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Whose Book is it Anyway?

A View from Elsewhere on Publishing,
Copyright and Creativity





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12. Ethical Scholarly Publishing Practices, Copyright and Open Access: A View from Ethnomusicology and Anthropology¹

Muriel Swijghuisen Reigersberg

Introduction

Whose book is it anyway? Whose research is it really? If musical experience and meaning are co-created through listening and performative participation and a form of embodied knowledge, what does this mean in terms of copyright, cultural ownership, epistemologies and the academic enterprise of writing about the music of others? Who owns musical experience? Who, if anyone, has the right to write about shared musical experience, and then sell this writing, or gain a doctorate from it? Has written musical experience in Western academe, however incomplete and personal, become a commodity that can be copyrighted and sold or bartered for employment? Is this selling and bartering ethical or is it exploitative and ethnocentric, particularly when working outside Western European frameworks of knowledge production, cultural ownership and copyright?

1 This chapter was both blind peer-reviewed and put out for open peer review via Figshare and Google Docs. During the process of open peer review, some colleagues added their suggestions on the Google Docs document, whereas others preferred to send their comments via email. I am especially grateful to Alex Rodriguez, Patrick Egan, Lin, Wei Ya and the Society for Ethnomusicology for offering to comment on this chapter before it went to blind review.

The above concerns have occupied me and other ethnomusicologists and anthropologists for some time. In this chapter I will explore some of these questions in relation to copyright and how they in turn have the potential to influence new debates around publishing ethics, open access dissemination, co-authorship and new technologies. Firstly, I will briefly describe what ethnomusicologists research and how they research it, demonstrating that ethnomusicology's inherent interdisciplinarity and academic practice focus make it an ideal discipline for exploring copyright and open access topics in the arts, humanities and social sciences. This will be followed by a quick outline of recent developments within the global open access movement to date and the unity of purpose that links what is quite a diverse grouping. This discussion foregrounds the more in-depth enquiry as to why rights of authorship and copyright should be accorded to creative practitioners when they help inform academic monographs through practice and participation. Through problematising Foucault's concept of authorship,² I shall discuss how ethical guidelines, definitions of open access, technical developments and copyright legislation either hinder or facilitate the possibility of sharing authorship rights. In conclusion, I will propose a variety of ways in which we might actively develop the ideas proposed here, turning them into applied action that critically engages with the academic responsibility of sharing research ethically, and all that this entails.

Ethnomusicology, Anthropology and Open Access

Definitions of what ethnomusicology is, and what ethnomusicologists do, have been widely debated by ethnomusicologists themselves. Trends also vary depending on where researchers are active in the world and which ethnomusicological intellectual 'lineage' they subscribe to.³ What is certain, though, is that ethnomusicology no longer restricts itself to studying non-Western music through transcription and participant

2 M. Foucault, 'What is an Author?', in P. Rabinow (ed.), *The Foucault Reader: An Introduction to Foucault's Thought* (London: Penguin Group, 1984), pp. 101–20.

3 Cf. H. Stobart (ed.), *The New (Ethno) Musicologies (Europea: Ethnomusicologies and Modernities)* (Lanham, MD: Scarecrow Press, 2008) and Bruno Nettl, *The Study of Ethnomusicology: Thirty-One Issues and Concepts* (Champaign, IL: University of Illinois Press, 2005).

observation in remote places. Although originally an interdiscipline based in Western academic theory and practice, ethnomusicology now includes many non-European researchers internationally who capture in culturally specific ways musical practices using a multitude of methods in a variety of locations. Some ethnomusicologists work in their home communities, others further afield. Generally speaking what differentiates ethnomusicologists from musicologists are the methodologies used. Ethnomusicologists use social-science approaches, usually taken from anthropology. The boundaries between musicology and ethnomusicology have become blurred however. Researchers of music have come to acknowledge that the prefix 'ethno' is unhelpful, leading some eminent musicologists to wonder whether perhaps we are all either ethnomusicologists or musicologists now:⁴ after all, all people have an ethnicity and music is a human practice.

Ethnomusicology is an interdiscipline. Its scholars study a wide variety of musical topics using an even more diverse set of methods. These methods include: practice research through musical learning, education and performance; applied research, advocacy and activism; musical transcription; cultural policy analysis and formation; historical and musical archival investigations; interviewing, creative writing; filming and photography. Increasingly, digital approaches to music documentation, composition, performance, sharing and management are being adopted due to rapid technological developments. Recording digitally and streaming digital content have become affordable and easy to achieve technologically. The quality of sound- and video recordings and the size and portability of devices, combined with the rapid rise of social media platforms, have meant that digital ethnomusicological data can include, but is not limited to: audio-visual recordings of (co-) created works of (musical) art; conversations and interviews; images of persons, instruments and locations; ethnographies; co-edited volumes and much else. Additionally, many field interlocutors with whom ethnomusicologists engage have also begun documenting their own practices and sharing these.

For ethnomusicologists, the scholarly practice of data generation, processing and publishing is intimately related to deliberations

4 Cf. Nicholas Cook, 'We Are All (Ethno) Musicologists Now', in H. Stobart (ed.), *The New (Ethno)Musicologies*, pp. 48–70.

around authorship, cultural ownership and representation, copyright, intellectual property, Indigenous rights to culture, academic practice (and promotions) and ethics,⁵ all of which are also relevant to current open access debates. Within ethnomusicology, therefore, there lies latent the opportunity to become a fertile 'test-bed' for open access initiatives, debate and responsible sharing of creative practices. The discipline could help inform: social science and arts and humanities research data management practices; copyright debates; policy development; academic publishing practices and ethical codes of research conduct.

Ethnomusicologists thus far, however, have been slow to recognise their discipline's potential for informing open access developments, at least in writing. They have not yet published extensively on the theoretical and scholarly implications of open access for their discipline. An exception here is a series of short contributions to the open access journal *Ethnomusicology Review*⁶ 'Ethnomusicological Perspectives on Open Access' (2014).⁷ These papers are based on a round table held at the Society for Ethnomusicology's (SEM)⁸ 2014 annual conference in Pittsburgh, organised by Alex Rodriguez and Darren Mueller. They provide an insight in to how open access is being used, especially by graduate students. In practice ethnomusicologists have, however, engaged with open access more actively. Jeff Todd Titon, for example has a long-standing and well-respected academic Sustainable Music Blogspot,⁹ where, on the subject of commonwealth and culture, he writes:

5 B. Nettl, *The Study of Ethnomusicology: Thirty-Three Discussions* (Champaign, IL: University of Illinois Press, 2015), p. 212 and A. N. Weintraub and B. Yung (eds.), *Music and Cultural Rights* (Chicago, IL: University of Illinois Press, 2009).

6 <https://ethnomusicologyreview.ucla.edu/>

7 Darren Mueller, J. Schell, W. Hsu, J. R. Cowdery, A. W. Rodriguez, and G. P. Ramsey, 'Ethnomusicological Perspectives on Open Access Publication', *Ethnomusicology Review* 19 (2014), 1–21, http://ethnomusicologyreview.ucla.edu/sites/default/files/er_volume_19_2014.pdf

8 The SEM is a US-based learned society for ethnomusicology that has an international membership and publishes one of the leading journals in the field: *Ethnomusicology*. The SEM is not the only learned ethnomusicological society. Others include the British Forum for Ethnomusicology (BFE), which publishes its journal *Ethnomusicology Forum* via Taylor and Francis in hardcopy and electronically on JSTOR. Membership benefits include copies of the journal. There is also the International Council for Traditional Music (ICTM) which publishes its *Yearbook for Traditional Music*, available via JSTOR and in print. Membership benefits include a hard copy of the journal. The journal is currently transitioning to Cambridge University Press to facilitate open access publishing options.

9 Jeff Todd Titon, 'The Commonwealth of Culture', Sustainable Music: A Research Blog on the Subject of Sustainability, 31 December 2013, <https://sustainablemusic.blogspot.com.au/search/label/ownership>

Commonwealth is therefore allied with the notion of a cultural commons, the domain of ideas and performance which folklorists like to think of as a group's expressive culture. Much in the air today are arguments over enclosures such as copyright that limit the free flow of ideas in the digital, cultural, and/or creative commons. Folklorists, who have a long history of considering culture as a common group possession, have a great deal to contribute to this discussion. Commons thinking is one means of theorizing folklore and cultural sustainability [...].

