

# *The Plagiarism Charges Against Ward Churchill*

Tom Mayer  
Department of Sociology  
University of Colorado at Boulder

The research misconduct charges against Ward Churchill are of two general kinds: charges of faulty research and charges of plagiarism. The faulty research accusations have been largely discredited through the efforts of professors Eric Cheyfitz, Michael Yellow Bird, David Stannard, Huanani-Kay Trask, James Craven, Ruth Hsu, and others. These independent scholars, all of whom are intimately familiar with Native American history and culture, have shown that the *Report of the Investigative Committee* (henceforth called *Report*) finding Churchill guilty of research misconduct contains numerous errors of omission and commission. The *Report* improperly converts legitimate scholarly controversies into indictments of the positions taken by Professor Churchill.

In this essay I will argue that the three plagiarism charges discussed in the *Report* are also without compelling force. Significantly, all these charges pertain to Churchill's work as an intellectual within the broad but fractured movement to emancipate indigenous people. None of the papers accused of plagiarism were written for the purpose of building an academic career. This is important because the norms of authorship within the social movement context differ substantially from those within the academic domain.

All three plagiarism charges refer to publications that are now fourteen or more years old. Although various persons hostile to Professor Churchill (e.g. John LaVelle, see section two below) have circulated rumors of misconduct for at least a decade, no action was taken against Churchill until he became a political pariah (through the exercise of free speech). On the contrary, prior to his persecution for lack of mandatory patriotism, Churchill was honored as a valuable member of the University of Colorado faculty. He was appointed chair of the Ethnic Studies Department, placed on influential University committees, and given prestigious teaching awards.

The source of all three plagiarism charges is the University of Colorado administration rather than the putative victims of Churchill's putative misconduct. In two of the three cases the supposed victims made no complaint at all and do not appear critical of Professor Churchill. In the third case, the CU administration solicited a complaint, but the perpetrator of the plagiarism remains obscure and the complaint is not specifically directed against Churchill.

## *1. Alleged Plagiarism of a Pamphlet by the Dam the Dams Campaign*

The first plagiarism charge concerns a 1972 pamphlet by a Canadian environmental organization called Dam the Dams Campaign about a scheme to transfer water from northern Canada to the

United States. Churchill supposedly plagiarized parts of this pamphlet in a series of four articles he published under the title “The Water Plot: Hydrological Rape in Northern Canada.” The first of these four articles appeared in a 1989 volume edited by Professor Churchill. By this time Dam the Dams Campaign was defunct, but a person associated with the organization had approached Churchill and asked that he publicize the water transfer scheme which was still very much alive. The 1989 article is a minor expansion and revision of the original pamphlet, and accordingly Dam the Dams Campaign is listed as the first author. Thus the issue of plagiarism does not exist for this paper.

The second article in Churchill’s “The Water Plot” series appeared in the April 1991 issue of *Z Magazine*. This article is less academic than the first paper in the series and contains no footnotes. Churchill gave Dam the Dams Campaign co-authorship of this article, however, the organization’s name was omitted by *Z Magazine*’s editor without Churchill’s knowledge and against his wishes. Information about Dam the Dams Campaign was, however, included at the end of this article. Professor Churchill has made a point of never citing the 1991 *Z Magazine* article from which the name of Dam the Dams Campaign was omitted.

The third and fourth articles in the series appear respectively in the 1993 and 2002 editions of Churchill’s book, *Struggle for the Land: Native North American Resistance to Genocide, Ecocide and Colonization* (a book which won the Gustavus Myers Award for Literature on Human Rights). Each of these articles is longer, more detailed, and more intensely footnoted than either the 1972 pamphlet or the 1989 article. For example, the 2002 article is several times as long as the 1972 pamphlet and contains 140 footnotes, most of which refer to material that appeared after 1972. The 1989 article, of which Dam the Dams Campaign is first author, is cited in five different footnotes, and Churchill is certainly not denying the organization credit for its role in discovering and alerting the public to the water transfer scheme.

To my knowledge, no one associated with the Dam the Dams Campaign has ever complained about any of the four “Water Plot” articles. On the contrary, virtually everyone in the environmental movement is deeply grateful to Professor Churchill for keeping the issue alive and for extending the critique – with considerable new documentation – into the 21<sup>st</sup> century. In particular John Hummel, who is Churchill’s contact with Dam the Dams Campaign, has praised his contribution to the water transfer protest. Calling this plagiarism is an exercise in malicious hyperbole.

