

Category: Intellectual History and Methods

Arts, Inc.: How Greed and Neglect Have Destroyed Our Cultural Rights

By Bill Ivey. 2008. Berkeley: University of California Press. 368 pages. ISBN: 978-0-520-24112-1 (hard cover).

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Bill Ivey's book *Arts, Inc.: How Greed and Neglect Have Destroyed Our Cultural Rights* is a gift to, among others, his fellow American folklorists. As recipients of this gift, we have not yet offered a proper thank-you note. As one of those charged with writing such a note on our collective behalf, I am negligent and begin this overdue review with a *mea culpa* and apology. Ivey's book is timely and important. I have hope that other scholarly reviews of the book by folklorists will soon appear. *Arts, Inc.* deserves to be at the center of a wide discussion in which other folklorists take part. This is not yet happening, and we have left Ivey somewhat out on a limb advancing the cause of a people-centered cultural policy alone. We do not need to agree with him on all of the particulars in order to support the larger cause based on our own experiences as folklore scholars and public practitioners.

One upside of an overdue review is that the passage of time—even of a couple of years—can cast a work of scholarship in a new light. The title and subtitle of Bill Ivey's book emphasize the negative side of his case, in essence, the diagnosis. The book also offers, in a more hopeful voice, a series of remedies. Ivey's book was written in the wake of his service as the Chairman of the National Endowment for the Arts (1998-2001) in the administration of U.S. President William (Bill) Clinton. In it, Ivey builds upon his earlier work as Director of the Country Music Foundation (1971-1998) and his observations as a folklorist and ethnomusicologist interested in vernacular and popular culture in the United States. The core discussions center, though, on the lessons learned during his NEA service and on his studies of the U.S. arts sector in the years since. I highlight the time dimension in noting that the book stands as a kind of manifesto for a new cultural policy offered up as the U.S. presidential elections of 2008 were concluding and as a book that was first being read, and made sense of, in the early days of the presidency of Barack Obama. The book is several things, but one of them is an intervention in the national policy-setting realm with a special eye toward the executive branch in which Ivey once served. The tenor, as well as the accomplishments, of the first two years of the Obama administration will shift the ways that Ivey's book will be experienced by new readers, without negating its importance or the seriousness of his critique. In time, historians will be able to judge more objectively the status of arts and cultural policy in the Obama administration and in the era inaugurated with his election. In the heat of the present moment, the passage of two years suggests to me that—in the context of economic distress, congressional dysfunction, and a further decayed national civil and discursive life—things have gotten worse rather than better, despite the Obama administration's much higher-than-typical native concern for the moral issues at stake in Ivey's critique. It will be interesting to see how Ivey himself reflects on the fate of art and culture policy in

the period since 2008.

So what are the issues and what are Ivey's remedies? First the problems. Ivey describes a nexus of issues that interweave to constitute a de facto cultural policy that serves short-term corporate interests very well and citizen, community, national, and international human interests—present and future—very poorly. The negative cultural ramifications that stem from the growth and expanding scope of U.S. copyright law is a central problem addressed in *Arts, Inc.* Here Ivey synthesizes, in a national political register and with the value orientations of a public folklorist, evidence and critiques that have been developed by the copyleft movement and by scholars such as Lawrence Lessig and Siva Vaidhyanathan. An overreaching intellectual property (IP) regime is already strangling the capacity of individuals to remix past artistic and cultural forms that is fundamental to the (re-)production of a vibrant national (also community and international) cultural life and of the creative realization of individual human potential. We are, through our legal system, cutting ourselves off from our own collective heritage. This imbalanced system serves ever more consolidated corporate interests in a market economy but is not in the national interest. (It is important to note that Ivey follows the logic of the Creative Commons and of copyleft advocates in acknowledging the built-in value of copyright and other IP frameworks. It is the overextension of these means at the expense of the cultural commons that is the problem.)