Other colleagues have begun their own open access journal, such as the *International Journal of Traditional Arts* (first issue June 2017),¹⁰ whilst Orsini and Butler Schofield (eds.) published an open access volume entitled *Tellings and Texts: Music, Literature and Performance in North India* via Open Book Publishers.¹¹ Butler Schofield commented that her reason for publishing open access was to promote access for her North Indian readers.¹² Some open access publications are available online, such as the *Ethnomusicology Review*, or can be downloaded or ordered as print on demand via publishers such as Open Book. Open Book texts can also be accessed online in HTML and, in many cases XML editions.

No in-depth, full-length ethnomusicological analysis to date has been written, however, on how open access and academic publishing relate to copyright, ethics and Indigenous performative and creative knowledge-sharing in the field. Theoretical discussions and panels at ethnomusicological conferences to date have not critically examined the challenges that open access (monograph and article) publishing poses with regards to managing research and cultural data ethically and how this weighs up against the benefits of being able to share work more easily. Questions have been surfacing that are intimately related to open access, however. Nettle, for example, queries whether the discipline of ethnomusicology should begin considering what he labels 'econo-musicology'. Econo-musicology might specifically study concepts of musical ownership (individual as well as communal), sharing, musical practice, distribution and the economics of

10 This journal uses a Gold open access model, offers researchers a choice of licences and safeguards submissions via the LOCKSS system, <http://tradartsjournal.org/index.php/ijta/about/editorialPolicies#openAccessPolicy>

11 Francesca Orsini and Katherine Butler Schofield (eds.), *Tellings and Texts: Music, Literature and Performance in North India* (Cambridge: Open Book Publishers, 2015), <https://doi.org/10.11647/OBP.0062>; <https://www.openbookpublishers.com/product/311>

12 Personal communication, 29 May 2017.

distribution and relative value of sharing patterns cross-culturally.¹³ Open access, with its technological opportunities and challenges, would need to feature as an intimate part of such an enquiry due to the economies of scale and value attribution practices involved. As early as 2001, Anthony McCann also highlighted the potential of the creative commons to influence gifting and sharing practices in Irish Traditional music and how these relate to copyright and ownership questions.¹⁴

In terms of academic publishing practise, the SEM's journal *Ethnomusicology* is available in print, on JSTOR and has a Green open access policy whereby after a twelve-month embargo period, readers can access the peer-reviewed author-created manuscript for free. This also provides journal access to field interlocutors after the work has been published. It is up to individual authors to determine how they wish to engage with their field interlocutors pre-publication during the processes of writing and allocation of copyright and IP. The Society's subscription funding model includes access to the journal. Therefore, the SEM leadership feels it is not yet able to proceed to a fully open access model, free to all readers with Internet access. There is also overwhelming support for the retention of a printed version of the journal among SEM membership.¹⁵ Responses to my request for information via the SEM list-serv indicated too, that discussions about open access are occurring among SEM members, especially graduate students and early-career researchers. Responses called for increased use of Internet-based, digital, multimodal approaches to ethnomusicological publishing and advocated for a journal that was open to all readers with an Internet connection. Whilst publications in ethnomusicology

13 Nettl, *Thirty-Three Discussions*, pp. 216–18.

14 Anthony McCann, 'All That Is not Given is Lost: Irish Traditional Music, Copyright and Common Property', *Ethnomusicology* 45.1 (2001), 89–106, <https://doi.org/10.2307/852635>.

15 According to SEM leadership, 78% of respondents to the SEM membership survey indicated they wanted print copies of the journal. However, it was acknowledged that this might change in future and that (research) students undertook all their research digitally. The SEM leadership continues to monitor the situation (personal communication with SEM leadership December 2016–June 2017). I suggest that the demand for digital resources is likely to grow, not decrease, driving a future membership-led need to increase digital, Internet-based tools and multimodal, visually appealing approaches to sharing ethnomusicological learning.

have included images of musicians, instruments and musical notation for quite some time, and cassette tapes and 33-1/3 Long Play records have accompanied texts for decades, the younger generation and open access advocates are lobbying for media that are Internet-based, digital and also free to access via commonly available, freely downloadable software, such as YouTube. Not many ethnomusicological publications however, encapsulate or summarise current ethnomusicological discussion around open access publishing.

Anthropologists have considered the implications of open access more thoroughly. They have explored its influence on scholarly practices and related it back to business models and academic cultures.¹⁶ They have also questioned the desirability of 'openness' from an Indigenous perspective.¹⁷ Additionally, some identified very early on the potential of open access for multimodal presentations of culture and different ways of reading, learning and engaging with knowledge construction.¹⁸

As I will show below, ethnomusicological and anthropological studies and theory around copyright,¹⁹ archiving²⁰ authorship and

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- 16 Cf. J. B. Jackson and R. Anderson, 'Anthropology and Open Access', *Cultural Anthropology* 29.2 (2014), 236–63, <https://doi.org/10.14506/ca29.2.04>; C. M. Kelty, M. M. J. Fischer, A. R. Golub, et al., 'Anthropology of/in Circulation: The Future of Open Access and Scholarly Societies', *Cultural Anthropology* 23.3 (2008), 559–88, <https://www.jstor.org/stable/20484516>
- 17 K. Christen, 'Does Information Really Want to be Free? Indigenous Knowledge Systems and the Question of Openness', *International Journal of Communication* 6 (2012), 2870–93, <https://ijoc.org/index.php/ijoc/article/view/1618>
- 18 A. Howard, 'Hypermedia and the Future of Ethnography', *Cultural Anthropology* 3.3 (1988), 304–15, <https://doi.org/10.1525/can.1988.3.3.02a00060>
- 19 A. Seeger, 'Ethnomusicology and Music Law', *Ethnomusicology*, 36.3 (1992), 345–59, <https://doi.org/10.2307/851868>; A. Seeger and S. Chaudhuri, 'The Contributions for Reconfigured Audiovisual Archives to Sustaining Tradition', *The World of Music. Special Issue on Sound Futures: Exploring Contexts for Music Sustainability*, 4.1 (2015), 21–34; S. Feld, 'Pygmy POP. A Genealogy of Schizophonic Mimesis', *Yearbook for Traditional Music* 28 (1996), 1–35, <https://doi.org/10.2307/767805>; C. M. Kelty, 'Beyond Copyright and Technology: What Open Access Can Tell Us about Precarity, Authority, Innovation, and Automation in the University Today', *Cultural Anthropology* 29.2 (2014), 203–15, <https://doi.org/10.14506/ca29.2.02>; S. Mills, 'Indigenous Music and the Law: An Analysis of National and International Legislation', *Yearbook of Traditional Music*, 28 (1996), 57–86, <https://doi.org/10.2307/767807>; G. Booth, 'Copyright Law and the Changing Economic Value of Popular Music in India', *Ethnomusicology* 59.2 (2015), 262–87, <https://doi.org/10.5406/ethnomusicology.59.2.0262>
- 20 A. Seeger, 'Ethnomusicology and Law'; A. Seeger and S. Chaudhuri, 'The Contributions for Reconfigured Audiovisual Archives to Sustaining Tradition'.

writing,²¹ 'ownership' of culture²² and open access²³ are extremely relevant to open access debates. They can help support the formation of an ethical approach to sharing creative practice.

This chapter's contribution is therefore twofold: firstly, it complements other work in this volume by offering an alternative perspective on copyright from a specific discipline, ethnomusicology, and its related discipline, anthropology. By focussing on ethnomusicology's questions of authorship, international copyright, archiving and ethics, I seek to broaden the copyright debate, illustrating how complexities are multiplied when we examine these topics from a cross-cultural, creative perspective. I will argue that ethical sharing and culturally appropriate approaches to open access, authorship and copyright negotiations are required. Ethnomusicologists have an important educative, advocacy role to play in this sphere which can inform the open access movement at large. Secondly, I will be contributing to the body of knowledge within ethnomusicology itself, which has not published on open access in any detail. Consequently, (inter)national open access mandates have, by and large, been generated without ethnomusicological input.²⁴ It is critical that ethnomusicologists do involve themselves, however, as these mandates