## **2. *Alleged Plagiarism of a Paper by Rebecca Robbins***

The second charge of plagiarism concerns a 1992 paper authored by Rebecca Robbins. Professor Churchill allegedly plagiarized this paper in three different chapters of his 1993 book *Struggle for the Land*. Rebecca Robbins, the purported victim of the plagiarization, did not originate this accusation. John LaVelle, a law professor now at the University of New Mexico who is fiercely hostile to Churchill, suggested he had a hand in writing the Robbins article but did not accuse him of plagiarism. Previous critiques of the *Report* have exposed LaVelle as a

“biased and flawed source for major arguments” against Churchill. The charge of plagiarism here appears to come from University of Colorado Provost Phillip DiStefano.

After examining the three chapters in *Struggle for the Land* and hearing verbal testimony, the investigating committee dismisses this plagiarism charge because Professor Churchill claims to be, and actually is, the author of the paper attributed to Rebecca Robbins. Indeed, Churchill acknowledges that he occasionally publishes under other names, sometimes under the names of living people. When contacted through her attorney, Professor Robbins declined to speak with the investigating committee. It appears that she willingly put her name on the paper authored by Professor Churchill.

Having dismissed the plagiarism charge, the investigating committee should have dropped this matter altogether. Instead, the committee resorts to an *ad hoc* reformulation of the misconduct charge. According to its strained and adventitious interpretation of the standing rules, publishing one’s own work under another name constitutes research misconduct. This interpretation effectively proscribes ghost writing of non-fiction papers and books. Yet not only is the practice of ghost writing relatively frequent, but during times of political repression (e.g. the McCarthy era and perhaps today) it enables vulnerable scholars to participate in public discourse. The notion that ghost writing of non-fiction work is impermissible strikes me as both pernicious and astonishing. Ghost writing is common in the fields of medical research, political commentary, and biography. The Canadian Writers Union has even established a fee schedule for ghost writing. The actions of the investigating committee on this matter expose the adversarial spirit in which it conducted the entire investigation of Professor Churchill. The committee seems determined to find Ward Churchill guilty of something and to exaggerate the magnitude of his alleged offense.

The *Report* says that publication under another name is particularly egregious if the author subsequently uses his own ghost written work as a supposedly independent authority for claims he is making. The report cites about a dozen footnotes (out of well over 10,000 in Professor Churchill’s collected works) in which Churchill references an article he has ghost written. From the gravity of the rhetoric, one would think that Churchill was building academic Ponzi schemes by sustaining controversial propositions with recursive citations from his own ghost written texts. Nothing could be further from the truth. For example, the *Report* cites two footnotes in which Churchill references an article on “The Demography of Native North America” that he ghost wrote. These footnotes do not defend a debatable hypothesis, but provide a convenient source of information about the size of the Native American population. The particular citations are buried within a multitude of other footnotes (118 in one of the articles indicated and 189 in the other). Elimination of these particular references would have absolutely no effect on the credibility of the overall argument in either article, or even on the credibility of any discernible sub-thesis.

Even though these unacknowledged self citations are substantively harmless, one could ask why Churchill did not declare his own authorship when making references. A usable citation must reference the published form of a paper. Declaration of alternative authorship could confuse a reader who is seeking a source. More importantly, a declaration of alternative authorship could

embarrass or even materially harm the persons under whose names the articles were published. The persons listed as the authors of the article mentioned in the previous paragraph (Lenore Stiffarm and Phil Lane) are well known allies of Churchill in the movement to emancipate indigenous people.

Besides being an academic scholar, Ward Churchill is also a public intellectual – arguably the most renowned public intellectual on the CU faculty – and a key participant in the American Indian Movement. Ghost writing is widely practiced in movements for social change. Within such movements the production of knowledge is often conceived as a collective activity, not as the exclusive domain of individual scholars. In these contexts, the purpose of knowledge production is not building personal careers, but rather empowering social change. Authorship is sometimes assigned to achieve various collective objectives. This does not seem deceptive because all participants contribute to the movement and because the knowledge sustaining the written text is jointly created. No one is coerced to put her or his name on a paper written by someone else. They do so voluntarily to express both solidarity with the movement and agreement with the ideas contained in the paper. Large research teams that produce results collectively sometimes operate in a similar fashion. Lead, or even exclusive, authorship is allocated to the person most in need of recognition.

