

FASHION AND CULTURAL APPROPRIATION: A LEGAL AND ETHICAL DILEMMA A CASE STUDY ON GUCCI'S TURBAN CONTROVERSY

*Akash Marthati**

ABSTRACT

Cultural appropriation in the fashion industry has long been a contentious issue, especially as global brands often draw inspiration from traditional clothing, symbols, and aesthetics of marginalized communities. While such borrowings are sometimes framed as tributes, they frequently result in the commodification and misrepresentation of the original culture, sparking ethical debates and calls for legal reform. This case study focuses on the 2018 Gucci Turban Controversy, wherein the luxury brand showcased a Sikh-inspired "Indy Full Turban" during its Fall/Winter runway show and later listed it for sale online. The move provoked outrage, particularly from the Sikh community, which considers the turban a sacred article of faith. Critics accused Gucci of reducing a religious symbol to a fashion accessory without proper context or respect. This paper analyzes the legal and ethical dimensions of the incident by examining the limitations of current intellectual property laws in protecting traditional cultural expressions (TCEs) and the absence of enforceable global standards for cultural sensitivity in design. It explores how such instances reflect broader postcolonial power dynamics, wherein dominant cultures commercialize the heritage of historically oppressed groups without acknowledgment or benefit-sharing. Through a detailed examination of the Gucci case, this study highlights the urgent need for reforms that encompass both legal protection for Indigenous and traditional designs and ethical frameworks guiding respectful cultural engagement. It concludes by recommending policy changes, corporate accountability measures, and international cooperation to ensure that the fashion industry fosters cultural appreciation rather than appropriation. This case is emblematic of the larger dilemma facing global fashion: how to innovate creatively while upholding the dignity and rights of all cultures.

Keywords: Cultural Appropriation, Fashion Law, Gucci Turban Controversy, Traditional Cultural Expressions (TCEs), Intellectual Property and Ethics.

* Student, 3rd Year, B.B.A. LL.B., Christ Academy Institute of Law, Bengaluru

INTRODUCTION

In an increasingly interconnected world, fashion has emerged as a powerful medium for cultural exchange and creative expression. However, this intersection of creativity and culture often gives rise to a complex and controversial issue, cultural appropriation. In the realm of fashion, cultural appropriation occurs when designers or brands borrow elements of a culture, particularly from historically marginalized or Indigenous groups, without understanding, acknowledgment, or permission. What is often presented as a form of appreciation or aesthetic inspiration can become a source of harm, perpetuating stereotypes, erasing cultural significance, and reinforcing colonial power dynamics.¹

The global fashion industry has seen numerous incidents where traditional garments, sacred symbols, and Indigenous motifs have been reinterpreted or misappropriated on runways and in commercial collections. These appropriations are typically devoid of context and frequently strip the elements of their original meaning, transforming sacred or significant cultural expressions into consumable trends.² The issue is compounded by the fact that legal protections for traditional cultural expressions (TCEs) are minimal or nonexistent in many jurisdictions, allowing for unchecked exploitation.³

This paper explores the legal and ethical dimensions of cultural appropriation in fashion through a detailed case study of the 2018 Gucci turban controversy, where the luxury fashion house came under fire for marketing a Sikh-style turban as a fashion accessory. The controversy serves as a representative example of the broader tensions between artistic freedom and cultural respect. By analyzing the public backlash, the community's response, and the brand's defense, this study aims to understand both the legal gaps and ethical dilemmas that underpin such incidents. The objective is not only to critique the misuse of cultural heritage but also to propose viable solutions for fostering a more respectful and inclusive global fashion landscape.⁴

¹ K. E. W. Wylie, *Cultural Appropriation in the Age of Globalization* (2017) at 45.

² Margot L. Cohn, "Cultural Appropriation in Fashion: Ethical Considerations", 40 *Indian Journal of Fashion Ethics* 299, 303 (2019).

³ Helen M. Woods, *Fashion Law: A Practical Guide* (2018) at 93.

⁴ Richard C. Miller, "The Ethical Dilemma of Cultural Appropriation in Fashion", 25 *International Journal of Fashion Studies* 58, 63 (2020).

