

# Copyrighting Culture for the Nation? Intangible Property Nationalism and the Regional Arts of Indonesia

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**Abstract:** This article analyzes how intangible cultural expressions are re-scripted as national intellectual and cultural property in postcolonial nations such as Indonesia. The mixing of intellectual and cultural property paradigms to frame folkloric art practices as national possessions, termed “intangible property nationalism,” is assessed through consideration of Indonesia’s 2002 copyright law, UNESCO heritage discourse, and the tutoring of ASEAN officials to use intellectual and cultural property rhetoric to defend national cultural resources. The article considers how legal assumptions are rebuffed by Indonesian regional artists and artisans who do not view their local knowledge and practices as property subject to exclusive claims by individuals or corporate groups, including the state. Producers’ limited claims on authority over cultural expressions such as music, drama, puppetry, mythology, dance, and textiles contrast with Indonesian officials’ anxieties over cultural theft by foreigners, especially in Malaysia. The case suggests new nationalist uses for heritage claims in postcolonial states.

This article concerns the way intangible artworks and creative idioms are being refigured as intellectual and cultural property in Global South nations such as In-

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indonesia. In our digital age when movies viewed at home carry Interpol warnings that copyright piracy is a crime, and patented medicines for diseases such as AIDS are unaffordable for millions, ethical debates on the globalization of intellectual property rights have become complex and critical.<sup>1</sup> Much scholarship by international legal experts focuses on the hegemonic push to extend intellectual property laws (conventionally, copyrights, patents, trademarks, and industrial design regulations) into poorer nations,<sup>2</sup> or on efforts to implement laws based on cultural property models that redress affronts or support economic advances for indigenous peoples.<sup>3</sup> Intellectual property laws assume that individual authors are creative originators of works that are transformed into a fixed medium, whereas cultural property laws embed the idea of group ownership, a claim that is increasingly mobilized by states representing diverse internal groups. With regard to their separate historical origins and initial philosophical principles, intellectual and cultural property are different bodies of law, but my research indicates that they are being hybridized in practice as the enclosure of intangible property reaches around the globe.

In this article, I introduce evidence about Indonesian “traditional” arts and copyright law that exemplifies the emergent amalgamation of intellectual and cultural property models. The Indonesian case is part of a broader movement to enclose localized ethnic or cultural expressions as national property, seemingly in response to the global expansion of intellectual property claims. I observe that international and Indonesian intellectual and cultural property advocates talk with, and past, each other amid a little-noticed confluence of these historically disparate regulatory regimes. I argue that the proprietary legal discourse mobilizes new and momentous nationalistic sentiments despite the fact that Western property models generally overshadow, rather than overlap, local artists’ production norms and concepts of creative authority.

My project begins with an effort to identify the larger international and post-colonial state legal transformations in which the proprietary rhetoric and legal initiatives appear. I discuss the awkward encounter between Indonesian state efforts to add icons to the Representative List of the Intangible Cultural Heritage of Humanity administered by the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the wording of a 2002 copyright law that places the same types of intangible cultural practices under state aegis.<sup>4</sup> I also show how the top-down bureaucratic efforts work at cross purposes with the widespread rebuff of authorship and proprietary claims by many Indonesian arts producers and their regional audiences.

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The conceptual and practical implications of these dissonances are analyzed through a comparison of Indonesian copyright law and heritage discourse with narratives by practitioners of local arts including music, dance, drama, puppetry, carving, painting, and textiles. In Indonesia, such socially embedded creative activities are called “traditional arts” (*kesenian adat* or *kesenian tradisional*), terms whose oxymoronic English connotations hint at both the region’s postcolonial history and these practices’ contemporary utility for national and regional tourist markets. I aim to clarify how and why Indonesian artists and artisans advance alternative claims of collaborative authority over these cultural expressions. I conclude that these arts and their elements generally are not viewed as property belonging either to designated legal owners, or to no one, as indigenous resource commons often are portrayed. Yet increasingly, the Indonesian government and mass media urge citizens to take a proprietary stance lest other groups appropriate aesthetic features or allege common historical ownership or provenance. This leads to new forms of ethnic and nationalist rivalries, most notably with neighboring Malaysia.

I propose the term “intangible property nationalism” to name the impulse of international organizations and postcolonial states to view folkloric cultural practices with a combined sense of ownership rights over the immaterial, drawn from intellectual property, and a sense of defensive group ownership, drawn from cultural property models. The necessity for the “fixity” of the work is often overlooked. This move masks and muddies a historically diverse set of regulatory interests and epistemological frameworks surrounding the production, circulation, and ownership of localized knowledge and aesthetic practices. It takes intellectual property to the level of group ownership in the popular imagination, while leading postcolonial nations toward conceptually fraught and sometimes impractical *sui generis* legal regimes.

I employ the phrase “intangible property nationalism” with a self-conscious nod to the cultural property terminology and historiography of John Henry Merryman. Merryman unpacks the conceptual and genealogical differences between those who view cultural property as a universal heritage of mankind, a perspective he terms “cultural property internationalism,” and those who instead view cultural property as a national heritage and proprietary patrimony, a perspective Merryman terms “cultural property nationalism.”<sup>5</sup> Merryman traces the former perspective’s origins to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, and the latter vision to the subsequent 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. Both documents, he notes, were UNESCO-influenced products, but he traces their significant differences to their temporal contexts, specifically United Nations (UN) membership and ethos in 1954 versus 1970, and their distinctive concerns, specifically wartime plunder versus inequitable conditions of international trade and governance.<sup>6</sup>

Drawing on UNESCO instruments and international policy issues, including the Elgin Marbles debates, Merryman defines what he admits is the “unruly” category

of cultural property in generic terms as physical “works of art and archaeological and ethnological objects.”<sup>7</sup> These are the sort of tangible things that the 1954 Hague Convention sought to protect from wartime plunder. My interest here, however, is precisely the way that intangible objects are being incorporated as cultural property by national, ostensibly intellectual property laws such as copyright, as they are written in resonance with diverse international agreements such as the World Trade Organization 1994 Trade-Related Aspects of Intellectual Property (TRIPS) Agreement, UNESCO 2003 Convention for the Safeguarding of the Intangible Cultural Heritage, and the World Intellectual Property Organization (WIPO) Draft Articles on the Protection of Traditional Cultural Expressions, formulated in 2011.

The intellectual-cultural property convergence is taking place in postcolonial Global South nations such as Indonesia where both Euro-American intellectual property regimes and cultural property nationalism are promoted by state leaders and lawmakers working with international organizations. One result is that the two legal models and the English terminology are widely conflated by the public. Numerous Indonesians claimed to me that “Indonesia won the copyright for batik,” subsequent to the Indonesia’s nomination and 2009 inscription of this wax-resist textile tradition on UNESCO’s 2009 Representative List of the Intangible Cultural Heritage of Humanity.<sup>8</sup> There is also a batik design registration program initiated by the Solo city government in Central Java, which potentially restricts the use rights for old, well-known high-status batik motifs to particular established producers who pay government registration fees.<sup>9</sup> Central Javanese generally describe this program (inserting the English term) as “patenting” batik motifs. While lawyers might be tempted to assign this misuse of terminology simply to technical ignorance, it also can be seen as part of the emerging conflation of heritage “safeguarding” and intellectual property “protection.”

There is also a national Indonesian “Batikmark” program begun by a Department of Industry ministerial decree in 2007. This allows Javanese batik makers who already sell their fabrics under a registered trademark to obtain an additional certification represented by a copyrighted label when their products meet certain quality tests. This program is a conventional intellectual property instrument although its explicit intent is to allow the government to “become assertive in protecting its heritage” in the face of “tensions with Malaysia and others on ownership of traditional heritage.”<sup>10</sup> More will be said about the cultural rivalry “tensions with Malaysia and others” in later sections.

Many intangible objects in the form of cultural activities are encompassed by Indonesia’s 2002 Law on Copyright, including unwritten or unfixed forms of songs, myths, dances, designs, or imagery. These productions cross the ethnological-artistic boundary for differently situated observers. I argue that the emerging interpenetration of socioeconomic interests, types of objects, and interpretive frameworks involved in this legal and popular discourse is changing the definitions, axes, and boundaries of emerging global intellectual and cultural property regimes that apply to folkloric or vernacular cultural expressions. A number of early twenty-first cen-

tury comparative cases where copyright or other trade laws have been retooled to become national cultural property provisions to cover specific idioms of indigenous or customary cultural expressions demonstrate the pattern of Global South nations strategically working to turn regional creative industries into national cultural properties. Key examples include Vanuatu women's baskets and men's wood carvings, the latter indexing male positions in ranked societies, and stenciled *adin-kra* and woven kente cloth produced in Ghana.<sup>11</sup> These cases demonstrate that the normative scope and meanings of authority over cultural productions, as well as the concept of creativity, can become unstable in the cross-cultural encounter. Standard legal terms such as "copyright" and "trademark" assume novel connotations, which may vary among regional status- and gender-linked repertoires. The local application of these imported legal concepts spurs shifting practices in their new geographic and cultural contexts.

Trademarks and geographical indications are becoming a popular method to implement cultural property claims, particularly in Latin America. For example, the Chorotega group in Costa Rica, after receiving indigenous reservation status in the 1970s, sought to trademark not simply their products, but their ethnic name as proxy for their human community.<sup>12</sup> Peru's use of geographical indication certification for certain types of ethnically linked "indigenous" ceramics also has induced new competitiveness and revised production practices among the designated region's potters.<sup>13</sup> Although a full investigation of these kinds of cases falls beyond the scope of this article's copyright focus, such analogous examples illustrate the broader trend in intangible cultural property nationalism through *sui generis* legal initiatives.

Theoretically, my research follows efforts by Strathern and Humphrey and Verdery, to observe how property is rhetorically made, ethically defended, and politically naturalized, especially from intangible formulations of aesthetic practice.<sup>14</sup> Through a particular focus on intangibles, I aspire to add a comparative legal dimension to what Charles Taylor calls the transformation of "modern social imaginaries." Taylor and anthropologists such as Chakrabarty provide a history of how Westerners came to envision themselves as individual agents (and thus, sole creators) disembedded from a communal society, a transition linked to the emergence of intellectual property law.<sup>15</sup> To extend this kind of project, Indonesian artists' perspectives about the production and circulation of cultural knowledge help us further reflect upon commonplace notions of self and society by illuminating the little-noticed gap between Euro-American ideals of individual creative agents and their presumed opposites: non-Westerners as "replicators" of communal tradition. This conceptual gap yawns in the Indonesian legal debates.

Indonesia is a culturally diverse archipelago nation, and the fourth most populous country in the world. While home to the world's largest population of Muslims, its 240 million citizens—including Protestant, Catholic, Hindu, Buddhist, and Confucian minorities—identify with an estimated 300 ethnolinguistic groups residing on over 4000 inhabited islands. Indonesian state efforts to foster cultural ownership claims over local arts, and the grounds for many art producers' refusal of the

imported property rhetoric, are illustrated here with ethnographic data drawn from two lines of study. The first is the author's long-term research about Indonesian religion, national development, and regional or vernacular arts, beginning in 1986.<sup>16</sup>

The second line of study specifically investigates the relationship of intellectual property law and cultural heritage initiatives with Indonesian vernacular arts. A team field project running between 2005 and 2007 was continued individually in 2010 and 2011. The team project included collaborative fieldwork with an international group of lawyers, musicologists, anthropologists, arts archivists, and Indonesian community activists. In rotating teams, we interviewed international and Indonesian legal policymakers. We also conversed with, and observed the daily practices of, Indonesian artists working in a variety of aesthetic idioms characteristic of 11 culturally distinct regions in 8 of Indonesia's 33 provinces. Art producers in six additional Indonesian cultural regions were visited by the author in 2011, and interviews were conducted with lawyers, state officials, and artist delegations from Association of Southeast Asian Nations (ASEAN) who attended intellectual property legal trainings at one or more international workshops funded by pro-intellectual property Western donors.<sup>17</sup>

## ANALYZING THE INTERNATIONAL CULTURAL PROPERTY ENVIRONMENT

Before examining Indonesia's copyright law in detail, I will consider the international legal environment that fosters intangible cultural property ideals generally and unpack my chain of arguments. The recent impetus to regulate the "unauthored" is built upon a varied set of imaginings about who has produced what kinds of cultural expressions or folkloric knowledge, and which of their concerns should be defended with international law.<sup>18</sup> For roughly a half a century, UNESCO and WIPO have orchestrated diplomatic discussions about protecting the intangible. These players' initiatives include internal inconsistencies and interorganizational incompatibilities. Despite early attempts at coordination, the two organizations now maintain a *modus vivendi* where, officially, UNESCO focuses on programs for "safeguarding" cultural heritage while WIPO focuses on the legal "protection" of intellectual and cultural property.<sup>19</sup>

WIPO has undertaken its mission for a longer time, with less progress in terms of agreements, while UNESCO—issuing the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage, for example—has moved faster. In large part, this is because UNESCO excludes from consideration the kind of sensitive intellectual property issues that WIPO encompasses, such as those related to large-scale media and pharmaceutical industry interests, which are more challenging to negotiate than the seemingly modest and unobjectionable focus on "cultural safeguarding."<sup>20</sup> Nevertheless, WIPO coordinates with the U.S. Patent and Trademark Office as well as the U.S. Copyright Office to train a new generation of intellectual

property lawyers and advocates overseas. Through this channel, it may wield far more clout. The efforts and influences of UNESCO and WIPO on national Global South regimes and normative activities, while technically independent, in practice become overlapping and dialogic. Their potentially interactive consequences for national laws, local behaviors, and the shifting popular discourses and definitions of intellectual versus cultural property are therefore a key component of the analytic problem I approach here.

