblo communities. Yet much of the underlying religious ceremony and preparation still remains a central and undisclosed topic of discussion to outsiders due to these past experiences of Spanish persecution (Heth 1992, 89).

Certain aspects of technological influence in Pueblo culture, language, and political structuring resemble the integration of certain Spanish characteristics, yet the Tewa religious culture remains untarnished from foreign influence in the sense that seventeenth century Pueblo religions are very much like their present versions. As pueblo writer Joe Sando has observed regarding the Pueblos’ efforts to hold on their religions, “to give up on their religion would have been like giving up on life itself” (Sando 1991, 30). It is this preservation and secrecy from outsiders that has allowed the religious practices to remain largely unchanged throughout many years. Tewa scholar Alfonso Ortiz has regarded the catholic religious influence among the Pueblos as a “compartmentalization” between both practices, as a distinct socio-ceremonial system that operates within Tewa villages, where each presents patterns of worship not present within the other (Sando 1992, 32). Religious oppression also continued well after the Pueblo Revolt by the United States government, raiding homes for religious paraphernalia, punishing offenders once again for possession of Tewa cultural property items (Sando 1992, 85). Today, however, the greatest challenges in maintaining the Tewa practices of ceremony no longer stem from physical, outright efforts to eradicate Tewa religion, but rather from the growing presence of American culture surrounding the Pueblo landscape and the Tewa people. It is within this modern colonial setting where Tewa ceremonies have become integrated components of systematic youth development in American culture, specifically the Koshare Boy Scout organization.

E. Appropriation of Tewa Religious Items and Ceremonies

Today, the threat to Tewa religious items is no longer Spanish colonial inquisition, but the modern expansion of society taking place within postcolonial United States. Almost 250 years later, the Tewa people continue to encounter threats to their existence. Today, however, the most insidious threats do not come from overt religious oppression. Instead, they come from gradual unauthorized replication of Tewa cultural symbols and religious imagery by non-Tewa people, a practice that is experienced by most indigenous communities in the United States (Jolivette 2006, 3). This presents a paradox where tribal entities tasked with operating in a western legal framework do not possess a method to cease the unauthorized replication of culturally significant ceremonies.

The significance of Tewa items appropriated within the photographs by the student group “Koshares” in Otero, Colorado shares similar overtones of religious oppression that were experienced during the arrival of Spanish settlers. Founded in 1933, one year prior to the implementation of Indian Reorganization Act of 1934 (Koshare website, 2012), the Koshares held their first performance depicting Tewa ceremonies in the basement of an Episcopal church. Founded by a Boy Scout organization highly interested in Native American culture, the young men were encouraged to further develop their performance towards more articulate depictions as a significant status of merit achievement within their group and also a method to obtain money for performances (Koshare website, 2012). However, what is considered an articulate depiction by non tribal members are in fact the most damaging aspects of portrayal by the Koshare group towards Tewa ceremonial practice in Santa Clara Pueblo, as each aspect associated with Tewa dress, movement, and dance bear a religious meaning central to ceremonial performance.

This replication of Puebloan culture is not the first instance of cultural appropriation by the Koshares either. In 1953 religious members from Zuni received information of replicated sacred Shalako masked performances by the Koshares, a ceremony of most importance to the Pueblo of Zuni, which could have negative implications for all if performed incorrectly. This news of replicating Shalako dances required the tribal council to organize politically and legislatively as a mechanism for Zuni religious leaders to successfully repatriate cultural items from the hobbyist Boy Scout group (Ferguson 2000, 241). The Zuni however, believe that for cultural and political reasons it is best to organize and approach non Indian groups such as the Koshares on ethical and humanitarian grounds, rather than relying on uncertain forms of litigation to seek a resolution. In this instance of cultural appropriation, Zuni spiritual leaders within the village were able to provide guidance through the tribal council to convey the significance of these violations, and organize for the successful repatriation of Zuni properties (Ferguson 2000, 241).



Koshare Dancers #2 getting dressed

There are many aspects of Koshare appropriation that convey harm towards Tewa communities. Tewa religious participants from Santa Clara have argued that detailing the violations these replications have on Tewa heritage should not entail an explanation. However, to clarify for this project, I will highlight some of the examples of the damage done by appropriation of religious symbolism identified in the photographs.

There are concerns regarding the method of securing or “tying” regalia prior to performance. Each article of Tewa ceremonial dress carries a significant historical representation which must be tied in a certain way to symbolize the intentions of carrying forward the dance/prayer ceremony. This includes the placement of kilts, knots, and medicine bags along the right side of the body. In the photographs of Koshare dancers, the obvious lack of this knowledge of securing dance regalia symbolizes an offering of death in Tewa culture; in the Tewa afterlife, the world beneath this one is reversed (Ortiz 1969, 50). The appropriate display of regalia is a shared common manifestation how an individual should formally appear when presenting Tewa dance prayer. Each individual participating in the ceremony, including dancers, clowns, and drummers, are all aware of proper method to secure these items in the same fashion, as any indifference is regarded as taboo towards the momentum and direction of the prayer offered through song. This notion in Tewa culture of properly securing dance regalia is also represented through the symbolic unison of dance movements in these performances, referencing a unified mind and heart towards carrying out these offerings to Tewa religious deities for moisture at their regarded locations that surround the Tewa landscape.

Another example concerns the utilization of the Douglas Fir tree or *tseh* in the Tewa dance ceremony, which is foremost regarded in Tewa culture as a sacred exchange with a religious

deity embodied in the life of the evergreen tree. The young men utilizing the Douglas Fir wreaths must undergo a ritual of obtaining the evergreens trees from the mountains, a ceremony which is sponsored by all men participating in the dance event where offerings are made by each male who is willing to participate in obtaining the evergreens (Sando 1992, 33). The ceremony of obtaining the evergreens is to receive permission from religious deities to utilize the branches upon the Tewa body in dance performance and is highly regarded within each Tewa community. Possibly observed as the single most important event when sponsoring Tewa dances both private and public, this process requires consent from Tewa deities that reside within the Tewa cosmology. Once the branches have been used for their purpose, they must also be returned to the river and respectfully returned to earth through prayer offerings of cornmeal and thanks (Sando 1992, 33). Observing the picture of the young gentleman below suggests that the evergreens used within his arm bands may not be Douglas fir evergreen at all, but rather the Blue Spruce, which could either be regarded as blasphemy in Tewa practice or perhaps the ignorance germane to the Koshare performances. It is also likely that the evergreens were not gathered in a formal approach with respect to Tewa beliefs of nature.



Koshare Dancer #3 with evergreens

Members of particular religious societies within the Tewa religion, such as the clown society, undergo certain rituals where traditional knowledge associated with these roles become only available to the initiate upon his or her successful completion into the clown society initiation. For this reason, the harms wrought by the appropriation of the gentleman depicting the sacred *Kossa* (Ortiz 1969 83), or clown, may not be disclosed in this project, as that knowledge is only secured by members of that particular society. What can be acknowledged about this group is that the initiation process must take place within all of the surrounding Tewa villages to complete the candidate's process, as these members are regarded within all Tewa villages for their accepted role to bring feelings of joy to the people observing the ceremony and their ability to call upon religious deities that reside in Tewa cosmology.



Koshare Dancer #4 Depiction of *Kossa*

There are many other forms of appropriation which are identified in the photographs that present conceptual inaccuracies, yet the most disturbing aspect of these photographs is the way the focus on performance obscures concern for religious rites among Tewa members required to partake in such religious practice. Each Tewa individual has undergone certain rites of initiation in order to participate within Tewa ceremony. Members are initiated upon birth into either winter or summer moiety systems of the village, where they receive their lifelong Tewa name (Ortiz 1969, 37). Outsiders from surrounding Pueblos may also request to participate on behalf of their spouse or family members that have undergone similar initiation rites within the moiety or clan system in the village hosting the ceremonial event, and also must be verified as a valid member belonging to a religious organization from a surrounding Pueblo to participate as a guest fluent in Pueblo religious practice and Tewa ceremony.

