The Fair Use Sermon: When Verbal And Visual Borrowing Cross The Line

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Abstract: This paper hopes to add to the conversation regarding plagiarism by approaching this issue from a different angle, primarily in regards to how we should properly use (and cite) sources that fall more into the realm of fair copyright usage. We live in a what has been called a wired world, meaning that we who speak for God must practice integrity in all aspects of our teaching ministry—including our creative aspect, such as audio, video and visual imagery. This paper, then, will discuss this concern, looking first at the problem of both verbal and visual borrowing, then provide an explanation of fair use codes, and then conclude with a discussion of existing and creative solutions especially as they relate to visual borrowing.

In April 2021, Religion News Service ran a series of articles related to the topic of plagiarism. The most notable of the articles, authored by editor Bob Smietana, was also the most ironic. The article opens by focusing on a woman attending virtual services with her congregation in Franklin, Tennessee. It chronicles her growing frustration with her minister’s preaching, culminating in a “really not Jesus-like” tirade when she discovered the minister’s sermon had been preached by another minister in Kentucky three years earlier. To add to her minister’s pastoral and homiletic misconduct, this deeply troubled woman discovered that the minister’s next sermon was a near word-for-word lifting—including a visual demonstration—of a sermon preached by none other than Mark Driscoll when Driscoll was still with his Mars Hill Church in Seattle. The 2013 sermon was titled, “Do Not Steal.” Knowing Driscoll’s own history with plagiarism, irony abounds. The woman’s minister resigned in 2017, only to be caught committing the same pastoral crime in April 2021 at his new congregation in Woodhaven, Michigan, again preaching old sermons from Driscoll. When asked by RNS about his use of sermons from other preachers, the minister simply said that he had studied hard for his sermons and had been run out of the congregation in Franklin due to a coup, leaving Smietana to conclude that “the truth of the Bible can still come through, even with a pastor who plagiarized. But that does not make it right.”

But what about the use of images in sermons? One of the issues that drew RNS attention was that the minister in question, Zach Stewart, had not only used Driscoll’s sermons word-for-word, but had also plagiarized visual imagery such as gesturing how to shoot a bow and arrow and the use of Driscoll’s graphics. Preachers may search through sermons on Paul’s letters to the Romans and come across an intriguing series by another preacher who has prepared excellent graphics. Then a preacher’s next sermon collection on YouTube includes the exact same graphics, without credit given online to the originator of the material or in the accompanying

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1 I would like to thank Tiffany Brooks, John S. McClure and especially Robert Stephen Reid for their helpful comments and thoughtful critique in the development of this essay.
4 Smietana, “‘If You Have Eyes, Plagiarize’: When Borrowing a Sermon Goes Too Far.”
printed or digital materials. We may chase the rabbit down the hole far enough to discover the congregational worship arts team that designed those eye-catching visuals in the first place. Or, in reviewing a student sermon, you find her selection of a visual image (one you seem to remember seeing years ago in your college art appreciation class) compelling. But when you search her notes to find any information regarding the image, you discover that there is no reference to any kind of source material. Is this simply bad research, or does it constitute plagiarism?

The issue of plagiarism, both verbal and visual, is not new to the preaching profession. As far back as 1952, Webb Garrison, then professor of preaching at Candler School of Theology, stated that, “Any minister can consistently produce original sermons. Yet there is a steady stream of instances in which plagiarism is detected in published works.”

The Internet has made this practice of “borrowing” immensely easy. To be honest, this author has frequently been guilty of visual borrowing in the past. The pressure to preach stimulating insights accompanied by evocative visuals has increased in the pastoral marketplace due to the increasing expectation of those who hear and see our sermons.

We have wrestled with this issue so much that “to cite or not to cite” is more than just an adaptation of Shakespeare’s immortal line from Hamlet.

Like it or not, preachers and worship leaders are bound by what is called “fair use” law for proprietary material. The desire to use others’ creative materials does have some limits, and when those limits are exceeded, the consequences can be serious. Ultimately, this essay is not about verbal plagiarism (i.e., the borrowing of another’s sermon), although it will touch on this concern. Instead, this essay seeks to broach a different discussion, one concerning the visual side of plagiarism—a topic of which there is a dearth of material, especially in homiletic literature.