In an incremental process advancing at a seemingly glacial pace, representatives of nations with high-tech corporate interests and sophisticated legal expertise meet in Geneva, Paris, and other cosmopolitan conference sites to negotiate with government representatives from everywhere else. What happens there, and the interim documents that emerge, are often unanticipated and replete with varying implications for different parties at the table. As one official explained to me, when Country One wants A but not B, while Country Two wants B but not A, and Country Three wants C but not A or B, then UNESCO often solves the impasse by including A, B, and C in the text. UNESCO doctrines thereby can end up with vague and internally contradictory platforms, which selectively filter into national laws covering folklore or indigenous cultural expressions. WIPO negotiation documents show similar procedural fingerprints.

In the following sections, I first show that many of the international stakeholders employ rights-based rhetoric on behalf of their respective nation-building concerns and regional economic aspirations, while paying surprisingly scant regard to the complex economic interests, viewpoints, and creative processes of local producers and audiences, whose interests they purport to represent. Throughout Indonesia, the collaborative practices of arts producers generally draw more on narratives of ancestral trust and community obligations than on rights-based ownership rhetoric. Artists' words invoke both distinct cultural ontologies of creativity and pragmatic socioeconomic concerns embedded in local production milieus. Their interests often are at odds with those voiced by international and state lawmakers for whom "local" equals "national." For WIPO and UNESCO negotiators, ownership of cultural property rarely becomes more fine-grained than the UN-nation unit. Tensions arise among these different scales of agency and authority over creative practices.

My second related point concerns the distributed and transgenerational nature of Indonesian art producers' collaborative authority, which already is respected. I call for closer attention to what really exists between the imagined ideal of a solo genius artist, who is eligible for recourse to conventional intellectual property protection through copyright law, and the equally imagined communal-group producers, who are thought (generally in the plural) to slavishly replicate their ancestral traditions. The reason this question is important is because the lack of Western-style authorship claims worldwide, in conjunction with globalizing commerce, is what now triggers efforts to create hybrid intellectual and cultural property laws for so-called traditional peoples. But it is important to ask whether proprietary

legislation should (or even feasibly can) protect overlapping claims to intangible cultural property, particularly where legal ownership formulations depart significantly from the original international concerns to restrict wartime plunder and rampant cross-border trade in tangible cultural valuables.

Third, I work to activate my argument in a broader theoretical environment by showing how the increasingly pervasive conflation between the expansionist Euro-American intellectual property and international cultural heritage discourses creates slippage among the two differing legal interests in cultural property (the universal and the national), and a critical third but often overlooked interest: that of the local arts production community. These problems of scale, political inequities, and competing social values appear to be changing the axes of global debates in both legal measures and popular discourse. The melding of overlapping moral concerns—which pivot between individual and group claims, *sui generis* and international protocols, material and immaterial objects, innovative arts and ethnic solidarity practices, indigenous (or regional ethnic) and national values, distributed authority and proprietary ownership—conflate the historically distinct definitions of intellectual and cultural property noted earlier.

In Indonesia, the imported legal models promise to be both aspirational and potentially consequential for categorizing indigenous peoples and their future arts practice. Following UN guidelines, postcolonial nations such as Indonesia now want to claim cultural ownership over traditional knowledge (TK) and traditional cultural expressions or TCEs, a term that increasingly replaces the “F”-word, folklore, which is deemed archaic and derogatory in some circles. In intellectual property law, specialized applications of TK (as well as genetic resources) can be eligible for patents, and innovative variations on TCEs can be eligible for copyrights. Hoping to capture these valuables for the postcolonial state, new laws and international protocols often hitch Westerners’ restrictive ownership rights to homogenized visions of cultural identity, visions that prove challenging where cultural idioms, technical knowledge, and populations are shared or fluid. Thus, TK and TCEs totter precariously between the frames of intellectual and cultural property law.

Reacting to global commerce pressures, some Indonesian leaders fear that their “national” cultural property will become foreign intellectual property or their local resources categorized as part of a global commons over which they hold no recognized precedence or control. Legal monopolies over local knowledge and resources, locked up by multinational corporations, have become an anxiety worldwide. Global South nations often argue that their citizens’ TK can be readily appropriated by others at the same time as they are accused of “free riding” when they imitate the high-priced content sold by wealthy nations. To Indonesia’s nation-building leaders, this can only feel like postcolonial *déjà vu*. Westerners—particularly Dutch colonizers, but also other foreign actors—have legally, but arguably unethically, appropriated Indonesia’s natural and human resources in living memory as well as during prior centuries.

By the late sixteenth century, first Portuguese and then Dutch maritime trading companies entered, traded, and raided local polities, erecting outposts and forts in what is now the Indonesian archipelago. By the seventeenth century, key local kingdoms were conquered by the Dutch East India Company (*Vereenigde Oost-Indische Compagnie*) which, going bankrupt by 1800, ceded control over the archipelago's varied peoples and resources to the Netherlands government. Anti-Dutch and nationalist sentiments grew by the early twentieth century. The Republic of Indonesia finally obtained its independence after a World War II occupation based on heavy resource extraction by the Japanese, and a revolution against Dutch return between 1945 and 1949. During the long and authoritarian regimes of General Sukarno (1949–1965) and General Suharto (1966–1998), local Indonesian resources and labor were often heavily extracted to benefit foreign-owned companies. Key resources included timber and paper pulp for Japanese companies, petroleum for Royal Dutch Shell, Exxon, and Mobil, and gold and copper for the Canadian Freeport-McMoRan Corporation. In sum, making even highly unstable, intangible cultural phenomena such as songs and dances into national property appears to assuage postcolonial anxieties about foreign predatory commerce, while it serves the state's recent marketing and development goals in arenas such as tourism.

My fourth point, then, is that the intertwined heritage safeguarding and cultural property initiatives not only work to bypass the problematic absence of individualistic authorship claims outside of Euro-American societies, but increasingly serve new nationalist goals. This is occurring at a time when the grounds of Indonesian unity need shoring up, and intangible cultural resources such as regional arts and TK seem to promise more readily available and inexhaustible materials for economic development than the already heavily extracted tangible resources of forests and minerals. The new economic development visions for exploiting cultural property, however, may prove to be a chimera for most small-scale arts producers. Indonesia's bureaucratic claims and cultural property zoning plans often appear impracticable in a long diverse region of cultural permeability and regional autonomy. Moreover, the vibrant cultural idioms they target—including mythology, songs, and abstract imagery—may hold more local social and economic value as fluid creative repertoires than as corralled objects vigorously defended on a national scale.

Ironically, the cultural property discourses and media promotions work to reframe cultural expressions as rivalrous and increasingly scarce in ways analogous to Indonesia's natural resources, which for decades were promoted by the Indonesian government and international agencies for privatization, extraction, and export. This raises the question of whether "traditional" culture in Indonesia and other similar developing nations suddenly is recognized accurately by the government as valuable and dwindling, or whether concepts of scarcity are being created in conjunction with a legal monopoly of heritage practices for commercial or political purposes. In any event, the evidence discussed below indicates that both regional and international cultural rivalries increase with efforts to proclaim and inventory cultural practices as national possessions. Analogous turns to increased local competition

have been noted elsewhere, including in Peru where geographical indication (denomination of origin) status for ceramics artisans in Chulucanas has resulted in new secrecy and rivalry in order to gain access to unprecedented markets for pottery.<sup>21</sup>

My data support Michael Brown's cautionary tale about the perils of making indigenous culture proprietary although my argument takes a different moral configuration because it is the state, staked by powerful international players rather than any injured grassroots community, which is seeking increased regulatory control. That control guides the commercialization of ethnically branded cultural production, what John and Jean Comaroff call the global trend of *Ethnicity, Inc.*<sup>22</sup> Moreover, the formal legal framework potentially usurps local authority in ways that are unwanted by many regional producers. Most Indonesian artists and audiences interviewed say that they are more concerned with keeping their cultural expressions alive and locally influential through normative circulation practices than they are in submitting them to legal enclosure and privatization for individual, state, or corporate revenue potential. In the next section, I describe Indonesia's copyright law and begin introducing arts practitioners' own voices to a national and international legal discussion in which they have been notably absent.

### INDONESIA'S LAW ON COPYRIGHT (LAW 19/2002)

The majority of provisions in Indonesia's 2002 Law on Copyright award Indonesians who create Western-style individualistic artworks, such as painters, authors, choreographers, and music composers, a Euro-American standard of copyright protection as first set by the Berne Convention. Indonesian citizens include innovative novelists, poets, journalists, painters, graphic artists, and many eminent stage performers who might make use of the standard provisions in this copyright law. The scope of the Berne Convention for the Protection of Literary and Artistic Works, issued in 1886, was revised in Paris in 1971, and amended in 1979. During the Stockholm Revision Conference in 1967, the issue of incorporating TCEs was raised, but delegates concluded that the originality and fixation requirements of Berne precluded them.<sup>23</sup> As noted below, Indonesia departs from this conclusion in just a few atypical cultural property provisions that have been incorporated into an otherwise conventional copyright law.

Depending on the type of innovative work created, the period of Indonesia's Berne-based copyright lasts for 50 years after the work is publicized, or 50 years after the death of its creator. Indonesia's 2002 law was written to conform to the 1994 TRIPS Agreement, enforced by the World Trade Organization (WTO), which included a 2005 compliance deadline. The TRIPS Agreement requires signatory states, including Indonesia, to formulate legislation with "high standards" of intellectual property protection or risk retaliatory trade sanctions. The new laws are intended not only to benefit Western-style artists but also to foster an ethic of inventor's rights and curtail piracy, especially of digital media and software.

This kind of copyright law looks like it accomplishes legal parity with the developed world, but in practice it does not because very few of Indonesia's citizens wish to claim individualistic contributions, the *sine qua non* of intellectual property law, *even when their creative works are just as novel* as those who claim copyright elsewhere.<sup>24</sup> Authorship consciousness is the first of intellectual property's cross-cultural problems. The erasure of the multiple sources contributing to any creative work, the required legal fiction of authorship,<sup>25</sup> generally is not sought in Indonesian communities. Artists' narratives indicate that, not only do most not buy into the ontological premises of individual genius and exclusive ownership that are at the heart of intellectual property law, they also discern no likely benefits from making such claims.

Many Indonesian artists with whom I have spoken—Muslim, Hindus, and Christians—claim that the genius of what they do emanates from an ancestral tradition. They see themselves as authorized vehicles and transgenerational collaborators rather than sole source points of creativity. Their physical art—in the form of textiles, songs, dramas, dances, or carvings—is not their only achievement, as human sensory perceptions, commodified earnings, or property law could imply. Rather, their work, either material art or performance, is also the communicative sign and physical realization of their relational accomplishment, their ability to master and continue their group's practices for the pleasure of living, and nonliving omniscient, cohorts, such as ancestral spirits and deities. According to what many arts producers said, the value of what they create does not reside only within the work produced, any more than creativity resides solely within a single human creator or a homogeneous cultural group. Claims of individualistic authorship were not how they explained their accomplishment of a brilliant performance or graphic artwork. Nor was it how they justified any recompense they received for their expertise or creative works.

Most artists encountered during fieldwork were perplexed by, and reluctant to embrace, the terms of Indonesia's 2002 copyright law and the subsequent draft cultural property bill because local norms already recommend customary methods of stylistic sharing, imitation, acknowledgment of forebears, and obligations for reciprocity. The artists were more worried that new generations would ignore their group's underappreciated local arts than they were about the possibility that outsiders would gain financially from copying them. They were more interested in governmental promotion of indigenous idioms (rather than of imported pop culture styles pushed by mass media) than they were in governmental regulation of their practices through intellectual property laws.

