

# Introduction: Fraud in Native American Communities

## *Essays in Honor of Suzan Shown Harjo*

*Nancy Marie Mithlo, Guest Editor*

I author this introduction to a discussion on fraud in American Indian communities on the day that our forty-fifth president of the United States, Donald Trump, was impeached by the House of Representatives for “high crimes and misdemeanors,” “abuse of power,” and “obstruction of Congress.” These issues—fraud and high crimes—are certainly related. As America grapples with its history of nearly two-and-a-half centuries, the concept of truth seems to be an elusive quality. Yes, morals, ethics and the law are certainly present and accounted for, yet in practice we seem to live in an age where “we will because we can” takes precedence. Experience, credentials, and norms, especially as they are being treated by the current political leadership, are simply obstacles to a larger good of “greatness”—whatever that means. Checks and balances to the exertion of power, such as the rule of law, the Constitution, impartial journalism, and yes, even political bureaucrats who follow policy, now are demonized as partisan, or even hateful.

How does this current political moment speak to the field of American Indian studies? While Indigenous knowledge has its own arc of development over time, American Indian people live among and within these structures of imperial power, even as we occupy a space outside of its reach. Our unique political and social status enables perspectives that often elide those in popular circulation, positioning our populations as excellent observers and commentators on issues of the day. We are also often vulnerable to the same pressures of the mainstream, especially in an era of leadership characterized by “because we can” justifications.

The existence of fraud finds relevance in these times not only because of its long history and association with US politics (think Boston Tea Party), but also because

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of its utility in the ongoing colonial project that enlarges the power and control of non-Native individuals and institutions while stripping Indigenous communities of rights and resources. The problem with fraud for Native American communities today is that these incursions into Native sovereignty are covert, embedded, and weighted down with divisive false ideologies. In the world of fine arts, these tactics of control are monopolized by the seeming innocence of what is largely considered to be an entertainment field, and therefore not crucial to the agenda of sovereignty. Fraud in the fine arts is additionally fueled by the existence of infighting between institutions and individuals who identify as Native-centric. Given the very real histories of genocidal state policies that have attempted to strip Native people of our identities, fraud is a difficult subject, and sometimes a painful topic to debate openly.

So, in this careful and measured light, let's be specific about what *fraud* signifies. Is fraud simply a *mischaracterization* of one's chosen identity? Is it a *purposeful deceit*, planned and executed over a length of time? Or might fraud be a means of *deflection* from more serious issues, such as health care, land rights, and education? For the purposes of our discussion in this *AICRJ* special issue, fraud is defined as the adoption of an Indigenous identity that is not one's own, usually for self-interest, that is counter to the benefit of Native communities. Indigeneity is premised on being recognized by the Indigenous community claimed, not on a self-chosen identity. "Community" cannot simply be a group of professional art writers or museum personnel who have an opinion. Community is the Native nation that claims one as a member.

While it may be easy to slip into a "he said, she said" type of debate when speaking of Native fraud, the discussion does not need to be characterized as complex, arbitrary, or incomprehensible. American Indian scholars are consistent in their recognition that *belonging* is more than phenotype, dress, family lore, or DNA tests. In the case of artist Jimmie Durham, whose narrative is discussed in several articles in this volume, belonging is not premised on short periods of political activism for a Native cause. Belonging is a reciprocal relationship forged over time and with a great amount of care. Belonging is additionally established through laws, membership policies, and traditions as diverse as all the tribes, federally recognized, state-recognized, and unrecognized. Belonging may be one of the last resources that American Indian communities can actually protect. This protection, however, requires careful and consistent vigilance, working from Native-centric viewpoints and ideologies, not reactive, stunted, or covert portrayals defined by non-Native perspectives.

What interests are at work, when arts organizations accepting public funds reserved for American Indian peoples persist in promoting factual untruths about an artist's Native identity? What causes are buoyed when the US court system, without clear evidence, allows groups of individuals to self-identify as newly formed Native communities? As these articles attest, clear harms are wrought on American Indian personhood and nationhood when egregious claims are enacted, and supported by, institutions that are sworn to uphold ethics and laws, such as museums and courts. These harms mirror the benefits afforded by false claims of Native identity.