Shadeh is the Tewa word for dance, which literally means “to be in the act of getting up, of waking up” (Swentzell & Warren 1992, 93) because Tewa dance has significant meaning to revitalize Tewa individuals back to a reality of cultural life. There are various classifications of Tewa dance which should all be recognized foremost as ceremonial dance events for which they are. The Pueblo of Santa Clara like most Tewa villages maintains a close working relationship with spiritual leaders in observance of these ceremonies, ensuring that outsiders do not intervene. Most dance ceremonies take place primarily within the village location, and share a deep significance to the surrounding landscape and sacred sites. Certain dances are limited primarily to members of the Kiva systems, while some are feast holidays open to the public.³ These ceremonies however are strictly regulated within each of the six Tewa villages and are not available for replication or free circulation among the general American public. Annual feast holidays that are open to the public operate under specific guidelines of no photography or cell phone use and there is no assumption these performances can simply be replicated by outsiders or for purposes of educating outsiders on Tewa culture.

The knowledge of these ceremonies has been able to survive with the Tewa people through generations of colonization and religious persecution. To understand the ability for dance ceremony to remain a significant element of Tewa survival, one must understand the role it has historically played among the Tewa people. To *shadeh* is a reawakening process for individuals, which honors and recognizes the interactive role of humans existing within the Tewa cosmology

³ Small groups usually consisting of children as participants also perform Tewa dance ceremonies at public events (away from the village area) and these performances may be used to generate profit. These dances never consist of full community or moiety participation and are distinct from the ritual significance which most village based dances embrace. These varying degrees of performance identify the impacts of Western culture on the Tewa dance ritual, as there are some commodifying aspects of the Tewa dance in small off site performances. Similarly, there are overtones of catholic dominance upon the practice of Tewa *shadeh* at home. Regardless of the impacts various stages of colonialism have had on Tewa dance ceremony, however, the dance still functions primarily as an act of religious ceremony and cultural transmission.

(Swentzell & Warren 1992, 93). To dance is to move with the song and sound of the drum, a beat which represents the heartbeat of earth. This heartbeat is synchronized with the rhythmic stomping on the ground by participants to make the dance alive, and has the capacity to entreat clouds and animals to come to the human place. Dance regalia symbolize elements of the natural world significant to the sustenance of Tewa people; such as mountain summits, the sky, clouds, and skins of animals representing the respect for living creatures that have bestowed themselves for the sustenance of the people (Swentzell & Warren 1992, 93). As participants dance between mother earth and father sky, participants connect the essential opposing elements of Tewa philosophical thought and being, awakening the human responsibility within the natural world (Swentzell & Warren 1992, 93). These dances honor the cycles of life, fertilization and the coming together of opposites to create life, specifically the life that surrounds the Tewa.



San Juan Clowns or *Kossa*

IV. Sovereignty, Harm, and Tribal Cultural Property Legislation

The photographs of students utilizing Tewa cultural items to appropriate an identity of a Tewa ceremony works in a similar form of religious persecution upon the individual and group autonomy of the Tewa people, resonating with the religious persecution expressed in the time of the Pueblo Revolt. This threat stems not from initial contact with Spanish settlers, but rather from the colonization of the United States and its growing population and culture encroaching upon Indian lands and tribal sovereignty. The effect of cultural appropriation, however, goes beyond religious or cultural harm. Mock representations of Tewa ceremonies erase the religious and political significance of these ceremonies, replacing these important expressions of Tewa cultural and religious life with stereotypical, performative representations that are detached from their true meaning. This in turn endangers Pueblo sovereignty because knowledge of culture and tradition is what has enabled the Tewa people to survive as a separate people. When the objects and ceremonies that embody these traditions, and the meanings attached to them, are no longer controlled by the Tewa people, the resulting confusion can disrupt the intergenerational transmission of the cultural knowledge that forms the basis for Pueblo sovereignty today. I describe this process and its relationship to sovereignty in this section.

Because of the damaging effects of cultural appropriation in tribal identity, sovereignty and survival, it is critical that tribes work to seek a resolution to the unchecked appropriation that is occurring. One significant way to address appropriation is by developing tribal laws and institutions that protect cultural properties. Through tribal legislation, tribes such as the Pueblos can express the significance of their cultural properties and set guidelines and limits for their use and reproduction. By revisiting and repatriating these unauthorized forms of appropriation from outsiders, Santa Clara Pueblo, for example, can strengthen tribal autonomy and community

development through organizing legislatively to assert a perspective on the unauthorized use of Tewa cultural property items, as the traditional knowledge bearers associated with Tewa religion and sovereign tribal entities considering future planning. Addressing the instances of ceremonial appropriation by the Koshares that are identified in this thesis is paramount when considering future development of Tewa communities within a modern environment. In the last part of this section, I discuss the significance of tribal legislation and offer recommendations to guide tribes in its implementation.

A. *The Effect of Cultural Appropriation on Indian Authenticity*

The Koshare replication of Tewa ceremonies dismantle the authenticity of Pueblo culture by relying on a colonial perception of a historicized Native American identity. This practice of perceiving the indigenous as a dominated figure allows these instances of Tewa ceremonial appropriation to become more of a common practice within American society overlooking the religious and political identity of Pueblo cultures which predates the establishment of the United States government, yet is confined to operating within its legal parameters, a similar environment preceding the Pueblo Revolt of 1680. These appropriations of Tewa ceremony remove the cultural significance from Tewa dance ceremony that was once forced underground for preservation and the efforts of the ancestors that endured colonial oppression to preserve that knowledge. Without repatriating these outside uses of imagery that are significant to the Tewa people, the dominant culture erases the core concepts of traditional education for the future generations of Santa Clara Pueblo as a culturally distinct entity within the United States, ultimately fulfilling the colonial agenda of assimilating Tewa ceremony.

Within the colonialist society of the United States the image of the American Indian is often depicted stereotypically in mainstream society through film and sports mascots, while at the same time Indian tribes fight to maintain a unique sovereign political status (Fryberg 2008) (Leuthold 1998, 5). This stereotypical depiction also seems to take precedence over other types of Indian imagery in American society. The absence of an accurate depiction and the use of stereotypes by the colonizing society is controversial among indigenous cultures, as some feel it manipulates a historicized notion that indigenous communities are no longer present within the American social and political framework (Deloria 1998) (Churchill 2008) (Fryberg 2008)(Johnson 2009, 5). These stereotypes portrayed in the media become powerful social representations as they identify “what an Indian is” and in order to communicate about one or replicate one, you must utilize the available forms of representation (Fryberg 2004, 3). It is in this context that the use of Native American cultural properties such as symbols, ceremonies and identity become weapons in the process of colonization (Johnson 2009, 5). Rather than viewing native peoples as distinct groups with thriving vital cultures experiencing colonization in a modern world as accurately as Congress and federal laws do, these caricatures of the Indian exist within the collective American consciousness, suspended opposite the mythical cowboy (Riley 2005, 7). Cultural appropriation becomes racism, based upon the theft of a culture to create a distorted version of identity that overlooks the cultural and political authority of these tribal groups (Johnson 2009, 3) (Riley 2005). It is this unauthorized use of Tewa ceremony that supports indigenous claims in identifying the boundaries which exist surrounding the photographs of ceremonial appropriation in this project.

By utilizing Tewa cultural properties to create a replicated indigenous identity, these products of white American culture serve as a form of validation for a society developing within a culturally

foreign, colonial landscape (Deloria 1998; Mezey 2004; of Jolivet 2006). As identified by Michael Brown, cultural appropriation is wrong for two reasons: first, it disrespects the cultural values of the source community, and second, it subjects these communities to material harm by denying legitimate economic benefits or by undermining shared understandings essential to social health (Brown 2005, 44) (Fryberg, Hazel Markus, Oyserman, and Joseph M. Stone 2008). It also causes a third type of harm: appropriation erases the contemporary existence of American Indians as active members within society, replicating their indigeneity as a historic occurrence and replacing the Indians themselves with substanceless caricatures and costumes. These forms of appropriating Tewa ceremony primarily utilize cultural properties as a method to historicize the modern day cultures in possession of these traditional knowledge systems which are the most damaging aspect of these performances to tribal autonomy. The appropriation of *shadeh* centralizes on the symbols and representations of Tewa regalia, allowing the group to retransmit perceived notions of Tewa ideologies into a physical reality. This practice by the Koshares is referred to as object hobbyist behavior and relies primarily on the utilization of Tewa artifacts to visually re-create a more authentic westernized form of existence (Deloria 1998, 137). These replications by the Koshare are dedicated to public performances of vanishing Indian cultures and draw upon racial boundaries to mark modern Indian cultures as temporal others. Contemporary tribal ceremonies become reflections of a primitive stage of cultural existence, no longer present within the modern social fabric (Deloria 1998, 137), removing Tewa attribution to intentionally create a historicized caricature of Tewa ceremony. Instead, religious paraphernalia simply becomes a costume for young scouts to temporarily engage within a perceived Indian experience that does not include the colonizing effects endured by actual indigenous

communities in the United States or the persecution which had a tremendous impact on Tewa religion.

