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Ethnographic Explorations of Intellectual Property FREE

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Summary

Ethnographic research into intellectual property (IP) gained traction in the mid-1990s. During this period international trade agreements mandated that all states introduce minimum IP protections, property rights in intangible goods were expanded to encompass new subject areas, international Indigenous Peoples' human rights were being negotiated, and protecting biodiversity became a global policy concern. Anthropologists considered IP extension in terms of the processes of commodification the law enabled, the cultural incommensurability of the law's presuppositions in various societies, the implications of these rights for disciplinary research and publication ethics, and the modes of subjectification and territorialization that the enforcement of such laws engendered. Recognizing that IP clearly constrains and shapes the circulation of goods through the privatization of significant resources, critical anthropological examinations of Western liberal legal binary distinctions between public and private goods also revealed the forms of dispossession enabled by presuming a singular cultural commons. Anthropologists showed the diversity of publics constituted through authorized and unauthorized reproduction and circulation of cultural goods, exploring the management of intangible cultural goods in a variety of moral economies as well as the construction and translation of tradition in new policy arenas. The intersection of IP and human rights also prompted greater disciplinary reflexivity with respect to research ethics and publication practices. Analyzing how IP protections are legitimated and the activities that their enforcement delegitimizes, ethnography illustrated how the law creates privileged and abject subjectivities, reconfigures affective relationships between people and places, and produces zones of policing and discipline in processes of territorialization.

Keywords: branding, commodification, cultural circulation, intellectual property, moral economy, piracy, subjectivity, territorialization, traditional knowledge, translation

Subjects: Sociocultural Anthropology

Exploring Intellectual Property through an Ethnographic Lens

Anthropological considerations of intellectual property (IP) have a short history; only since the mid-1990s and the incorporation of IP into international trade regimes has it become a major field of concern. What may have been a topic of narrow interest to legal anthropologists has attracted attention across the discipline because of the range of the law's social and economic impacts. In market economies, IP protects many intangible cultural goods (e.g., aesthetic works, trademarks, designs, modes of manufacture and composition, genetic resources) from unauthorized reproduction through material means of enforcement. Protected informational or cultural goods are manifest in material and digital forms of fixation (books, films, posters, songs, fertilizers, machines, plants, medicine, software, pesticides) that circulate as publicly accessible

(if not freely available) goods. Such goods are so pervasive and socially significant that restricting access to them via IP provokes concerns about the scope of powerful economic interests, the state's capacity to meet vital human needs and provide critical infrastructures, and the protection of citizens' democratic entitlements and minority cultural traditions. IP protections are understood to be both economically and socially productive: not only do they yield revenue in the form of royalties for their holders, they legitimate certain actors as creators and delegitimize others, including counterfeiters who may be deemed "terrorists" and "pirates."

As the scope and range of IP protection expanded, so did its capacity to restrict access to goods as diverse as music, communications technologies, seeds, pharmaceuticals, and academic scholarship. The new forms of capital accumulation and cultural influence generated by these legal changes attracted the attention of diverse subfields of anthropology, prompting scholarship that added feminist, new materialist, and science and technology studies (STS) methodologies to conventional approaches drawn from political economy, social constructionism, and interpretive legal anthropology. From these different theoretical perspectives, anthropologists addressed the IP vehicles of copyright, patent, trademark, design, plant variety protection, and publicity rights alongside emerging protections for traditional knowledges, traditional cultural expressions, and genetic resources. When ethnographically tracking these legal mechanisms, anthropologists explored questions of property and commodification, representation and translation, research and ethics, personhood and subjectivity, and place and territorialization, which are the major themes of this article. Anthropologists regularly engage with interlocutors in law, cultural studies, communications, and media studies; this article references scholars outside of the discipline whose work has been influential for anthropological engagements with IP.

IP as Commodification: Private Properties and Public Domains

Anthropologists recognize IP as a form of commodification rooted in Western liberal philosophy that creates regimes of scarcity by recognizing some types of material expression as the property of individual, collective, and corporate actors. Using rationales such as the valorization of original individuated expression (copyright), novel innovation (patent), investments in creating fields of commercial meaning (trademark), and the making and merchandising of distinctive personas (celebrity), the law legitimates various entitlements. Such legal recognitions are selective in the kinds of cultural creativity they encompass, routinely finding certain forms of human expressive and innovative work to be legible and legitimate while excluding or taking for granted other similar, socially valuable activities performed by people with less political power. Although anthropologists insisted that there were some similar types of exclusive protection in non-market societies, the global consolidation of such protections was largely understood to be a product of liberal capitalist modernity, ideologically premised upon the naturalization of social categories dividing private and public zones of social life.