## FRAUD – BENEFITS AND HARMS

Benefits	Harms
<i>Rights to natural resources:</i> animals, minerals, water, oil, trees	<i>Loss of rights to natural resources:</i> animals, minerals, water, oil, trees
Insider/outsider dichotomy with the subject in the beneficial role of the <i>insider</i>	Insider/outsider dichotomy with the subject in the nonbeneficial role of the <i>outsider</i>
<i>Access to political resources reserved for Indigenous people under treaty rights or other mandated state laws, i.e. scholarships, fellowships, grants, admissions, bids for contracts, access to potential constituents, protection from censure of being called racist</i>	<i>Loss of access to political resources reserved for Indigenous people under treaty rights or other mandated state laws, i.e. scholarships, fellowships, grants, admissions, bids for contracts, access to potential constituents, protection from censure of being called racist</i>
<i>Increased social status as a “marginalized voice” in alignment with “progressive” social movements</i>	<i>Decreased social status as an individual objecting to the inclusion of perceived “marginalized voices” in alignment with “progressive” social movements</i>
Fine arts institutions (including curators, critics, gallerists, academics, and museum professionals) <i>control the dialogue and access to resources</i> , including published criticism, ability to be exhibited, grants, programming, employment, policy-making, purchase of art, loans, inclusion in the archive, education of the public, and professional advancement	Indigenous communities (tribes and dissenting curators, academics, museum personnel, artists) <i>do not control the dialogue and access to resources</i> , including published criticism, ability to be exhibited, grants, programming, employment, policy-making, purchase of art, loans, inclusion in the archive, education of the public, and professional advancement

Our remarkable group of contributors tackles these issues of belonging and fraud with guts, courage, and with data. We are honored to feature “Fauxskins,” a poem by Ojibwe writer and editor of poetry, short stories, and nonfiction Heid E. Erdrich. Her work distills the visceral harms of fraud to Native American people and communities with insight, humor and history, asserting, “We decide who is we.”

Cherokee scholar and museum professional Ashley Holland argues that the exhibition and reception of *Jimmie Durham: At the Center of the World* deserves further critical analysis. As Holland observes, “While many art historical essays and articles written about Durham reference his Cherokee descent, the authors often are poorly equipped to examine issues of Indigenous identity critically” (19). She tracks why the artist Jimmie Durham’s claims to Cherokee identity are tolerated, including fears that if Durham is outed as non-Native, the attention given to Native art would be voided, and, in addition, that to impose strict concepts of who is and who isn’t Native would appear to make Native peoples complicit with a colonial agenda, a sentiment expressed with irony in Edrich’s poem *Fauxskins*: “*Why you wannabe so mean?*”

Holland’s analysis follows her own personal/professional trajectory, in which her initial reluctance to research fraud issues surrounding Durham was eventually outweighed by the persistence and insistence with which “Durham served as an example of a supremely successful Native artist” (20). Her increasing involvement as an art historian writing on the subject of Native identity fraud was diminished by art writers such as Jerry Saltz, who publicly demanded that she and others engaging in critique of Durham: “Please, please leave the art world,” calling detractors “prigs.”<sup>1</sup> Many who have chosen to write for this volume have experienced this level of personal attack,

just for simply engaging in their field of study by researching and writing their opinions. Clearly, this shaming discourse (which has generally been tolerated by the arts profession) directly targets the field of American Indian studies and deserves exposure. Holland describes these degrading tactics as “aggressively demean[ing to] the continuing struggle faced by Native peoples for sovereignty and self-determination” (23).