A second, more widely recognized, problem in applying intellectual property law to Global South societies is that the kind of well-capitalized high-tech and digital content industries that have pushed for increased intellectual property regulation through current international agreements exist in places like the United States, Europe, and Japan, not in places like Indonesia, Ghana, and Bolivia. A third problem concerns how intellectual-property regimes, under such inequita-

ble global conditions, enable predatory commerce based on a colonialist mentality.<sup>26</sup> The cultural knowledge of the less powerful—Third World and indigenous peoples, lower classes, and women—becomes raw material for commercial appropriation and intellectual property enclosure by First World corporations and their representatives.

Because the cross-cultural problems of authorship, and of inequities in the capacity for utilizing conventional intellectual property law, are increasingly understood, *sui generis* cultural property laws often are posed as indigenous rights-based solutions. Such laws allow indigenous groups, or any corporate group including the nation, to claim proprietary ownership over whatever is designated as cultural property. The genealogy of such laws, however, is distinct from conventional intellectual property laws that, for roughly 300 years, have offered limited commercial monopolies and moral rights over the use of particular works to Euro-American producers on the basis of creators' individual innovations or signature efforts. By contrast, the cultural property laws that have appeared in the past half-century—starting with the landmark 1954 Hague Convention prohibiting wartime plunder—mostly concern the redress of cultural insult or injury.

Colonial settler states have led the way in formulating cultural property laws for their beleaguered indigenous groups. In Australia, the 1984 Aboriginal and Torres Strait Islander Heritage Protection Act is intended to protect indigenous areas and objects from damage or desecration. In the United States, the 1990 Native American Graves Protection and Repatriation Act provides a legal mechanism for the identification and return of religious objects, burial goods, and human remains to tribes that can substantiate claims of descent or prior ownership to the materials. These laws aim to redress past discrimination, heal old wounds, and help make the injured whole. But, cultural property legal solutions, especially when extrapolated for intangible property, often create two new and frequently enormous predicaments. The first is the necessity to identify (or invent) the proper social units of ownership. The second is the necessity to identify (or invent) the purported cultural "objects" to be owned.

Indonesia's 2002 Law on Copyright deviates sharply from Berne's intellectual property vision where it proclaims that copyright authority over "folklore and people's cultural products" (*folklor dan hasil kebudayaan rakyat*) is to be awarded to the government (*negara*). The law states that "the state holds the copyright over *folklore* and products of people's culture that are owned in common" (italics in the original). These include: "stories, epics, myths, legends, chronicles, songs, handicrafts, choreography, dances, calligraphy, and other art works."<sup>27</sup> The copyright, which the state purports to hold on behalf of the creators, has no term limits. In other words, the state's legal authority over citizens' remaining local pockets of orally transmitted, cultural productions lasts in perpetuity (Article 31.1a). The law also says that, when works are anonymous or have creators who are not known, "the state holds the copyright over the work on behalf of the interests of the creator" (*Negara memegang Hak Cipta atas Ciptaan tersebut untuk kepentingan Pen-*

*ciptaanya*) for 50 years after the first time the work is “made known to the public” (*diketahui umum*; Articles 11 and 31.1b).

In a nutshell, Articles 10, 11, and 31 potentially enclose the cultural practices of ordinary citizens and put them at the state’s disposal as natural resources, as if they were located in a free-access commons of raw materials, paralleling Indonesia’s postcolonial eminent domain land law.<sup>28</sup> That law states that unplanted forest land can be taken for use by the government even where indigenous peoples have periodically farmed, fallowed, and held customary use rights over the land since time immemorial.

The Indonesian copyright law radically departs from standard copyright regimes with its state-empowered cultural property provisions, which also ignore the “fixity of expression” requirement of most intellectual property laws. The law also deviates from cultural property models such as the Hague Convention by encompassing intangible as well as tangible objects. This contributes to a further lack of clarity about whether coverage applies only to individual artworks or to the entire idioms in which the works fall, such as Bugis myths or Javanese batik.

The preamble to the law says that “Indonesia is a state that has [the term here is *memiliki*, literally also ‘possesses’ or ‘owns’] varied ethnic groups and cultures rich in art.” This wording suggestively places citizens, their knowledge, and arts as assets belonging to the state rather than situating the state as an institution that is owned and directed commonly by its citizens.<sup>29</sup> By contrast, many locals say that it is the ancestors, or deceased relatives, who really own the land and knowledge traditions. Deceased elders are seen to provide descendants rights of access, subject to permission from living elder custodians, ritual fulfillment, or contractual precedent. These are informal, local, and negotiated norms of authority that guide regional Indonesian arts productions such as music, theater, dance graphic arts, and textiles.

The contrast highlights the different views of production authority between Euro-American lawyers or the Indonesian state and many cultural practitioners. It also reveals the state’s different grounds of legitimacy vis-à-vis the international legal community and its own citizens as legal subjects, a point similarly noted in relation to recent Ghanaian laws that impact kente and adinkra cloth production. As Boateng notes in the Ghana textiles case, Global South states—as past colonial subjects—often hold more moral capital and legitimacy at the international negotiating table than they do with respect to their own minority citizens.<sup>30</sup>

Indonesia’s copyright law clearly seeks to transform and strengthen the Indonesian state’s control over cultural arts practice. Yet, the brief cultural property articles in the 2002 law were written without implementing regulations. This fact, along with most arts producers’ lack of familiarity with, and access to, formal law, left the cultural property claims of the copyright act largely untested by case law. By 2005 some Indonesian officials began lobbying for new, more comprehensive cultural property laws because of what they called offending violations. In the following section, I discuss Indonesia’s emerging role in the international dilemmas

of expanding intangible property consciousness. Then, I consider the dispute over an American artist's reliance on a local Indonesian epic for a musical theatrical, a cross-cultural borrowing that was said to justify increased state legal mandates over the nation's heritage.

## GLOBALIZING COMMERCIAL PROPERTY LAW AND THE PROBLEMS OF OWNERSHIP

The politics of global trade during the last decades have included the expansion of intellectual property laws and "soft law" cultural property declarations by UNESCO and WIPO into new national zones. Acceptance into the WTO by less wealthy UN-member nations, fear of WTO-sanctions, and the prospect of beneficial trade deals with wealthy nations all serve as incentives for developing nations to create a suite of strict intellectual property laws as they are framed in the 1994 TRIPS Agreement.

The national and local participation required by citizens for compliance under WTO-enforced rules is different from, and generally more overbearing than, the voluntary participation promised by becoming signatories to UNESCO heritage safeguarding conventions. Yet, the increasingly widespread application of both intellectual and cultural property instruments is based on Euro-American assumptions about humans as self-contained creative entities whose expressive works are potentially alienable, commercial assets, which should be attached to creators or their corporate surrogates—and now by extension cultures—through legal rights. Over the past decade, these historical visions of proprietary ownership have been retooled in the culturally focused conventions of international institutions such as WIPO and UNESCO. The rapid formulation of new national intellectual and cultural property doctrines, their lack of conceptual clarity, and their often unconvincing potential for implementation, have drawn scholars' attention to arguably inappropriate claims of exclusive ownership over shared cultural activities that become redefined as corporate or state property.<sup>31</sup>

Indonesia has been an active party in this international discussion. Indonesia held the 2011 presidency of ASEAN and the 2007 presidency of WIPO's Intergovernmental Committee (IGC) on Intellectual Property, Genetic Resources, Traditional Knowledge, and Folklore. The IGC works to devise common guidelines and policy protocols that follow WTO requirements for what is considered to be standard, modern, intellectual property law. The committee also works to address UNESCO's calls for "indigenous heritage protection" through cultural property proposals intended to assuage Global South nations' fears of predatory commerce; for example when a foreign or multinational corporation claims exclusive legal rights to a design or herbal formula that was formerly shared local knowledge and practice.

Intellectual property ownership rights, like all legal rights, must be confined to precise units, generally individuals or businesses. Ever since the concept of copyright

crystallized in Europe in the eighteenth century—in tandem with the printing press, royal censorship over guilds, declining aristocratic patronage, and Romantic notions of innovative genius—the focus of intellectual property laws has been on delineating sole or corporate authorship for the purpose of defining limited economic and moral ownership rights over particular works.<sup>32</sup> As noted above, however, since the 1970s analogous legal ownership rights have been claimed over regional symbols or classes of works produced by native cultural groups, particularly in North America and Australia.<sup>33</sup>

Here, an anthropological dilemma arises. Scholars of cultural difference seek to respect and support the redressing of past wrongs and the empowering tactical claims of indigenous and minority peoples. Yet, we also understand that culture does not reside in lists. We now contend that the majority of the world's cultural groups—and even many cultural constructions of persons—have fluid and shifting boundaries, which lead to layered and strategically employed identity claims.<sup>34</sup> The overlapping or negotiated cultural identity claims expected by anthropologists, however, are troublesome for laws, enrolled-member native groups, and bureaucratic states. These institutions seek precision and political control of their borders, based on purportedly objective measures.

New hybrid intellectual and cultural property laws provide economic incentives for well-positioned individuals to reinterpret local ritual practices, knowledge, and cultural expressions as ownable things to be defended, bought, and sold to broader markets. High-ranked wood carvers in Ambrym, Vanuatu, can legitimate their historic monopoly on producing certain kinds of carved wood statues by recourse to a 2000 copyright law that covers “expressions of indigenous culture.”<sup>35</sup> Indigenous women benefit by the protections of Panama's *sui generis* indigenous intellectual property law (No. 20), which allows only members of recognized Indian groups to produce embroidered *mola* textiles for tourist and export markets.<sup>36</sup> Ghanaian men make kente cloth in the ancestral kingdom region of Asante, and Ghanaian market women make newly designed stenciled adinkra cloth. Both groups benefit in different, limited, and often unpredicted ways from Ghanaian copyright and industrial design laws.<sup>37</sup> These cases, too, show a combination of intellectual and cultural property models to cover local arts.

Yet, by mechanically assigning either individual or group ownership to shared, or partially shared, cultural idioms, these laws can misrepresent, and potentially transform, other modes of collaborative creative production that are little concerned with ownership as the term is legally understood. As a case in point, Indonesian practices of cultural education and aesthetic performance through the teaching of stories, songs, and stage dramas are often about circulating and sharing—constructing social bonds through information transfer—rather than restricting and secluding local knowledge.<sup>38</sup> Similarly, many Indonesian textile producers count upon open access to shared symbolic repertoires and ancient natural dye recipes to continue their subsistence and livelihood practices. The Indonesian ethic of shared production knowledge initially seems comparable to that of Vanuatu women basket mak-

ers. Central Pentecost Island women share and copy plaiting designs within their locales. This fosters female solidarity and social equality through knowledge transmission, even as they draw on nationalist discourses of copyright.<sup>39</sup> Unlike the Vanuatu women, however, most Indonesian arts producers do not actively seek to hide their designs and production knowledge from outsiders and noncitizens in order to reify regional identities. On the contrary, many Indonesian arts producers do not consider imitation a dangerous vulnerability of their industry, either because hard-won skill sets impede easy reproduction by outsiders, or because the genres and styles index regional identity markers that neighboring ethnic groups actively seek to maintain.<sup>40</sup>

The Indonesian case is challenging to intellectual property discourse because local musicians, dramatists, weavers, and other Indonesian regional artists routinely deny that they are the individual creators of the objects and performances they produce at the same time as they describe their particular innovative contributions and preeminent authority. When our research team initially asked individuals if they were the “creators” (*pencipta*) of particular artworks, several Muslim artists took exception to our words and said that they considered themselves to be just “followers” (*penyusul*) of their cultural or ancestral tradition. Some said that the term “creator” (*pencipta*) is applicable only to God (*Tuhan* or *Allah*). We heard the same answer from Hindus, Christians, and the minimally orthodox. I would argue that this position indexes a trans-sectarian cultural context where an arts producer’s publicly asserted modesty and respect for a long ancestral tradition positions him or her as a more pure and trustworthy vehicle for aesthetically conveyed moral truths. Ultimately, such a “noble” position makes the skilled producer seem a better bet for financial support and community sponsorship.