### **3. *Alleged Plagiarism of a Paper by Fay G. Cohen***

The third plagiarism charge concerns a 1991 paper on Native American fishing rights by Fay G. Cohen, a faculty member at Dalhousie University in Nova Scotia, that Ward Churchill allegedly misappropriated. Cohen's paper was originally published in a book entitled *Critical Issues in Native North America, Volume II* that was edited by Churchill. Cohen's paper was also slated for republication in a 1992 volume named *The State of Native America: Genocide, Colonization, and Resistance* edited by M. Annette Jaimes, a former wife of and sometimes collaborator with Churchill. For reasons that remain uncertain, Professor Cohen decided to withdraw her paper from the Jaimes anthology. Nevertheless, an article named "In Usual and Accustomed Places" about Native American fishing rights and the struggles to secure them did appear in *The State of Native America* book. The title of this article refers to the locations where Native American fishing was permitted according to the text of the 1854 Treaty of Medicine Creek. The *Report* finds this paper guilty of plagiarism and identifies Professor Churchill as the plagiarizer even though he is not listed as the author.

Within *The State of Native America*, authorship of "In Usual and Accustomed Places" is attributed to the Institute for Natural Progress. This Institute is described as "a decentralized, indigenous-oriented research group established by Winona LaDuke, Oscar Rodriguez and Ward Churchill in 1982." Attributing authorship to the Institute for Natural Progress usually means that the manuscript resulted from a collective process of some kind. Professor Churchill says he did not write "In Usual and Accustomed Places" and does not even recognize large portions of the article's content. Although the list of contributors to *The State of Native America* book credits him with taking the lead in preparing of this article, Churchill insists this is not correct.

He did no more than final copyediting work on this paper.

That the article “In Usual and Accustomed Places” does plagiarize the earlier paper by Fay Cohen seems indisputable. Thirty two out of the fifty five footnotes in Professor Cohen’s paper are repeated verbatim in this article. Long passages are entirely the same or have trivial modifications. The overall structure of “In Usual and Accustomed Places” parallels that of the earlier paper, and about one third of the quotations used are the same. Nevertheless, the two papers are also quite different. Cohen’s paper emphasizes the role of law in helping Native Americans regain their proper fishing rights and the emergence of a cooperative spirit in relations between Indians and whites. “In Usual and Accustomed Places” stresses the effectiveness of resistance (indeed, the effectiveness of armed resistance), the persistence of white efforts to expropriate Native Americans, and the likelihood of future conflict about fishing rights issues. The paper does give some credit to Fay Cohen: her work is cited in seven of the footnotes.

The *Report* on Churchill emphatically rejects his denial of authorship, yet careful examination of “In Usual and Accustomed Places” lends credence to his denial. The paper has the earmarks of a manuscript written by a committee. It is an ungainly integration of a text about fishing rights law with a text about the Native American fishing rights movement. A few unanalyzed time series are thrown in for quantitative relief. Communication between the presumably multiple authors of the manuscript seems imperfect at best. For example, footnote sixty-two on page 232 explains how Native Americans do not like the term “treaty rights”. This term implies that the rights involved were created by the treaty rather than existing beforehand and being simply acknowledged by the treaty. The writer of this section seems unaware that the very same point is made twelve pages earlier in an extended quote by a Indian elder.

The plagiarisms, though extensive, are not distributed evenly throughout the text. They appear in clusters. The text on fishing rights law is heavily plagiarized while the text on the Native American fishing rights movement involves little if any plagiarism. Not only does this pattern support the collective composition of “In Usual and Accustomed Places”, but it also sheds light on the role of Ward Churchill. Anyone who reads Professor Churchill’s writing soon becomes familiar with his distinctive polemical style with frequent use of sarcasm, pejorative comment, and cynicism about state policy. Very few such stylistic identifiers appear within the text of “In Usual and Accustomed Places”, and those that do occur in the non-plagiarized sectors about the fishing rights movement. The article also contains errors that would not have occurred if Churchill were deeply involved in its preparation: Fay Cohen’s name is misspelled in footnotes one and two (“Faye”), and footnote two also gives the wrong title for her article in *Critical Issues in Native North America*.

Consideration of Churchill’s overall scholarly production also supports the claim that he did not have more than a minor role in writing this paper. The themes of those articles in *The State of Native America* that Churchill acknowledges having ghost written – Native American demography, American Indian governance, Indian identification policy, and the role of Native

American women in resistance – appear again and again in his published works. On the other hand, I have not found any other discussion of Native American fishing rights throughout his voluminous writings. If Churchill knew enough about fishing rights to be a principal author of “In Usual and Accustomed Places”, surely material on this subject would appear elsewhere in his oeuvre.