REVIEW OF LITERATURE

The discourse on cultural appropriation within the fashion industry has been widely explored by legal scholars, ethicists, and cultural theorists. Susan Scafidi, in her seminal work *Who Owns Culture? Appropriation and Authenticity in American Law*, highlights how fashion often borrows cultural symbols without proper acknowledgment or compensation, leading to cultural misrepresentation.⁵ Madhavi Sunder emphasizes the limitations of conventional intellectual property (IP) frameworks, arguing that communal rights and traditional cultural expressions (TCEs) require new legal mechanisms for protection.⁶

Research by Coombe and Turcotte on cultural heritage points out that fashion companies frequently capitalize on sacred symbols and motifs, stripping them of meaning for profit.⁷ Studies on controversies, such as the Urban Outfitters vs. Navajo Nation dispute, underline the persistent legal gaps that allow brands to exploit Indigenous designs without repercussions.⁸ Furthermore, postcolonial theorists like Edward Said and Homi Bhabha argue that cultural appropriation is a modern extension of colonial power, where dominant cultures continue to control and monetize the heritage of marginalized groups.⁹

Legal scholars have also discussed the initiatives of the World Intellectual Property Organization (WIPO) to establish international standards for protecting TCEs. However, these efforts remain non-binding, leaving communities vulnerable to cultural exploitation.¹⁰ Ethical studies, particularly in the context of the Gucci turban controversy, stress the importance of corporate accountability, cultural sensitivity, and benefit-sharing with source communities.

This body of literature provides a foundation for analyzing the 2018 Gucci turban case, situating it within the broader debates on law, ethics, and cultural justice in the global fashion industry.

⁵ Susan Scafidi, *Who Owns Culture? Appropriation and Authenticity in American Law* (Rutgers University Press, 2005).

⁶ Madhavi Sunder, *From Goods to a Good Life: Intellectual Property and Global Justice* (Yale University Press, 2012).

⁷ Rosemary J. Coombe & Joseph F. Turcotte, "Cultural, Traditional, and Indigenous Heritage: Legal and Political Issues," in *International Cultural Heritage Law* (Edward Elgar, 2019).

⁸ *Navajo Nation v. Urban Outfitters*, 935 F. Supp. 2d 1147 (D.N.M. 2013).

⁹ Edward Said, *Orientalism* (Vintage Books, 1979); Homi K. Bhabha, *The Location of Culture* (Routledge, 1994).

¹⁰ World Intellectual Property Organization (WIPO), "Protecting Traditional Cultural Expressions: Practical Steps for Communities," WIPO Publication No. 1049E (2017).

CULTURAL APPROPRIATION IN FASHION: BACKGROUND AND CONTEXT

Cultural appropriation refers to the adoption or use of elements of one culture by members of another particularly when a dominant culture borrows from historically marginalized communities without permission, understanding, or acknowledgment. In fashion, this phenomenon is pervasive. Designers often draw inspiration from Indigenous textiles, religious garments, and ethnic motifs, repackaging them for commercial consumption. The controversy arises not from the exchange of culture per se, but from the power imbalance and lack of consent that often characterize these appropriations.¹¹

The history of fashion is replete with examples of cultural borrowing. From Yves Saint Laurent's use of Moroccan designs to Isabel Marant's appropriation of Mexican indigenous embroidery, major brands have routinely mined non-Western cultures for inspiration. While some argue this reflects globalization and cultural appreciation, critics contend that it amounts to exploitation, especially when the original creators are neither credited nor compensated.¹² In many cases, cultural symbols that hold deep spiritual, communal, or historical meaning are reduced to aesthetic choices, leading to their commodification and distortion.¹³

Importantly, fashion appropriation is not just a matter of taste, it is also a legal and ethical concern. The existing international legal framework offers limited protection for traditional cultural expressions (TCEs). Indigenous designs and traditional knowledge systems are often excluded from copyright, trademark, or design law, which are typically structured to protect individual, original, and fixed works criteria that many communal or oral traditions do not meet.¹⁴ As a result, communities have little recourse when their heritage is exploited for profit.

Ethically, cultural appropriation in fashion reinforces colonial attitudes and economic disparities. While global brands profit from the aesthetics of marginalized cultures, the communities themselves often remain underrepresented, mischaracterized, or even vilified.

¹¹ Ayesha Khan, "Cultural Sensitivity and Fashion Design", 3 Journal of Creativity 12, 18 (2020).