B. Cultural Authenticity as the Basis for Sovereignty

In order to understand the damaging effects of cultural appropriation on tribal sovereignty, I use two different definitions of sovereignty: political sovereignty refers to the legal status through which Santa Clara has the capacity to create tribal legislation to address the administrative and legal concerns of the village, whereas cultural sovereignty refers to the traditional characteristics of the tribe that predate any European American influence in their development (Coffey & Tsosie 2001)(Kalt 2001)(Cornell & Kalt 2002). These two forms of sovereignty are related in the sense that cultural sovereignty forms the basis for legal recognition of tribal political sovereignty.

According to Wallace Coffey and Rebecca Tsosie in *Rethinking The Tribal Sovereignty Doctrine: Cultural Sovereignty and The Collective Future of Native Americans* the cultural sovereignty of a tribal institution refers to a process of revisiting or repatriating various components of indigeneity that predate the arrival of western influence and form the bedrock of tribal subsistence as a method for affirming future nation building among tribal governments. These primary components which serve as the foundation for Santa Clara Pueblo or any tribal government operating within the United States are the indigenous wisdom and identity which a tribe currently possesses, or may have been dispossessed from. They are the central characteristics to revitalize and reflect upon to identify traditional belief systems associated with these components as a method to identify contemporary solutions concerning the protection of tribal autonomy and community development.

Focusing upon the cultural appropriation of Tewa culture in light of Tsosie and Wallace's components of cultural sovereignty and as a participating member of the Tewa religion in Santa Clara Pueblo helps to illustrate how the replicated Koshare performances are some of the most damaging attacks upon the political and cultural autonomy of the Tewa Pueblos. The ceremonies depicted in the Koshare photographs are life affirming rituals which bring life to the Tewa culture and also bring to life the individual who may have temporarily forgotten the Tewa way to live (Heth 1992, 98). The Tewa way of living consists of particular rites of passage and teachings which begin upon an individual's birth and initiation, a process that dates back thousands of years before Christ (Sando 1992, 30) and is the cultural practice which is still maintained today. Without these particular rituals, tribal religion, philosophy, and values cannot be passed down to future generations and indigenous heritage will eventually lose that which makes it culturally distinct, fulfilling the colonial process imposed from earlier times.

The continued practice by the Koshares appropriating Tewa ceremony is harmful to the community of Santa Clara Pueblo because it deliberately removes the aesthetic representation and traditional knowledge associated with Tewa dance ceremony currently thriving in Santa Clara Pueblo. The deliberate appropriation of these ceremonies presents harmful effects to the individual autonomy of Tewa people and threatens the future political status of the tribe through cultural assimilation. These hobbyist acts manipulate the image of the ceremonial dancer into a simple performance that emphasizes an extinct notion of Tewa culture, disconnecting these ceremonies from their source origin which is, and historically has been, a characteristic central to Tewa survival. When the dominant society begins to appropriate Tewa culture systematically and to alienate the symbolism that is unique to the existence of the Tewa people as a culture and

sovereign polity, it simply repeats the efforts from the colonizing Spanish to eradicate Tewa religious reference, silencing their worldview and eroding their political power.

The role of cultural sovereignty in this instance requires modern tribal politics to incorporate more control over these cultural elements that are central to their existence within their structures of political sovereignty (Coffey and Tsosie 2001, 9) a status that many tribal communities are focused on maintaining within the United States governmental relationship. For example the Navajo nation has clear language codified within its general provisions of *Dine'* or Navajo fundamental law which specifically speak to these kinds of issues on behalf of the tribe (Navajocourts.org). The process of tribal governments integrating their core components such as the religious significance of their active ceremonies similar to the Tewa dance ceremonies appropriated by the Koshare group into their current legislative structures, creates a starting point to pursue repatriating Tewa identity and wisdom. These kinds of integrations are examples of how to utilize cultural sovereignty to create a framework for future nation building that exert tribal sovereignty. (Coffey & Tsosie 2001, 25; Kalt 2001, 4).

Many tribal institutions may not have the capacity to legislatively organize to repatriate appropriated cultural property items. These are some of the challenges tribal governments are faced with operating within a dominant structure. Tribal governments must address the most current needs of community members, creating various priorities for tribal government agendas. An example of a Pueblo tribe compelled to politically organize to pursue the repatriation of sacred religious items is the Pueblo of Zuni. In 1953 political and religious members from the village received information that their sacred Shalako ceremonies were being replicated by the Koshares and sought repatriation of the religious items from the scouts in which they were

successful (Ferguson 2000, 253). The Zuni believe that items which are derived from the esoteric knowledge central to the religious practices of the Pueblo bear some reality concerning their religious beliefs, prompting the Zuni to organize to convey the harm these forms of cultural appropriation had upon their religious community and seek their repatriation for proper disposal. (Ferguson 2000 253).

C. Tribal Cultural Property Legislation

The current state of tribal heritage in the United States has survived a history based on holocaust, and the indigenous communities that have survived endured historic forms of trauma that have been passed down generationally (Nelson 2006 103-104). The traditional knowledge and diversity associated with tribal cultures existing in the United States has been often stereotypically presented in mainstream media, film, and literature in a manner that resembles a historicized perception by outsiders. These kinds of disputes surface indigenous claims surrounding identity, autonomy, and the continued practice of ethnic erasure in a colonial setting, demonstrated through the example of appropriation of Tewa *shadeh* by the Koshares (Jolivet, 2006, 3). The Tewa people have emerged from a history of Spanish oppression to maintain recognition by the United States government and control over their traditional land boundaries. It is only within this domain of tribal self governance that Santa Clara Pueblo can take steps to facilitate the resurfacing harm and detrimental effects these replications present to their Tewa community and initiate tribal dialogue to acknowledge “on paper” the significance of these ceremonies as characteristics of their autonomy.

The most important aspect of asserting tribal position regarding the outside use of Tewa ceremony is to preserve the traditional knowledge or wisdom associated with these dances on

behalf of the future generations of Santa Clara Pueblo. Possibly the most integral component of the Tewa and all Pueblo cultures is their resiliency to maintain a descriptive knowledge of these present day ceremonies which have existed for centuries prior. As the Tewa communities of Northern New Mexico work towards developing their communities within their traditional landscapes, maintaining the ceremonies and the traditional wisdom associated with these events is critical for Tewa culture in Santa Clara Pueblo. The absence of a tribal position on these matters of ceremonial appropriation allows the aesthetic representation and religious significance of ceremonial dance to become a replicated identity by the colonizers in the surrounding social environment, jeopardizing the future political status of the tribe by assimilating vital traditional Tewa knowledge.

In the United States, all federally recognized Native American tribes operate under a notion of sovereignty and retain some jurisdiction over their respective reservation boundaries. The role of cultural property items represents previous ancestral use and philosophies acquired by these indigenous people which predate the arrival of western civilization. These properties represent the uniqueness tribes maintain, and the distinctiveness which guides our tribal societies as separate sovereigns recognized and interpreted through political sovereignty. Political sovereignty refers to the inherent authority of indigenous tribes to govern themselves within the borders of the United States of America as domestic dependent nations (Coffey & Tsosie 2001, 2; Riley 2005, 1;). The federal government recognizes tribal nations as sovereign structures and has established a number of laws attempting to clarify the relationship between the federal, state, and tribal governments. Currently tribal governments operate within the capacity to design and self-govern their communities under the Indian Self-Determination and Education Assistance

Act (25 U.S.C. § 450 et seq.) representing tremendous progress from the early periods of federal termination and assimilation.