Rejecting Privatization and Embracing the Public Domain

In the last decade of the 20th century anthropologists and ethnobotanists joined a chorus of scholars across disciplines voicing alarm about the increasing privatization of public goods, concentrations of power, limitations upon creative expression, exacerbation of economic inequality, and other dangers consequent upon the shrinking terrain of publicly available cultural, technological, and genetic goods (e.g., Brown 1998; Brush 1999; Kloppenburg 1988; Moran et al. 2001; Napier 1994; Scharper and Cunningham 2007; Sunder Rajan 2006). Following familiar anthropological critiques of cultural property (Handler 1991), IP protections were seen as decontextualizing, reifying, and objectifying social processes of creation (Brush and Stabinsky 1996). As the implications of extending IP protections became more globally evident, anthropologists studied public domain activism in diverse geopolitical arenas. Most of this work focused on grass-roots and social movement activity, with the capacity of states to forge independent domestic policy receiving less attention (cf. Halliburton 2017; Snodgrass Godoy 2013; Sunder Rajan 2017; Whimp and Busse 2000).

IP-protected works were quickly recognized as forged through the use of socially created resources in social contexts, but few early scholars scrutinized the description of such goods as “public,” which was the dominant means of criticizing cultural commodification. Denunciations of IP as effecting new forms of enclosure (e.g., Boyle 1996, 2008) were commonplace in what later became known as “the romance of the public domain” (Sunder and Chander 2004). Whether insisting upon the importance of maintaining freedom of expression, freedom of academic research, or broad access to plant, human genetic, or cultural resources, liberal political and economic ideals were asserted against unjustified IP monopolies (e.g., Brown 2004). Although some scholars advocated greater equities in flows and compensation between regions (e.g., Brush 1999; Kloppenburg 1988), a singular public domain was often valorized in terms that equated it with a universal and generalized moral economy.¹ The *commons* became the predominant metaphor for social relationships between people, ideas, and new digital technologies (e.g., Scharper and Cunningham 2007) that signified openness, common property regimes, and a lack of intermediaries.

The rhetorical use of anthropological concepts (e.g., cultures, gift economies, commons, and potlatch) in interdisciplinary discussions describing emerging forms of digital sociality also attracted anthropological attention (Boellstorff et al. 2008; Kelty 2004).² The study of IP was offered as evidence that anthropology was no longer concerned primarily with exotic others (Napier 2002), even as the disciplines’ exotic others became idealized as figures of resistance in Western societies. Considering alternatives to IP in fields of high technology, however, was another way of “siting culture” (Olwig and Hastrup 1997) in more familiar worlds (Coleman 2013; Golub 2004; Kelty 2004). The study of “remix culture” using digital sampling in technologically mediated worlds of arts, music, and dance explored an ethos of “hacking” that resisted dominant legal and economic orders and challenged individuated models of cultural creativity in assertions of alternative creative communities of practice (Mose 2016; Shipley 2009).

From a Singular Commons to Multiple Publics

Critically exploring modern liberal political understandings of Western societies as structured by divisions between public and private spheres of activity, concern, and deliberation (e.g., Habermas 1989), anthropologists undermined the narrow conception of IP as merely an economic domain. Rather, they insisted that IP fundamentally shaped the social life of human communications by commodifying cultural forms. Conceiving of the public as a communicative space along Habermasian lines enabled counter-publics to come into view and revealed IP's role in restricting counter-hegemonic cultural expression (Coombe 1998). Challenging the modern, liberal concept of a singular public domain, anthropologists explored multiple publics as politically significant zones of cultural production and communicative exchange (e.g., Goodman 2005; Hayden 2003). Ethnographic studies of digital workers and software developers showed how non-proprietary digital goods served as a means of communicative deliberation that created patterns of sociality and innovation challenging IP's distributions of power (e.g., Coleman 2013; Kelty 2008). In the creation of legal frameworks supporting the creation of open source software, for example, anthropologists revealed how IP was strategically used in new social movements that challenged Western understandings of politics (e.g., Chan 2014).

Poststructuralist understandings of the public domain explored it as a spatial metaphor, dependent upon law while seeming to function independently as somehow outside it (e.g., "before the law" [Flessas 2008]); the concept of the commons established and policed thresholds that shifted historically according to new capacities for proprietary acquisition and thereby served to justify appropriations. For example, as research in Indonesia and India showed, a state could deem local, collectively created knowledge or artistic creations to be part of the public domain—a declaration that transformed goods previously subject to traditional authorities and norms of transmission into national cultural patrimony (Aragon 2012; Aragon and Leach 2008; Halliburton 2017). Public domains could be "scaled" to create new arenas of jurisdiction.