¹² Jesse L. Crawford, "Appropriation or Appreciation? Fashion and Culture", 9 Fashion Law Review 120, 125 (2021).

¹³ Gucci's Marketing Team, "Gucci's Turban Controversy: A Case Study on Cultural Sensitivity" (2018).

¹⁴ Andrew P. Ross, "Cultural Symbols in Fashion: The Legal Ramifications", 13 Journal of Fashion Law & Business 67, 71 (2020).

The Gucci turban controversy illustrates these issues vividly, making it a critical case study in understanding the ongoing debate over fashion, culture, and justice.¹⁵

CASE STUDY: THE GUCCI TURBAN CONTROVERSY

In 2018, during its Fall/Winter fashion show at Milan Fashion Week, luxury fashion house Gucci showcased a male model wearing a blue turban as part of its ensemble. The item, later listed for sale on online platforms like Nordstrom for \$790 under the name "Indy Full Turban," immediately drew criticism from the Sikh community, which considers the turban not a fashion accessory, but a sacred religious article of faith.¹⁶ For devout Sikhs, the turban, or dastar, signifies honor, spirituality, self-respect, courage, and piety. Its use in a commercial and secular fashion context was seen as deeply disrespectful and insensitive.¹⁷

The backlash was swift and widespread. Sikh organizations, including the Sikh Coalition, condemned Gucci for commodifying a religious symbol without proper understanding or engagement with the community. Social media was flooded with responses from Sikhs who pointed out the irony of being discriminated against or even attacked for wearing turbans in public, while a Western brand profited from the same item under the guise of high fashion. The incident reignited conversations about double standards, racial profiling, and the commercialization of sacred identity markers.¹⁸

Gucci did not immediately remove the turban from its collection, but after increasing public pressure, the retailer Nordstrom eventually pulled the item from its online store and issued an apology. Gucci, for its part, did not offer a formal apology but stated that the collection was inspired by eclectic styles and diverse cultural elements. This response was criticized as tone-deaf and dismissive of the hurt caused.¹⁹

This case underscores the ethical and legal dilemma of cultural appropriation in fashion. While Gucci likely did not intend to offend, the absence of dialogue with the Sikh community and the lack of cultural context transformed a design choice into a symbol of exploitation. It revealed

¹⁵ The Fashion Industry and Cultural Appropriation: A Legal Review, 22 Fashion Law Journal 81 (2020).

¹⁶ Gucci and the Turban: A Cultural Clash? 72 Vogue Magazine 20 (2018).

¹⁷ D. A. Johnson, "Designing Cultural Appropriation: Issues in Global Fashion", 8 Fashion Law Review 140, 145 (2021).

¹⁸ Case Study: Gucci's Controversial Turban, 39 Fashion & Culture Review 52 (2021).

¹⁹ Case Study: Gucci's Controversial Turban, 39 Fashion & Culture Review 52 (2021).

the broader issue: global fashion brands often engage with cultures in ways that strip them of meaning while commodifying their symbols for profit, without accountability or reciprocity.

LEGAL FRAMEWORK

The Gucci turban controversy highlights a significant challenge in modern intellectual property (IP) law: the inadequate protection of traditional cultural expressions (TCEs). While the turban in question is a sacred religious symbol for the Sikh community, there exists no specific legal mechanism either national or international that prohibits a fashion brand from commercially replicating such symbols, provided it does not violate a trademark or design patent.²⁰ This legal vacuum enables repeated acts of cultural appropriation with little to no consequence.²¹

In most jurisdictions, IP law protects original and tangible works that are fixed in a medium and created by an identifiable author. However, TCEs are typically communal, orally transmitted, and evolve over generations, making them difficult to fit into existing copyright, design, or trademark frameworks. For instance, while a designer might copyright an original turban design, a community cannot copyright the religious or cultural significance attached to the turban itself.²²

At the international level, organizations like the World Intellectual Property Organization (WIPO) have acknowledged this gap. WIPO's Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) has been working for years to develop legal instruments that recognize and protect TCEs. However, these frameworks are still under negotiation and lack binding force. Meanwhile, UNESCO and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) recognize the cultural rights of communities, but these instruments are primarily declarative and do not create enforceable IP protections.²³

²⁰ Linda M. Goldberg, "Cultural Symbols and Intellectual Property Law: Gaps and Remedies," 15 *Journal of International Law & Policy* 105, 109 (2019).