It is up to tribes to incorporate these issues into their own individual legal systems and set a precedent of their existence within American politics and society. The lack of federal protection, together with my understanding of the central importance of these items to the people of Santa Clara, led me to undertake this project, which investigates the importance of *tribally-initiated* efforts to organize and protect cultural properties that are central to the autonomy of the Santa Clara Tewa. This paper addresses the importance of providing adequate protection for cultural properties that identify the Tewa communities as distinct sovereign entities older than the nation state. I hope that this project will serve as a device for the Pueblo of Santa Clara and other Tewa communities to utilize their inherent sovereignty through tribal legislation to acknowledge the significance of cultural properties that represent the autonomy of Tewa culture when confronted by appropriation. These efforts will facilitate a cross cultural dialogue and identify tribes' legitimate concerns regarding indigenous cultural appropriation and its relationship to political sovereignty

The power of self government maximizes the chance of “cultural match”- building institutional capacity that fits within the many distinct communities and cultures that make up Indian Country. Regardless of their intentions “outsiders” are not going to be the ones who pull off the very task of successfully designing and building the necessary institutional capacity (Kalt 2001, 4)(Henson & Taylor 2008, 125). In the United States, federally recognized tribes operate under the notion of self-determination to utilize and implement their own forms of law as code within their sovereign tribal framework (Harry & Kanehe 2006, 2). The right of self-determination is

also recognized as an inherent right among indigenous peoples internationally and is primarily acknowledged within the United Nations Declaration on the Rights of Indigenous Peoples (Henderson 2008, 31). The Declaration was passed by the U.N. General Assembly in 2007 to assert the individual and collective human rights of indigenous people worldwide, emphasizing the protection of their cultures and traditions and the continuance of developing their own tribal institutions. More specifically, the Declaration reasserts the existing right to self-determination that all indigenous people have inherently possessed *vis à vis* the historic forms of oppression experienced from colonizing institutions. The establishment of the Declaration confronts the ideology and broad social and educational forces that have produced the influences of a colonial society that continue to deprive indigenous peoples of their wealth, teachings, humanity and heritage (Henderson 2008, 23). It also serves as the foundation for asserting indigenous rights on a worldwide scale as the effects of colonialism have been experienced by indigenous peoples worldwide.

Within this capacity of inherent tribal sovereignty is the ability for tribes to create legislation that protects the health and welfare of their tribal community, a right that is supported by federal and international law and has been utilized to varying degrees by tribes throughout Indian country. Prioritization and cost are obvious concerns when considering the development of legislation, and many tribes have established laws to meet the community's most pressing needs (Kalt 2001, 121)(Henson & Taylor 2001). However, considering the images of Tewa appropriation and the constant conflicts over Native American imagery in the United States, perhaps the time has arrived for tribal nations to consider drafting legislation as a premise for identifying their aesthetic presence and political standing, as a majority of tribes are faced with challenges of cultural preservation and economic development in a modern America.

As an example of the importance of tribal control and cultural legitimacy, the most recent success in contemporary economic development has begun with tribal abilities to control their most significant asset –tribal sovereignty, through which they have the capacity to leverage policies to benefit economic development their communities (Henson & Taylor 2008, 135)(Kalt 2001). These kinds of legislation strengthen tribal abilities to reinforce the legal and regulatory infrastructure of their communities, supporting successful tribal development when tribes effectively assert their sovereignty with culturally appropriate insertions of self government. These assertions of self government require tribal institutions to reflect the cultural norms of the community to serve as effective foundations for development, embracing traditional cultural roles of authority as guidelines for contemporary infrastructure (Henson & Taylor 2008, 121; Harry & Kanehe 2006, 8). The establishment of cultural legitimacy allows tribes to pursue endeavors of economic development as accountable, self-driven entities emerging from a history of poverty and oppression under the dominant structure of the United States. Attempts to develop the economies of tribal communities have previously been guided by federal policies that stem from a culturally foreign outside perspective unfamiliar to the cultural norms that guide tribal institutions, suggesting that self determination has yet to be a fully defined characteristic of contemporary tribal institution (Cornell & Kalt 2002, 5). Equipping tribal institutions with appropriate insertions of self government reinforces tribal accountability over the management of resources, specifically focusing on resources that serve as autonomous representations of Tewa culture and identity. The purpose of identifying these cultural properties within tribal law is not to prioritize on wealth or the financial success of economic development, but rather to integrate and regard culturally significant resources that serve as foundations for Indigenous sovereignty at Santa Clara Pueblo.

D. *Recommendations*

This article focuses primarily on demonstrating the importance of tribal cultural property as the aspects of tribal culture that allow traditions to continue and provide the basis for continued existence as a people. As I have argued, tribal legislation is the more effective way to protect these cultural properties because its use strengthens sovereignty and because tribal laws can communicate the significance of these properties and address the harms associated with their appropriation more effectively than foreign laws can. Of course, actually drafting and implementing these laws presents a whole new set of questions.

Some of the most critical choices must be determined by tribes themselves in this process because the central role played by culture leaves no alternative. The problem of establishing a productive tribal institution or legislation standards will not be decided in Washington or by professors and consultants, the problem must be addressed by tribal members who identify the linkages between their unique indigenous culture and politically sovereign capacity (Cornell & Kalt 2002, 37). Sovereignty is key to tribal economic development and in order to be fully effective, tribal institutions must be prepared to work in the abstract, and they must be designed from the cultural norms within the community. Without securing protection for the resources or cultural properties which create the cultural autonomy of Santa Clara Pueblo, how can future endeavors of tribal autonomy succeed? (Cornell & Kalt 2002, 45). When these resources become subject to appropriation by the dominant culture, how can tribes demonstrate management and accountability for resources that have defined their uniqueness since time immemorial?

Although a full discussion of the contours of specific legislation is beyond the scope of this paper, I offer the following recommendations to assist tribes who may be considering this type of legislation: recognition of shared cultural properties, consideration of international protocols, the establishment of cultural preservation offices, tribal court enforcement, and the consideration of how these laws might affect membership guidelines.

- i. Recognize Shared Properties

On the tribal level within the United States indigenous framework, a great deal of these cultural resources are also recognized by similar and neighboring tribes and the notion of shared ideologies from surrounding indigenous communities should also be taken into consideration when developing cultural property laws. An example of this is the shared religious and cultural traditions among the New Mexico Pueblos, particularly the Tewa Pueblos. As difficult as it may be at the local level for tribes to work together to regard shared cultural items, tribal governments must first work together to identify key resources which are traditionally relevant to their cultural identity. The ability for tribes to establish protection for these items which symbolize political and cultural identity is paramount in the process of equipping tribal governments to better serve their communities on the local tribal level and must serve as the starting point prior to pursuing claims of cultural property harm and violation in the public sector. The utilization of tribal laws to protect cultural properties should simply recognize particular items which are directly associated with the autonomous identity of tribes, rather than draw a distinction of title on items which most tribal members feel are properties of community ownership in Tewa culture.

However difficult it may seem to consider the acknowledgement of properties which are shared concepts among other indigenous groups and surrounding tribes, it is paramount in a western setting to identify the cultural stewardship which tribes maintain towards these cultural resources as elements central to their cultural identity (Carpenter, Katyal and Riley 2009).

As many tribes were compelled to participate within the European structuring of government organization to engage within a better decision making process for their people, this project calls upon the legislative re-creation of tribal identity within policy format as a method to simply acknowledge the items which cannot be replicated within the public sector, in particular the Koshare performances. The purpose of these acts are to initiate a cross cultural dialogue to prevent the harm which un-approved or offensive forms of appropriation have on the Tewa community of Santa Clara Pueblo and seek a resolution. The development of legislation at the tribal level is central to establishing the premise of these claims. The development of cultural property legislation presents indigenous nations with a unique opportunity within the federal framework to infuse the dominant structuring of western legal systems with tribal perspectives that resonate with elements of a tribe's unique cultural sovereignty (Riley 2005, 5) (Coffey & Tsosie 2001, 11).

Considering that these same items may be utilized as incentives for income such as tribal tourism operations and artworks, a tribe must determine the extent of protection for items intended for sale, replication, commoditization and commercialization (Riley 2005, 29). An example of these items are the authentic black on black pottery created by the Tewa artists, another characteristic of Santa Clara cultural autonomy, further specified for Tewa authenticity under the federal

Indian Arts and Crafts Act (IACA) as this style of Pueblo pottery originates from the Tewa region (U.S.C 101-644). These aspects also encompass the individual autonomy of the Tewa artist through creation of the pottery and also bear a significant identity of origin associated with The Tewa pueblos of the Northern Rio Grande. Any forms of legislation which can impact the merchant operations of tribal economies and individual forms of expression should also be considered when organizing tribal efforts of protection; however, such legislation should not intend to individualize forms of cultural property, but rather recognize the tribal role as stewards of these resources (Carpenter, Katyal and Riley 2009).