As social movements promoting open and unfettered access to creative productions gained momentum, scholarship showed how valorizations of the public domain mirrored and validated colonial histories of appropriation and dispossession (Bowrey and Anderson 2009; Christen 2015). Transnational ethnographic research suggested that open access advocates working against the extension of IP may be more interested in Western individual expressive freedoms than the cultural rights of communities when trumpeting the public domain (Fish 2014). The Western legal tradition of IP legitimates certain goods as private properties based on individuated authorship and innovation, but often ignores collective genres of novel productivity. Under this framework, the works of many kinds of creative industry—from traditional cultural expression to crop varieties developed by farmers—are considered free for general use. Such elisions are especially consequential because states routinely misrecognize the forms of creativity, territorial inscription, and cultural work of minorities, particularly Indigenous peoples in settler colonies who have been deliberately marginalized by policies of cultural assimilation (Anderson 2009). Anthropologists explored the political consequences of decontextualized distinctions between the public and the private within postcolonial contexts and in decolonizing agendas. They considered the historical conditions under which "the public domain" was forged, the illusions of equality

and inclusion it projected, and the means by which modern nation-states thereby assume sovereignty over the products of certain human energies (Aragon 2012; Brush 1999; Christen 2012).

In an era of biodiversity loss in which biotechnological innovation was prioritized for agricultural futures, IP regimes clearly privileged the work of laboratory and field science as innovation, denying the contributions made by farmers and peasants to the world's plant genetic resources (Brush and Stabinsky 1996; Cleveland and Murray 1997). The historical categorization of crop germ plasm as the common heritage of humankind, despite its distinctive development in culturally and ecologically discrete fields of human endeavor, obscured practices of farmer innovation (Brush 2004). Like the public domain, the common heritage concept denied non-individuated, situated agencies (other than corporate ones), and licensed accumulation by dispossession (Harvey 2003; Kloppenburg 2010). Just as the "tragedy of the commons" (Hardin 1968) was recognized as a central myth justifying private property (Rose 1986), exposing a fictitious "commons" as IP's other helped shift attention to possessive relations beyond the exclusive market-based rights characteristic of Western models of protection. Anthropological consideration turned to other concepts of attachment (e.g., stewardship [Brosius 1999; Fish 2006; Ogden et al. 2013]) to understand human management of culturally and ecologically significant knowledges, practices, and goods.

As anthropologists began to explore a diversity of publics with distinct moral economies of cultural circulation, they became more concerned with issues of governance and types of publicity. Other structuring dichotomies of the law such as discovery and innovation, imitations and originals, tradition and modernity, and other variants of what Lévi-Strauss (1964) described as "the raw and the cooked" came into view. Showing how IP discourse figured in local social imaginaries, ethnographic research from Latin America, Africa, and the Pacific illustrated that the places perceived of as "outside" IP's governance were not simply places of license, but sites of cultural memory (Goodman 2002, 2005), moral economies of care (Hartigan 2017; Nazarea et al. 2013), significant spaces of responsibility (e.g., Solomon 2004; Wright 2008), and aspirations for global belonging (Larkin 2008). Whether they were considering the meaning of open source software in animating understandings of democracy and speech in the United States (e.g., Coleman 2013), the protection of plant varieties in Costa Rica (Aistara 2012), the political work of making and marking traditional medicine in Tanzania (Langwick 2015), or the social life of generic drugs in Mexico (Hayden 2007), anthropologists challenged proponents of liberal public goods to attend to significant social relations co-produced through IP regulation.³

Reconfiguring the Public-Private: Technologies and Biopolitics

Dominant Anglo-American systems of IP create "rights" conventionally understood as market-based rights of exchange rather than moral, human, or citizenship rights. To this end, they lend themselves to critical perspectives drawn from traditions of political economy. Nonetheless, the introduction of IP protections into new regions created entitlements and felt obligations that opened up new rights deliberations which drew upon other philosophical models of human dignity, flourishing, and well-being.

Ethnographies of early “bioprospecting” projects in Latin America, for instance, underscored how market-based research and development practices could foster undesirable forms of competition between communities, entrench economic inequalities, direct research unfairly, and require investments in political organization and infrastructure that exceeded local peoples’ capabilities (e.g., Greene 2004; Hayden 2003; Moran et al. 2001). In some cases, activist non-governmental organizations (NGOs) negatively publicized and arguably undermined anthropologists’ efforts to provide community supports in the absence of community capacities (e.g., Berlin and Berlin 2004; Rosenthal 2006). “Best practices” for obtaining consent and providing compensation in this field have since evolved in global policy deliberations shaped by international indigenous rights, norms of community participatory deliberation, and rights-based development practice. While legal and policy demands to recognize local traditional environmental knowledge, expression, and innovation invited new technologies of neoliberal governmentality, they also opened new prospects for collective self-determination (Coombe 2016).