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- 21 M. Kisluk, *Seize the Dance! BaAka Musical Life and Ethnography of Performance* (Oxford: Oxford University Press, 1998); K. Hagedorn, *Divine Utterances: The Performance of Afro-Cuban Santería* (Washington: Smithsonian Books, 2001); J. Clifford and G. Marcus (eds.), *Writing Culture: The Poetics and Politics of Ethnography* (Berkeley: University of California Press, 1986); G. E. Marcus and M. M. Fischer, *Anthropology as a Cultural Critique*, 2nd ed. (Chicago and London: The University of Chicago Press, 1999); E. Lassiter, C. Ellis and R. Kotay, *The Jesus Road: Kiowas, Christianity, and Indian Hymns* (Lincoln: University of Nebraska Press, 2002); E. Lassiter, H. Goodall, E. Campbell and N. M. Johnson, *The Other Side of Middletown: Exploring Muncie's African American Community* (Walnut Creek: AltaMira Press, 2004); E. Lassiter, 'Collaborative Ethnography and Public Anthropology', *Current Anthropology* 46.1 (2005), 83–106, <https://doi.org/10.1086/425658>
- 22 M. F. Brown, *Who Owns Native Culture?* (Cambridge, MA: Harvard University Press, 2003); T. Janke, *Our Culture, Our Future: Report on Australian Cultural and Intellectual Property Rights* (Report for the Australian Institute of Aboriginal and Torres Strait Islander Studies and the Australian and Torres Strait Islander Commission, 1998), [http://www.cdu.edu.au/sites/default/files/Our%20culture%20our%20future%20report\[2\]%20copy.pdf](http://www.cdu.edu.au/sites/default/files/Our%20culture%20our%20future%20report[2]%20copy.pdf); T. Janke, *Who Owns Story*, presented at Sydney Writers' Festival 2010, <http://aiatsis.gov.au/sites/default/files/docs/asp/who-owns-story.pdf>.
- 23 Jackson and Anderson, 'Anthropology and Open Access'; Kelty, Fischer, Golub, et al., 'Anthropology of/in Circulation'.
- 24 I say 'by and large' because as an ethnomusicologist and research development professional I was involved in the OAPEN-UK monograph project (<http://oapen-uk.jiscbooks.org/>), contributing to two of their workshops: one in my capacity as an

have significant, sometimes potentially negative, implications for the wellbeing of those they work with as well as ethnomusicological academic practice.²⁵ The discipline of ethnomusicology has much to offer the open access movement when exploring how copyright and rights to culture intersect. This chapter thus aims to begin a conversation about open access publishing and ethics within ethnomusicology itself, stimulating engagement and thought. It is not designed to be the definitive last word on this subject. Neither are the recommendations made here exhaustive, but they do provide interested colleagues with a starting point.

Open Access: Unity in Diversity

Before going any further, it is useful to briefly outline the nature of open access as a movement and its diversity. There is currently not one definition of open access that is preferred by all stakeholders. The open access movement is extremely diverse. It now includes, for example, librarians, technicians, occasionally traditional publishers and academics from a wide variety of disciplines, including increasingly the arts, humanities and social sciences. The implications of open access for academic, publishing and sharing traditions vary from one discipline to another. Scientists for example, are less concerned with the copyright of creative outputs than arts, humanities and social sciences colleagues as scientists tend not to include the creative outputs of others in scientific publications. Already, there is available a considerable body of literature that focusses on open access, documenting the movement's *raison d'être* and progress.²⁶ I therefore need not discuss this here in any detail. Instead, I will restrict myself to examining definitions, hallmarks

ethnomusicological author and early-career researcher and one on Green Open Access monographs as a research development professional.

25 Nettl, *Thirty-Three Discussions*, pp. 218–22.

26 Cf. G. Crossick, 'Monographs and Open Access: A Report to HEFCE. Higher Education Funding Council for England', 2015, https://webarchive.nationalarchives.gov.uk/20180322112445tf_/http://www.hefce.ac.uk/media/hefce/content/pubs/indirreports/2015/Monographs,and,open,access/2014_monographs.pdf; M. Eve, *Open Access in the Arts and Humanities: Contexts, Controversies and the Future* (Cambridge: Cambridge University Press, 2014), <https://doi.org/10.1017/CBO9781316161012>; K. Fitzpatrick, *Planned Obsolescence: Publishing, Technology and the Future of the Academy* (New York: New York University Press, 2011); P. Suber, *Open Access (the book)* (Cambridge, MA: MIT Press, 2012), [https://cyber.harvard.edu/hoap/Open_Access_\(the_book\)](https://cyber.harvard.edu/hoap/Open_Access_(the_book))

and the impact of open access on ethnomusicology and how these relate to copyright and authorship.

This chapter also will not delve into the economic minutia of open access publishing or funding mechanisms and their sustainability. Such discussions are peripheral to the subject matter at hand and will only be alluded to briefly when related to, for example, peer reviewing and making ethical writing and publishing choices. Neither should this chapter's discussion on open access be interpreted as being uncritically in agreement with any specific (inter)national policies designed to encourage the implementation of open access publishing and sharing practices. Like Eve I view thinking about publishing (and especially writing) praxis as a form of reflexive critique of academic practice.²⁷ Specifically, from an ethnomusicological perspective, I would also argue that thinking about how and what we publish allows us to further examine the ways in which we accord particular values to specific modes of knowledge creation and dissemination, whether they be in written formats or audio-visual, creative and practice-based ones. This is especially relevant for a discipline like ethnomusicology, which employs practice research methodologies and champions embodied and non-text-based modes of knowledge creation.

Epistemologies, Definitions of Authorship and Publishing Ethics

Practice research has been embedded within ethnomusicological methodology for many decades. Mantle Hood was the first researcher to develop a performative, embodied approach to ways of knowing in a formal educational setting. He believed that 'the training of ears, eyes, hands and voice and fluency gained in these skills assure a real comprehension of theoretical studies.'²⁸ As well as writing about the importance of becoming bi-musical²⁹ (or multi-musical) to gain

27 Eve, *Open Access in the Arts and Humanities*, p. 138.

28 Quoted in K. Shelemay, 'The Ethnomusicologist and the Transmission of Tradition', *The Journal of Musicology* 14.1 (1996), 33–51 (p. 37), <https://doi.org/10.1525/jm.1996.14.1.03a00020>

29 The term bi-musicality was originally coined by Mantle Hood in his 1960 journal article 'The Challenge of "Bi-Musicality"', *Ethnomusicology* 4.2 (1960), 55–59. Hood describes bi-musicality as the ability to fluently perform in more than one musical

cross-cultural musical knowledge, Hood established a university curriculum at UCLA that included native performers as instructors.³⁰ Although the concept of bi-musicality was first theorised by Hood in 1960, Shelemay points out that well before the concept became established, ethnomusicologists had actively participated in the transmission and perpetuation of musical traditions through performance.³¹ John Lomax, for example, during his early studies of cowboy songs and frontier ballads actively fed back song lore into the stream of oral tradition.³²

Ethnomusicologists have also incorporated anthropological thinking and ethical approaches to fieldwork. Musical experiences, ethnomusicologists say, are influenced by individual musical backgrounds and personal skill, and are often co-created. Musical performance, so ethnomusicologists argue, is also a potent way in which other socio-cultural knowledge is acquired and perpetuated.³³ The logical implication of this reasoning is that creators of music are also creators and performers of (new) socio-cultural as well as musicological knowledge.

Although musical experiences and knowledge are often co-created by the ethnomusicologist and their interlocutors in the field context,³⁴ it is frequently, (though not always), only the researcher who receives the rights to authorship and later copyright during the publication process of any subsequent ethnographies. This copyright in a written text, which will include the musicological materials of others, is then 'ceded' to a publishing house of choice and the academic subsequently receives a doctorate, promotion, a job or, much more rarely in the arts and

tradition, observing that Japanese musicians of the Imperial Household were accomplished in both Japanese Gagaku music and the Western classical tradition (p. 55). Of course, many musicians are fluent in more than two musical traditions, so bi-musical may be best described as multi-musical in some cases.

30 Shelemay, 'The Ethnomusicologist and the Transmission of Tradition', p. 37.

31 Ibid., passim.

32 Ibid., p. 48.

33 Cf. T. Rice, 'Reflections on Music and Identity in Ethnomusicology', *Muzikologija*, 7 (2007), 17–38, <https://doi.org/10.2298/muz0707017r>; M. Stokes, *Ethnicity, Identity and Music: The Musical Construction of Place* (London: Berg Publishers, 2010).

34 Fieldwork interlocutors will vary from one context to another. Ethnomusicological fieldwork sites can be close to home or further afield. They need not be remote. There are many ethnomusicologists conducting fieldwork in their own communities and/or urban areas. The musical materials learnt, performed, studied and historicised nowadays have come to include popular, classical and liturgical music genres amongst others.

humanities, some small royalties for a book's publication.³⁵ Dynamics between publishers, editors and author(s) and the services and input that editors and publishers provide also raise questions of ownership and authorship. Good editors, reviewers and publishing houses can and do offer significant input in shaping the work of academic authors. Other critical factors in determining how authorship is attributed and royalties disseminated include: the variegated permissions that can or cannot be negotiated with publishing houses in terms of royalty-return to communities and the possible sharing arrangements or owning of copyright; publishing open access; and intellectual property negotiations. Authors are encouraged to explore in advance of signing a contract whether the sharing of royalties is possible and how this is accomplished to ensure it meets the needs of all contributors. With the advent of open access a wealth of economic and licencing models have appeared, some probably based on more sustainable financial models than others. The future will determine which ones succeed, but it would still behove ethnomusicologists to familiarise themselves with the variety of options available and to consider carefully where they publish, if their desire is to share equitably the authorship and possible royalties and licences of their work.