Looking first at the problem of both verbal and visual borrowing, this essay provides an explanation of fair use codes and concludes with a discussion of existing and creative solutions for crediting sources, especially as they relate to visual borrowing. The hope is to initiate a generative conversation regarding the topic of “fair use” in homiletical and liturgical discussions.

**The Problem of Verbal and Visual Borrowing**

In a day when learning management systems arrive to campus with plagiarism detection software built into their coding, one would think that the issue of verbal and visual borrowing would be on the decline. However, it seems that the problem is getting worse rather than better. On one end of the spectrum is Rick Warren, who is famous for quoting Adrian Rogers: “If my bullet fits your gun, then shoot it,” meaning he has no problem with other preachers using his

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7 For example, see Scot McKnight, “Hey, Preacher, Is That Sermon Really Yours?,” Patheos, March 18, 2019 www.patheos.com/blogs/jesuscreed/2019/03/18/hey-preacher-is-that-sermon-really-yours/.
material verbatim in their own preaching, teaching, and even writing. On the other end of the spectrum are preachers like author (and former attorney) Carey Nieuwhof of Connexus Church in Ontario, who has argued that preachers should not provide sermons to a wider audience because the temptation to steal a sermon is great when the pressure is high. Both of these views are adventures in missing the point.

First, we need to ask what is the nature of the current problem with verbal borrowing in sermons? There was a time when, in order to borrow a homiletical insight—or an entire homily—one had to consult books; in particular, sermon collections. Sermons have been published for decades, with some modern major publishers running entire sermon series. For example, one popular preacher in my denomination from a generation or two ago published a handful of textbooks on preaching and pastoral ministry, even publishing a couple of collections of sermons. This was in the late 1970s and early 1980s. He continued to do so, even as he moved back and forth between the church and the academy. That is, until he visited a former student of his—without advanced warning—only to hear one of his own sermons preached word-for-word. Then there were sermon tapes, and later CDs. Lynn Anderson is a popular preacher within my denomination whose “tape ministry” was quite successful. That is, until the week the tape did not record. Blank tapes were sent across the United States, much to the dismay of many preachers. Anderson said that he decided to discontinue the taping of his sermons when he received a call from one flustered preacher who asked what he would preach in a couple of weeks because he only preached what Anderson had preached.

It is one thing to quote an insight from a popular preacher like Barbara Brown Taylor or Andy Stanley in a sermon. Neither is it unusual to cite a passage from the preacher’s favorite biblical commentary. In doing so, the preacher develops a “discipline of invitation” which allows other voices to be heard in the sermon, deflating the preacher’s own position of power and conflating various streams of insight into one united voice. However, it is wholly another thing to borrow these insights—or entire sermons—without attribution simply to create an Aha! moment for the listeners. Recent statements from William Willimon such as “Stealing really isn’t stealing if it’s done unselfishly for the good of my neighbor” and “My sermonic borrowing is an indication of how much I love my people,” even if offered in jest, are ethically incompatible with the preaching ministry. This is what Michael Knowles has referred to as the “stealing of power” from another which perverts the sermon into a weapon of violence rather than an instrument of peace. Reid and Hogan refer to this as a problem of in-authenticity. They note, “In reality, there is a lot of borrowing and influence that goes on in the production of anything worth reading or hearing. That is a good thing. Once the term plagiarism is applied to borrowing however, it suggests a large amount of uncited, verbatim usage rather than just influence. It also

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11 My thanks to Casey Thornburgh Sigmon for this insight; personal conversation with the author, December 6, 2019; Thomas G. Long also discusses something similar when he talks about giving credit to the “great cloud of witnesses that influence our sermons; The Witness of Preaching, 3rd ed. (Louisville: Westminster John Knox Press, 2016), 259.
13 Michael Knowles, personal conversation with the author, December 6, 2019.
reframes the activity as a form of cheating.”

The issue that is at play here is not ingenuity but integrity. As Tom Long has noted, “There is a difference between being a debtor and being a thief… Preachers who strive to tell the truth, who seek to honor the communion of saints, who desire to maintain the trust of the faithful community—that is to say, preachers with ethical integrity—will wrestle with these questions and make the best decision they can.”