Through the generosity of the editor of *First American Art Magazine*, artist America Meredith, we are pleased to be able to offer four historic essays, written at the time of Durham’s major retrospective in 2017 and published in *FAAM* no. 19 (Fall 2017). Written by Meredith, the late artist James Luna, myself, and Cherokee artist and author Roy Boney, these reprinted essays provide a spectrum of early critiques of the phenomenon of fraud in Native art. Their inclusion here is a recognition of the many years that the fraud debate for contemporary Native arts has been active. My first foray into the debate occurred in 1993 with a letter to the editor of *Art in America*. Some decades later, as the Durham show was traveling in 2017, my original letter and the subsequent rebuttals—including a statement by Jimmie Durham stating he is not Cherokee—were reprinted in *Art in America*. The longevity of this debate, not only for myself but for other writers, artists, and scholars, with minimal apparent reactions or outcomes, is one of the primary reasons for creating the volume you are now reading. Institutional change takes time, but we are patient revolutionaries.

Mario Caro’s contribution, “What Shall We Do with the Bodies? Reconsidering the Archive in the Aftermath of Fraud,” helpfully provides an understanding of how Durham’s stance—challenging the whole notion of identity itself—was a strategy congruent with contemporary discourses questioning essentialist approaches to identity. He argues that, especially in the mid-1990s, the ability to claim a self-identify was popular, particularly in terms of gender and those who “did not align with normative categories” (42). Durham’s centrality, Caro asserts, is due to his utility in meeting the art world’s “desire for just the right type of contemporary Native artist, one who comfortably fits the expectations of a white viewer” (42). Caro illustrates the “tacit legitimization of fraud” as he turns to the inaction of the Native American Art Studies Association at the time of the Durham traveling exhibition in 2017, when it refused to engage in any discussion of the topic (44). Like Tahnee M. Ahtoneharjo-Growingthunder, Caro asks how professional organizations can ignore that Durham has no claim to being Cherokee in the face of the evidence provided by numerous scholars, genealogists, artists, and activists.

Caro’s analysis of the scholarly responses and the public programming surrounding the exhibit identifies several registers including the notion of a “cooling-off period” (the need to take time to more fully address the issue) and disavowal of identity as a worthwhile scholarly construct. In a bold and novel move, Caro uses his own scholarly incorporation of Durham as an example of how the archive might be revisited by “reread [ing] these images . . . as the duplicitous attempts at Native tricksterism by someone pretending to be Native.” This “double pretense” could also be thought of as a form of drag, specifically “ethnic drag, a minstrelsy in which the caricature has been taken at face value” (51).

Suzanne Newman Fricke charts Durham's use of "strategic ambiguity," whereby "the uncertainty at the center of the controversy has ultimately served to protect the artist and his livelihood" (58). She cites the fact that Durham is the subject of nearly four times more articles and books than any other contemporary artist who identifies as Cherokee. Fricke adds, "Although some articles offer the usual dual admission—that he identifies as Cherokee and that his heritage has been questioned—the authors nonetheless offer praise for Durham's work as both authentically "Native American" and progressive in the contemporary art world" (56). Various reasons given for his lack of enrollment are strongly refuted by Fricke's analysis that it is almost impossible to interpret Durham's work outside the perspective of a Cherokee identity. She notes: "insistence on Durham's Cherokee heritage is crucial because if the artist is not Native, his work becomes not simply meaningless, but even insulting. . . . *Pocahontas' Underwear* seems particularly offensive given the long-term epidemic of missing and murdered Native women" (61).

My own contribution, "The Artist Knows Best: The De-Professionalism of a Profession," tackles three art world tendencies: the use of fraud as an artistic register; the assertion of the artist as authority; and the decontextualization of the arts as an object-centered analysis. I use the term "selective worth" to describe the arbitrary exertion of power and simultaneous rejection of Indigenous studies as academic discipline built on the value of tribal sovereignty. My analysis examines how basic rights to self-expression are still not largely available in Native arts, even thirty years after the passage of the Indian Arts and Crafts Act of 1990. I argue the Jimmie Durham fraud case is an exercise in the abuse of power as well as simply poor scholarship whereby historic fact and scholarly rigor are sacrificed when institutional racism is at work. Those entering the art field who dismiss or downplay the art industry's inherent values of capitalism and the private market may be indoctrinated into an anti-sovereign platform and become complicit in its colonial desire for control.