This, I would add, is a state of affairs not uncommon in other disciplines as well, and in part the result of restrictive copyright licensing and conservative academic practices that hamper the decolonisation of the academy, as we will see later. I will explore here how these issues can be examined in new ways through open access publishing practices and new technologies, beginning my discussion by exploring definitions of 'authorship' using Foucault.

Foucault unpacks the definition of what an author is and proposes a broadening of the definition, suggesting that:

Certainly the author function in painting, music, and other arts should have been discussed, but even supposing that we remain within the world of discourse, as I want to do, I seem to have given the term 'author'

35 Cf. P. Torres, 'Interested in Writing about Indigenous Australians?', *Australian Author* 26.3 (1994), 24–25, <http://search.informit.com.au/documentSummary;dn=950504428;res=IELAPA>; Nettl, *Thirty-Three Discussions*, p. 221; A. Heiss, 'Australian Copyright v/s Indigenous Cultural Property Rights: A Discussion Paper' (Strawberry Hills, Australia: Australian Society of Authors, 2010), <https://www.asauthors.org/products/info-papers/australian-copyright-vs-indigenous-intellectual-and-cultural-property-rights>

much too narrow a meaning. I have discussed the author only in the limited sense of a person to whom the production of a text, a book, or a work can be legitimately attributed[.]³⁶

If we define authorship as Foucault has whilst continuing to accord epistemological value to co-created performative and embodied musical experiences and representations thereof, it becomes critical to include ethnomusicological data in our discussions of attribution, copyright and open access.³⁷ Ethnomusicological data might include musical, photographic, interview-based, audio-visual, and dance-related materials. Since it is often co-created³⁸ it must be attributable to field interlocutors and therefore they should also receive some share of, for example, a monograph's royalties.

Very seldom, if ever, however, are field interlocutors named as co-authors when they contribute creative outputs and performative knowledge to research texts, for it is this need for 'legitimate attribution', which is influenced by legal, political and economic power structures in Foucauldian terms, which forms the crux of the issue under examination. Interlocutors may receive an acknowledgement and word of 'thanks' and they are nowadays cited and accredited for having helped researchers with their work. However, not many arts and humanities researchers go as far as naming their co-creators as co-authors. Some argue that this is because academic writing is not motivated by monetary gain. Eve (himself a Professor of Literature, Technology and Publishing) references Stevan Harnad (a leading figure in the open access movement) who writes that what makes open access possible:

is that the economic situation of the academy is different from other spheres of cultural production. Academics are, in Harnad's view,

36 Foucault in Rabinow (ed.), *The Foucault Reader*, p. 113.

37 Others have also explored this issue. McQueen (2012) for example, examines film adaptations of literary genres in relation to Foucault's definition. He explores what questions the adaptation process raises for definitions of authorship. S. McQueen, 'Michel Foucault's "What is an Author?" and Adaptation', *COLLOQUY text theory and critique* 24 (2012), 60–77, http://artsonline.monash.edu.au/wp-content/arts-files/colloquy/colloquy_issue_twenty-four_/mcqueen.pdf

38 All forms of scholarship are in fact co-created as Craig, Turcotte, Coombe (2011) have argued in relation to open access and copyright. C. J. Craig, J. F. Turcotte, and R. J. Coombe, 'What's Feminist About Open Access? A Relational Approach to Copyright in the Academy', *feminist@law* 1.1 (2011), 1–35, <http://journals.kent.ac.uk/index.php/feministsatlaw/article/view/7>

'esoteric' authors whose primary motivation is to be read by peers and the public, rather than to sell their work. While the labour of publishing still needs to be covered (and these costs cannot be denied), this situation potentially enables academics employed at universities to give their work to readers for free; this specific subset of researchers are paid a salary, rather than earning a living by selling their specialist outputs[.]³⁹

Whilst Harnad and Eve view esoteric authorship practices and motivations as an economic opportunity for open access, these same esoteric publishing practices are also a double-edged sword. Researchers may not publish for money, but they do gain other benefits, unlike their interlocutors.⁴⁰

This fact has been acknowledged by anthropologists. Some, such as Lassiter, in attempting to redress the balance, have collaboratively co-authored texts with their interlocutors. Lassiter painstakingly read and wrote alongside his Native and African American interlocutors to create texts that would both fulfil the requirements of scholarly rigour and address issues of authorship attribution and representation. Lassiter has described and problematized the various forms that collaborative ethnography might take. The last form of collaborative ethnography Lassiter mentions is that of co-authorship:

Collaboratively written texts can take a variety of forms. Ethnographers and their interlocutors bring diverse skills and experience to any given ethnographic project. While all collaborative ethnography is arguably *coauthored*, not all collaborative ethnography can be *cowritten* (Hinson 1999) [...].⁴¹ In other coauthored collaborative texts, consultants have had an even more direct role in the writing of the text, contributing their own writings. In 'The Other Side of Middletown,' some consultants responded to the students' chapter drafts by presenting texts of their own, which the students then integrated into their chapters (see, e.g., Lassiter et al. 2004: 186–87).⁴²

39 M. Eve, *Open Access in the Arts and Humanities*.

40 Cf. Torres, 'Interested in Writing about Indigenous Australians?', p. 25 and Nettl, *Thirty Three Discussions*, p. 221.

41 G. Hinson, "'You've Got to Include an Invitation": Engaged Reciprocity and Negotiated Purpose in Collaborative Ethnography', paper presented at the 98th annual meeting of the American Anthropological Association, Chicago, Illinois, November 1999.

42 Luke E. Lassiter, 'Collaborative Ethnography and Public Anthropology', *Current Anthropology* 46.1 (2005), 83–106 (p. 96), <https://doi.org/10.1086/425658>; the quoted reference is to Luke E. Lassiter, H. Goodall, E. Campbell and N. M. Johnson, *The*

Using Field's anthropological work as an example, Lassiter acknowledges that written co-authorship may not suit all working relationships between anthropologists and their field interlocutors. Field felt that the 'experiment in co-authorship is nothing if not fraught with contradictions and dangers'.⁴³ He candidly acknowledged:

I have not individually listed these Nicaraguans as coauthors of the book, because that would misrepresent how the book was written. I organized, edited, conceptualized, and wrote the vast majority of this book, and I claim its overall authorship. On the other hand, I have tried to navigate a blurry middle ground between treating the essays written by my friends as rich ethnographic material, with which I can support my own points, and handling them as I would a text written by another academic.⁴⁴

Lassiter⁴⁵ uses this point to argue that co-authorship is dependent on linguistic, training and power differences and relationships between researchers and their interlocutors. He shows though, how anthropologists, at least, are willing to consider co-authorship options.

Ethnomusicologists, who draw heavily on anthropological theory, have followed suit at least in terms of adapting their approaches to writing in order to more accurately capture musical experience, whilst acknowledging that musical experience is co-created. The work of anthropologists Clifford and Marcus⁴⁶ and Marcus and Fischer⁴⁷ has been influential. These authors argue for an interpretive anthropology, providing the context for addressing the so-called crisis of representation within the discipline. This crisis emerged due to postmodern critiques of the ethnographic genre. It embraced feminist, humanistic, symbolic and cognitive anthropology – all of which had variously struggled with objectivity and experimented with the limitations of the ethnographic craft in representing the lived complexities of culture and experience from the 'native point of view'. As performers and academics, ethnomusicologists co-create

Other Side of Middletown: Exploring Muncie's African American Community (Walnut Creek: AltaMira Press, 2004), pp. 186–87.

43 L. Field, *The Grimace of Macho Ratón: Artisans, Identity, and Nation in Late-Twentieth-Century Western Nicaragua* (Durham, N.C.: Duke University Press, 1999), p. 20.