Informational capitalism, characterized by the growing speed and power of digital communications and biotechnological innovations, relies upon the extension of IP rights to encompass new kinds of intangible goods. The extension of patents and plant variety protection to the life sciences prompted moral concern and biopolitical analysis. The legal protection of corporate rights in the human genome, plant genetic resources, and genetically modified organisms provoked widespread social controversy, spurring anthropological inquiries into the nature of property and personhood as well as the social construction of innovation (e.g., Hirsch and Strathern 2004; Maurer and Schwab 2006; Pottage and Mundy 2004; Strang and Busse 2011; Verdery and Humphrey 2004). Exploring the historical identification of plant chemical compounds with medicinal properties in Africa, for example, revealed extensive social patterns of use, innovation, and exchange between rural communities, healers, explorers, scientists, and corporations, undermining the conceit of any singular moment of invention or discovery (e.g., Osseo-Asare 2014). Larger social debates about IP in both South Africa and Costa Rica expressed distinctive social understandings of state territoriality, sovereignty, citizenship, democracy, national belonging, reproduction, and local morality (e.g., Aistara 2012; Foster 2012; Pearson 2012). Elsewhere, research into the relationship between genomic epistemologies and capitalist systems in the life sciences revealed that transformations in technologies and markets raised new apprehensions about power and inequality (Reardon 2005; Stone 2010; Sunder Rajan 2005).

Anthropological research on biotechnology markets shows them to be especially speculative, linked to international financial markets that may prevent pharmaceuticals from being locally produced, and leaving many regions dependent upon foreign monopoly suppliers (Peterson 2014). In medical and biotechnological research, relegating certain resources to “the public” not only denies claims to them, it may unevenly distribute risks, extend obligations, and enable denials of social responsibility (Langwick 2015; Pechlander 2010). For instance, during research for the Human Genome Project, it was determined that the human genome should be kept within the scientific public domain (genetic sequences themselves being patented), but mapping this domain raised ethical issues pertaining to the categorization and treatment of humans as research subjects. Informed consent emerged as an issue when researchers failed to anticipate

subjects' desires to access the products of the research that their genetic resources enabled. An emerging "salvage paradigm" for populations deemed to be "facing extinction" came to dominate genetic collecting practices, stoking racial anxieties and embroiling anthropologists in accusations of biocolonialism and negotiations of new ethical protocols (Cunningham and Scharper 1996).

The spread of genetically modified seeds and crops aroused similar controversies. Many anthropologists encountered fierce opposition to the patenting of life forms in their fieldwork. In some contexts, objections to the sale of "life itself" reflected moral positions, while in others it expressed culturally specific resistances to neoliberalism. Biotechnologies also attracted criticism because their patenting transformed relationships between agriculture, university research, and industry interests. The social, economic, environmental, and food security impact of introducing agricultural genetically modified organisms (GMOs) (particularly in areas recognized as the cradles of major crop genetic diversity) prompted anthropological scrutiny of scientific research agendas (Sunder Rajan 2012) and consideration of how local political activism articulates with transnational social movements (Edelman 2005; Pearson 2013; Stone 2010).

Proprietary genetic technologies provoked resistance from farmers and food activists (e.g., Fitting 2011; Stone 2010) who expressed anxieties about the ethics and safety of these new commodities in local cultural terms (e.g., Hartigan 2017; Rock 2018). Activists against free trade agreements (which mandated patent protection for genetically modified goods) opposed placeless technologies of commodification and mass-produced goods, often by promoting place-based *technes* of cultural production and distinctive place-based products (Grasseni 2003, 2012; Shankar and Cavanaugh 2012). Just as Indigenous communities asserted their stewardship of biodiversity, rural farmers organizing under "slow food" banners established themselves as protectors of traditional artisanal techniques (Heller 2007, 2013). Ironically, both groups may use legal means such as geographical indications to symbolize the distinct origins of these goods and thereby claim local, collective IP (Coombe et al. 2014).

IP and Alterity

After 1994, all members of the World Trade Organization were required to introduce IP protections, with countries allowed varying transition periods for complying with the Trade-Related Aspects of Intellectual Property Rights (TRIPs) Agreement.⁴ Anthropologists protested that IP was inappropriate for goods and resources produced in non-market cultural sectors and for people who held nonproprietary relationships to intangible cultural forms, recognizing this as an unprecedented expansion of the commodity form. As IP models were globally extended, anthropologists became interested in elucidating the diversity of ways in which "ownership" of knowledge was conceived in various societies while exploring local practices of interpretive agency as IP was introduced in new contexts. When global environmental, heritage, and human rights instruments emphasized protection, compensation, and benefit-sharing for "traditional" knowledge, innovation, and cultural expressions, anthropologists began to explore the means by which "tradition" was made legible and translated in modern science, environmental management, heritage governance, and other fields of knowledge and power.

IP and Incommensurability

Anthropologists initially focused on the extension of IP into new regions, to new kinds of goods, and to new fields of practice, sensitive to controversies around expanding markets, patterns of distribution, and the upsetting of local moralities that these proprietary encroachments engendered. Exploring IP norms, discourse, and policy, they showed how strange these IP principles looked when encountered by others. Protests against extensive IP protection in consumer societies were animated by principles of freedom of expression, public domain, and a fictitious cultural commons. However, those same mores were protested by others for whom the use of language and inappropriate deployment of cultural knowledge was considered to have material consequence (Coombe and Herman 2004) and to effect serious harms (Burns Coleman and Coombe 2009; Ramachandran 2014).