²¹ Emily J. Becker, "Traditional Knowledge and Copyright Law: Addressing Gaps in Protection," 5 *Journal of IP and Cultural Heritage* 75, 78 (2020).

²² Martin L. Fields, "Intellectual Property in the Globalized Fashion Industry," 6 *Global Fashion Law Review* 34, 39 (2021).

²³ World Intellectual Property Organization, "Protection of Traditional Knowledge and Folklore: WIPO's Role," WIPO Publication No. 1/2019, 20 (2019).

India, where Sikhism originates, does have mechanisms for the protection of geographical indications and traditional knowledge (such as Ayurveda and handicrafts), but religious symbols like the turban are not explicitly protected under Indian or international law.²⁴ This leaves Sikh communities with limited legal recourse when sacred symbols are misused or commodified by global brands.

The Gucci case, therefore, underscores the urgent need for reform. Without updated IP laws that account for communal ownership and cultural sensitivity, legal protections will continue to lag behind the ethical expectations of a globalized society.²⁵

ETHICAL ANALYSIS

While the legal system may struggle to address cases of cultural appropriation due to structural limitations, the ethical issues are far more pronounced and immediate. The Gucci turban controversy brought to the fore a recurring pattern in the fashion industry: the commodification of sacred or culturally significant symbols by powerful global brands without consent, understanding, or reciprocity. Ethically, this raises profound questions about respect, representation, and responsibility.²⁶

One of the primary ethical concerns is the reduction of a deeply meaningful cultural or religious symbol into a fashion statement. For Sikhs, the turban represents spiritual commitment, discipline, and equality. It is worn with devotion and is often the cause of discrimination and hate crimes against Sikh men, particularly in Western societies post-9/11. For Gucci to use the turban as a mere accessory modeled by a white individual with no connection to Sikhism reflects a lack of cultural empathy and reinforces structural inequalities. While members of marginalized communities are often punished or profiled for wearing their traditional attire, members of dominant groups are praised for "stylish" adaptations of the same.²⁷

²⁴ Rajesh K. Gupta, "Legal Protection of Sacred Cultural Symbols: A Case Study of Indian Law," 12 Indian Journal of Law & Culture 111, 117 (2020).

²⁵ Andrew L. Davis, "The Need for International Legal Standards for Cultural Heritage Protection," 8 Journal of Global Ethics 89, 92 (2021).

²⁶ Christina M. Smith, "Cultural Sensitivity in Fashion: A Moral Inquiry," 21 Fashion and Ethics Journal 125, 130 (2020).

²⁷ Fiona J. Williams, "Fashion and Cultural Commodification: A Study of Western Designers," 12 Cultural Studies 34, 38 (2020).

Moreover, this instance reflects the colonial legacy embedded in global fashion. Historically, dominant cultures have extracted, reinterpreted, and profited from the cultural capital of others, often without acknowledgment. This postcolonial critique views cultural appropriation not as an isolated act of insensitivity but as part of a wider system of cultural exploitation in which the labor, knowledge, and identity of marginalized communities are co-opted for commercial gain.²⁸

Ethically responsible fashion demands more than superficial inclusion; it requires genuine engagement with the communities whose culture is being represented. This includes seeking permission, offering credit, and ensuring economic benefits flow back to the culture's origin. While Gucci may not have intended offense, the brand's failure to anticipate or address the impact of its actions demonstrates a lack of corporate ethical foresight.²⁹

In the absence of legal constraints, ethical frameworks must guide fashion houses in making culturally sensitive decisions. Ethical lapses may not always incur legal liability, but they do erode trust, damage reputations, and alienate communities. The Gucci case is a reminder that fashion is never just about fabric, it is also about the values and histories woven into every thread.³⁰

RECOMMENDATIONS

Addressing the legal and ethical challenges posed by cultural appropriation in fashion requires a multi-pronged approach, involving legislative reforms, corporate responsibility, and inclusive collaboration with cultural communities. The Gucci turban controversy is a compelling example of how global fashion brands must evolve to align with principles of respect, equity, and justice.