The same artists also stated that changes or innovations they add in order to make their genres attractive to young audiences do not alter the essence of their group’s ancestral tradition. These statements, which deny individual authorship while invoking the integrity of one’s traditional heritage, appear to mesh with well-meaning cultural property initiatives such as UNESCO’s 2003 Convention for the Safeguarding of the Intangible Cultural Heritage, which Indonesia ratified in 2007. This document, and the general cultural property concept developed by UNESCO and WIPO, promote a metaphoric vision of cultural proprietorship without which ethnic groups or nations, conceived of as persons, lose part of their “personality” and thus become incomplete.<sup>41</sup> The post-Enlightenment moves to make persons into owners of the intangible, and business corporations into legal persons who can own the intangible, are now succeeded by a move to make nation-states into similar corporate caretakers for unknown or sometimes even reluctant producers of intangible aesthetic resources.

Foucault famously suggested that the emergence of authorship in the eighteenth century was a key moment that naturalized the individualization of shared ideas.<sup>42</sup> Stories, he noted, had successive tellers, and even writers, long before they had self-conscious authors. Now, legal initiatives seek to naturalize cultural own-

ership of creative resources among millions of people who have never asked for these “human rights.” These producers negotiate access to their local knowledge and arts practices differently from those who promote the laws. This is of direct relevance for anthropology because, just as the discipline has purged itself of concepts of stable and unitary cultures,<sup>43</sup> cultural property legal provisions enjoin both indigenous groups and nation-states to reinvent them, thereby allowing the assertion of fixed moral and economic ownership over fluid cultural practices and identities. Additionally, human rights rhetoric is deployed both in support of, and in opposition to, the increased utilization of intellectual property law. Whereas some groups make a moral appeal to human rights as a counter to the global expansion of intellectual property laws, because the laws generally favor wealthy corporations and increase inequities, other groups make a moral appeal to human rights in support of intellectual property laws that seem to favor marginalized or indigenous groups.<sup>44</sup>

To be clear, I am not suggesting that people who are classified as indigenous or traditional by their governments should be offered less than full parity in access to conventional intellectual property claims such a copyright. Nor am I suggesting that cultural property laws are never legitimate to compensate or even the playing field for marginalized groups. Rather, I argue that if diverse modes of creative practice are to be understood and supported, it is crucial to inquire about the creators’ visions of personhood, inspirational authorities, and normative production processes. This should be done before imposing new laws that are oriented to defining property for profit over creative practices that are oriented to multiple social values and local livelihood goals. This is especially true when proprietary rules are being pushed by the powerful, and the boundaries between material and immaterial, works and idioms, national and regional are elided. The case below illustrates some of the complex problems at hand.

### NATIONAL OWNERSHIP ON BEHALF OF THE CREATORS (I LA GALIGO)

During Indonesian fieldwork visits between 2005 and 2007, our research team met with government officials, university scholars, artists, and villagers of the Bugis ethnic group as they passionately discussed a theater production that virtually none of them had seen. *La Galigo* (or *Sureq Galigo*) is the name of a myth known, generally in fragments, by most residents of Sulawesi, the island where I lived for three years in the 1980s. For some in Sulawesi, *La Galigo* is a profound set of religious verses, recited at rituals, which narrate the creation and early events of the universe. For others, it is loved as a memorable adventure story, whose heroes—the first six generations of gods and their Middle World or human offspring—engage in exploits that offer familiar metaphors and models for contemporary life. Bugis specialists describe it as the major work of Bugis literature and their cultural en-

cyclopedia, detailing aristocratic ideals of ritual protocol, marriage, incest, food, and migration.<sup>45</sup>

Learning about the Sulawesi myth, the American avant-garde artist Robert Wilson—known for his collaboration with Philip Glass on the opera “Einstein on the Beach”—worked to direct a 3-hour stage rendition of one strand of the tale. His multimedia tableau, which used newly composed music, ethereal dances, suspended props, and spectacular lighting, was grasped by Western art critics less as a translation than as a tribute to the original Bugis epic.<sup>46</sup> In short, Wilson’s production was transformative enough that it would be eligible for a fair use exception under U.S. copyright law, assuming for the sake of argument that the Bugis epic was a singular and copyrightable work.

The experimental theatrical toured Singapore, Amsterdam, Barcelona, Paris, and New York, before a long-awaited performance was staged in December 2005 at the Taman Mini Theater in Jakarta. By then, prominent Indonesian officials had begun to protest that Wilson’s production was an “erosion and distortion” (*erosi dan distorsi*) of an Indonesian national literary and religious treasure.<sup>47</sup> Henry Soelistiyo Budi, an intellectual property advocate and head of a justice and law unit in the vice president’s office, contended that Wilson had not sought and received appropriate central-government permission as required by Indonesia’s 2002 copyright law.

But the legal and moral issues proved to be complex. The epic’s first written versions date to between the fourteenth and seventeenth centuries CE. Thus, like the Ramayana and Mahabharata—ancient Hindu epics that the ancestors of Indonesians appropriated from South Asia—*La Galigo* predates the invention of copyright provisions in Europe as well as the Indonesian nation. It is not, however, theoretically beyond the reach of the 2002 Indonesian copyright law, which says that the state holds the copyright to folklore (presumably from all times past, present, and future) in perpetuity. Budi argues that the Bugis epic exemplifies exactly the kind of “cultural product” (*benda-benda budaya*) over which the central government now must maintain legal control to prevent misuse by foreigners. Budi adds that “jargon” about a “common heritage of mankind”—clearly a barb aimed at “cultural property internationalism”—simply allows foreign capitalists to exploit Indonesian arts without regard to local cultural sanctity or economic benefit.<sup>48</sup> Wilson can copyright his epic-inspired screenplay but, without an airtight cultural property law, Indonesians cannot lay legal claim to the epic that is Wilson’s primary source. Many Indonesian leaders deem this unfair.

Budi’s fears are realistic, but his allegations of cultural misappropriation and proposed solutions raise troubling questions. Can laws that conceive ritual practices from the Indonesian periphery as national property protect ancient localized creations such as myths from cross-cultural transmission and use? Should they? Doesn’t the claim that these intangible narratives are ownable objects affect local and national understandings about rituals and citizenship, as well as the nature of storytelling and local authority? The fact that intellectual property and cultural

advocates are so quick to twin the feared loss of cultural sanctity and economic benefits hints that rhetoric about the former can be wielded to justify access to the latter.

In the Bugis heartland of South Sulawesi, we heard an eclectic mix of praise and criticism for Wilson's production. Wilson hired Sulawesi performers, scholarly experts, and even a transvestite ritual specialist (Bugis, *bissu*) to participate among roughly 50 all-Indonesian cast members. In contrast to the nationalist critique posed by Jakarta officials, many Sulawesi residents praised Wilson for his efforts to obtain local consent and involve local advisors and performers, meaning ethnic Bugis rather than outsiders from Jakarta. They also invariably expressed appreciation for how Wilson's production raised national and international awareness of Sulawesi's little-known epic. As a result of the production, new efforts were made to teach the *La Galigo* story in Bugis script to rural South Sulawesi children. Local cultural benefits seemed to outweigh the slim potential that the state and region could profit from international trade in an unfamiliar and Byzantine local myth. Wilson was not Disney.

Although the ritual integrity of the epic's use was a genuine concern for some Sulawesi people, it did not prove to bear directly on Wilson's production, which was staged far from Sulawesi Island. On Sulawesi, as elsewhere, we found Indonesian communities notably unconcerned about potential misuse of their works when presented to outsiders. Many people told us that any incorrect performance or reproduction of their arts elsewhere did not concern them. That would be a matter for the foreigners' ancestors and gods to judge. Thus, the locals most knowledgeable about the myth seemed less troubled about violations of cultural sanctity than the national representatives who frequent international meetings advocating expanded intellectual and cultural property regulations. In such forums, the vulnerability of sacred and secret mythology is described as a generically "indigenous" predicament, notwithstanding that it is based primarily on context-specific North American and Australian concerns.

Bugis scholars emphasized the lack of standardization among *La Galigo* versions. Seafaring Bugis people have migrated across Sulawesi and greater Southeast Asia for hundreds, if not thousands, of years. Different Sulawesi regions possess dozens of manuscript sections written in an old Bugis script. No single complete text exists, or perhaps ever existed. Most people only know bits of the story about the epic's popular hero (Sawerigading) but many still consider *La Galigo* to be their local origin myth. These informal claims of heritage identification were not exclusive or rivalrous. Yet, Bugis comments suggested that any government effort to define boundaries for the myth's ownership at either the regional or national level would become contentious. As one Bugis man said, "If people on the other side of the island dared say the myth was theirs and not ours, then we'd start fighting."

Several aesthetic and procedural complaints about Wilson's production were voiced, and the absence of local performances was a grave disappointment. Many

locals complained that a less costly, lower-tech version of Wilson's production should have been staged in Sulawesi.<sup>49</sup> Yet, the diverse and messy grievances heard in Sulawesi included no requests for legal remedy. They did not lead logically to the planned solutions of national or even district legal custody of the myth. Nor did they resonate with the erosion and distortion by foreigners critique voiced by Jakarta officials.

Sulawesi people, in fact, said that they wanted more variations of the epic to be performed, not fewer, as implementation of the 2002 copyright law likely would require. Formerly, any offenses related to the use of arts or ritual practices would have been discussed and negotiated by local elders. Now, distant officials in Jakarta, perceiving new kinds of national problems, turn to international solutions suggesting that legal "protection" equals greater human rights and cultural "preservation." But, when representatives of international institutions such as WIPO speak of using intellectual property legal solutions to protect local knowledge and TCEs they, in fact, mean national ones.<sup>50</sup> They generally employ no more refined or precise sociopolitical unit of analysis. This effectively homogenizes the interests of diverse people within plural nations such as Indonesia. The cultural property draft law described in the next section further divides the forms of legal protection offered to "traditional" groups versus "modern" citizens, who presumably will make conventional intellectual property claims as innovative individuals or corporations.

## DEAD ON ARRIVAL? INDONESIA'S DRAFT CULTURAL PROPERTY LAW ON TRADITIONAL CULTURAL EXPRESSIONS

In 2006, after the *La Galigo* allegations, Indonesia drafted a new *sui generis* cultural property law on the protection of TCEs. Following successive revisions in 2007, 2008, and 2009, the draft was tabled rather than passed by a parliament that seemed to become cognizant of its intractable problems. Government lawyers tasked by Indonesia's Ministry of Law and Human Rights to write laws on intellectual property, TK, and genetic resources say that they await further instructions from the ministry because the draft law and the dilemma of how to structure legal policies for "intangible assets of traditional cultures and communities" is "still under discussion."<sup>51</sup> I consider certain statements in the 2006–2009 drafts below because they track the shifting WIPO vision and moral hazards so precisely. A revised version of the law still may emerge someday from legislative limbo to extend the 2002 copyright law's incipient cultural property claims.

The preamble to early versions states that, although all known intellectual property law is based on originality of individual creators, communal interests are primary in the context of Indonesia's TCEs. It adds that protection of Indonesia's TCEs does not require that they demonstrate originality and novelty; that their creators usually are not known, and they are copied and used from generation to generation. With these words, vernacular arts practices are made into objects that

lack innovative contributions and are disconnected from any identifiable persons considered to be capable of holding executive authority to adequately direct their management. This basically reverses the way intellectual property has been conceived and justified since the eighteenth century.

The preamble to Indonesia's draft Law on the Protection of Traditional Cultural Expressions (version circulated in January 2007) explains the law's rationale in economic-development terms that parallel the state's eminent domain rights over land. It says that Indonesia has a "wealth of cultural heritage" (*kekayaan warisan budaya*) that needs protection so that prosperity can be increased not only for communities that own TCEs but also for the nation. Yet, the well-intentioned goal of national prosperity entails a patrimonial form of trusteeship. The cultural property framework may allow the Indonesian government to show that it is protecting the rights of its traditional communities even as it legally encloses them for regulation and future business transactions. Being labeled indigenous might qualify minority groups to make claims for the return of lost territory or resources. Being labeled traditional, at best, qualifies them for tourism or top-down development projects.

Indonesia, in fact, does not acknowledge a separate category of indigenous people. To prevent tensions between dominant and minority communities, and between long-time residents and recent immigrants on various islands, all Indonesian citizens are termed indigenous "sons of the soil" (*pribumi*), except (historically) ethnic Chinese. Leaders in Jakarta, mostly urban Javanese, make state legal policy on behalf of hundreds of smaller ethnic groups living on thousands of islands, as well as their own rural Javanese cousins who, along with other migratory groups, sometimes have moved (or been moved by the government) to those islands for economic reasons. Whereas heritage-protection laws in nations such as the United States, Australia, and New Zealand are designed to address colonial-era abuse of native people by European settlers, Indonesian initiatives, which rest on a traditional- versus modern-people dichotomy, generally obscure ethnic, religious, class, and rural-urban dimensions.