On one hand, “intellectual property” is a thing that should be respected. While one preacher may be okay with anyone using his or her material, this is not and cannot be seen as a blanket view of those in the pastorate. On the other hand, any sermon, just like any book, can have value to a wider audience when used appropriately. As Bradley Munroe once humorously mused,

Perhaps I am being much too negative about the possibilities for good and way too cautious about petty moral hindrances to good preaching. Imagine the possibilities: through the Internet good sermons could be universally available to every minister in the technologically advanced world. The ‘demise’ in modern preaching could be ‘cured’ overnight. My limited vocabulary and lack of theological insight would no longer hinder my congregation from growing into the likeness of Jesus Christ. Bible reading would return! Mission would explode! Maybe even evangelism would happen! Oh, it is too wondrous to think. I am giddy.

The former view is confronting plagiarism head-on by embracing it as an option, while this latter view is preventing plagiarism at any cost.

It is hard to believe that Chris Stinnett’s article on citing our sources was written over twenty years ago. However it is still as timely as ever. There have been back-and-forth conversations as well as entire issues of academic journals dedicated to the topic. Yet the present essay is not about borrowing another preacher’s sermon. In 2022, if you still think borrowing another’s sermon (or sermon illustration or other portions of a sermon) without giving that preacher some form of credit is acceptable, then you need to seriously consider the unethical example that you are displaying to your congregation. As Jeffrey Peterson argued twenty years ago, we live in a “wired world,” meaning that we who speak for God must practice integrity in all aspects of our teaching ministry—including our use of creative sources such as audio, video, and visual imagery.

**Defining “Fair Use”**

The issue that is before us is that of “fair use” which, according to the Stanford Fair Use Project, is defined as “any copying of copyright material done for a limited and ‘transformative’

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19 For example, see the Autumn 2005 issue of *Encounter*, the faculty journal for Christian Theological Seminary in Indianapolis.
purpose, such as to comment upon, criticize, or parody a copyrighted work.”

At root is the concern for how material is being used, specifically with regard to whether permission has been sought from the original author. The issue focuses on the term “transformative,” which is an artery that feeds into the heart of the ongoing free-speech debate. The question that is central to the discussion of “transformative” is how the material in question is being used and for what purpose the material in question is being improved by or improving the newer material. On one hand, there is the issue of “commentary and criticism,” meaning the material being borrowed is either being commented on or being used in a commentary. For instance, if you have noticed, this essay has already pulled from a number of resources to comment on the issue of plagiarism. Additionally, citing lines from a book in a professional review—with page numbers noted—in order to critique the author’s point of view falls under the area of criticism.

On the other hand, the issue of “parody” arises when one work is mocking or imitating another work in a comical way. For example, Saturday Night Live has been in the business of parody for over forty years, pulling materials that are immediate, such as the famous 1976 parody of the 60 Minutes “Point/Counterpoint” segment, starring Dan Aykroyd and Jane Curtain or the 2019 parody of Broadway staple Les Miserables (which was inspired by a lobster dinner). Parody in these instances is meant to remind the audience of the original, only in a new and humorous way. What is at stake is whether the user has “infringed” on the original author’s intellectual claim to the material: has the copyright, the original author’s right to legally disseminate his or her work in whatever manner he or she sees fit, been violated? In short, we have committed “copyright infringement” when we perform or broadcast the work without a prior arrangement, distribute copies of published materials without compensating the author, or align ourselves against the original material in a derivative manner without previously informing the original author.

Taking the example of a work of art, it qualifies as copyright infringement when the preacher does not give the original artist credit for their work, as when a preacher displays a picture of a work of art and refers to it as directly connected to the Bible story being discussed, as if it had been painted during the moment depicted by the artist. Without giving credit to Caravaggio—even with a citation on the slide—the preacher is taking credit for the work, as if she or he painted it for the sermon. When that sermon is broadcast live on Facebook to the general public, the problem multiplies.

In the case of video clips, copyright infringement occurs when the preacher does not give credit to the original content creator of the video. Without any other reference, what else is an unsuspecting audience to think than that the preacher produced the video personally? YouTube’s filter, however (especially since it is powered by Google), knows better, pulling the plug on the worship service video before anyone gets to see it. The issue here can easily be resolved in a

couple of ways. First, by purchasing a broadcast license from CCLI and then culling from their robust catalogue of worship-related videos. Or second, by citing the pertinent details of the video in your verbal description of it and giving credit in a bulletin.