Michael Brown has questioned how this practice of self determination could impair the surrounding social groups and their understanding of these tribal cultures in the public domain (Brown 2003, 248) Specifically pertaining to the modern indigenous experience which operates within a modern colonial structure, how does tribal legislation intended on reaching the public sector consider shared concepts which contribute to the more contemporary forms of ceremonial practice regarding surrounding tribes (Brown 2003, 251)? The Tewa performances of the Navajo dance and Comanche dances are specifically mentioned by Brown concerning culture sharing. Performers dress in Navajo and Comanche regalia. These dancers politely mock characteristics of particular peoples who have interacted with Tewa people as a method of identifying the proper way to conduct Tewa lifestyle. These ceremonies serve purpose as honorary dances which utilize characteristics and certain elements from the Navajo and Comanche tribes to create a Tewa perceived performance to honor of the resolution of past conflicts and warfare with these groups (Brown 2003, 251; Hill & Lange 281). Brown has mentioned that certain protections could limit these kinds of cultural expression.

These ceremonies recall the more recent history in Tewa cosmology and tend to mimic these particular groups as a form of respect through their contact and relationship and more importantly identify the complexity of what should be tribally considered forms of cultural appropriation. Perhaps the resolution of Tewa cultural appropriation could spawn a Boy Scout dance based upon the conflict and resolution with the Koshare group; regardless these are all concepts of cultural fluidity which Brown and many other scholars identify within their critique concerning indigenous property protection and should all be considered when developing tribal methods of legal protection intended on asserting claims that exist within the public domain.

Forms of legislation that protect indigenous cultural property provide sovereign tribes with a mechanism to prevent destruction from state and corporate interests, and the protection from scientific research (Carpenter, Katyal and Riley 2009; 2010). Since these ceremonies are communally owned within tribal communities, legislation for these performances facilitates the fluidity of cultural change and hybridity by allowing native peoples to participate within the decision making process regarding how their sacred ceremonies are circulated among the general public (Carpenter, Katyal and Riley 2009, 189). These laws exonerate the authority of tribal and cultural sovereignty of tribes such as Santa Clara Pueblo and represent an emerging concept of protection to be recognized within the tribal/federal paradigm.

ii. Consider Incorporating International Protocols

International protocols such as Free and Prior Informed Consent (FPIC) and The Indigenous Research Protection Act (IRPA) and Internal Review Boards or (IRBs) can be utilized within American Indian communities to allow the facilitation of a formal dialogue initiated on behalf of

the tribe in any instance of research, tourism, commercial or non-commercial interests (Harry & Kanehe 2006, 10). An example of utilizing such protocols is the Cultural Preservation Board established at the Snoqualmie tribe which is responsible for reviewing any proposed undertaking that may affect any form of tribal resources. These cultural resources are defined by the Snoqualmie as “native plant material, objects, or cultural or religious sites which are nominated or determined eligible for the Snoqualmie Register as having cultural significance” (Harry & Kanehe 2006, 8). These tools can strengthen tribal sovereignty by inviting tribal governments to respectfully engage in issues which directly affect their communities, a practice which has historically overlooked indigenous communities within the colonial process and still continues without the facilitation of a formal exchange of ideas within American Indian frameworks. The Snoqualmie ordinance firmly indicates its intent by stating “the self governing capabilities, political integrity, health and welfare, and economic security of the Tribe will be enhanced and protected by the Tribal government control, regulation, and preservation of irreplaceable cultural resources which are essential to the continued well-being of the Snoqualmie People and will be maintained and enriched for the Tribe’s future generations” (Harry & Kanehe 2006, 8). The utilization and establishment of an internal review system to protect cultural items does have legal application within tribal reservation boundaries and should be utilized to acknowledge cultural properties deemed as sensitive characteristics central to tribal autonomy until the rights of indigenous tribes located in the United States can attain international recognition and protection identified in the U.N Declaration of the Rights of Indigenous Peoples.

International protocols within the American Indian framework can be modeled and further developed as preventative laws for tribal members and non-members. The purpose of protocol development is to actively exercise tribal sovereignty within the American Indian framework and stay abreast of issues which have an effect on resources within reservation boundaries to initiate an active dialogue between the implementing tribal governments and designated outside parties using or inquiring about the use of tribal resources (Harry & Kanehe 2006, 2)(Riley 2005). However, these resources must be foremost acknowledged by the tribal government as significant resources unique to the collective identity of the tribe, with protocols similar to the Snoqualmie ordinance that serve to sustain cultural properties and initiating a starting point to address these kinds of instances such as the cultural appropriation of Tewa ceremony by the Koshares.

These laws are best maintained through local tribal jurisprudence and have the possibility to also implicate avenues of tribal growth and autonomy present within its relationship with the United States government which have yet to be identified through comity and regulated by Supreme Court jurisprudence. As Professor Riley points out,

[w]hen federal courts acknowledge tribal law in a published opinion--whether or not it actually influences the outcome of the case--it gives tribal law an increased legitimacy in the eyes of tribal members and the dominant culture. When other federal courts, looking to such opinions, see that tribal law has been utilized in this forum, it increases the likelihood that the dominant legal system will accept the important role tribal law can play in the adjudication of issues that go to the essence of tribal life (Riley 2005, 30)

iii. Establish Cultural Preservation Offices

Tribes should consider creating cultural preservation offices to coordinate enforcement of cultural property rules. These offices can issue cease and desist letters and facilitate cross cultural dialogue on issues of appropriation on behalf of Tribe. The Hopi Tribe, for example, has developed a Cultural Preservation office in efforts to protect the rights to privacy and intellectual property rights of the Hopi tribe (HCPO website, 2012). In the first paragraph of the Protocol for Research, Publication, and Recordings: Motion, Visual, Sound, Multimedia and other Mechanical Devices policy, it specifically outlines the intent of the legislation and intent of the policy “Due to the continued abuse, misrepresentation, and exploitation of the right of the Hopi people, it is necessary that guidelines be established and strictly followed so as to protect the rights of the present and future generations of the Hopi people” (HCPO website, 2012). While the legislation outlines specifically the concern for intellectual property protection through the use of multimedia, the Hopi preservation office outlines similar concerns regarding the protection of cultural property in the policy, particularly within the policy’s definition of ownership.

The definition of the term “ownership” states that The Hopi Tribe reserves the right to “prevent the publication of intellectual resources which is unauthorized, sensitive, misrepresentative or stereotypical of the Hopi people or harms the health, safety, or welfare of the Hopi people” (HCPO Sec. G, website, 2012). The term clearly identifies the concerns on behalf of the tribe regarding instances of appropriation and replication of Hopi cultural items in terms of ownership, which resemble Puebloan practices and belief systems (Sando 1992, 9; Dozier 1966, 12). These

forms of policy can serve as the foundation for acknowledging cultural properties central to their identity as a method to secure the traditional knowledge of significant property items, regardless of jurisdictional limitations. This particular policy pertains to outside research, publication and media use however these policies must become foundational within tribal legislation to extend beyond tribal land boundaries into the public sector in order to respectfully convey the harmful effects the Koshare appropriations have on Tewa tribal communities and culture.

iv. Tribal Court Enforcement

This section will discuss the active integration and use of these laws within tribal court systems as a method of resolution for Tewa cultural appropriation disputes, regardless of jurisdiction limitations. This method can maximize tribal government operation by strengthening tribal court systems to enforce the protection of cultural properties regarding outsider use (Riley 2005, 16). The utilization of tribal law to address the protection of tribal cultural property empowers tribes by reinforcing their status as independent, self-governing entities with political and cultural sovereignty and as stewards of their own destiny consistent with an thriving independent, political entity that has the ability to create its own laws and enforce them without waiting for permission to do so (Riley 2005, 28). Although federal legislation generally supports the cultural revitalization of Indian communities, unfortunately federal laws still fail to adequately protect the interests of tribes experiencing the appropriation of ceremonies central to their existence, such as the case for Santa Clara Pueblo. The capacity for tribal governments to develop legislation tailored to the most pressing demands of the community primarily enforceable through tribal court is a characteristic of self governance operations which is applicable within

reservation boundaries (Harry & Kanehe 2006, 2). When the governing laws within reservation boundaries begin to more commonly reflect the traditional customary law of the tribe considering the development of legislation, rather than replicating laws influenced by the dominant society, tribal life ways are affirmed and tribal people are more committed to their continued survival (Riley 2005, 29).