By the 2008 version written after many WIPO negotiations, coverage of TK was included to create a revised draft Law on Intellectual Property Protection and Use of Traditional Knowledge and Cultural Expressions. The proposed cultural property law aims to regulate all uses of "Traditional Knowledge" (*Pengetahuan Tradisional*) and "Traditional Cultural Expressions" (*Ekspresi Budaya Tradisional*) that are preserved or practiced by a "community or traditional society" (*komunitas atau masyarakat tradisional*). This wording places a great deal of definitional weight on the term "traditional." In fact, like the cultural property articles of the 2002 copyright law, the draft law divides the nation into two kinds of citizens: modern individuals and traditional groups. Modern individuals produce original art and commodities with exchange value, things that can be regulated by conventional intellectual property law. Traditional groups produce communal folklore and crafts with use value, things that are not regulated historically by law. This seems to be

an obvious if stereotypic dichotomy. But, our interviews found Indonesian artists of vernacular idioms such as gamelan orchestral music explaining that, even for experts, “it is dizzyingly difficult to distinguish” (*sulit pusing untuk membedakan*) what should be called traditional versus modern versions of their music. If the master musicians are uncertain about how to classify their music—whether any particular work is a “traditional cultural expression” or instead an innovative transformation inspired by the tradition, how can lawyers be qualified to do so?

The draft cultural property law proposes to regulate most reproductions or adaptations of Indonesian regional material arts, music, theater, and dance as well as stories and ritual ceremonies, regardless of their date of origin. It provides narrow exceptions for education, research, journalism, and charity, but there must be no economic returns involved, even to defray production expenses. Thus, for example, a street singer who performed folk songs from another region for pay might fall under legal sanctions, as might ethnomusicologists who sold folk-song CDs of educational value in order to subsidize their recording costs.

The draft law requires both Indonesians and foreigners to negotiate use agreements or contracts with owner communities (*komunitas pemilik*) and file these with district or, in cases of widespread practices, also provincial and national government offices. Foreigners also must obtain special permits from district, provincial, or national agencies. In versions written before 2007, the users of TCEs were required to “share a portion of the profit” with “the government and the owner and/or custodian communities.”<sup>52</sup> This looked like government rent-seeking and perhaps alarmed customary community activists. By late 2007, that concern was addressed by removing the government as a required recipient of profits in later drafts.

In all versions received, improper attribution, “offensive” uses of TK and expressions, or failure to obtain agreements and licenses would lead to civil or criminal penalties. A vaguely described national commission of experts would advise the government further about the specifics of these matters. It is unclear—even to numerous Indonesian government lawyers interviewed—how the 2002 copyright law would fit with, or be superseded by, the draft law, if the latter is ever passed. What is clear is that if it is enacted, this kind of *sui generis* cultural property law would entail escalated bureaucratic supervision of intangible art practices. Implementation would involve innumerable practical challenges based on problematic concepts of culturally bounded, homogeneous ethnic communities. Yet, as peculiar as the proposed law seems, it is very much in line with the broader international trend promoting intangible property nationalism, as reflected in documents from 2011 WIPO negotiations. The same WIPO models, as well as European Union and U.S. funding or technical support, have been proposed to all ASEAN member states as well as the entire Asia–Africa UN consortium, whose cultural property meeting Indonesia hosted in 2007. Additionally, in 2011 the WIPO IGC progressed to a platform of “text-based negotiations” including a set of Draft Articles for the Protection of Traditional Cultural Expressions.<sup>53</sup>

Indonesia's 2002 copyright law, the cultural property law drafts, and the WIPO Draft Articles all epitomize what Michael Brown calls a "radical broadening" in the concept of cultural property, a term that once designated only tangible heritage, such as threatened monuments or portable artworks.<sup>54</sup> It takes the idea of expressions of the intangible from copyright law and inflates their ownership from individuals to groups. It also drops the usual copyright criteria of minimal innovation and fixity of the aesthetic work.

Knowledge about Indonesia's recent cultural property claims leads some artists to fear that customary access to their group's heritage could be blocked by national law. As a Balinese dancer phrased it, "The arts of Bali are part of our local cultural tradition. Imagine if our troupe wanted to perform an old work and had to ask permission of the state?" In this dancer's mind, he and his troupe have collaborative (although not necessarily undifferentiated or unlimited) rights to access and interpret their regional arts canon. The dances do not exclusively belong to any one of them individually, to a corporate village, or to the Indonesian state, whether performed to earn a living or not. Knowing how and when to perform the dances for certain audiences is the achievement that constitutes the dancers' informal license. Formal law, they suggest, is unnecessary and obstructionist for their purposes.

In sum, Global South governments face a dilemma when they become pressured or tempted by foreign organizations to assume Euro-American versions of intellectual property law but then can locate few citizens who are willing and able to invoke it. Such a legal regime only seems to serve the interests of powerful outsiders. The Indonesian solution, while bowing to WTO demands for stringent intellectual property regulations, also creates a bit of blowback by making *sui generis* cultural property claims over cultural arts. Their wording builds on the UN's emergent international cultural property guidelines to proclaim new authority for the state to adjudicate rights over folkloric practices and knowledge on behalf of the nation's so-called traditional communities. This could give Indonesia more of an upper hand when foreigners try to conduct tourism or import-export business directly with regional producers. But there are potentially perverse local production and market effects, which incite producers' resistance.

To be fair, the reason no legal enforcement mechanisms have yet been put in place to enact the state's cultural property claims is likely because many legislators and cultural advocates can sense the perils and impracticality of that path. As noted, the draft law attempts to enshrine local custodians or "owner communities" (*komunitas pemilik*) as negotiating partners for the commercial use of folkloric practices. Given centuries of Southeast Asian migration and intermarriage, however, concepts such as "the Javanese," "the Bugis," "the Balinese" and hundreds more ethnic terms are not tidy categories. Eons of sea trade, and decades of state transmigration programs, have dispersed both people and aesthetic practices. Sumatrans now make batik, gamelan ensembles exist outside of Java, ancient Austronesian imagery and Indian trade cloth patterns recur throughout (and beyond) the ar-

chipelago. The draft law proposes that the state arbitrate cultural appropriation contracts when the scope of an arts or knowledge community extends beyond a province. This stalled central state regulatory solution adds red tape and possibly fees into the circulation of cultural practice, a vision more appalling than appealing to regional communities whose views on customary appropriation, imitation, and innovation are explored further below.

### THE WORDS OF SOME INDONESIAN ARTS PRODUCERS: “IN INDONESIA, COPYRIGHT MEANS . . .”

Compared to the legal trope of copyright piracy, now ubiquitous in the digital world, Indonesian artists' perspectives on imitation show how ethical forms of copying can be a method for vital cultural reproduction rather than thoughtless replication. In general, there is complacency about both outsider and insider imitation among noncommercial Indonesian arts producers. Even small-scale commercial textile producers say things like “they copy us, but we copy them too, so it's a win-win situation.” Some quip that, “In Indonesia, copyright means the right to copy” or “In Indonesia, copyright means you copy to write.” The witticisms highlight the disconnect between wealthy nations' assumptions about knowledge or brand ownership, and expectations in places such as Indonesia where the reproduction of copyrighted or trademarked items is viewed as akin to other familiar paths for circulating social knowledge and useful goods.

In Bali, for example, classical poetry always has been taught to apprentices through a method of successive copying without attribution, which looks exactly like “rampant plagiarism” to a Westerner.<sup>55</sup> Vanuatu musicians similarly respond to discussions about copyright by noting that, “The reality in Vanuatu is that we live on copies.”<sup>56</sup> Such comments refer both to customary processes of copying ancestral examples, as in Bali, and the more recent dependence upon reproducing nonindigenous content, such as pop music forms, in order to please contemporary commercial audiences. We might see this as a kind of import substitution. The indigenous musician imitates foreign pop music to staunch the flood of imported music. The Vanuatu musician “intimates that from the start, the continual, object-oriented dialectic between copyright and copying is by no means easy to navigate.”<sup>57</sup> Older normative forms of community copying meld seamlessly into newer global forms of commercial imitation.

Although the mischievous comments about copying entail characteristic Indonesian and Vanuatu wordplay about what foreign companies would call copyright piracy, most Indonesian village artists remark that their genres of songs, performances, and graphic arts will only thrive, or even continue to exist, if others, especially local youth, *do copy* their inherited works and styles. Some Javanese artists and artisans, including classical dance choreographers and producers of incised ceremonial swords (*keris*) renowned for their potency, use the Javanese term *mut-*

*rani*, meaning “to make a child of,” when talking about making an intentional copy of an excellent work. Javanese court dance choreographers typically use this term when they are anonymously reviving and gingerly modifying old dances, often with changes in lyrics, number of dancers, costumes, and other features that allow the new variation to reference the particular occasion on which it is performed.<sup>58</sup> This points us to theorize aesthetic creativity and reproduction in vital genealogical terms, rather than simply with reference to unthinking mechanical imitation. It is also important to note that within such oral arts repertoires, there is no ur-text. Thus, Euro-American concepts of copyright-worthy originals and legitimate or illegitimate copies often make little sense to Indonesians. Instead, each work within the repertoire is its own addition to an endless trajectory of versions, each potentially offering a stellar new original as well as an intentional and ethical copy. Like our own genealogical offspring, they are both hybridized copies and unique individuals.

In a world of commerce where everything from smiling mouse images to gene fragments can be legally privatized, wry comments such as “In Indonesia, copyright means the right to copy” come as bracing words. This different perspective on imitation of works is married to alternative understandings of creative authority. Many Indonesian master artists and performers wish to share, rather than sequester, their knowledge. They view authority over arts production as emanating neither from an individual author, nor its imagined opposite: a homogeneous cultural community. My argument is that, inconveniently for the legal formulas on offer, the production of Indonesian creative expressions is a matter of both individual and collaborative creativity as well as authority. Moreover, that innovation and authority is distributed across generational time as well as knowledgeable persons, living and dead.<sup>59</sup>

Representatives from a few of the more hierarchical Indonesian ethnic groups do wish to sequester their ancestral cloth production techniques although they, too, show little desire for government regulation of their practices. In the cases I encountered where imitations were viewed as problematic, as with knockoffs (or counterfeits) of high-value double ikat textiles in Tenganan, Bali, the textile makers themselves devised satisfactory and even profitable informal solutions. Some of them publicize the knockoffs as a lower quality textile produced by a different technique and ethnic group, advising buyers on the merits of the genuine article. Some sell the knockoffs in their home shops where they may or may not reveal the quality and price difference to tourists. Overall, without recourse to formal law, Tenganan has increased its caché as the sole production site of an “authentic” and potent ritual textile.

The international legal measures do not enter a vacuum, or even a uniform social space with predictable local interests. Indonesian artists often understand their sources of creative motifs to emanate from traditions that transcend any physically present individual human being or community—including the nation-state planning the laws. Many Indonesian weavers, dancers, musicians, and dramatists I

spoke with invoked deities or ancestors, some encountered in dreams, as the sources of inspiration and authority for novel designs or productions. This worldview of transgenerational obligation and transmission maintains and negotiates internal social hierarchies. It allows aristocrats, innovators, and social climbers to say “a higher power told me to do this.” It also challenges the bureaucratic vision of laws awarding copyright over works or idioms to particular individuals, ethnic communities, or the state.

Invocations of ancestral spirits or tradition (*adat*) do not simply testify to passively transmitted replication but, rather, point to a familiar local channel for knowledge access and authoritative parlance. Advocacy of tradition often now is linked with old regional hierarchies, and with problematic zones of colonial anthropological discourse that once saw inherited culture as fixed rather than symbolically constructed and negotiable.<sup>60</sup> Yet, given Indonesia’s national motto of “Unity in Diversity” (*Bhinnéka Tunggal Eka*, Old Javanese), advocacy of regional tradition represents an alternative platform from which to challenge both the hegemony of more potent ethnic neighbors and the government’s homogenizing assertions of national cultural uniformity or “pan-Indonesianness.” Multiple lines of evidence suggest that rhetoric drawing authority from *adat* tradition has seen a lively revival during Indonesia’s post-1998 *Reformasi* period.<sup>61</sup> Advocating traditional norms and ethical practices as sources for contemporary creations resists the externally driven commodification of ritual arts, the general acceptance of pop-based modernity, and the state’s move to co-opt the local social space of tradition by legalizing it.