44 Field, *The Grimace of Macho Ratón*, p. 20, in Lassiter, 'Collaborative Ethnography', p. 96.

45 Lassiter, 'Collaborative Ethnography'.

46 Clifford and Marcus (eds.), *Writing Culture*.

47 Marcus and Fischer, *Anthropology as a Cultural Critique*.

and record music and knowledge and some also co-author works with their field interlocutors. Kisliuk⁴⁸ and Hagedorn⁴⁹ have experimented with poetic and creative writing styles to capture the nature of musical co-creation and in Hagedorn's case trance-like musical experiences, which are difficult to convey in standard academic prose. Co-authorship in a written form is employed in Barney's 2014 selection of essays,⁵⁰ which includes several co-authored chapters examining applied ethnomusicological research approaches with Indigenous Australians. In my own work, I have woven Indigenous Australian written questionnaire responses into the narrative of performative choral experiences in a prison and an Indigenous rehabilitation centre (Swijghuisen Reigersberg),⁵¹ whilst Araújo,⁵² when he was unable to list all his student-colleagues as authors and co-producers of knowledge on the publisher's header, made a point to add an extensive footnote explaining that the text was collaboratively produced. Others, such as Diamond,⁵³ acknowledged other scholars for their editorial and intellectual input into her chapter on Indigenous knowledge and intellectual property.

Ethical guidelines are also provided by specific learned societies and organisations, which recommend that researchers carefully consider how they manage and negotiate their authorship attributions. The American Anthropological Association's (AAA) ethical code of conduct⁵⁴ reads:

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- 48 M. Kisliuk, *Seize the Dance! BaAka Musical Life and Ethnography of Performance* (Oxford: Oxford University Press, 1998).
- 49 K. Hagedorn, *Divine Utterances: The Performance of Afro-Cuban Santería* (Washington: Smithsonian Books, 2001).
- 50 K. Barney (ed.), *Collaborative Ethnomusicology: New Approaches to Music Research between Indigenous and Non-Indigenous Australians* (Melbourne: Lyrebird Press, 2014).
- 51 M. E. Swijghuisen Reigersberg, 'Choral Singing and the Construction of Australian Aboriginal Identities: An Applied Ethnomusicological Study in Hopevale, Northern Queensland, Australia' (unpublished doctoral thesis, University of Surrey, Roehampton University, 2009).
- 52 S. Araújo, 'Conflict and Violence as Theoretical Tools in Present-Day Ethnomusicology: Notes on a Dialogic Ethnography of Sound Practices in Rio de Janeiro', *Ethnomusicology* 50.2 (2006), 287–313.
- 53 B. Diamond, A. Corn, F. Fjleheim, et al., 'Performing Protocol: Indigenous Traditional Knowledge as/and Intellectual Property', in J. C. Post (ed.), *Ethnomusicology: A Contemporary Reader*, vol. 2 (New York and London: Routledge, 2017), pp. 17–34.
- 54 AAA Ethics Forum, 'Principles of Professional Responsibility' (2012), <http://ethics.americananthro.org/category/statement/>

Anthropologists have an ethical obligation to consider the potential impact of both their research and the communication or dissemination of the results of their research [...]. Explicit negotiation with research partners and participants about data ownership and access and about dissemination of results, may be necessary before deciding whether to begin research.

The ethical guidelines of the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) state that researchers must:

Ensure familiarity with laws, administrative arrangements and other developments relevant to Indigenous traditional knowledge and cultural expressions as well as intellectual property rights. Include attention to actual and/or potential implications of digitisation on research processes and outputs.

Discuss co-ownership of intellectual property, including co-authorship of published and recorded works and performances, shared copyright, future management of the resources collected, and proper attribution and notices.⁵⁵

An example of policy addressing the ethical and legal recommendations covering ownership, IP and copyright is the United Nations' 2007 *Declaration on the Rights of Indigenous Peoples*, Article 31:⁵⁶

Indigenous people have the right to maintain, control and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sport and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

Independent organisations such as the UK Research Integrity Office (UKRIO) have also acknowledged in their *Code of Practice for Research*⁵⁷

55 Australian Institute of Torres Strait Islander Studies, *Guidelines for Ethical Research in Australian Indigenous Studies* (2012), <http://aiatsis.gov.au/sites/default/files/docs/research-and-guides/ethics/gerais.pdf>, p. 6.

56 United Nations (UN), *Declaration on the Rights of Indigenous Peoples* (2007), https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf, pp. 22–23.

57 UKRIO, 'Code of Practice for Research' (2009), <http://ukrio.org/publications/code-of-practice-for-research/>

that negotiations with international colleagues should be approached paying particular attention to variances in national laws and social protocol. UKRIO specify that researchers should aim to seek agreement on intellectual property, publication and the attribution of authorship early on, whilst acknowledging that the roles and contributions of researchers may evolve over the course of research projects. They recommend that all sources of knowledge are systematically acknowledged and that researchers should seek the necessary permissions if significant portions of another person's work are used. UKRIO's guidance also stipulates that all people listed as an author should be prepared to take a public responsibility for the accuracy of a published piece of work (UKRIO Ethical Guidelines sections 3.5.1 to 3.15.7).

These generic UKRIO guidelines, designed for consideration at UK research active organisations, offer no prescriptive methods as aids to determining the value and nature of authorship contributions, and refer regularly to 'published' work as written work, not making allowances for other creative outputs. UKRIO's *Code of Practice for Research* also operates using Western concepts of copyright law. It may not be possible for field interlocutors and potential co-authors to publicly vouch for the accuracy of the knowledge created about them, as they might not be able to access it. It is clear however, that the attribution of authorship rights is an important practice that has ethical, legal and practical implications, some of which can be explored through open access publishing and new technologies.

New Technologies, Open Access and the Potential for Increased Equity

Open access writing, publishing and peer reviewing methods have the potential to inform these practical and ethical considerations in a way that is better suited to recording the contributions made by field interlocutors and the inclusion of non-Western epistemological processes. Where co-authorship is concerned, open access offers interesting technological opportunities for innovation, which may help authors explore attribution rights and how they are awarded. New software such as Authorea⁵⁸ is making it possible to track co-author interventions electronically. The

58 <https://www.authorea.com/>

software logs different author contributions and revisions, allows for real-time communication with co-authors and can be used to resolve authorship disagreements. The Authorea system retains no ownership of the authors' copyright or data and could be used where interlocutors are able to contribute to academic writing and editing. However, copyright and licensing may impact on the collaboration, as the system operates under the local copyright law of the author, which might be problematic if musical materials are owned by a group of people or music is conceived of as a social currency that should not be indiscriminately shared, as we shall see later. The system is also predominantly geared towards scientific journal publishing and not set up to handle multimedia well. The free account only allows users to work on 1 article and offers 100 MB of file space, which might not be useful for larger audio-visual files. So, whilst Authorea can facilitate co-authorship, it might not work well for multimodal approaches.

Figshare⁵⁹ is better for sharing audio-visual data and offers opportunities for collaborative writing and content sharing. The platform deals well with larger files and arts and humanities outputs, allowing for a variety of formats and 5GB files to be uploaded, as well as 20GB for private storage space on free individual accounts. This allowance will facilitate the uploading of single, short samples of musical material for journal articles and papers, the average length of a short four-minute audio recording being about 10MB. The Music Archive at Monash University in Australia, for example, has used the system to upload some Indonesian gamelan music collected by Kartomi in 1983.⁶⁰ Copyright licencing, again, proves problematic in that all works are managed under EU copyright and UK laws. Figshare also only allows for CC-BY and CC0 Creative Commons licences,⁶¹ which

59 <https://figshare.com/about>

60 Margaret Kartomi, 'Field trip Liwa 1983 – Sound recordings – Gamolan Excerpt' (1983), https://figshare.com/articles/Field_trip_Liwa_1983_Sound_recordings_Gamolan_Excerpt/2001246

In this example, however, we are not given sufficient metadata about the recording in Figshare to tell us about the contributing artists, so if ethnomusicologists are to use Figshare it would be advisable to offer more metadata about the recording before sharing.

61 Creative Commons licenses provide a simple standardized way for individual creators, companies and institutions to share their work with others on flexible terms without infringing copyright. The licenses allow users to reuse, remix and share the content legally. Work offered under a Creative Commons license does

facilitate free sharing and reuse without remuneration to the creators of musical works. This may not always be appropriate where musical performance forms part of a musician's regular livelihood.