Attempts to extend IP regimes to accommodate traditional knowledges prompted an early and extensive critique of Western law's incompatibility with indigenous epistemologies (Brush and Stabinsky 1996; Greaves 1994; Riley 2004). In the encounter between IP and Indigenous communities, however, legal anthropologists also found an opportunity to explore Western law's contingencies, incoherencies, mythologies, and colonial legacies (Strathern 1999, 2004; Whimp and Busse 2000) as well as the assumptions about indigenous identity and authenticity it served to entrench (Anderson 2009). Some Ghanaian practices of authorship, for example, were shown to be incompatible with Western IP regimes, not because they were "traditional," but because protections for folklore and collective authorship were strategies of decolonialization in post-independence statecraft (Boateng 2011). The tactics historically used by African states to manage tensions between diverse communities of practice were undermined by global policy institutions now eager to vest new rights in local traditional collectives, romantically imagined (Röschenthaler 2011a).

Communities reflecting upon new global interests in traditions and properties became more reflexive about possessing culture and its relationship to group identity (Coombe 2011; Shepherd 2010). Anthropologists debated the social consequences of peoples adopting a holistic anthropological understanding of culture (long discredited in the discipline itself) to appease external interlocutors (e.g., Novellino 2007) and considered whether communities could accomplish this while maintaining their own distinctive understandings of knowledge and value (De Cunha 2009; Jackson 2010).

Proprietorship and Propriety in Local Moral Economies

Early concerns with IP led anthropologists to advocate the comparative study of knowledge management among social groups to elucidate the diversity of ways in which the enclosure and circulation of knowledge has been conceived and enacted. The interpretation and impact of newly extended global IP systems in areas with and without colonial histories of such regimes attracted particular attention (e.g., Diawara and Röschenthaler 2016; Röschenthaler and Diawara 2011). Kinship-based seed exchanges in Latvia and Costa Rica, for example, were shown to be

threatened by the introduction of plant variety protections, particularly when new legal recognitions of plant genetic resources (and their genetic modification) were accompanied by the prohibition and criminalization of circulation outside of commodity markets (e.g., Aistara 2011).

IP regimes tend to divide protected works according to modern Western categories. For example, copyright law protects literary, artistic, and musical works using aesthetic criteria. In some societies, however, expressive goods perform other social functions more significant than edifying or entertaining individuals. For example, songs may function performatively to transfer legal title (e.g., Burns Coleman and Coombe 2009). Some musical cultures thrive not on legal ownership of fixed works, nor upon access to a commons, but through locally meaningful practices of worship, ancestral guidance, competition, and cultural custodianship (e.g., Mallet and Samson 2010). Other communities of practice may reject IP's emphasis on individuated creative work and material fixation to embrace practices of sampling and remix (e.g., Sharma 1999).

Anthropologists found that not only were IP models often locally criticized as misrepresenting the nature of creativity, but that newer, more community-friendly heritage models could also be understood to inappropriately reify social collectives and their traditions (Aragon 2012). Studies from Oceania showed that local understandings of entitlements to cultural reproduction could in fact accommodate or be articulated with Western values if a wider variety of liberal legal vehicles were considered part of the portfolio with which communities could work. In the Pacific Islands, for instance, people forged unique forms of protection that combined branding, certification, and authentication to protect and add value to indigenous knowledge practices (Forsyth and Farran 2015). Ethnographic work revealed that artisans and political authorities interpreted global IP norms within hybridized regimes, which borrowed the legitimacy of international IP discourse to formalize the authority of local creative economies. In Vanuatu, for example, the transfer of rights to make and sell anthropomorphic carvings used in male status rituals was interpreted to fit Western copyright in a fashion that further consolidated traditional gerontocracies (Geismar 2013).

Local strategies of circulation and sequestration of knowledge and goods may operate outside of Western liberal policy assumptions about access to knowledge, individual rights as incentives to innovation, and market relations as the best means to circulate goods and compensate creators. In Guinea Bissau, for example, the exchange of agricultural knowledge is tightly constrained and concealed (Davidson 2010), while in The Gambia, farmers distribute named crop varieties widely to achieve individual fame for innovative work, a practice that generates economic and spiritual compensation from the blessings that accompany seed transactions (Chapman 2018). In Indonesia, where many cultural products serve both embedded social purposes *and* circulate as commodities, artisans have developed strategies to simultaneously protect inherited privileges and market shares (Aragon 2011). Global regimes that recognize only collectively held traditional goods or individual private properties ignore the historical evolution of hybridized rights economies and may undermine other traditions of expressive practice. Even in the absence of IP, local rituals in Nigeria and Cameroon may become alienable resources held by parties who licensed their performance to generate income (Röschenthaler 2011b). The privileging of

collective community ownership for traditional goods may thereby dispossess individuals, freezing what would otherwise be dynamic processes of commercial exchange wherein traditional goods are vested only temporarily with social groups (Röschenthaler 2011a).