In her written statement to the investigating committee, Fay Cohen says that she did not complain to the University of Colorado at any time. Contact with her was initiated by the dean of the CU Law School through John LaVelle who, as mentioned above, is rabidly antagonistic towards Churchill. Professor Cohen firmly believes that her own article was plagiarized, but neither she nor the Dalhousie University legal counsel, who investigated the matter and concurs with her opinion, accuse Ward Churchill of being the plagiarizer.

The authors of the *Report* reject Churchill’s denial of authorship for another reason as well. They claim to have documentary evidence that he was Fay Cohen’s contact for the paper published in *Critical Issues in Native North America* (1991), a book which he edited. They also claim he was her contact for the paper’s proposed republication in *The State of Native America*. According to their account, collaborative relations between Cohen and Churchill broke down at some point, Professor Cohen withdrew her paper, and then “In Usual and Accustomed Places” emerged as a substitute. As the chief contact person, Churchill is also the chief suspect of plagiarizing. But this argument will not pass muster. The task of manuscript acquisition is often quite distinct from that of editing and writing. As the most academically distinguished member of the Institute of Natural Progress group, it is only natural that Ward Churchill would serve as the contact person. This does not contradict his claim to have had only a marginal role in the preparation of “In Usual and Accustomed Places”.

Ward Churchill has always been a provocative and controversial scholar. During over three decades in which he has functioned as a leading intellectual of the embattled American Indian Movement, Churchill’s enemies have called him many things including “truculent”, “intimidating”, and even “despicable”. But two things he has not been called are crude and unintelligent. The plagiarism committed by “In Usual and Accustomed Places” is both crude and unintelligent. As such it falls outside the modus operandi of Ward Churchill as experienced by both friends and foes.

The *Report* convicts Professor Churchill of plagiarism for a paper he did not sign, claims not to have written, which is published in a book he did not edit, and whose text clearly diverges from significant features of his published work. At the very least, this judgement violates the criminal court standard of establishing guilt beyond reasonable doubt. The authors of the *Report* will respond, of course, that the rules governing the investigation do not require establishing guilt beyond reasonable doubt. The rules only required being “non-adversarial” and substantiating allegations by “a preponderance of evidence.” This is a much lower standard of evidence, but I doubt that most fair minded people who study this case will think it has been satisfied. The investigating committee definitely flunks the requirement of being non-adversarial. Churchill

may be culpable for inattentive or lackadaisical copyediting, but a verdict of plagiarism is both unwarranted and unfair,

#### **4. Conclusion**

Procedural fairness in modern jurisprudence requires that accusation, formal charging, decisions about evidence, and imposition of penalties should be clearly separated. This has not happened in the case of Ward Churchill. The CU administration, usually in the person of Provost Philip DiStefano, has functioned as Churchill's accuser, grand jury, tribunal selector, and sentencing judge. This concatenation of roles makes it easy for political motivations to penetrate the process of adjudication. While a charade of academic due process has been maintained, the treatment of Ward Churchill strongly resembles a political lynching. The plagiarism charges against Professor Churchill are superannuated, unproven, substantively inconsequential, and either wrongheaded or misdirected. His reputation as a scholar has suffered egregiously and unjustifiably as a consequence,

Due to my own involvement in his defense, I have talked to many people about the Ward Churchill affair. Most of these interactions have been disheartening to say the least. Among other things, I have received a considerable number of hate letters and e-mails characterized mainly by inarticulate rage and vulgarity. More discouraging, however, is the response of many purported liberals who claim to support academic freedom and who know something about the history of McCarthyism. Usually these individuals are completely unfamiliar with Churchill's work and misunderstand the "little Eichmanns" phrase that is reiterated ad nauseam in the media. Knowing that a panel of reputable academics has found him guilty of plagiarism, all concern for academic freedom vanishes and my liberal interlocutors often express contempt for Churchill and support draconian penalties. They fear that the reputation of liberalism might suffer from support of a proven plagiarizer. They recoil from thinking that a panel of reputable academics could be swayed by private animosity or the prevailing political climate. Only with the greatest reluctance do these purported liberals consider contrary arguments or evidence. During these interactions I become painfully aware of how profoundly both Professor Churchill and freedom of critical thought have been wounded by this politically inspired inquisition. A just monetary compensation for Ward Churchill would be very expensive indeed. The damage to freedom of thought may be irreparable in the near future.