**The Solution for Visual Borrowing**

With regard to visual borrowing and teaching prospective preachers, a challenge pertinent to this discussion is the question of being a congregation that is “resource rich” versus one that is “resource poor.” Whereas larger congregations may have dedicated staff who can put the time and effort into developing creative audio, video, and visual materials for worship and preaching, smaller congregations simply do not have the resources to do so. Larger congregations whose preachers are often given short sabbaticals or “study breaks” to plan out their preaching months in advance are then able to plan and collaborate with others in arranging for copyright permissions. However, preachers in smaller congregations are fortunate to get the song list from the liturgist before the bulletin is printed on Friday afternoon.²⁵

Lack of staff or time does not justify the violation of fair use laws. The law is clear on what is considered fair use and what is considered copyright infringement or plagiarism.²⁶ And yet, there is a caveat: as social media continues to evolve and develop, the laws pertaining to protecting copyright and privacy and seeking to prevent copyright infringement and plagiarism will have a sense of fluidity to them in the coming years. For instance, just over two and a half years ago, the *New York Times* reported that Google and YouTube agreed to pay a $170 million fine related to privacy and copyright violations.²⁷ Diligence must be the watchword in our emerging digital landscape.

As was mentioned above, integrity must guide all of our homiletic endeavors, including how and why we source images, audio files, and videos. But how can students and “resource poor” congregations engage creative processes and resources without resorting to plagiarism or copyright infringement? In teaching students about copyright laws as they seek helpful resources and create some of their own, several options are readily available. First, we can encourage students and preachers to develop their own videos. It is amazing what one can do with a smartphone. Shoot a “person-on-the-street-video” by asking people questions related to the content of the sermon and then uploading the video to the church’s Vimeo account. Or craft a video that can set up a sermon or serve as a form of preaching. In several of my Bible and preaching classes, I use media projects—videos primarily—to acclimate my students to the digital world.²⁸ In one particular video, Sean Snyder, who is a middle school minister for Grace

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²⁶ If you would like to delve deeper into the legality of copyright infringement and plagiarism in a digital world, I would encourage you to review the [Digital Millennium Copyright Act of 1998](https://www.copyright.gov/faq/index.html) (US) and/or the [Digital Economy Act of 2010](https://www.dpa.org.uk/about-us/what-we-do/data-protection/digital-economy-act-2010) (UK).


Church in Wooster, Ohio, submitted a project for the Narrative Preaching course in which he filmed himself performing a poem that he wrote about God’s gracious and creative presence in our lives.²⁹

Second, we may encourage our students and preachers to use their own pictures. Again, smartphones are a wonderful tool, especially if using a tool like Evernote. Snap the picture, save it to an Evernote file, and then download it later into the sermon PowerPoint or Keynote presentation. For instance, Tim Spivey, the lead pastor of the New Vintage Church in Escondido, California, frequently requests help from his congregation. When he and his teaching team are planning a new sermon series, Tim will ask his congregation to snap pictures around town that they can use for sermon imagery. One of the images may even wind up as the main image for the series. The creative team sets up a submission site on their website, collecting the images for possible use.³⁰

Third, we may encourage students and preachers to develop their own graphics, or what I call “anchor images.”³¹ Using a platform like Canva or Adobe Spark, develop an image that can be used with all visual, printed, and digital worship products (i.e., the bulletin, website or Instagram account). For example, I have been preaching from the Book of Psalms during the summers at my current congregation. I developed the “anchor image” by simply taking a picture of the title page for Psalms in my Bible and uploading it to my Adobe Spark account. I developed an image entitled “Summer in the Psalms,” which allows me to use it for the foreseeable future. On more than one occasion, I have been asked for permission to use the image in another setting.³²

If all else fails, we can remind our students and preachers to search for freely accessible materials in Google, Bing, or Firefox. Of course, when using another’s material, remember to cite the sources. Citing a digital image, work of art, or video is no different than citing a book, journal article, or fellow preacher. For example, the week that I wrote the first draft of this essay, I prepared a sermon from Psalm 48 about the ancient Jewish people’s dedication to Jerusalem and the dedication that modern Christians should have to their local churches. At the end of the sermon, I talked about four qualities that we should possess. On the bulletin, I listed the four qualities and also cited the sources that I had pulled them from, noting author, book title, and the year the book was published.