Some journal publishing systems allow for open peer review, recording information about the comments made about and amendments made to texts. For example, Fitzpatrick, a leading thinker on publishing technologies who questions the anti-collaborative nature of arts and humanities research, experimented with online peer review and made her text available through CommentPress⁶² (a WordPress⁶³ Plugin), before having it published by New York University Press.⁶⁴ She found this process to be helpful. Fitzpatrick obtained the types of feedback she needed to improve her text, whilst having a record of the comments received and her responses to them. She acknowledges, however, that the software formatting was time consuming and that the need to rapidly respond to comments requires authors to be electronically connected on an ongoing basis. The system is also most effective when there is a pre-existing interested, knowledgeable community available willing to offer useful and constructive advice. Systems such as CommentPress, Figshare or Authorea may therefore not suit field interlocutors who, for example, have no access to the Internet, are unfamiliar with digital tools, do not write, or are not proficient in the language or disciplinary jargon used by the academic writer. However, this type of electronic approach facilitates the tracking of multiple contributions to texts, making the valuable input of good editors, reviewers, collaborators and field interlocutors more visible. This in turn can inform the attribution

not remove copyright from the author. Instead it permits users to make use of digital materials in a variety of ways, under certain conditions, determined by the type of license: <http://creativecommons.org.au/learn/licences/>. As early as 2001, McCann explored aspects of Common Property theory and their implications for discussions around copyright, Irish traditional music and definitions of musical gifting, ownership and sharing practices, whilst Diamond et al. (2017) also discuss the sharing and gifting of song as social practice among Native American communities. A. McCann, 'All That Is Not Given is Lost: Irish Traditional Music, Copyright and Common Property', *Ethnomusicology* 45.1 (2001), 89–106, <https://doi.org/10.2307/852635>; D. Diamond, A. Corn, F. Fjleheim, et al., 'Performing Protocol: Indigenous Traditional Knowledge as/and Intellectual Property', in J. C. Post (ed.), *Ethnomusicology: A Contemporary Reader*, vol. 2 (New York and London: Routledge, 2017), pp. 17–34 (pp. 27–28).

62 www.futureofthebook.org/commentpress

63 <https://wordpress.com/>

64 Fitzpatrick, *Planned Obsolescence*, pp. 109–20.

of authorship rights and offer insights into how new knowledge is created and interpreted in culturally specific ways. They are also not the only systems available.

Others, which may be useful to some researchers, could include Annotation Studio,⁶⁵ a student-centred project led by MIT, which allows for the electronic and critical reading and annotation of texts and the formation of discussions. Another platform, Scalar,⁶⁶ seeks to close the gap between scholarly publishing and digital visual archives by enabling researchers to work more organically with archival materials. Scalar seeks to create interpretive pathways through archival materials such as video and sound recordings, enabling new forms of analysis. Each system however, will have its strengths and weaknesses. Researchers should carefully explore what these are before deciding on their suitability in the context of their own research projects. As scholars in the digital humanities have suggested more broadly, rather than debating 'who is in and who is out' we should instead ask how the creation and deployment of digital tools perform distinct, but equally useful functions in the analysis of research data, writing and materials.⁶⁷

Additionally, a note of caution is warranted. As with the new financial models being developed and trialled to support open access publishing initiatives, it is by no means certain that all new technologies supporting co-authorship or open access publishing will prove to be sustainable or long-lived. This may therefore jeopardise the continued access that researchers and interlocutors need. Technological obsolescence is a real challenge for publishers, archivists, librarians and researchers alike. Researchers would do well to familiarise themselves with, for example, the LOCKSS system (Lots of Copies Keeps Stuff Safe – system),⁶⁸ a low cost, open source, digital preservation tool designed by Stanford University that provides persistent access to digital content. The rate of technological change makes the threat of obsolescence very real and must be factored in to any publishing or sharing choice.

That said; open access and new technologies provide us with new means to explore the structuring of academic 'texts' so that these reflect

65 <http://www.annotationstudio.org/project/background/>

66 <https://scalar.me/anvc/about/>

67 L. F. Klein and M. K. Gold, 'Digital Humanities: The Expanded Field' (2016), <http://dhdebates.gc.cuny.edu/debates>

68 <https://www.lockss.org/>

the epistemological pathways of our field interlocutors. As early as 1988 Howard, for example, proposed that the inclusion of hypermedia would make it possible to remove the hierarchical structuring of texts such as chapters, subsections, and paragraphs. Instead he suggests that ethnographers generate an elaborate series of digital knowledge networks, which readers can enter at any point to explore their own interests.⁶⁹ Some of these networked journeys could be structured using multimodal formats so that they reflect the epistemological journeys and experiences of field interlocutors, facilitating comparisons and promoting experiential understanding. In this way, open access and digital approaches to creation, writing, structuring, publishing and peer review could become related to a social science method called triangulation or inter/ intra-cultural feedback, in which experts and field interlocutors discuss and interpret the new information gathered, which, in the case of ethnomusicologists, includes recorded musical practices and cultural customs as well as written texts. Others have already commenced exploring applied anthropological approaches, such as Gubrium and Harper.⁷⁰ Employing these methods, when they are appropriate and workable, I argue, will make for a more equitable, decolonised academe.

To summarise then, open access and new technologies make it possible to capture authorship contributions, but all have their limitations. It is advisable that ethnomusicologists interested in exploring collaborative authorship and ethical sharing familiarise themselves with the terms and conditions of any platform vis-à-vis platform sustainability, copyright, intellectual property and data ownership before deciding whether to use a specific digital tool. New technologies provide a means for supporting the accreditation of non-academic contributors and allow us to rethink the ways in which knowledge is created and constructed in culturally and person-specific ways. This is desirable because it addresses the need to remedy the power imbalances that still inherently exist in the academic enterprise, namely that: (a) field interlocutors often cannot access or comment on the knowledge that is created about them; (b) academic authors receive (in)direct monetary rewards for publishing materials

69 Howard, 'Hypermedia and the Future of Ethnography', pp. 308–09.

70 A. Gubrium and K. Harper, 'Visualizing Change: Participatory Digital Technologies in Research and Action', *Practising Anthropology* 31.4 (2009), 2–4, <https://doi.org/10.17730/praa.31.4.t6w103r320507394>

based on the (creative) knowledge provided by field interlocutors, which are not always shared; and (c) the new knowledge created about field interlocutors may not accurately reflect Indigenous epistemologies and experiences.⁷¹ Whilst, theoretically, researchers have been aware of these ethical problems for some time and guidelines do exist to promote ethical approaches to publishing and attribution, various practices have hampered the decolonisation of the academy, including conservative publishing and peer review practices, citation metrics and publisher hierarchies, and a focus on arbitrary and inaccurate assessments of 'research excellence' rather than equity.⁷² As I have shown, however, electronic co-creation and co-authorship are not always possible or for that matter ethically desirable, depending on the nature of the research enquiry. There is also another matter that considerably complicates open sharing: copyright.

Copyright, Open Access and Ethnomusicology

Copyright remains a contentious issue in the dissemination of cultural, musical and other creative knowledge.⁷³ It is intimately tied to ethical questions that touch on rights to cultural ownership, group ownership and co-creation (cf. Diamond et al. 2017). Copyright negotiations are affected by differences that exist between cultural sharing practices globally, some of which stipulate that free and open sharing might not be appropriate since they impact on an academic's ability to publish certain content in open access formats, especially if they are

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- 71 Cf. L. Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*, 2nd ed. (London: Zed Books, 2012); M. Nakata, *Disciplining the Savages: Savaging the Disciplines* (Canberra: Aboriginal Studies Press, 2007); N. Pearson, "'Ngamungaadyarr, Muuri-bunggaga and Midha Mini'" Guugu Yimidhurr History (Dingoes, Sheep and Mr Muni in Guugu Yimidhurr History). Hope Vale Lutheran Mission 1900–1950' (unpublished bachelor's dissertation, University of Sydney, History Department, 1986); B. Brabec de Mori, 'What Makes Natives Unique? Overview of Knowledge Systems among the World's Indigenous People', *Taiwan Journal of Indigenous Studies* 8 (2016), 43–61.
- 72 Cf. S. Moore, C. Neylon, and M. Eve, et al., 'Excellence R Us: University Research and the Fetishisation of Excellence', *Palgrave Communications* 3 (2017), 2–13, <https://doi.org/10.1057/palcomms.2016.105>; J. Wilsdon, L. Allen, E. Belfiore, et al., *The Metric Tide: Report of the Independent Review of the Role of Metrics in Research Assessment and Management* (2015), <https://doi.org/10.13140/RG.2.1.4929.1363>.
- 73 Cf. R. Coombe, *The Cultural Life of Intellectual Properties: Authorship, Appropriation and the Law* (Durham, N.C. and London: Duke University Press, 1998).