Sarah Stolte's case study of artist Yeffe Kimball (1906–1978), a woman who posed as an Osage Native artist her entire career, identifies several registers of thinking that inform fraud, including the manner in which museums and art schools defined societal values of "Indianness." Stolte's examination of Native women artists of Kimball's era (including Jimalee Burton, Lois Smoky, Eva Mirabel and Pop Chalee) concludes that while Kimball was able to achieve recognition as a modern American Indian woman painter, her Native contemporaries were marginalized. Kimball's acceptance, and even renown, was due to her success in harnessing existing gender and racial structures in American art. This professional progress relied heavily on her personal appearance as Native and romanticized, Eurocentric misunderstandings of a monolithic "American Indian culture." Personal rapport and social graces helped Kimball enter powerful arts institutions, ensuring that the arts world of her time did not question her. Stolte's research explores how Kimball and the New York artists of her era borrowed heavily from non-Western traditions, especially American Indian cultures. As Kimball's adaptation of American Abstract Expressionism with Native symbols was rewarded with institutional prizes, works by Native artists such as Oscar Howe were rejected as too contemporary to be "Indian art."

In “Aspirational Descent and the Creation of Family Lore: Race Shifting in the Northeast,” Darryl Leroux moves the analysis north to chart what he terms the “race-shifting movement” occurring in New England and Canada’s provinces of Ontario, Québec, New Brunswick, and Nova Scotia. His term “aspirational descent” encapsulates how white French descendants create “Indigenous” ancestors in order to shift into an “Indigenous” identity today. His essay reveals how settlers’ creative interpretations of childhood stories rely on the logic of elimination inherent to settler colonialism. In tandem with other scholars of this issue, Leroux traces the origin of self-indigenization movements to explicit anti-Indigenous politics that aim to gain access to resources in Quebec, New Brunswick, and Nova Scotia, particularly for hunting rights. His analysis provides a valuable overview of how “playing Indian,” “race shifting,” “settler nativism,” and the “Indian-grandmother complex” reflect “a centuries-old process aimed at eliminating actual Indigenous peoples and transforming the descendants of European colonists into the *true* Indigenous peoples of the Americas” (94).

Curator Tahnee M. Ahtoneharjo-Growingthunder (Kiowa-Mvskoki-Seminole) charts two developments that impact American Indian inclusion in museums: lack of funding and reliance upon financial resources geared to diversity. As cultural institutions increasingly seek inclusion of American Indian communities and cultural heritage to keep afloat financially, individuals claiming Native ancestry are fraudulently being awarded grants intended for tribal members. In a similar fashion to Holland’s analysis, Ahtoneharjo-Growingthunder argues that often, it is because these institutions do not have experience working with Native communities that they neglect the ethical practices defined by source communities. In reference to the Jimmie Durham exhibit *At the Center of the World*, she insightfully asks, “Whose responsibility is it to expose this ill-founded scholarship?” (116), contending that it is the responsibility of professional organizations that guide museum ethics and standards to address misattribution.

When professional organizations ignore the requests of sovereign Native nations, including the Cherokee Nation, to stop portraying Durham as Cherokee, they actively delegitimize American Indian art (and by extension American Indian studies) as a professional academic field. Ahtoneharjo-Growingthunder roots her productive discussion of the Indian Arts and Crafts Act and tribal enrollment policies in Native peoples’ treaty status, concluding, “Today, American Indians are serious about enrollment and laws because of these historic agreements. Used as an excuse by curators such as Ellegood, the claim that this history is too complicated to understand effectively insults and diminishes the dignity and amazing resilience of our people” (118).

Nambé Owingeh scholar and librarian Debbie Reese addresses instances of ethnic fraud in children’s literature, including authors Jamake Highwater, Paul Goble, John Smelcer, and Sharon Creech, all recognized with American Library Association awards given in an era of increased popularity of American Indian topics. Reese details the “dire consequences for Native Nations” when ethnic fraud occurs in children’s literature, noting not only the loss of financial awards and prestige, but also the “tremendous impact on children—and the adults those children become” (126). The legacy of Forrest Carter’s *The Education of Little Tree: A True Story*, like that of Jimmie Durham’s art,

seems impervious to its factual inaccuracy and the author's heritage. Reese identifies "white guilt" as a reason for the uncritical embrace of works claiming authenticity of a Native experience and the popularity of fraud. Reese argues that Indigenous cultural and racial fraud is "undermining the well-being of Native peoples and Native sovereignty across North America" (129), as other articles in this volume also attest.