Most Indonesian arts producers intuitively reject the idea that they are sole creators, do not ordinarily sign their works, and say they willingly impart knowledge and share techniques with novices who want to learn and copy their styles. These aims and practices generally are inconsistent with the legal claims of authorship and ownership that activate conventional copyright law. Conversely, recent national efforts seeking to label these arts as “communal” in order to subject them to *sui generis* cultural property legislation also seem misguided. This is because Indonesian artists already negotiate and enact local norms about partially shared repertoires and certain individuals’ special expertise within their restricted local commons. Individual contributions are significant, yet authority over production is socially distributed, not uniformly shared. It is equally true to say that the Indonesian arts creation process is individual *and* communal as it is to say that that it is neither individual nor communal. The Euro-American dichotomy between individual originality and community uniformity, implicit in most discussions of intellectual and cultural property law, holds little traction.

For example, one shadow-puppet (*wayang kulit*) master (*dalang*, Indonesian; *dhalang*, Javanese) interviewed had, for political reasons, spent decades as a script-writer for other performers. This is a relatively new pursuit among Javanese puppeteers. It is also a profession eminently suited to individualistic modes of regulation such as copyright. Yet, the puppeteer said he has no interest in copyrighting his

scripts, even though he is fully aware that it might lead to additional income in the form of royalties. Instead, he positioned himself as someone chosen by God to dramatize ancient Hindu epics that teach morality, insisting that “there is a rift between moral and money issues.” In such cases, we see that the puppeteer maintains his artistic authority and continued community support by publicly renouncing commercial ownership claims that would debase his spiritual aspirations and related reputation as a sage.

The puppeteer told us that he does not mind if others photocopy his scripts or imitate his work without acknowledgment because he changes his style and techniques all the time. Besides, he wants to see shadow-puppet theater flourish. Thus, he said, the more people who copy his example, the better. The puppeteer’s proprietary feelings about his artistic endeavors or “screenplay products” seemed to matter less to him than his artistic investment in the social process of teaching epics and their related cosmology. Yet, the puppeteer put a secret emblem on the scripts he wrote for other performers who received public credit for them. This indicates that he was not insensitive to his individual contributions to the dramatic canon. But, like many artists we met, the puppeteer spoke in Maussian language of personal generosity, community honor, and gift exchange,<sup>62</sup> not the neoliberal language of commerce and the accumulation of personal wealth through impersonal markets. Why?

We might infer that the puppeteer was thinking like a skilled artisan, that the reputed excellence of his work within a local canon would attract audiences to sponsor or hire him, rather than his imitators, for scripts and performances. His aim was to be contracted for specific performance jobs that would produce income, not to write and claim a script that would continue to produce contractual payments long after his work was finished. In this regard, it seems that the copyrighting of practices makes less moral and economic sense to Indonesian practitioners than to the salaried lawyers and government agents who are trained to appreciate intellectual property law’s insinuation of postlabor income regimes such as royalties.

The puppeteer described certain plot changes he had introduced to the performance of an ancient drama. He also invoked the “shadow-puppet tradition” as the basis of his objection to new characters added to the old epics by some of his rivals. The puppeteer suggested that his innovation, unlike some others, accorded with the essence or “natural pattern” of the canon. It did not threaten a theatrical repertoire that exists independently, beyond his contribution. Like many, this artist claimed to be an authority on a canon, rather than an individual owner of that canon or its works. Authority over repertoire is not seen as a democratic right uniformly owned by all ethnic community members, as cultural property laws or even restricted commons discourse would suggest. It is less the obvious province of particular individuals or groups than it is a matter of debate by a changing set of master artists and their local audiences with reference to inherited status, canonical practices, and audience-appreciated repertoires.

The number of Indonesian as well as foreign artists, musicologists, lawyers, non-governmental organization (NGO) activists, and arts scholars who have noticed the emerging legal and social dissonance is relatively low. NGOs, such as Indonesia's Third World Network, are aware of the WIPO initiatives and, like many Indonesian government officials, are attracted by cultural property provisions of the "I own my own culture" variety. But, the activist NGOs doubt the good faith and capacity of the Indonesian government to deliver on legal obligations to traditional communities. In general, this diverse set of scholars and grassroots activists remains largely unnoticed because most Indonesians never hear their perspectives or read the laws. By contrast, as detailed below, the government has worked to galvanize middle-class popular opinion and sway journalists to its cause by provoking nationalistic anxieties about the theft of Indonesia's cultural property by foreigners; not only Westerners, but especially Malaysians.

### THE MALAYSIAN MENACE

A noteworthy corollary to the lobbying for hybrid intellectual and cultural property laws in Indonesia is the recent public discussion about lost heritage or "stolen" culture. This discourse echoes "cultural nationalism" framings in UNESCO's and WIPO's doctrinal language. The rhetoric of cultural nationalism resonates with allegations of cultural misappropriation posed by indigenous North American and Australian groups since the 1970s. Xenophobic disputes peaked in Indonesia during 2007 and 2008 when an official Republic of Malaysia tourism web site touting the nation's attractions included the song "Rasa Sayang." The phrase "Rasa Sayang" translates from Indonesian (and Malay, a closely related dialect), as "Feelings of Love." But affectionate sentiments were nowhere apparent in the international battle over the folk song.

Prominent Indonesians claimed the song was theirs because it hails from the eastern Indonesian island of Ambon. A member of the Indonesian Parliament, Hakam Naja, called for Indonesia to sue the Malaysian Tourism Ministry for copyright infringement although this was later deemed to be impossible given the song's lack of known authorship. Note again the Indonesian official's nationalist pursuit of an intangible cultural property claim through the public invocation of an intellectual property law. The fact that this simple folk song predates both Malaysia's and Indonesia's post-World War II national existence and boundaries was rarely mentioned in Indonesia, where cries of outrage reverberated in newspapers and on the Internet. With typical linguistic humor, many Indonesians protested that the Malaysian tourism bureau's slogan "Malaysia, Truly Asia" should be changed to "Malaysia, Truly Indonesia."<sup>63</sup>

The song is not the only shared cultural identity marker in dispute. Tellingly, batik textiles and *angklung* musical ensembles, both now inscribed for Indonesia on UNESCO's Representative List of the Intangible Cultural Heritage of Human-

ity, as well as Kalimantan weaving designs, dances featuring lion masks (*reog ponorogo*), and even food recipes such as tempeh and Sumatran beef curry (*rendang*) are said to have been stolen by Malaysians. This reveals how “cultural property internationalism,” when purveyed by UNESCO’s Representative List and analogous cultural valorizing programs, can readily transform into a contentious form of “cultural property nationalism” on the ground.

The zeal of protests in Indonesia might surprise any outsider who recognizes that the border between Indonesia and Malaysia stems from relatively recent and arbitrary colonial divisions. After World War II, British East Indies territory became Malaysia (also Singapore and Brunei), while Dutch East Indies territory became Indonesia. To some, the postcolonial land border conflict that Malaysia and Indonesia fought in the 1960s (known as *Konfrontasi*) seems transformed into a new rivalry for ownership of cultural territory. Yet, current tensions more likely are prompted by a rivalry over tourist dollars, exacerbated by immigration disputes and high-profile cases of Malaysian employers who physically abused their Indonesian maids. Culture wars are now proxy for a variety of political economy tensions and national anxieties.

During the past two decades, Malaysia’s high-tech computer and financial services economy grew faster than Indonesia’s, which remained based more on the volatile economics of natural resource extraction and outsourced low-skill manufacturing. Both the 1997 financial crisis and the International Monetary Fund’s restructuring programs affected Indonesia more severely than Malaysia, which was more insulated from the crisis and its subsequent international management. As a result, many jobless Indonesians sought work in Malaysia’s lower-class service sectors. Scandals over the abuse of female Indonesian maids by (mostly) male Malaysian employers spotlighted the power and gender dynamics of international shame and anger. The repeated frictions and inequities left many Indonesians feeling bitter and resentful toward Malaysia, which is frequently called “Malingsia,” adapting the Indonesian word *maling*, meaning “thief” or “robber.”

The popular outcry in Indonesia frames the narratives of Malaysia’s cultural thieving as tales of tragic loss (*kisah sedih*), seemingly caused by Indonesia’s combined ignorance of modernity and carelessness of antiquity. Some Indonesians, who have been subjected to decades of government hectoring about the importance of modern development to deliver them from their economic and cultural “backwardness,” now comment that they have not fully appreciated the value of their own cultural heritage. After decades of promodernization, antitradition propaganda under the Suharto regime (1966–1998), one might be forgiven for finding it odd that Indonesians suddenly are moved to fight over who owns an assortment of widely dispersed everyday activities from singing folk songs and performing ethnic dances to cooking beef curry.

Nonetheless, while older cultural *practices* may not be economically profitable or consistent with national economic development programs, *the celebration of those historic practices as heritage* may serve the economy through tourism devel-

opment agendas at the same time as the valorization supports Indonesia's image of national cultural distinctiveness and modernity. Thus, "heritage may well be preferred to the preheritage culture (cultural practices prior to their being designated heritage) that it is intended to safeguard."<sup>64</sup> This certainly seems to be the case for the bamboo instrument called *angklung*, whose foundational uses were for Sunda Javanese harvest rituals, trance-inducing spirit possession, and the sensual pleasure of a pagan deity—all services of little ostensible worth to Indonesia's monotheistic religion agenda and zealous modernization policies.

Perhaps only after Malaysia appears to make a proprietary claim on localized Indonesian cultural productions such as *angklung* music or lion-mask dances does anyone outside of their practice areas notice or care much about them. In fact, locals in these customary use areas probably remained unperturbed until Indonesian government officials, amplified by the popular press, suggested that their rights had been infringed through misattribution. Indonesian news reports in 2010 about *angklung*'s recognition by UNESCO seem to confirm the link between UNESCO heritage nominations and the rise in international jealousy over potential thefts of localized (but often shared) heritage practices. Arief Rahman, chairman of the Indonesian National Committee for UNESCO, told reporters that *angklung*'s confirmation by UNESCO would prevent any other country from laying a cultural claim to it. He reportedly said, "If Malaysia, for instance, wants to make their own *Angklung*, they can but they must know where it originated."<sup>65</sup> Again, it is national (rather than regional or ethnic) misattribution that is alleged in the media. In this way, UNESCO's effort at cultural property internationalism is transfigured to become an arbitrator for the rise of cultural nationalism in Indonesia and Malaysia.

The same news report states that, previously, Malaysia claimed that *angklung* originated in Malaysia. Note that ownership here is located at the supposed site of origin, a place for which evidence often is sorely lacking. This black box of purported creation, as solid as a virgin birth, is imagined as the legitimizing feature to determine ownership. It overshadows the actual boundaries of the idiom's usage in the present, or even any particular moment in the layered past. Here again, what is posed as history is really a heritage claim, which by its nature is never amenable to convincing factual critiques by outsiders.<sup>66</sup>

The uproar by Indonesian government officials, reported in the mass media, was paired with intimations that a cultural salvage action was required. One pro-intellectual property web site depicted the problem in words that recall Indonesia's past revolutionary struggle, saying "Indonesia must wake up and do something" (*Indonesia harus bangkit dan melakukan sesuatu*).<sup>67</sup> The web site counsels Indonesians to start compiling inventories of their region's cultural products. Through such lists, intangible cultural practices, such as singing and dancing, become represented as named items, suddenly "objects" that are amenable to parsing, addition, rivalry, and theft.<sup>68</sup> These trends of obsession over an alleged Malaysian menace suggest an emerging Indonesian social movement focused on both national cul-

ture and ethnic heritage identities. But coincidentally, they accompany a broader international effort to induce citizens everywhere to align with one of the two property models—individual or communal—that conventional and *sui generis* laws, respectively, seek to enable. The communal model choice is, however, permeable to cultural property internationalist, cultural nationalist, or ethnic nationalist interpretations by differently situated observers.

The cultural “food fights” between Indonesia and Malaysia might seem ludicrous if it were not for the self-evident passion, popular contagion, and potentially damaging effects of the hostile accusations. In June 2012, Indonesian and Malaysian Internet news, blog, and twitter sites were awash with an international dispute over two folk dances, the *Tor-Tor* welcome dance and the *Gordong Sambilan* (Nine Great Drums), both associated with the Mandailing Batak ethnic group of northern Sumatra, Indonesia. Yet, the descendants of Mandailing who migrated to what is now Malaysia before World War II reportedly asked the Malaysian government to include their dance for protection under Malaysia’s Law on Cultural Heritage.