New efforts to enforce IP protections in the Global South also spurred anthropologists to ethnographically explore norms pertaining to copies and their circulation. Public domain activists, like proponents of private IP, tend to police lines between proper and improper copies, in ways that privilege innovative and transformative practice without consideration of distributional equities and obstacles to access (Hayden 2010; Liang 2011). Artists and commercial manufacturers in the Global South, however, develop distinct ethical mores in fields of creative expression and circulation, adapting and modifying international legal norms about innovation, imitation, and infringement to make them appropriate to local political and economic circumstance (e.g., Hsiao 2014; Skinner 2015; Thomas 2016). In informal markets where unlicensed goods circulate, moreover, new categories of distinction for counterfeits emerge that bear little relationship to IP (e.g., Crăciun 2012). The social and political generativity of law in society is evident in the way that categories of authenticity and genericity are deployed with respect to goods as diverse as fashion accessories, pharmaceuticals, and packaged foods (e.g., Hayden 2007; Luvaas 2013; Vann 2006).

The Politics of Translating Tradition

The international policy fields of health, environmental sustainability, and cultural heritage became increasingly attentive to issues of diversity and sustainability in the 1990s. Despite its conventional restriction to fixed works demonstrating individuated originality, commercial novelty, and technological innovation, the global field of IP regulation was put under pressure to find new ways of protecting traditional practices and products, particularly those pertaining to agriculture and medicine. Newly valorized traditions were acknowledged as distinctive and legitimate modes of transmitting collectively held intangible goods that had been overlooked in modern property regimes. The World Intellectual Property Office's (WIPO) efforts to extend IP to "new beneficiaries," to abide by the Convention on Biodiversity, and to respect (what became) the Declaration on the Rights of Indigenous Peoples were central to diffusing these policy norms, soon disseminated through environmental and development NGO projects and the rights-based advocacy of social movements (Coombe 2017).

In the field, anthropologists encountered a new emphasis on locating "community tradition" and traditional environmental knowledge (Sillitoe 1998) as policy deliberations about the extension of IP to "new beneficiaries" became attuned to alternative social means of transmitting knowledge. Cultural anthropologists were quick to dismiss binary distinctions between "traditional" and "modern" knowledge and science as reified social constructions that denied contemporaneity to others (Agrawal 1995; Gupta 1998; Nygren 1999). The concept of traditional knowledge appeared to those outside of policy discussions as romantic, essentialist, and Orientalist—another instance of the "invention of tradition" (Hobsbawm and Ranger 1983) by foreign agents. Other scholars showed how "tradition" is rearticulated when invoked in the name of conservation (Zerner 1994) or new benefit-sharing enterprises (Greene 2009). In regions

deemed rich in biodiversity where traditional environmental knowledge was newly valorized in policies of sustainability, anthropologists explored how local communities used principles and norms drawn from IP, environmental advocacy, and indigenous rights negotiations to forge new place-based social movements (e.g., Asher 2007; Escobar 1998, 2008; Ulloa 2005).

As international heritage, biodiversity, and IP policies encouraged states to identify and audit cultural goods, communities found themselves recipients of foreign attentions, attempting to “bear” the traditions that outside actors anticipated, while struggling to voice vernacular understandings of knowledge and livelihood (Novellino 2007; Rosenthal 2006). The (mis)translation of knowledges in encounters between communities and outsiders in environmental, health, and heritage projects became a focus of anthropological interest as people attempted to make what is now known as “biocultural heritage” legible to others (e.g., Nadasdy 1999, 2005; Noble 2007; Reddy 2006; West 2005; Zerner 1994).

Anthropologists explored the interventions and responses of those bearing tradition under these new conditions. Ethnographic work showed that organized traditional practitioners of medicine and therapeutic bodily regimes find new ways to speak to institutions and challenge assumptions about locality, community, and reproduction (Langwick 2015) when facing threats of commodification which come from a wide variety of claimants (Fish 2006; Reddy 2006). As ethnographic research from Egypt, India, and Tanzania illustrates, people may deploy tactics of secrecy, dissembling, and evasion to protect knowledge they consider neither extractable nor properly democratized (e.g., Elaychar 2012; Halliburton 2011; Langwick 2017). Others seek to protect their traditions by refusing negotiations with outside valuers and developing and publicizing their own protocols for managing cultural access (Faulkland et al. 2017). Consequentially, anthropologists have become more reflective about the ethics and politics of their own community-based research and its publication.