Dance scholars and activists Rosy Simas and Sam Aros Mitchell discuss "playing Indian" in the specific frame of performing contemporary dance, in which both Simas and Mitchell have worked extensively. As Simas and Mitchell discuss the ahistorical nature of mythologized Natives, they cite examples ranging from the historic phenomenon of Buffalo Bill's *Wild West* show, to more current manifestations in films such as *Pocahontas* and *Avatar*. They argue that the portrayal of Native Americans as barbaric savages in these fictionalized narratives provide justification for brutal, genocidal campaigns. As an antidote, Simas lyrically describes the meaning of her body-based practice as enacting culture. In her nuanced, poignant words, "I have developed, or rather a method has been revealed to me through my ancestors, of deep listening as a way to awaken movement from the body. My whole being becomes a hearing mechanism" [124]. Mitchell elaborates on such differences in representational practice, juxtaposing how his dance training by western methods, centered on the self, left him with "no room to explore my own Native history and culture. I found that I had to push through the boundaries that exist within the complexities of existing when the world wants us to be subsumed, imagined, mythologized, consumed" (135).

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This special issue of the *American Indian Culture and Research Journal* is published in honor of **Suzan Shown Harjo** (Cheyenne and Hodulgee Muscogee), poet, writer, lecturer, curator, and policy advocate, for her fierce advocacy of American Indian rights. She served as an invaluable advisor to the development of this special journal issue, including identifying key resources for future scholarship. Her candid and incisive commentaries on, in her words, "pseudo-Indianism," continues to inspire.<sup>2</sup> Her statement is clear: "The reason it's important for Native nations to speak out about Native identity issues is that they are the only ones who can say who their citizens are and are not. If they don't speak out, other people and entities will fill the silence. It's important for Native mothers and fathers to speak out because pseudo-Indians do things that affect our children."<sup>3</sup> It is in this spirit that we publish these papers.

### *Acknowledgments*

Many of the articles published here were shared, discussed, and debated at professional conferences, including the Native American Indigenous Studies Association panel "Fraud and American Indian Representation in Museums," May 19, 2018, Los Angeles, CA; the American Alliance of Museums conference, "Ethnic Fraud and Representation in Museums," May 2, 2019, New Orleans, LA; and the Art Museum Curators virtual conference session "Curating Indigeneity; Identity, Presence and Narratives," May 3, 2020, <https://www.youtube.com/watch?v=FwwARmblk-M>. As a group, we contributors to this special issue are grateful for the opportunity to share

our research findings with these professional organizations and we additionally thank their members who generously engaged us in the valuable conversations reflected in this special volume dedicated to fraud. We are deeply grateful to Julie Buffalohead (Ponca Tribe of Oklahoma) and the Todd Bockley Gallery of Minneapolis, MN for permission to reproduce Julie's evocative *Seems You have to Play Indian to be Indian* on the cover of this volume. Her artwork is featured in the collections of the Field Museum, the Heard Museum, the Minneapolis Institute of Art, the Nelson-Atkins Museum of Art, the Smithsonian National Museum of the American Indian, and the Walker Art Center, among other prominent institutions.

## NOTES

1. Jerry Saltz, Instagram post, July 6, 2017, <https://twitter.com/jerrysaltz/status/883158646603075588>.
2. Suzan Shown Harjo, "Indian, Part Deux," *Indian Country Today*, April 7, 2005, <https://web.archive.org/web/20050910194911/http://www.indiancountry.com/content.cfm?id=1096410704>.
3. Suzan Shown Harjo, "Why Native Identity Matters: A Cautionary Tale," *Indian Country Today*, February 10, 2005, <https://web.archive.org/web/20051201170430/http://www.indiancountry.com/content.cfm?id=1096410335>.