The Indonesian public response was furious. Ambassadors, Department of Education and Culture, and Foreign Affairs Ministry officers all became involved in the dispute. Indonesia’s Education and Culture Deputy Minister Windu Nuryanti said, “Indonesia’s stance is clear: We demand written [explanation]. After that, we will follow up. . . . Indonesian culture can be developed anywhere, but the origin should be clear.”<sup>69</sup> These recurrent stand-offs illustrate new efforts at state-identity entrenchment while also suggesting the high-stakes mercantile battle to possess *original* and *authentic* cultural products that can be marketed for international and domestic tourism. Such disputes over a range of varied cultural idioms draw our attention to the fact that, under certain conditions, intangible expressions such as cultural symbols can emerge as conceptually and transactionally equivalent to material property.

Anthropologists, following recent legal theorists, have conceived of property as the social relations surrounding objects, rather than the objects so claimed.<sup>70</sup> But, clearly, the term “property” commonly is used for the places and objects (or sometimes people) that are controlled through those social relations. A. Irving Hallowell early argued that because possessive rights, obligations, and relationships can be had with respect to anything, anthropological theorists should make no conceptual distinctions between tangible and intangible property.<sup>71</sup> The cultural theft animosities I describe from Southeast Asia allow us to revisit these questions.

On the one hand, nationalist cultural property claims allow people to experience intangible symbols as if they were sustaining the equivalent of tangible property wins or losses. On the other hand, it is evident that the tangible versus intangible nature of claimed objects does affect the property relationships that can obtain. Rivalrous claims over cultural symbols may lead to real-world effects such as tourism market outcomes. Yet, people on both sides of Indonesia’s and Malaysia’s shared border can still sing the “Rasa Sayang” song, make batik, or eat

spicy beef curry without depriving the other of their respective cultural practices. They may feel differently about what they do, however, because new social relations and identity questions are prompted. Some might wonder, “if our culture is Malaysian (or, Indonesian), then who are we?” There may be further pressing demands for nation-building worth exploring.

One conundrum of the Indonesian case that begs for analysis is why the response to wealthy nations’ pressures for intensified intellectual property law and participation in UN heritage safeguarding programs has manifested as rivalrous nationalist sentiments and squabbles around the putative communal ownership of local cultural arts. First, following Benedict Anderson, we can note that “regardless of the actual inequality and exploitation that may prevail in each, the nation is always conceived as a deep, horizontal comradeship.”<sup>72</sup> This being the case, we might speculate that the Indonesian state is inclined to emphasize pan-Indonesian cultural unity and communal comradeship exactly because the growing regional and class inequities of the country are in danger of being recognized.

Anderson also pegs the rise of European nationalism in the eighteenth century Enlightenment period to a concomitant decline of faith in dynastic realms revolving around divine leaders and traditional religious worldviews. Those dimming worldviews had provided creative responses to the ineluctable sufferings and mortality of human existence. Despite its other virtues, rationalism, in all its ideological varieties, provided less spiritual consolation or promise of immortal continuity. In a nutshell, Anderson argues that nation-states presented a new and hopeful form of transcendent imagined community at a time when earlier certainties and social identities were fading.

Analogously, I suggest that the fall of Suharto’s 33-year authoritarian regime in 1998, followed by years of financial crisis, political turmoil, and regional violence framed around religious and ethnic identities, left Indonesia’s tenuous national unity wounded and fragile. That vulnerability could make a new and modern legal focus on pan-archipelago cultural nationalism—built on unthreatening forms of diverse regional arts—seductive to state leaders. The Republic of Indonesia has always strived to manage cultural and religious differences, including regional arts that have long been a social space of localized religious and ethnic expression.<sup>73</sup> What could be better than to bring them firmly under national law for both political supervision and commercial development? For such a patrimonial purpose, the line between tangible and intangible creative works is, forgive the pun, immaterial.

In fact, the international thunderstorm over the Mandailing folk dances ended with the promise of a silver lining. It was reported in June 2012 that, in the next two months, Indonesia’s Ministry of Education and Culture would launch support programs for 1500 art centers, mainly in less developed regions, and finance them with 150 million rupiah (almost US\$16,000) from government funds. Additionally, the Ministry said it would accelerate its recording of the “national cultural heritage” by assiduously compiling data about Indonesian cultures and traditional foods in an

effort to preserve them.<sup>74</sup> While vernacular arts producers in the outer islands likely will welcome any infusion of state funds, the public explanation suggests that Indonesians simply are forgetting what their grandparents knew and ate in the current rush to consume pop music, television shows, McDonald's hamburgers, and doughnuts. It is as if their own "modern" cultural appropriations have led to buyers' remorse.

The Indonesian materials in all their complexity exemplify how global commodity markets twinned with nationalist and cultural property rhetoric work to refigure intangible symbols of local cultural activities as subject to proprietary relations. Yet, increasingly these regimes show considerable slippage between intangible and tangible objects, works and idioms, internationalism and nationalism, exclusive claims and inclusive practices. These dilemmas bring us to reprise our consideration of the way global and *sui generis* doctrines are changing the way intellectual and cultural property regimes define one another's points of application.

## CONCLUSIONS

The Indonesian data on the nation's 2002 copyright law, the tabled 2006–2008 draft law for the protection of TK and cultural expressions, the narratives of various regional arts producers, and the controversies over the "I La Galigo" theater production and Malaysian cultural theft uphold the four theses that I presented at the start. The first is that advocates of internationally expanded intellectual and national cultural property regimes profess rights-based ownership claims and economic development aspirations that readily bypass most local producers' social concerns, livelihood strategies, and normative creative processes. The second is that intellectual and cultural property models of individualistic or communal ownership generally mismatch Indonesian arts producers' models of transgenerational, distributed authority, which is neither wholly individualistic nor communal. The third is that there is a largely unnoticed but pervasive conflation of intellectual and cultural property regimes emerging in new national laws, international negotiations, and popular discourse. The changing axes of global legal debate suggest that we sharpen our scholarship to further investigate the grounds of what I term "intangible property nationalism." The fourth thesis is that Indonesia's intertwined cultural property and heritage safeguarding initiatives appear to serve momentous new nationalistic goals by imagining how intangible cultural resources could replace natural resources in economic development schemes, and by fostering international cultural rivalries to shore up national unity at time when older Suharto-era stabilities have fallen away. In sum, when the intangible features and ownership rights rhetoric of intellectual property law are inflated to the scale of UN-member states, we arrive at the kind of hybridized intangible property nationalism described here.

Marilyn Strathern writes that international intellectual property debates over individual versus communal rights have become deadlocked in ready-made "bundles of concepts," rendering the contrasts "prone to exaggeration."<sup>75</sup> The conceptual con-

trasts have kept many scholars burdened by a paradigm that views intellectual and cultural property laws as separate animals. This paradigm now appears inadequate. Despite its reification in legal classification, it hinders our investigation of practice. The problem becomes increasingly obvious as cultural and intellectual property models are conflated in popular discourse as well as national legal regimes such as those of Indonesia, Ghana, Vanuatu, and Panama. The Indonesian data I have presented—the hybrid intellectual and cultural property legal texts, the claims of foreign cultural theft for both long-shared traditions and transformative borrowings, the musical experts confused about where to place their works on the traditional versus modern continuum—amalgamate intellectual and cultural property into a single conversation. They also complicate the dichotomies between Western individualistic and non-Western communal folklore regimes. These polarities are intrinsic to most discussions of intellectual property in cross-cultural contexts.

We are then led to ask whether the historically separate genealogies and epistemologies of intellectual and cultural property law no longer matter. Clearly, the categories of discourse are becoming permeable. Why now? TCEs, TK, and genetic resources—the three object classes distilled by international negotiation from societies on the global economic periphery—perch awkwardly between the formerly distinct legal frames of intellectual versus cultural property. United Nations diplomacy further requires compromise among various national and cultural expectations about creative works, ethnic identities, and ownership rights. As a result, the moral rationales explaining why particular objects are placed in the categories, as well as the legal categories themselves, are in flux.

Developing states working to comply with UNESCO and WIPO guidelines pick up things that fall through two critical conceptual gaps between intellectual and cultural property law. One gap is between a human isolate, the imagined community-less, *acultural* creator or solitary genius author, and the collaborative creative community within which this person resides. The other is between an anonymous and imitative traditional work of folklore and a modern uniquely attributable personal creation called “art.” But those conceptual gaps, which deny the existence of serendipity, cultural socialization, and what cultural studies theorists term “intertextuality,”<sup>76</sup> are exactly the knowledge spaces in which the generative processes of arts work. Just as novelists and their readers draw upon narrative features and plotline expectations set by generations of prior writers, so do other kinds of cultural producers, such as the textile makers in Indonesia and Ghana, who utilize alternative authority models over collaborative and community-based productions.<sup>77</sup>

Indonesia’s 2002 copyright law, by claiming that the state holds (*memegang*) copyright over “folklore and people’s cultural products” (*folklor dan hasil kebudayaan masyarakat*) and all works whose creators are not known inflates inherited “culture” and its ownership to the scope of the nation. By contrast, the 2008 cultural property draft law fragments the ownership and management of local knowledge and expressive culture to the level of political units, also under central state control. Overall, the legal texts and international guidelines threaten to usurp local author-

ity structures over knowledge and arts practice while encouraging both indigenous groups and nation-states to reinvent the kind of stable and unitary ideas of culture that anthropologists have worked in the past few decades to destabilize.<sup>78</sup> The laws use language that not only parses cultural practices in static ways, but also focuses the value of groups and states on what they possess. The creation of value through local economic reciprocity, village solidarity, and moral instruction is not recognized outside of a commodity exchange. Modern versus traditional peoples get legally divided according to the degree of commoditization of their economic practices. These kinds of intellectual and cultural property laws generate new views of reality, ones that requires new forms of action. Legal rhetoric becomes the conceptual mediator for identifying local knowledge and practice as chattel.

It is important to note the Janus-faced position of the postcolonial state as both an international legal power broker and a defender of its citizens' interests. When the Indonesian state negotiates internationally with the WIPO or UNESCO for the recognition of folklore as national cultural property, it acts as a postcolonial nation with moral authority over its citizens in relation to the rest of the international community. By contrast, that position of indignation and legitimate national representation generally is lost with respect to the relatively powerless and little-supported ethnic minorities who create "traditional arts" within the nation.

Ironically, then, bureaucrats who are trained about the value of intellectual and cultural property protection in international settings often absorb a generic vision about the concerns of indigenous peoples, which they propagate at home. This vision—ostensibly a composite of claims about sacredness and secrecy put forward by Aboriginal Australian and North American representatives at past UNESCO and WIPO forums—comes to represent forms of cultural vulnerability that may bear little resemblance to actual perspectives held by their own little-explored minority peoples. In general, UN-promoted cultural property doctrines flatten or homogenize the diverse interests in multiethnic nations. The negotiation process mainly supports majority platforms although it may foreground special-interest minority concerns if they resonate with the recognized plights of indigenous peoples in Australia or North America.

The legal solutions proposed in Indonesia, both individual and communal, generally imagine only distortions of arts producers' claims and practices. When the legal space of entitlement is not appropriate for the complexly layered claims about local norms of authority, then legal ownership defaults to state political units, or hangs in a limbo conceived as an open access commons. The potential danger for producers of intangible arts relates to the object-and-owner architecture of both conventional intellectual and current *sui generis* cultural property regimes. The laws act to capture all cultural activities that fall into the gap between possessive private ownership and the overarching governmental system that regulates it.

The new laws may force people to choose between privatized individual or communal ownership of profitable things. They do not as yet offer legal slots for customarily shared access to expressive practices, which intertwine cultural education,

community-financed rituals, customary recreation, and identity-based representations. Such processes are often structured, at least partially, through the economics of delayed reciprocity and rotating community service activities, what Indonesians term “reciprocal assistance” (*tolong-menolong*) or “shared burdens” (*gotong royong*). This point is not meant to romanticize collaborative cultural arts as wholly altruistic. Individuals recognized as masters of their idioms gain personally as well as collectively. Even arts producers fully accustomed to receiving payments for their expertise and labor, such as the Javanese musicians and theater performers described above, do not readily warm to the logic of proprietary ownership over individualistic works that could generate ongoing royalties. Property rationales do not mesh easily with concepts of shared repertoires that have been built over generations through ancestral contributions and kinship connections. Nor do they seem attractive to artists and artisans who profess to channel privileged cosmological knowledge with the support of deity. The state’s casting of citizen artists and ritual leaders as potential purveyors of national “cultural products” often falls on deaf ears.