multimodal.⁷⁴ Careful consideration needs to be given on a case-by-case basis to how copyright issues and the sharing of cultural content are approached and negotiated. The Crossick report on open access monograph publishing states that ‘the fact that monographs in a significant number of disciplines depend on reproducing, analysing and building upon existing material, such as images and musical quotations, which are covered by copyright means that the challenges to open access publishing have for some seemed insuperable.’⁷⁵ whilst Diamond et al. explored how Indigenous native American communities distinguished between collective ownership and individual authorship where the rights of both are not perceived as conflicting in nature.⁷⁶

This need for caution when sharing knowledge is where anthropologists, folklorists and ethnomusicologists have most to contribute to the open access movement. The importance of sharing ethically and perhaps, therefore, selectively is not always fully understood by other open access supporters, some of whom lobby for the open sharing of all academic content, including data, especially in the sciences. Given that many open access treaties and statements are based on scientific approaches to and preferences for sharing, this blanket ‘openness’ requires careful examination. The 2003 *Berlin Declaration on Open Access to Knowledge in the Sciences and Humanities*,⁷⁷ for example, states that holders of cultural heritage should be encouraged to support open access by providing their resources on the Internet. In some cases, however, the secret, sacred, community-owned or copyrighted nature of musical data makes it ethically inappropriate to share widely. Free and open sharing has, in some cases, promoted the exploitative appropriation of Indigenous cultural heritage, whereby Western artists gained large sums of money through sampling open access materials in their new work, without offering recompense to the originating

74 Cf. Christen, ‘Does Information Really Want to be Free?’.

75 This report was commissioned by the Higher Education Funding Council for England (HEFCE) and in partnership with the Arts and Humanities and Economic and Social Research Councils (AHRC and ESRC) to help inform national open access agendas and policies (2015), p. 10, https://webarchive.nationalarchives.gov.uk/20180322112445tf_/http://www.hefce.ac.uk/media/hefce/content/pubs/indirreports/2015/Monographs,and,open,access/2014_monographs.pdf

76 Diamond, Corn, Fjleheim, et al., ‘Performing Protocol’, p. 22.

77 ‘Berlin Declaration on Open Access to Knowledge in the Sciences and Humanities’ (2003), <https://openaccess.mpg.de/Berlin-Declaration>

community. I shall provide some examples of these practices below and I shall also offer some Indigenous responses to this.

Some open access statements acknowledge the problematic nature of copyright law and state that attributions will not be governed by it, such as the Bethesda Statement 2003 on open access. The Statement stipulates that ‘Community standards, rather than copyright law, will continue to provide the mechanism for enforcement of proper attribution and responsible use of the published work, as they do now’.⁷⁸ This however, can be difficult to negotiate because copyright legislation is not always attuned to cross-cultural understandings of sharing and ownership. Who becomes ‘the community’ by which we must set our standards? Is it the academic community or that of the field interlocutor’s? What if this community is not in agreement either about how academic attributions should be managed? How do we negotiate potential disputes, which might be difficult to resolve, using the Euro- and Western-centric notions of ownership and concepts of artistry that do not allow for there to be multiple copyright holders?⁷⁹ Royalties and proceeds might be shared, but copyright may not.

To acknowledge the complex and sensitive nature of sharing knowledge responsibly, many ethical guidelines and UNESCO’s 2005 *Convention on the Protection and Promotion of Diversity of Cultural Expression*⁸⁰ refer to some of the challenges that communities face in relation to new technologies and the sharing of their heritage in ways that are equitable. UNESCO’s Convention states that processes of globalization have facilitated the rapid sharing of information and development of new technologies, but that this brings with it certain challenges for cultural diversity. Imbalances in wealth impact on people’s ability to engage with new technologies and may reduce their resources to combat the misappropriation of their cultural heritage.⁸¹

78 ‘Bethesda Statement on Open Access Publishing’ (2003), <http://legacy.earlham.edu/~peters/fos/bethesda.htm>

79 Diamond et al. also observe that ethnomusicologists’ studies of Indigenous performing protocol can have use beyond the academy, allowing for shifts in frameworks and conversations that better align with the efforts of Indigenous scholars who are working to define the best strategies for cultural resurgence (‘Performing Protocol’, p. 20).

80 UNESCO, ‘Convention on the Protection and Promotion of the Diversity of Cultural Expressions (mul)’ (2005), <http://unesdoc.unesco.org/images/0014/001429/142919e.pdf>

81 See also Nettl, *Thirty Three Discussions*.

The American Anthropological Association (AAA) also notes that sometimes limitations on dissemination may be appropriate. In some cases, in fact, preventing dissemination might be the most ethical option.⁸² I shall now explore how ethnomusicologists and other creative artists have documented and theorised these issues and refer to the inclusion of creative materials in written texts and authorship.

In his 1996 article, Feld explores how ethnomusicological recordings, deemed not to be under copyright but within the public domain, were used to generate multi-million-dollar recordings for which the originating communities received no or very little compensation.⁸³ A striking example was that of the eponymous album *Deep Forest*, released in 1992. The album featured digitally sampled, mixed sounds from ethnographic materials recorded in a variety of African locations as performed by pygmy communities. Some samples were part of ethnomusicological research undertaken by Simha Arom. Apart from the album itself being hugely successful, the disco-dance artists also received income through licensing for television commercials, which advertised big brands such as Sony, The Body Shop, and Porsche. Whilst a small portion of the album's proceeds went to the Pygmy Fund, further scrutiny revealed that in fact the monies were sent to a pygmy community whose music was not sampled on the successful album.⁸⁴ This example has meant that some ethnomusicologists have become cautious about openly sharing creative outputs provided by their field interlocutors, which impacts on their willingness to engage with open access formats.

Cultural and creative artefacts may also have great non-monetary significance. In the Australian Aboriginal culture, for example, Janke asks: 'Who owns story?'⁸⁵ She argues that traditional Indigenous stories help shape local identities. They have been part of an oral tradition that communicates knowledge about ways of life, including food collection and preparation, knowledge of healing plants and kinship patterns. To Indigenous people these stories contain vital information about

82 AAA Ethics Forum, 'Principles of Professional Responsibility'.

83 Feld, 'Pygmy POP'.

84 *Ibid.*, p. 26. For further examples also see Mills, 'Indigenous Music and the Law'.

85 This reference is an excerpt from *Who Owns Story*, by Terri Janke presented at Sydney Writers Festival in 2010. It is copyrighted and reproduced with kind permission of the author by the Australian Institute of Torres Strait Islander Studies (AIATSIS), <https://aiatsis.gov.au/sites/default/files/docs/asp/who-owns-story.pdf>.

understanding their place in the world and how to survive, sometimes quite literally. Not all stories are secular, and all are a currency of a kind: 'the title deeds to a culture'. Indigenous clans have ownership of particular stories under Indigenous custom. The right to tell stories and to tap into specific histories, locations, connections and people is an Indigenous cultural right. Many of these stories also have affiliated musical, painting and dance genres, which allow for sacred stories to be performed into being, honouring Country and kin.⁸⁶ The wide and indiscriminate sharing of this material through open access may not be culturally appropriate or ethical. Once in a monograph, it may also be legally 'owned' by a publisher under copyright law, depending on contract stipulations. Authors should make it a habit to cross check what the copyright arrangements for their preferred publisher are to ensure these meet the needs of all contributors.

Janke goes on to list several areas where she has identified Western European copyright laws are incommensurate with oral Indigenous practices of creation, concepts of ownership and spirituality. Firstly, she suggests that stories do not meet the material form requirement of the Copyright Act, which stipulates that the person who writes down a story into material form owns the copyright and the expression of that story. In the case of oral Indigenous stories, there is no legal requirement to get the prior informed consent of a 'story owner' to write their story. Secondly, the finite nature of copyright protection is problematic. It does not take into consideration the antiquity of Indigenous stories, which places them outside copyright and therefore in the public domain, opening them up to free use. Consequently, copyright laws do not protect sacred stories from being published. Under Indigenous customary laws, however, the unauthorised dissemination of sacred or secret knowledge to the uninitiated is a serious breach of cultural laws and in some cases deemed harmful or hurtful. Janke then points out that 'without copyright, there are no moral rights of attribution or integrity'. These moral rights are especially important in Indigenous

86 Cf. F. Dussart, *The Politics of Ritual in an Aboriginal Settlement: Kinship, Gender and the Currency of Knowledge* (Washington: Smithsonian Institution Press, 2005); A. Grau, 'Sing a Dance, Dance a Song: The Relationship between Two Types of Formalised Movements and Music Among the Tiwi of Melville and Bathurst Islands, North Australia', *Dance Research: The Journal of the Society for Dance Research* 1.2 (1983), 32–44, <https://doi.org/10.2307/1290759>; A. Marett, *Songs, Dreamings, and Ghosts: The Wangga of North Australia* (Middletown: Wesleyan University Press, 2005).