Federal jurisdictional limitations must be considered if court enforcement is pursued as the outlet for organization regarding matters of repatriation and culture. Under federal Indian law principles, tribes retain the ability to punish Indians within their reservations and regulate non-Indians on certain civil matters (Montana v. United States 1981) and they certainly have the ability to initiate dialogue regarding issues of cultural appropriation. Obviously, issuing penalties that only apply to Indians within reservation boundaries is not the concern in this project regarding matters of cultural appropriation. However, tribal legislation can also be seen as a mechanism for empowering tribal institutions to initiate a dialogue within the public domain to convey the harm these Koshare replications present to Tewa community members.

To many people, relying on litigation as an outlet may not imply much emphasis on facilitating a cross cultural dialogue to assert the traditional religious beliefs maintained by Santa Clara Pueblo. However, utilizing court enforcement as a mechanism legally conveys the damaging effects these instances have on young tribal members. I believe this is a contradiction endemic to the modern American Indian experience: tribal nations are actively engaged in preserving certain aspects of their culture within a rapidly developing American society, yet tribes rely on foreign legal processes to help them protect culture. Empowering tribal courts to initiate dialogue on

behalf of the tribe, regardless of jurisdiction, identifies an interest to approach claims of appropriation within an active legal setting to express the damage of these performances. This is primarily because tribal courts retain independence in operation separate from dominant adjudicating bodies of law and have the ability to decide the most critical questions arising within tribal boundaries (Riley 2005, 29).

Tribal court enforcement also maintains a capacity to influence dominant forms of adjudication regarding legal disputes. As authentic tribal law becomes more ascertainable through supported methods of active political sovereignty, such as codification defined by the tribal court, these laws have the ability to be recognized within international and domestic courts as central elements of tribal autonomy relative to western conceptions of justice (Riley 2005, 33). This capacity represents the emerging, developmental authority tribal courts represent within the realm of modern self determination and government infrastructure as components for community development. Tribal legislation geared towards protecting significant cultural properties, enforced through tribal jurisprudence offers a real and opportunity to educate mainstream society and create a genuine alternative to the current system (Alfred 2009, 46).

In the example of the Koshares, the tribe or a tribal member could file a claim against the Koshares in tribal court. If the court were to issue an order prohibiting appropriation and describing all the ways these practices harm the Tewa people, the court would be playing an important role in identifying violations of Tewa autonomy and translating the tribal perspective into a legal form that demands acknowledgement from other entities. Although the tribal court

may lack jurisdiction to enforce an order concerning the off-reservation activity of the Koshares, this lack of jurisdiction would not lessen the expressive force of the opinion.

v. Tribal Membership Applications

To effectively serve the community of Santa Clara Pueblo, addressing the shortcomings of previous legislation is also key to understanding and improving future laws. In developing cultural property legislation, tribes should give careful consideration to whether or not to exclude non-enrolled members from cultural property rights, particularly in light of the membership rules at Santa Clara as well as shared concepts among Tewa and surrounding Pueblo villages.

Membership has become a critical aspect of a tribe's social and political structure because of its efficacy in linking tribal sovereignty and cultural tradition. However, the guiding principles utilized by tribal governments to maintain these connections, and create effective legislation pertinent to their communities, have encountered a murky contrast in negotiating a relationship of power with the United States government (Barker 2011, 156). The concept of membership within the modern Indian experience and its various forms of criteria reflect this compromise, where tribal knowledge and histories are modified into components of political representation within a dominant setting. Within this compromise, membership criteria has been reinforced through tribal policy and through the course of time, yet certain criteria are proving to be some of the most destructive and non-compatible forms of legislative within tribal communities

Specifically, I am referring to the controversy that surrounds current membership criteria in Santa Clara Pueblo as referred to in the Supreme Court case *Martinez v. Santa Clara Pueblo*.

The story of this legislation has significant implications for how tribes should approach cultural

property legislation and it provides lessons about building upon ineffective forms of western influenced law. The *Martinez case* serves as a milestone for tribal sovereignty, securing tribal internal operations from outsider influence, yet the policy addressed in the case did so through reinforcing nontraditional blood quantum requirements of membership and discriminating against women members of the tribe (Barker 2011, 101). My purpose in identifying the controversy surrounding Santa Clara membership is to focus on the ineffectiveness of tribal legislation influenced by a foreign authority operating within a thriving tribal cultural and governmental structure. If legislation to protect significant cultural properties in Santa Clara were to adopt current membership criteria, it would only contribute to furthering the controversy surrounding membership and create distinctions of membership and access to Tewa culture, further removing tribal epistemology from policy development.

As of May 2012, Santa Clara has experienced the long term ineffectiveness such types of legislation and decided to reconvene on the issue to possibly change membership guidelines, extending membership criteria to children of women who marry outside of the tribe (Indianz.com 2012). Controversy surrounding the *Martinez* decision has raised enough concern to question the effectiveness of these forms of law operating within indigenous cultural environments. The process of tribal institutions removing themselves from foreign influences of western governance is consistent with the concepts of decolonization, an effort to expel all coerced authority that is foreign to the traditional laws and operation of the tribal community (Coffey & Tsosie 2001, 17). In a tribal government setting this process takes place through tribes exercising their sovereign rights to better structure their communities by returning them to their original spiritual/governing

authority and developing institutions from these traditional foundations, or in this case reviewing ineffective forms of legislation designed in this manner.

The development of legislation and intergovernmental agreements identified in this project are to be considered mechanisms to secure the significance of these items in Pueblo culture, simply acknowledging these properties as elements of culture and identity in tribal policy. Legislation germane to Tewa traditional knowledge that is free from western influence can operate successfully in Tewa communities. As I have identified, there are many concerns surrounding the implications of such articles of legislation and the damage they pose if they attempt to build upon foundations of foreign policy such as the current membership guidelines in Santa Clara. Santa Clara membership criteria must undergo a form of decolonization by removing previous forms of legislation and adhering instead to community norms. The purpose of integrating cultural elements within legislation is key to modern institution building within Indian country (Coffey & Tsosie 2001, 25; Kalt 2001, 4) and should not become a mechanism which limits cultural development, further delineating the boundaries of membership and culture in Santa Clara Pueblo or within surrounding Tewa communities in efforts to resolve the instances of Koshare appropriation. Tribal legislation protecting Tewa ceremony from forms of appropriation such as the Koshare, should embrace the interests of preserving a cultural worldview that controls the cultural and political authority regarding the free circulation of these ceremonies, rather than simply limiting these resources to enrolled members.

V. Conclusion

In the instance of the photographs of the Koshare student group discovered on Facebook, there is currently no legal mechanism through which to assert the Santa Clara tribal position about the misuse of Tewa knowledge central to their identity. I argue that the development of tribal legislation can serve as the foundational point for preventing cultural appropriation within the American Indian legal framework. A tribe's ability to develop its own laws has tremendous value in implementing its own value system which governs its community outside western influence. Considering the current stereotypical imagery of indigenous people depicted within the United States social structure and the international level of recognition where indigenous rights are established further identifies the limited capacity for tribes such as Santa Clara to fully utilize their inherent self-determination within the current American framework. This limited capacity requires that tribes assert their position foremost through legislation as indigenous self-determining institutions that maintain distinct identities within these types of oppressive frameworks. Cultural properties and the traditional knowledge associated with these indigenous identities are not relevant to the dominant perception of American Indians, as represented by the Cleveland Indian mascot and Koshare dance performance. While it is critical for tribes to incorporate an authentic indigenous aesthetic into the dominant perception, indigenous identities should not simply be appropriated by a student group

Development of tribal legislation can serve as a mechanism to acknowledge the sacred observance and items that are involved as an authentic form of cultural expression among Santa Clara and surrounding Pueblo cultures. Such efforts are consistent with a living sovereign framework, the ability to create legislation which embodies a tribe's particular value system and

application and does not require a “permission” to do so (Riley 2005). Of course, legislation is only regarded and developed based upon its effectiveness within the community; however, as I have identified, cultural items shared among the Pueblo cultures, must first be acknowledged by tribal governments as significant resources, just like the shared landscape.