The Indonesian case also shows how a self-consciously “modernizing” postcolonial state can seek to regenerate itself through its intellectual and cultural property regime. Arts producers, as citizens, are considered creators for their country first, only secondarily for their face-to-face communities or the world at large. The conflation of cultural heritage and intellectual property, as exemplified by the Southeast Asian political leaders who want to sue other nations for claiming long-shared traditions, remaps the way property relations are used to discuss tensions between individual and group ownership. In this respect, the anthropology of intellectual property challenges the presumption of law as national. Although technically true in terms of jurisdiction, it is clear that national law can have international effects. The pushes are felt in both directions. Their investigation draws us to witness the conception of intangible property globalism, where international organizations, states, and mobilized citizens apply intellectual property and sui generis cultural property ideas to immaterial forms of cultural practice publicized on the world stage through Internet venues. Examining Indonesia’s hybrid copyright law and its controversies illustrates why international and local voices speaking about creativity and the uses of tradition need to be disentangled. Only then can we fathom how the oxymoron of “copyrighting culture for the nation” may be viewed as virtuous, or even necessary.

## ENDNOTES

1. Key examples include: Coombe, *Cultural Life*; Boyle, *Shamans and Public Domain*; Lessig, *Free Culture*; May and Sell, *Intellectual Property Rights*.

2. Drahos and Mayne, *Global Intellectual Property Rights*; Drahos with Braithwaite, *Information Feudalism*; Shiva, *Protect or Plunder?*

3. Anderson, *Law, Knowledge, Culture*; Brown, *Who Owns Native Culture?*; Posey and Dutfield, *Beyond Intellectual Property*.

4. The copyright law under discussion is: Undang Undang Republik Indonesia Nomor 19 Tahun 2002 tentang Hak Cipta.

5. Merryman, "Two Ways of Thinking," and "Cultural Property Internationalism."

6. Merryman, "Two Ways of Thinking," 831–32.

7. Merryman, "Two Ways of Thinking," 831, n. 1; also UNESCO, "Safeguarding Intangible Cultural Heritage."

8. To make batik cloth in Indonesia, wax is applied as a reverse or ground to fabric areas where dye is not wanted for a particular colored motif or design figure. This is followed by successive stages of dyeing, boiling to remove the wax, re-waxing for additional motifs in other colors, and re-dyeing and boiling to achieve the final patterned cloth.

9. Anderson, "Indigenous/Traditional Knowledge," 10–11; Aragon and Leach, "Arts and Owners," 624; Jaszi, "Traditional Culture."

10. Knobloch and Reni, "Using Batikmark," 1.

11. Geismar, "Culture and Copyright in Vanuatu"; Boateng, *The Copyright Thing*.

12. Stocker, "Trademarking Indigenous Identity."

13. Chan, "Competitive Tradition."

14. Strathern, "Transactions," and "Intellectual Property and Rights"; Humphrey and Verdery, "Introduction."

15. Taylor, *Modern Social Imaginaries*; Chakrabarty, *Provincializing Europe*.

16. Aragon, "Barkcloth Production," "Suppressed and Revived Performances," "Indonesian Regional Textiles," *Fields of the Lord*, and "Where Commons Meets Commerce"; Taylor and Aragon, *Beyond the Java Sea*.

17. Aragon and Leach, "Arts and Owners" and Jaszi, "Traditional Culture" grew out of the 2005–2007 fieldwork. The 11 ethnic regions investigated by the team during 2005–2007 included: Central Java, southern Bali, Tenganan in eastern Bali, Bugis in South Sulawesi, Toraja in South Sulawesi, Biboki in central Timor, Ende in central Flores, Sikka in central Flores, Desa' in West Kalimantan, Toba Batak in North Sumatra, and Minangkabau in West Sumatra. The additional Indonesian regions I investigated in 2011 included: Manggarai, Ngadha, Nage, and Lio in Flores, Seraya in eastern Bali, and Sunda in West Java. This sample cannot do full justice to the exceptional diversity of the Indonesian archipelago. But, when added to my previous field research in Java, Bali, Central Sulawesi, North Sulawesi, South Sulawesi, East Kalimantan, South Kalimantan, Biak in Papua, and Jambi, South Sumatra, it offers a considerable sampling of Indonesia's varied regions, religious orientations, and aesthetic practices.

18. Perlman, "From Folklore to Knowledge."

19. See UNESCO and WIPO, Model Provisions; UNESCO, Universal Declaration on Cultural Diversity, Safeguarding of the Intangible, Diversity of Cultural Expressions, and Representative List of the Intangible; also WIPO, Protection of Traditional Cultural Expressions.

20. See, for example, Blake, *Commentary*, and Forrest, *Protection of Cultural Heritage*. A survey of this kind of general literature describing UNESCO and WIPO documents is beyond the scope of this article, but such published reports rarely speak about the relations of these two agencies and their programs. I draw here on additional conversations with UNESCO and WIPO officers, who are not responsible for any inferences I have made from their statements.

21. Chan, "Competitive Tradition."

22. Brown, *Who Owns Native Culture?*; Comaroff and Comaroff, *Ethnicity, Inc.*

23. See WIPO, "Intellectual Property Conference of Stockholm 1967," Vol. II, Geneva.

24. The differences between most Indonesian and Western assessments of the amount of structural difference in an artwork needed to constitute a case of continuity with, or discontinuity from, prior tradition are discussed further in Aragon and Leach, *Arts and Owners*, 619–20.

25. Woodmansee and Jaszi, *The Construction of Authorship*.

26. Sardjono, *Hak Kekayaan Intelektual*, 73.

27. The original text of Article 10.2, Republik Indonesia Undang-Undang 19/2002 reads: "Negara memegang Hak Cipta atas *folklor* dan hasil kebudayaan rakyat yang menjadi milik bersama, seperti cerita, hikayat, dongeng, legenda, babad, lagu, kerajinan tangan, koreografi, tarian, kaligrafi, dan karya seni lainnya."

28. Undang Undang Republik Indonesia Nomor 5 Tahun 1960 tentang Peraturan Pokok-Pokok Agraria, known in English as the Basic Agrarian Law of 1960, No. 5.
29. Siagian, "Benturan Kepentingan."
30. Boateng, *The Copyright Thing*, 21.
31. See, for example, Aragon and Leach, "Arts and Owners"; Brown, "Can Culture Be Copyrighted?" and *Who Owns Native Culture?*; Handler, "Who Owns the Past?"; Strathern, "Intellectual Property and Rights."
32. Woodmansee and Jaszi, *The Construction of Authorship*.
33. Brown, *Who Owns Native Culture?*; Coombe, *The Cultural Life*, chap. 9; Myers, "Ontologies of the Image."
34. Strathern, *The Gender of the Gift*, advances consideration of the partible person or "dividual"; Fischer, "Culture and Cultural Analysis" revisits the layered history of the culture concept in anthropology, especially its increasingly recognized strategic dimensions.
35. Geismar, "Reproduction, Creativity, Restriction," 30.
36. De Obaldia, "Western Intellectual Property."
37. Boateng, *The Copyright Thing*.
38. Aragon, "Where Commons Meets Commerce," 68–71; Aragon and Leach, "Arts and Owners," 617–18.
39. Geismar, "Reproduction, Creativity, Restriction," 32–37.
40. Certain exceptions to the rule can be noted. Certain old court arts such as the Central Javanese *bedaya-serimpi* dance were claimed as "the exclusive property" of the king, not to be performed outside the royal palace (see Sedyawati, *Budaya Indonesia*, 264). Indonesian weavers in regions characterized by social class ranks often link specific patterns made or worn to particular families who also seek to restrict the production or wearing of those textiles to authorized persons, at least within their home communities. On the motives and ethics of sharing versus restriction, see Aragon, "Where Commons Meets Commerce."
41. Handler, "Who Owns the Past," 63–65.
42. Foucault, "What Is an Author?" 141.
43. Clifford, "The Predicament of Culture."
44. This point is made neatly by Helfer and Austin, *Human Rights and Intellectual Property*.
45. Koolhof, "The 'La Galigo.'"
46. See Cohen, "I La Galigo"; Edward Rothstein, "A Sacred Epic and Its Gods, All Struggling to Survive," *New York Times*, Theater Section, 15 July 2005; and the more extensive scholarly assessment by Weiss, "Permeable Boundaries."
47. Budi, "I La Galigo"
48. Budi, "I La Galigo," 28.
49. Like most of Wilson's theatricals, "I La Galigo" entailed very expensive lighting and stage production infrastructure. I later interviewed one producer who explained that the promised performances in Sulawesi never happened because of unexpected Indonesian collaborator fees and production losses at the major venue sites, which required the producers to dig deeply into their own pockets. In short, the cultural borrowing was not a profitable one. Disputes over this show are discussed also in Jaszi, "Traditional Culture," and Anderson, "Indigenous/Traditional Knowledge," 14–15.
50. This point is illustrated by WIPO documents such as Taubman, "Review of the WIPO."
51. Personal communication with Indonesian government intellectual property lawyers, June 2012.
52. The relevant provision on the state (*negara*) as a co-recipient of profits appears in versions circulated during 2006 as "the holder of the use permit is required to share part of the profits from use of a traditional cultural expression with the state and the owner and/or custodian of the traditional cultural expression" (*Pemegang izin pemanfaatan wajib membagi sebagian dari hasil pemanfaatan Ekspresi Budaya Tradisional kepada negara dan Pemilik dan atau Kustodian Ekspresi Budaya Tradisional*). In late 2007, 2008, and 2009 drafts, the words "the state and" (*negara dan*) were struck out, and the provision (at Chapter VII, Article 18) remains thus as of the latest version circulated in October 2009, which is titled "Rancangan Undang-Undang tentang Perlindungan dan Pemanfaatan Kekayaan Intelektual Pengetahuan Tradisional dan Ekspresi Budaya Tradisional" (Draft Law on the

Protection and Utilization of Intellectual Assets from Traditional Knowledge and Traditional Cultural Expressions). Apparently the government would still be able to charge administrative fees to foreigners who want to use TCEs because they still need state permits, but Indonesian citizens would not need those permits.

53. WIPO Draft Articles 2011, ([http://www.wipo.int/edocs/mdocs/tk/en/wipo\\_grtkf\\_ic\\_18/wipo\\_grtkf\\_ic\\_18\\_4.pdf](http://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_18/wipo_grtkf_ic_18_4.pdf)).

54. Brown, "Heritage Trouble," 40.

55. Lansing, *The Balinese*, 57.

56. Geismar, "Reproduction, Creativity, Restriction," 31.

57. Geismar, "Reproduction, Creativity, Restriction," 32.

58. Hughes-Freeland, *Embodied Communities*.

59. Analogous observations about transgenerational authority among cloth producers in Ghana are made in Boateng, *The Copyright Thing*, 40–42.

60. Handler and Linnekin, "Tradition Genuine or Spurious."

61. Davidson and Henley, *The Revival of Tradition*.

62. Mauss, *The Gift*.

63. "Malaysia Urges Indonesia to Drop Plans to Sue over Folk Song," *Jakarta Post*, 8 October 2007. Also, see McGraw, "The Political Economy," 308, where he discusses how such sentiments emerged during a regional election campaign in Bali.

64. Kirshenblatt-Gimblett, *Intangible Heritage*, 61.

65. Antara News Agency, "UNESCO to Declare Angklung World Intangible Heritage," 18 October 2010, ([www.antaranews.com/en/news/1287394652/unesco-to-declare-angklung-world-intangible-heritage](http://www.antaranews.com/en/news/1287394652/unesco-to-declare-angklung-world-intangible-heritage)) accessed 19 October 2010.

66. Lowenthal, *Possessed by the Past*, 119–22.

67. See web site of the Indonesian Archipelago Culture Initiatives: (<http://budaya-indonesia.org>).

68. Analogously, Biagioli, "Patent Republic," highlights how late-eighteenth-century patent requirements for written descriptions of invention processes, the documentation of claimed items, separated the idea from the thing, thereby fostering the legalization and perception of creators' rights.

69. "Diplomatic Dance: Indonesia Demands Written Explanation from Malaysia on Tor-Tor," *Jakarta Globe*, 20 June 2012, (<http://www.thejakartaglobe.com/news/diplomatic-dance-indonesia-demands-written-explanation-from-malaysia-on-tor-tor/525496>) accessed 20 June 2012.

70. See Humphrey and Verdery, "Introduction," and Hann, "Introduction," 4–5.

71. Hallowell, "The Nature and Function."

72. Anderson, *Imagined Communities*, 7.

73. On Suharto-era cultural arts policies, see Acciaoli, "Culture as Art"; Aragon, "Suppressed and Revised Performances"; Yampolsky, "Forces for Change."

74. "Diplomatic Dance," *Jakarta Globe*.

75. Strathern, "Transactions," 97.

76. McLeod, *Owning Culture*, 16–17.

77. Boateng, *The Copyright Thing*, 46–48.

78. Clifford, *The Predicament of Culture*; Wolf, *Europe and the People*.

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