The Ethics of Anthropological Practice

Amid growing concerns about the reproduction and decontextualization of cultural and biological materials through commodification and the spread of digital technologies, anthropological debates about property and propriety proliferated. Anthropological interest in indigenous heritage rights and property rights, first voiced in terms of the politics of cultural appropriation, evolved into a larger set of questions around the ethics of anthropological and archaeological research more generally in an era in which community relationships to knowledge were the subject of human rights deliberations. In many instances, this reshaped the nature of relationships between anthropologists and their communities of research.

Appropriation and the Ethics of Research

Just as postmodern celebrations of cultural hybridity, borrowing, and remix gained particular traction in anthropological theory, considerations of cultural appropriation drew new attention to collective cultural rights (Berson 2010; Coombe 2009). Self-identified Indigenous peoples, diasporic communities, and their advocates pointed to the various types of injury enabled by

presuppositions of a free, open, and undifferentiated commons (Howes 1996; Ziff and Rao 1997). Such critiques raised acute questions about the ramifications of anthropological research. To what extent may the publication of indigenous knowledge and cultural heritage facilitate misappropriation by placing such material in the public domain (Christen 2005, 2011; Holcombe 2010)? Recognizing that cultural rights—understood as the human rights of communities—could be violated by the unauthorized reproduction and circulation of heritage goods posed new challenges to anthropological research methods, sparking reflection on how the terms and aims of research are established and how knowledge is produced and by whom. For whose or what ends is research justified? Who should decide how research materials should (or should not) be made available (Nagy 2011; Pels et al. 2018)? These issues were considered central in efforts to decolonize research methodologies (Smith 2012).

Questions about the management and ownership of anthropological data, the production and circulation of tangible and intangible materials via research and publication, and new expectations about the repatriation of research outputs characterized a new era of scholarly ethics. Within archeology, the capacity of publication to enable information, images, and artifacts to circulate in ways that may negatively impact Indigenous community recognition and rights prompted the creation of new legal tools and ethical protocols with respect to the use of cultural knowledge and property (Nicholas and Bannister 2004; Nicholas and Wylie 2009; Smith 2010).

In environmental and ecological anthropology, increased awareness of how publication of ethnobotanical information could facilitate misappropriation of traditional knowledge led ethnobiologists working with indigenous organizations to craft a code of research ethics. The code emphasized the necessity of community participation, informed consent, reciprocity in benefits, and recognition of the customary rights and cultural responsibilities of Indigenous peoples (Bannister et al. 2009). Largely driven by the early Brazilian fieldwork and international advocacy of Darrell A. Posey (1990, 1999), this undertaking was influential in bringing principles of benefit-sharing and compensation for indigenous work into international biodiversity policy and linking such practices to internationally recognized Indigenous peoples' rights of self-determination (Garcés and de Robert 2012).

In other anthropological subfields, the acknowledged inability of IP regimes to accommodate indigenous values and customary practices led scholars to consider alternative strategies for documenting, repatriating, and protecting data, recordings, and other cultural materials. For example, concerns that the circulation of ethnographic music recordings beyond source communities may misrepresent traditions, deny compensation to creators, and offend community norms led ethnomusicologists to explore different means of vesting rights in recorded music to collective holders of intangible cultural heritage (e.g., Aubert 2010; Fox 2017). In the archeology of the Americas, collaborative and community-based research practices developed, using local norms for managing cultural heritage and knowledge as guides for scholarly research practice (Atalay 2012).

Applied Methodologies: Alternative Knowledge Management Strategies

Digital technologies posed further ethical issues; while they provided new opportunities for source community curation of research, museum, and archival materials, they also created problems for social groups seeking to control the conditions under which cultural resources circulated (Bell et al. 2013). This recognition sparked efforts to create mechanisms for the protection of intangible cultural heritage that would reflect community values, support sustainable development, and foster self-determination (Brown and Nicholas 2012).

Anthropologists began to work with local heritage centers, museums, and community leaders to help repatriate materials historically collected under colonial conditions of dispossession (e.g., Nagy 2011). Some created interactive online databases with Australian aboriginal and North American tribal communities which embedded culturally specific terms for accessing and interpreting data (e.g., Christen 2011). Others developed protocols to guide practice and set the terms of knowledge collection and management (Anderson and Younging 2015) and tools such as traditional knowledge labels and licenses to help communities better manage their cultural heritage in digital environments (Anderson and Christen 2013; Anderson and Montenegro 2017; Christen 2015).