Why should tribal governments rely upon federal laws and instances of theft to determine the significance of these properties? As sovereign nations with the right to self-determination, it is of great importance that tribal governments integrate the cultural aspects of their autonomy into their laws for protection. As future generations continue to grow, how can tribal governments rely on the concept of sovereignty without preserving the historic values and social norms that have marked us as indigenous? I believe my research can assist in developing the opportunity for tribes to acknowledge cultural properties to assert their sovereign position and begin to take steps to further integrate cultural properties into the frameworks of tribal sovereignty.

Ku' Da Woh ha (thank you)



Santa Clara Deer Dancer

Bibliography

- 1954 HAGUE Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention." UNESCO. Accessed June 05, 2012. http://portal.unesco.org/en/ev.php-URL_ID=13637&URL_DO=DO_TOPIC&URL_SECTION=201.html.
- 1970 UNESCO Convention." Dosfan Electronic Research Collection Archive Home Page. Accessed April 18, 2012. <http://dosfan.lib.uic.edu/usia/E-USIA/education/culprop/unesco01.html>.
- 1986 Winter Show. 1986. Koshare Website, Koshare Trading Post & Museum, La Junta, Colorado. <http://www.kosharehistory.org/dancer/1986wintershowpic30.html>. (cover page)
- ACHP | The National Historic Preservation Act of 1966, As Amended." Advisory Council on Historic Preservation: Preserving America's Heritage. Accessed March 20, 2011. <http://www.achp.gov/nhpa.html>.
- Ahlers, Jocelyn C. "Framing Discourse - Ahlers - 2008 - Journal of Linguistic Anthropology." Wiley Online Library. Accessed February 22, 2011. <http://onlinelibrary.wiley.com/doi/10.1525/jlin.2006.16.1.058/pdf>.
- Alfred, Taiaiake. *Peace, Power, Righteousness: an Indigenous Manifesto*. Don Mills, Ont.: Oxford UP, 2009. Print.
- Anderson, Jane E. (2012) "On Resolution | Intellectual Property and Indigenous Knowledge Disputes | Prologue," *Landscapes Of Violence*: Vol. 2: No. 1, Article 4. Available at: <http://scholarworks.umass.edu/lov/vol2/iss1/4>
- American Indian Religious Freedom Act, 42 U.S.C. § 1996
- Archeological Resource Protection Act, 16 U.S.C. §§ 470aa-470mm
- Barker, Joanne. "Indian U.S.A." *Wicazo Sa Review*, Volume 18, 2003 - Table of Contents." Project MUSE. Accessed May 05, 2011.
- Barker, Joanne. *Native Acts: Law, Recognition, and Cultural Authenticity*. Durham: Duke University Press, 2011
- Berman, Tressa. 1997. Beyond the Museum: The Politics of Representation in Asserting Rights to Cultural Property. *Museum Anthropology* 21(3):19-27.

- Blackhawk, Ned. *Violence over the Land: Indians and Empires in the Early American West*. Cambridge, MA: Harvard University Press, 2006.
- Brown, Michael F. "Heritage Trouble: Recent Work on the Protection of Intangible Cultural Property." *International Journal of Cultural Property*. 2005. Accessed June 06, 2012. http://williams.academia.edu/MichaelFBrown/Papers/597365/Heritage_trouble_recent_work_on_the_protection_of_intangible_cultural_property
- Brown, Michael F. *Who Owns Native Culture?* Cambridge (Massachusetts): Harvard University Press, 2004.
- Carpenter, Kristen A., Sonia Katyal, and Angela Riley. "Clarifying Cultural Property" *International Journal of Cultural Property* 581 (2010).
- Carpenter, Kristen A., Sonia Katyal, and Angela Riley. "In Defense of Property." *The Yale Law Journal*, 20th ser., Legal Studies Research Paper, no. 08 (2009).
- Church at Santa Clara Pueblo 1899. <http://publishing.cdlib.org/ucpressebooks/view?docId=ft72900812;chunk.id=d0e3328;doc.view=print>. (pg. 40)
- Churchill, Ward. "Race and Racism in America: Crimes Against Humanity." *Crimes Against Humanity*. 2008. Accessed April 4, 2012. <http://nypolisci.org/files/PDF%20FILES/Chapter%20IV%20-%20Crimes%20Against%20Humanity.pdf>.
- Coffey, Wallace, and Rebecca Tsosie. "RETHINKING THE TRIBAL SOVEREIGNTY DOCTRINE: CULTURAL SOVEREIGNTY AND THE COLLECTIVE FUTURE OF INDIAN NATIONS." *Stanford Law and Policy Review Spring 2001*, 191st ser., 12, no. STNLPNR (2001): 1-43
- Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention 1954." March 26, 1999. Accessed April 18, 2012. http://portal.unesco.org/en/ev.php-URL_ID=13637
- Cornell, Stephen, and Joseph P. Kalt. "Reloading the Dice: Improving the Chances for Economic Development on American Indian Reservations." *UCLA American Indian Studies Center*, 2002. Accessed February 2012. <http://www.tribalreentry.org/sites/tribalreentry.org/files/Strategies%20and%20Institutions%20in%20AI%20Economic%20Development.pdf>
- Curtis, Edward S. *Winter Kiva*. Southwest Museum of the American Indian, Southwest Museum of the American Indian. http://e-humanity.org/artifact.php?artifact_id=20486.
- Daes, Erica-Irene. "Intellectual Property and Indigenous Peoples, 95 Am." *SOC'Y INT'L L. PROC* 143 (2001): 143-50.

- Deloria, Phillip. *Playing Indian*. Yale University Press, 1998.
- Dozier, Edward P. *Hano, a Tewa Indian Community in Arizona*. New York: Holt, Rinehart and Winston, 1966.
- Employment Division of Oregon v. Smith 494 U.S. 872 (1990)
- Ferguson, T.J., Roger Anyon, and Edmund J. Ladd. "13." Edited by Devon A. Mihesuah. In *Repatriation Reader: Who Owns American Indian Remains?* Lincoln: University of Nebraska Press, 2000
- Fryberg, Stephanie A. "American Indian Social Representations: Do They Honor or Constrain American Indian Identities?" Conference Presentation, 50 Years after Brown vs. Board of Education: Social Psychological Perspectives on the Problems of Racism and Discrimination. University of Kansas. May 13-14, 2004. Accessed April 4, 2012. http://www.indianmascots.com/ex_15_-_fryberg_brown_v.pdf.
- Fryberg, Stephanie A., Hazel Rose Markus, Daphna Oyserman, and Joseph M. Stone. "Of Warrior Chiefs and Indian Princesses: The Psychological Consequences of American Indian Mascots." *Basic and Applied Social Psychology*. 2008. Accessed April 04, 2010. <http://sitemaker.umich.edu/daphna.oyserman/files/frybergmarkusoysermanstone2008.pdf>
- Gulliford, Andrew. *Sacred Objects and Sacred Places: Preserving Tribal Traditions*. Niwot, CO: University Press of Colorado, 2000.
- Gutierrez, Ramon A. *The Pueblo Revolt and Its Aftermath*. Stanford University Press, 1991.
- Harmon, Parkhurst T. *Kossa Clowns*. The Museum of New Mexico, Museum of New Mexico. <http://pucl.princeton.edu/objects/2801pg62k>. (pg. 49)
- Harmon, Parkhurst T. *1940 Santa Clara Pueblo Cloud Dance*. 1940. Museum of New Mexico. Neg # 4220. (pg. 40)
- Harry, Debra, and Le'a Malia Kanehe. "ASSERTING TRIBAL SOVEREIGNTY OVER CULTURAL PROPERTY: MOVING TOWARDS PROTECTION OF GENETIC MATERIAL AND INDIGENOUS KNOWLEDGE." *SEATTLE JOURNAL FOR JUSTICE*, 27th ser., 5 (Fall 2006): 385-409.
- Henderson, James Youngblood. *Indigenous Diplomacy and the Rights of Peoples: Achieving UN Recognition*. Saskatoon: Purich Pub., 2008. Print.

Henson, Eric C. and Jonathan B. Taylor. *The State of the Native Nations: Conditions under U.S. Policies of Self-determination : The Harvard Project on American Indian Economic Development*. New York: Oxford University Press, 2008.

Heth, Charlotte. *Native American Dance: Ceremonies and Social Traditions*. Washington, D.C.: National Museum of the American Indian, Smithsonian Institution, with Starwood Pub., 1992. Print.

Hill, W. W., and Charles H. Lange. *An Ethnography of Santa Clara Pueblo, New Mexico*. Albuquerque: University of New Mexico Press, 1982.