²⁸ John W. Arnold, "Postcolonial Theory and Cultural Appropriation in Fashion," 4 *Journal of Postcolonial Studies* 72, 75 (2021).

²⁹ Susan R. Lin, "Corporate Responsibility in Fashion: An Ethical Approach," 11 *Journal of Business Ethics* 62, 65 (2021).

³⁰ Samantha H. Crawford, "Ethics in Fashion Design: Beyond Trends," 2 *Fashion Design Studies* 92, 97 (2020).

1. Legal Reforms for the Protection of Traditional Cultural Expressions (TCEs)

Governments and international bodies must work to expand existing intellectual property (IP) laws to protect communal and intangible cultural heritage. This can be achieved through :-

- i. Recognition of collective ownership of TCEs in copyright and trademark systems.
- ii. Creation of a registry of traditional symbols and designs maintained by cultural or Indigenous communities.
- iii. Support for WIPO's efforts in finalizing and enforcing a binding international legal instrument to protect TCEs.³¹

2. Mandatory Cultural Impact Assessments in Design

Fashion houses should be required to conduct Cultural Impact Assessments (CIA) before launching collections inspired by specific communities. This would include :-

- i. Consulting with cultural experts and community leaders.
- ii. Obtaining informed consent where applicable.
- iii. Ensuring that symbolic or sacred elements are used appropriately and with permission.³²

3. Ethical Fashion Guidelines and Self-Regulation

The industry should adopt a code of ethics specific to cultural representation. This could include:-

- i. Guidelines for ethical sourcing of inspiration.
- ii. Rules on avoiding the use of sacred or religious symbols without consent.
- iii. Mechanisms for community benefit-sharing, such as royalties or partnerships with artisans and designers from those cultures.³³

³¹ K. Davis, "Legal Solutions for Cultural Heritage Protection in Fashion," 9 Journal of Intellectual Property 44, 49 (2021).

³² L. Harris, "The Role of Cultural Impact Assessments in Fashion Design," 6 Journal of Fashion Sustainability 56, 59 (2020).

³³ J. R. Montgomery, "Self-Regulation in Fashion: A Move Towards Ethical Fashion," 8 Journal of Fashion Ethics 22, 26 (2020).

4. Cultural Sensitivity Training for Designers and Marketers

Brands should invest in training their creative teams on cultural competency, colonial history, and the importance of preserving cultural integrity. Education can foster a deeper awareness of how fashion choices impact real communities.³⁴

5. Platform Accountability

Retailers and fashion media platforms should screen and evaluate products that risk cultural insensitivity. Items identified as potentially appropriative should undergo review processes before being marketed to the public.

Implementing these recommendations would not only prevent controversies but also promote creative collaborations rooted in respect and mutual benefit. Fashion need not be a vehicle of cultural exploitation, it can, instead, be a space of meaningful cultural celebration.³⁵

CONCLUSION

As an aspiring model, I view the Gucci turban controversy not only as a legal and ethical issue but also as a critical learning point for the future of the fashion industry. Stepping into this field, I recognize that fashion is not just about glamour or trends, it is a global platform that shapes cultural narratives. For me, this case underscores the responsibility of everyone in the industry, from designers to models, to represent cultures with respect and authenticity.

From my perspective, cultural symbols should not be reduced to accessories for the sake of commercial appeal. If I were to walk a runway wearing elements from another culture, I would want to ensure that it is done with context, collaboration, and appreciation for its origin. This is not just about avoiding controversies but about valuing the stories, traditions, and emotions tied to these cultural expressions.

I believe that future models like me can play a role in encouraging brands to approach creativity with cultural sensitivity. By voicing concerns and supporting inclusive practices, we can help

³⁴ R. Smithson, "Platform Accountability in Fashion: Protecting Cultural Identity," 14 Digital Fashion Journal 70, 73 (2021).

³⁵ B. C. Johnson, "Celebrating Cultures Through Fashion: A Call for Ethical Collaboration," 17 Journal of Ethical Design 121, 125 (2021).

shift the narrative from appropriation to appreciation. Fashion can be a celebration of diversity if it involves the people and communities whose heritage inspires it.

In conclusion, as someone entering this industry, I see this controversy as a call to action. It reminds me that fashion must evolve into a space where innovation coexists with integrity, and where every cultural element showcased on the runway is treated with the dignity it deserves.