The destructive prominence given to IP law in our de facto national cultural policy represents an expression of the wider problems inherent in a system in which corporations have become the primary actors in a cultural life that is very much built around mediated expressive forms. Drawing upon his own experiences, Ivey tells moving and disturbing stories about corporate media archives and the artistic treasures that they contain. Preservation and access values—which are central to public sector archives, libraries, and museums—are not the dominant concerns in such repositories. For reasons that Ivey describes, the massive historical holdings of the major media firms are in some ways more precariously situated, from a preservation perspective, than deeply underfunded collections stewarded in public archives. From an access and reuse point of view, they are completely enclosed. These facts are of great concern to Ivey, as is reflected in the following passage from his sustained argument:

“Once a movie has ended its run at the Roxy or a record or book has dropped from lists of hits and best-sellers, each instantly becomes part of the accumulated body of music, drama, dance, comedy, literature, and visual art that constitutes our nation's cultural heritage. And just because some company owns a movie or a record, just because copyright lets it buy, sell, or lock away creative treasures, we don't give up our citizens' right to know that our artistic heritage is secure and preserved for future generations. Americans have an equally compelling right to see and hear art from the past; a right of access sufficient to ensure that young citizens can gain knowledge and understanding by actually hearing and seeing art from earlier eras.” (29-30)

Increased IP enclosure of mediated expressive culture of national importance articulates with physical enclosure and archival neglect, of the actual physical carriers (tape, film, negatives, recording “masters”, etc.) of that expressive culture under conditions of accelerating commoditization, technological change, and the (often disorganized) consolidation (and globalization) of media firms. New technologies of digital (re-)production, while making new forms of small-scale creativity possible, have also, in practice, become new means by which the commodity-value of cultural expression is extended in time and enclosed not only in new and stronger copyright but also digital

rights management technologies that hinder the possibilities of creative life that go beyond passive consumption in the marketplace. I am paraphrasing, in summary, arguments that are developed and supported with evidence and richly-told anecdote throughout Ivey's book.

The hinge linking the problems born of law, unregulated market forces, and communal neglect and the solutions that Ivey wishes to propose is an analysis of the ways that the U.S. federal government currently handles cultural questions. Here Ivey's first-hand experience in the variously weak and strong position of NEA Chairman are brought most directly to bear on his problem. (I characterize his position, based on his description of it, as weak, on the one hand, relative to the heads of other federal agencies and as strong, or at least privileged, on the other, in comparison to the access and influence characteristic of other arts administrators in the United States.)

It is as a meditation on federal cultural policy that Ivey's book is at its most irreplaceable. As Ivey witnessed it, federal arts and culture policy structures and objectives are very weak. The institutions charged with overt work in this area are small and they are not situated at the center of larger concerns. At the same time, and beyond the fact that nearly everything that the federal government does impacts the broader social and cultural life of someone, nearly every federal agency pursues work that touches on the arts and culture in the narrower sense of these terms that are at issue in this book. Art and culture policy-making is thus ubiquitous in the federal government but it is not recognized as such and it is pursued in an uncoordinated, and sometimes contradictory, fashion that is not, Ivey's argument goes, addressing the needs either of citizens as individuals or of the nation as a whole. This diagnosis holds for both the creative lives of Americans and for the state of art and culture in U.S. policy abroad, including what is sometimes called the exercise of "soft power."

The failure of the federal government of the U.S. to understand the cultural dimensions of all of its functions and to adopt a specifically cultural policy is something that Ivey seeks to understand as well as remedy. In proposing the adoption of such a policy and the creation of stronger structures to support it, Ivey moves to the remedy phase of his work. It is here that he has, to this point, faced some direct criticism, although the debate has hardly begun in earnest yet. Richard Kurin, in the remarks that he made in the sequential debate with Ivey on national cultural policy at the 2009 American Folklore Society meetings, and Stanley N. Katz, in his 2009 review of the book for *Common Knowledge* (15:212-213), have both evoked the stultifying effects that a single, centralized national cultural policy and bureaucracy could have. They argue, in essence, that the existence of a formal cultural policy and cultural bureaucracy would be the only thing worse than the absence of a formal cultural policy and cultural bureaucracy. Kurin's counter-case is based on his own experience as a folklorist and senior official in that other arm of de facto U.S. cultural policy-making, the Smithsonian Institution.

I can muster some sympathy for those who fear either a strong or an ineffective centralized federal cultural policy institution, but Ivey makes a strong and practical case for the recognition—by federal officials and by citizens—of the cultural ramifications (at home and abroad) of what our government chooses to do and to not do across a wide range of domains, from environmental and military policy, to education, commerce, and diplomacy. An awareness of the arts in the everyday lives of people and of the ramifications of the arts, and of culture more broadly, for national life and international relations is a crucial need, one that Ivey shows is going unaddressed at all levels of government. If the problems of art and culture are not recognized at such, then there is small hope that government can

play a part in addressing the wider systemic problems that we face, problems that federal policy —through the extension of copyright and neighboring rights but also through various modes of media deregulation and the pursuit of hybrid public-private cultural partnerships—has often actually fostered and exacerbated.