In guiding students, I offer three suggestions on how to practice authenticity and integrity when drawing from the work of others. First, it can be as simple as citing the work in your bulletin, sermon worksheet, or lesson notes. For instance, in a recent guest sermon at the Issaquah Christian Church in Issaquah, Washington, Robert Stephen Reid preached from the text in Mark 6 where Jesus is rejected by his home synagogue. When preaching the sermon, Reid used a significant number of public-domain images, including a couple of screen captures. The URLs were listed in the “notes” section of each slide, although that is only visible to the

³² For example, see such a brief conversation between myself and Rev. Dr. Justin Schwartz, the Senior Minister for the First Christian Church in Louisburg, Kansas; “First Christian Church Louisburg, Kansas,” Facebook, June 23, 2019, http://www.facebook.com/photo.php?fbid=10211078175908859&set=pb.1789779620.-2207520000.&type=3.
presentation’s author. Documentation for each slide was offered on a single-sheet bulletin insert.  

Second, search for a strong image that would encapsulate the sermon’s theme in one picture. In composing a sermon series from 1 Thessalonians around the theme of hope, I came across George Frederick Watts’s classic painting entitled Hope (1886). I used a downloaded image in two forms throughout the series. One form was as an “anchor image” that was printed on the weekly bulletin and was used in the sermon presentation. The other was of the image flashed on the screen at the end of the sermon. The author’s name, title of the painting, year the painting was completed, and where the painting currently resides were added alongside the image in a small textbox. In each message, I referred back to the image in a line such as, “As we continue to see in Watts’s painting Hope, as long as there is one star in the sky and one string of music being played, there is hope.”

Third, you can create a digital image file of your sermon notes for distribution on social media (including being uploaded to the description for your sermon video file). For example, my friend Tracy Tooley is the lead minister for reGeneration Church in Huntington, West Virginia. His social media coordinator, Lynsey Bowe, posts his sermon notes each week by posting a screenshot of the template that she developed in Pages and then converting that screenshot to a PDF. The screenshot is then uploaded to Instagram and Facebook (@regenerationwv). The images contain black-lined boxes with sermon content in each of them, such as the scriptures used, sermon ideas, and citations for all sources that are cited. Each of these approaches provide appropriate citation of the resources and also provide a way for listeners to follow up on the material.

Concluding Remarks

Now the question comes as what to do with all of this? In the article referenced above, Ed Stetzer offers a pledge that he recommends preachers take in order to be more authentic in their preaching. The pledge focuses on using only scripture to base the sermon on, commentaries only as supporting—not supplanting—material, and to accurately communicate God’s word. In addition to that pledge, I would like to push the conversation beyond simply affirming not to plagiarize others’ materials but to develop an ethical construct for digital citizenship in homiletics that covers more than borrowing another’s sermon. It needs to also include appropriate use of illustrative materials, such as videos, visual images, and published resources.

Therefore, homiletic digital citizenship that is ethically appropriate in its practice of “fair use” in preaching will commit to the following: First, homiletic digital citizenship pledges not to borrow another’s message without properly citing the original preacher and asking that preacher’s permission to use the sermon or any of its contents. Second, homiletic digital citizenship pledges not to broadcast another’s video without properly citing the video’s publication information, either in print or in broadcast. Third, homiletic digital citizenship pledges not to broadcast another’s song without properly citing the song’s publication information, either in print or in broadcast. Fourth, homiletic digital citizenship pledges not to project an image on the screen—especially if the sermon or service will be broadcast—without properly citing the image, to the best of the preacher’s ability, on displayed slide. Fifth, homiletic digital citizenship pledges not to borrow a piece of sermon or worship art, such as an Adobe Spark or Canva image, without asking permission from the image’s creator. Sixth, homiletic

34 Stetzer, “Preaching, Plagiarism, and Sermon Central.”
digital citizenship pledges not to quote a print resource, such as a book, journal article or blog, without citing, at minimum, the author, resource and, if relevant, page number on the displayed slide, in the bulletin or on a lesson worksheet. This is not the end of the conversation, as the integration of preaching and technology is an ever-evolving conversation. However, it is hoped that this essay will serve as a conversation starter for formulating more ethically appropriate responses to the conversation.