Indian Arts and Crafts Act of 1990 U.S.C 101-644

Indian Arts and Crafts Board: The Indian Arts and Crafts Act of 1990." U.S. Department of the Interior. Accessed March 20, 2011. <http://www.doi.gov/iacb/act.html>.

Indian Self-Determination and Education Assistance Act, 25 U.S.C. § 450 et seq.

Indigenous Research Protection Act. *Indigenous People's Council on Biocolonialism*. Web. 09 June 2011. <http://www.ipcb.org/publications/policy/files/irpa.html>.

Indianz.com. "Indianz.Com Santa Clara Pueblo to Change Membership Rules after Vote." Indianz.Com. May 2, 2012. Accessed June 08, 2012. <http://64.38.12.138/News/2012/005545.asp>

Johnson, Myke. 2009. "Wanting to Be Indian: When Spiritual Searching Turns into Cultural Theft." [doi:http://www.anti-politics.net/distro/2009/wantingtobeNDN-read.pdf](http://www.anti-politics.net/distro/2009/wantingtobeNDN-read.pdf).

Jolivet, Andrew, ed. *Cultural Representations in Native America*. Alta Mira Press, 2006.

Kalt, Joseph P. "Policy Foundations For The Future Of Nation Building in Indian Country." *Harvard Native American Program and The Harvard Project on Economic Development*, February 2001.

Knaut, Andrew L. *The Pueblo Revolt of 1680: Conquest and Resistance in Seventeenth-century New Mexico*. Norman: University of Oklahoma Press, 1995.

Koshare Indian Museum :: Home. Koshare Indian Museum. Accessed March 08, 2012. <http://www.kosharehistory.org/>.

Koshare Dancers #1. 2010. Tewa Appropriation, Facebook. (pg. 6)

Koshare Dancers #2. 2010. Tewa Appropriation, Facebook. (pg. 43)

Koshare Dancers #3. 2010. Tewa Appropriation, Facebook. (pg. 46)

Koshare Dancers #4. 2010. Tewa Appropriation Facebook. (pg. 47)

Leuthold, Steven. *Indigenous Aesthetics: Native Art, Media, and Identity*. Austin: University of Texas Press, 1998. "The Velvet Light Trap, University of Texas Press." Home | The University of Texas at Austin. Accessed March 20, 2011. <http://www.utexas.edu/utpress/journals/jvlt.html>

Liebmann, Matthew J. *Archaeologies of the Pueblo Revolt: Identity, Meaning, and Renewal in the Pueblo World*. Edited by Robert W. Preucel. Albuquerque: University of New Mexico Press, 2002. doi: <http://www.fas.harvard.edu/~liebarch/docs/Liebmann--Signs%20of%20Power%20and%20Resistance.pdf>.

Lyng v. Northwest Indian Cemetery Protective Association, 485 U.S. 439(1988)

Merryman, John Henry. "TWO WAYS OF THINKING ABOUT CULTURAL PROPERTY." AM.J. INT'L L.831, 80 (1986).

Mezey, Naomi. "The Paradoxes of Cultural Property." *Columbia Law Review*, 2004

Montana v. United States, 450 U.S. (1981).

National NAGPRA Home. U.S. National Park Service - Experience Your America. Accessed March 20, 2011. <http://www.nps.gov/nagpra/>

National Historic Preservation Act, 16 U.S.C. § 470 et seq.

Nelson, Melissa K. *Oral Tradition, Identity, and Intergenerational Healing through the Southern Paiute Salt Songs*. Edited by Andrew Jolivette. Alta Mira Press, 2006.

New Mexico Office of the State Historian": Digital History Project. Accessed April 18, 2012. <http://newmexicohistory.org/>.

Nation, Navajo. "Navajo Common Law Project - Introduction." Navajo Common Law Project - Introduction. Accessed August 27, 2012. <http://www.navajocourts.org/NCLP/nclplaws.htm>.

NPS Archeology Program: The Archaeological Resources Protection Act of 1979 (ARPA). U.S. National Park Service - Experience Your America. Accessed March 20, 2011. <http://www.nps.gov/archeology/tools/Laws/arpa.htm>.

Ortiz, Alfonso. "THE SAN JUAN TURTLE DANCE." <Http://www.newworldrecords.org/linernotes/80301.pdf>. Accessed April 12, 2012.

- Ortiz, Alfonso. *The Tewa World; Space, Time, Being, and Becoming in a Pueblo Society*. Chicago: University of Chicago Press, 1969.
- Posner, Eric A. "The International Protection of Cultural Property: Some Skeptical Observations." *CHICAGO PUBLIC LAW AND LEGAL THEORY WORKING PAPER* 141 (November 2006): 1-21. doi: <http://www.law.uchicago.edu/files/files/141.pdf>
- Pritzker, Barry, and Barry Pritzker. *A Native American Encyclopedia: History, Culture, and Peoples*. Oxford: Oxford University Press, 2000.
- Puye Cliff Dwellings." New Mexico Ruins and New Mexico Cliff Dwellings. Accessed April 18, 2012. <http://www.puyecliffs.com/>.
- Puye Cliff Dwellings. Puye Cliffs, New Mexico. (pg. 32)
- Riley, Angela. "Straight Stealing: Towards an Indigenous System of Cultural Property Protection." *Washington Law Review* 80, no. 69 (2005). <http://ssrn.com/abstract=703283>.
- The Religious Freedom Restoration Act of 1993, 42 U.S.C. §§ 2000bb-2000bb4.
- Roberts, Calvin A., and Susan A. Roberts. *New Mexico*. Albuquerque: University of New Mexico Press, 1988.
- Sando, Joe S. *Pueblo Nations: Eight Centuries of Pueblo Indian History*. Santa Fe, NM: Clear Light, 1992.
- Sanchez, F. Richard, and Gregory Cajete. *White Shell Water Place: An Anthology of Native American Reflections on the 400th Anniversary of the Founding of Santa Fe, New Mexico, with a Traditional Native Blessing by N. Scott Momaday*. Santa Fe: Sunstone Press, 2010.
- Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 98 S.Ct. 1670, 56 L.Ed.2d 106 (1978). Home - University of Tulsa. Accessed March 20, 2011. http://www.utulsa.edu/law/classes/rice/USSCT_Cases/Santa_Clara_Pueblo_v_Martinez_436_49
- Santa Clara Deer Dancer. Santa Clara Pueblo New Mexico. http://www.newmexico.travel/dev/native_american/pueblos/santa_clara.php. (pg. 78)
- Santa Clara Pueblo Singers/Drum group. Santa Clara Pueblo, New Mexico. (pg. 8)

Swentzell, Rina, and Dave Warren. *Shadeh*. Edited by Charlotte Heth. Washington, D.C.: National Museum of the American Indian, Smithsonian Institution, with Starwood Pub., 1992.

Tsosie, Rebecca A. "Indigenous Peoples' Claims to Cultural Property: A Legal Perspective," *Museum Anthropology* 21(3):5 (Winter 1997)

Tsosie, Rebecca A. "Reclaiming Native Stories: An Essay on Cultural Appropriation and Cultural Rights." *Arizona State Law Journal*, 2002nd ser., 34 (2002)

United Nations Declaration on the Rights of Indigenous Peoples. *Welcome to the United Nations: It's Your World*. Web. 09 June 2011.
<http://www.un.org/esa/socdev/unpfii/en/drip.html>

Welsh, Peter H. "The Power of Possessions: The Case Against Property"
Museum Anthropology 21(3):5 (Winter 1997)

Woltz, Jennie D. "The Economics of Cultural Misrepresentation: How Should the Indian Arts and Crafts Act of 1990 Be Marketed?" [Http://iplj.net/blog/wp-content/uploads/2009/09/Note-THE-ECONOMICS-OF-CULTURAL-MISREPRESENTATION-HOW-SHOULD-THE-INDIAN-ARTS-AND-CRAFTS-ACT-OF-1990-BE-MARKETED.pdf](http://iplj.net/blog/wp-content/uploads/2009/09/Note-THE-ECONOMICS-OF-CULTURAL-MISREPRESENTATION-HOW-SHOULD-THE-INDIAN-ARTS-AND-CRAFTS-ACT-OF-1990-BE-MARKETED.pdf).

Worcester v. Georgia, 31 U.S. 515, 547 (1832)