Ivey's book is built around a meditation on what he proposes as a six-part "Cultural Bill of Rights." Folklorists should, at a minimum, read the rights statement that Ivey proposes and contemplate its relationship to the work that we do as scholars and workers in the cultural sector. Whether or not he anticipated their formal adoption, Ivey was smart to adopt this Bill of Rights framework as an anchor for the public, policy, and scholarly discussion that he wished to advance. (The Rights were initially proposed in a speech Ivey made while still NEA chair.) They help give his book structure and they have been, in the popular press, the hook that has helped Ivey gain a public hearing for his concerns and his proposals. As statements of principle, I subscribe to the vision that Ivey's Cultural Bill of Rights articulates. That we are not making more progress in addressing the failings that they speak to is a source of ever-greater concern to me. Given the developments that have come into clearer focus since *Arts, Inc.* was published—from the rise of cloud computing and proprietary, ephemeral e-books that actually spy on the consumers who purchase them, to the inability of the Obama administration to secure a robust Net-neutrality policy and the further enclosure of scholarly literature by consolidated multinational publishers—our artistic and intellectual lives are, on average, now more rather than less controlled by corporations and unprotected by a government serving our interests as citizens. While not giving up on our political responsibilities and not forsaking the possibility of government acting more robustly in the interest of the creative and cultural lives of citizens, we are, for the time being, left with the tools at hand. Creative Commons licenses (such as the one under which this review is published) and open access publishing projects (such as *JFRR*) represent third-sector efforts to rework the failing system that Ivey describes. Successfully working around—and mitigating in the ways that we can—a dysfunctional, if dominant, social, economic, and cultural system is what motivates many public folklorists to pursue projects of public education, community empowerment, artistic recognition, and social justice. In articulating present problems, *Arts, Inc.* advances such work even if its work of political transformation is stalled or will be slow in coming. While pessimistic about where we are in a larger sense, I am hopeful that the work and the discussion that Ivey has pursued will continue in productive ways.

Arts, Inc. was an outstanding concluding work in my inaugural graduate seminar on public and applied folklore and was well-received and appreciated by a large, diverse group of student folklorists and ethnomusicologists. It succeeded for a number of reasons, one of which I can highlight in conclusion. The book served my course and the students well because Ivey's professional biography has unfolded along lines parallel to the development of the field and mirroring the structure of this course. He found his way into public folklore and applied ethnomusicology at a formative point at which these undertakings, as we now know them, were still getting their bearings. He pursued first-rate work in this sector and then, in his work at the NEA, drew upon the lessons of these experiences in a national arts policy and arts administration context. In the current, post-NEA phase of his career—the phase of which this book is an important expression—he is working to improve the critical and conceptual tools with which arts and cultural policy is formulated and assessed. In the course that I teach, my aims are similar: to track the history and emergence of a distinctive public folklore sector contextualized within the wider field, to consider the diversity of work that has been done and that is emergent under its aegis, to locate public folklore practice within a larger political

and social field, and to engage in grounded critical and theoretical work of a reflexive nature on the basis of our field's distinctive position. While not a biography, and while the book does not discuss public folklore directly, Ivey's experiences, and our field's concerns, permeate the book and make it immediately recognizable as a broader contribution attuned to the ethos of public sector folklore in the United States.

Folklorists' work on arts and cultural policy in the U.S. has mainly unfolded at two extreme ends of a broader continuum. We do much great work and some critical reflection at the local level and we are, at the other end of the spectrum, involved in policy formulation and critique at the international level, as is reflected in our engagements with WIPO, UNESCO, and similar intergovernmental fora. Whereas much scholarly policy discussion in our field, as practiced in other countries, happens at the national level, this is not, with the exception of field-specific discussions of, for instance, the Smithsonian Folklife Festival, the case in the United States. Its specifically national frame of reference and its folkloristic concern with a wider realm of policy beyond specific programs of immediate concern to our field set *Arts, Inc.* apart among works by folklorists. It is a thoughtful, intelligent, and passionate work that aims to make a difference in the wider world. Along the way it will hopefully also make a difference in the author's home discipline.

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