communities, where ownership rights are communal. This brings us to the problem that copyright acknowledges the rights of individuals without recognising that stories are collectively owned by the family or community and told and retold for the benefit of future generations.⁸⁷ The same is true for other creative outputs generated by and with Indigenous people in Australia such as music, dance and painting.⁸⁸

Whilst in cases such as those in Aboriginal Australia copyright is problematic and directly opposes Indigenous sharing practices, other countries have implemented approaches that engage with copyright debates in culturally specific ways. In her 1996 article⁸⁹ for example, Mills shows how, at least in 1996, Senegal nationalized its traditional music to protect it, whilst Brazil embraced the concept of 'cultural self-determination', surrendering control over the music to the originating communities. In the final section of her work she examines what laws and protections exist that deal with traditional music, concluding that such international legislation is very rare. Where it does exist, it usually indicates that it is an individual country's responsibility to determine the laws they deem appropriate. This has not changed significantly since 1996. However, Indigenous activism has led in 2009 to the establishment of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore in 2009, under the auspices of the World Intellectual Property Organization (WIPO).⁹⁰ This committee includes in its remit all traditional forms of creativity, oral history and folklore and seeks to 'protect traditional remedies and indigenous art and music against misappropriation, and enable communities to control and benefit collectively from their commercial exploitation.'⁹¹ Within ethnomusicological and folkloric discussions the jury is still out on whether the copyrighting and prescriptive ownership of intellectual property and culture is desirable. Titon, in his blog on the commonwealth of culture, suggests that historically the discipline of folklore studies lends weight to the argument that nobody must 'own' culture if we are to steward it appropriately. He observes, however, that

87 Janke, *Who Owns Story*, p. 2.

88 Cf. Janke, *Our Culture, Our Future*.

89 Mills, 'Indigenous Music and the Law'.

90 See WIPO's pages, <https://www.wipo.int/tk/en/igc/>

91 Reporting on the progress of this committee and their actual impact is beyond the scope of this chapter but would be worth further attention in future.

folklorists are very much involved in international efforts to propertise culture in seeking to protect it:

But thinking of culture as intellectual property, and thinking of groups as possessing cultural rights in this property, while it may seem attractive in the short run, is a losing strategy in the long term, for by putting a price on expressive culture it degrades and transforms it into commodity, thereby furthering the mistaken project of economic rationality.⁹²

This then brings us to ask: What of academic publishing, which includes musical materials by more than one author or often, not always, will ask that authors relinquish their copyright to the publisher? These recent developments and international variances in the copyright laws of music have not yet been absorbed into standard academic publishing, policy and ethical considerations on open access, but should be as they have bearing on how and where academics decide to publish and inform decisions on whether open access is the best format or not.

It is to the areas of copyright and responsible sharing then, that researchers, open access publishers, archives, archivists, librarians and data managers might wish to pay special attention. Whilst the Creative Commons licences offer a variety of options for sharing works and are designed to deter inappropriate use of creative and other works online, the licences do not technologically prevent the sampling of digital data. Creative Commons licences allow authors to indicate via logos how they would like their work to be shared. Some licences are very restrictive and do not allow sharing or duplication, even if the work is correctly attributed to authors. Technologically however, it is still possible to copy and replicate the digital data. The licence icons offer no digital protection against data mining. Additionally, it is not possible to entirely prevent inappropriate sampling altogether, without there being a reduction in openness. To complicate matters, with sharing mandates being implemented by research funders, governments, and institutions, it is becoming increasingly likely that research information and data of creative kinds will be handled, managed and stored by non-experts who may not be trained in the variances in sharing practice across the world. To conclude then, I will suggest a few ways in which the open access community might engage with these debates, taking on board some of the ethnomusicological and anthropological thinking.

92 Titon, 'The Commonwealth of Culture'.

Conclusion: Suggested Ways of Engagement

To share ethically it is necessary that the sector become more attuned to the cultural sensitivities around sharing creative practice and how these differ from one community and person to another. Researchers should actively collaborate with specialist archivists⁹³ university librarians, funders and publishers to ensure that ethical guidelines, reporting requirements and dissemination mandates allow for sensitive sharing practices. They must also proactively inform themselves and their students about what technologies are able to offer and what their shortfalls might be. It should become commonplace for funders and policymakers to consider these matters carefully and in consultation with researchers by designing sensitive data management and dissemination protocols and expectations that cater to a variety of disciplines, including the arts, humanities and social sciences. Whilst this is already occurring in the UK with, for example, the Research Councils UK's Concordat on Open Research Data⁹⁴ much still needs to be done at a local, practical level to ensure the recommendations in Concordats such as these are implemented.

Researchers should be encouraged to consider and discuss allocating authorship to creative practitioners and Indigenous contributors when publishing. In some cases, contributors may be able to acquire ORCIDs⁹⁵ and creative outputs can be stamped with digital object identifier (DOI) numbers, to help digitally cement the links between authors and digital objects, where this is appropriate. Metadata records could also be created and maintained to show which researchers are linked to which DOI numbers. This may allow for some discoverability options and accreditation even if copyright is prohibitive. Where open access models are being explored, copyright in audio-visual files, images and song texts etc. can be carefully negotiated and levels of openness

93 Cf. Seeger, 'Ethnomusicology and Law'; Seeger and Chaudhuri, 'The Contributions for Reconfigured Audiovisual Archives to Sustaining Tradition'.

94 Research Councils UK, *Concordat on Open Research Data* (2016), <https://www.ukri.org/files/legacy/documents/concordatonopenresearchdata-pdf/>

95 www.orcid.org: ORCID provides persistent digital identifiers that distinguish individual researchers from one another. Through their integration in key research workflows such as manuscript and grant submissions, ORCID supports automated linkages between researchers and their professional activities, ensuring their work is recognized.

agreed before, during and after the research process. This can ensure that all parties involved are aware of the economies of scale involved and the implications of the methods used. (Ethno)musicologists, legal and digital experts might combine forces with economists and publishers to explore Nettle's 'econo-musicologies' to investigate the relative social and financial cost of open access musical sharing practices internationally. This process will require that researchers familiarise themselves with open access options and that institutions, funding bodies and government organisations find ways to support this through infrastructure, funding, staff training and development. Learning opportunities will be time consuming and resource intensive as well as influenced by local, financial, and other priorities, but if such opportunities can be made available, they will be worthwhile from an equity perspective at the very least

Funders might carefully consider whether mandating open access is always appropriate ethically and journals should explore whether in some cases academic retention of copyright and intellectual property rights to their data during the publishing process may be preferable if Indigenous or other collaborators are involved. Some researchers may also like to consider collaborating with organisations such as WIPO to help inform debates on copyright legislation. This may speed up positive legislative change, promoting equity.

Researchers, institutions and publishers may wish to critically review their overreliance on outmoded peer reviewing practices and consider innovating through technologies that allow creative practitioners and/ or Indigenous contributors to have an input into the writing and editorial processes where this is ethically appropriate and practically possible. In turn, less emphasis might be placed on the production of single-authored manuscripts in the arts and humanities for promotion purposes. Instead the concept of research 'soundness' might be more appropriate.⁹⁶ Through this concept it becomes ethically sound to award co-authorship to creative contributors. Academic authors must not to be penalised for publishing ethically.

Learned societies and ethics specialists are also well placed to design publishing guidance that includes references to Indigenous

96 Moore, Neylon and Eve, et al., 'Excellence R Us'.

rights to culture and intellectual property rights. This could encourage researchers to feel supported in their bid to adopt ethical publishing practices. Such ethical guidance might also be used to teach research students and university staff, the latter having a role to play in supporting researchers to publish their work and manage their data.

Lastly, open access definitions in relation to copyright could be adjusted to ensure that they are receptive and open to Indigenous and creative participation globally where this is ethically appropriate.

No doubt acting on all these suggestions will take time, collaboration and negotiation. Some changes are small and can be implemented easily. Others will take more time in that they require expertise, training and resources and the raising of general levels of awareness and sensitivity. What is least likely to change is copyright legislation due to its role in supporting monetary rewards for creative practice. However, it might be possible in some cases, through sustainable, non-profit open access publishing models, to shift some of the economic drivers that perpetuate inequalities in the copyright domain, ensuring that the greater participation of field interlocutors in knowledge creation, and the satisfactory acknowledgement of their role, is achieved in future.

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