Many communities learned to define and assert their customary knowledge practices within the context of research relationships, archival repatriations, and digital rights management. Such articulations made communities and their interests more legible to dominant research and curatorial institutions (Coombe and Kisin 2020) and encouraged both parties to critically (re)interpret IP rights for new ends (Colwell-Chanthaphonh 2011). Increasingly organized and internationally networked Indigenous peoples began to exchange knowledge and experience of their practices of digital database management and heritage protection. In the face of widespread state reluctance to revise national IP legislation to address the needs of Indigenous communities, these collaborations helped to establish what became known as international “best practices” for the management and return of archival materials and other culturally significant heritage goods. New cultural policies were thereby recursively produced through collaborations in which anthropological knowledge became enmeshed in broader struggles for community political, legal, and social recognition.

The Life and Limits of Open Access Publishing

As anthropologists reassessed their research and publication practices with respect to marginalized communities, digital technologies were transforming the means by which texts could be shared in the discipline, spurring new social movements concerned with the production and circulation of informational goods, which attracted ethnographic inquiry. FLOSS (free [libre] and open source software) and open access publishing (OAP) movements were based on beliefs that new technologies should facilitate the dissemination of knowledge and democratize an informational commons. OAP offered an especially attractive antidote in an environment marked by increasingly expansive IP rights, escalating prices, and industry concentration that threatened to undermine the dissemination of anthropological knowledge.

Scholar advocates encouraged their professional associations to adopt new publishing practices to enhance the circulation of scholarship; lively debates ensued about the meaning of open access and its relationship to research ethics and creative alternatives for managing and disseminating research data (Golub 2004; Kelty 2008). OAP ideally made anthropological knowledge more available to subject communities, providing a new means for crafting more ethical research practice (Boellstorf et al. 2008). A number of journals dedicated to making anthropological work more accessible to broader publics emerged. The journal *Cultural Anthropology*, HAU books, the HAU journal *Journal of Ethnographic Theory*, and various blogs published ethnographic reviews, commentaries, and conversations for ever-broader publics.

Such projects prompted a new wave of scholarship exploring the economic, technical, and institutional constraints shaping publishing practices. As open access became increasingly monetized, however, questions emerged about the financial and organizational capacity of publishers to prioritize accessibility. Conversations about access turned to more general deliberations over openness and inclusivity in the production of knowledge and in knowledge exchange (Gershon 2018; West 2018). Deliberations on the nature of relationships and obligations that were carried into open access projects (e.g., LaFlamme and Boyer 2018; Mahi Tahi Collective 2018) tended to echo earlier criticisms of the advocacy of an overly romanticized public domain that failed to recognize how old exclusions may be reproduced and new forms of dispossession facilitated when “freedom” was celebrated but structural positions of privilege and precarity remained unchallenged.

IP and Its Subjects

Anthropological attention to the extension of IP into new jurisdictions sparked interest in legal constructions of personhood. Recognizing property and personhood to be dialectically related, anthropologists took great interest in the modes of subjectivity that IP relations to intangible cultural goods legitimated, tracing the introduction of the Western concept of individual authorship in diverse societies.⁵ Anthropologists considered how legal technologies fabricated the categories of persons and things that ownership serves to naturalize (Pottage 2004a). New policy emphasis upon communities and traditional goods fostered the articulation of collective identities. Ethnographic work on the extension of IP demonstrated that the global policy contexts in which IP was debated also enabled new subject positions of stewardship to be articulated (e.g., Brosius 1999). Where varieties of IP such as publicity rights allowed recognizable features of identity to be claimed as private property, anthropologists explored the social construction of celebrity and emerging public personas. Similarly, the growth and extension of branding practices to social collectives from villages to nations, militaries, and even militias opened new avenues of inquiry.

Property and Personhood

If the introduction of IP in new regions sparked general anthropological interest, its arrival in Melanesia prompted an especially rich body of scholarship exploring encounters between radically different and sometimes surprisingly similar understandings of personhood, ownership, and cultural circulation (Hirsch and Strathern 2004; Strathern 1999). Moving beyond early disciplinary preoccupations with individual versus communal rights, this work explored how selves were differentially “dividuated” in the region and how people, rather than things, were regarded as “owned” by virtue of their kinship relationships (Strathern 2001). When persons are partible, their relations to others become visible when they take on certain roles that are understood to be “images” both created and controlled by their clans (Strathern 2004). To fulfil kinship obligations, and in ritual practices, people in the region internalize and visualize themselves as images owned or carried by others (Harrison 1992). In Papua New Guinea, for instance, people seemed to entertain understandings consonant with IP’s protection of celebrity personas, commercial trademarks, and patented technologies in performative activities of symbolic exchange, valuation, and commemoration (Strathern 2001).

Although concepts of owning humans are morally repugnant to many religious traditions, body parts and genetic materials are increasingly owned in significant ways (Strathern 1999, 2005). Human genomics raises questions: how and why are some human genetic materials considered inalienable aspects of a human universal heritage available to science, while others are personally alienated and may be economically exchanged? Legal techniques that claim merely to reflect divisions between norm and nature normatively institute the nature they claim (Pottage 2004b). Efforts to protect “our genetic patrimony” against commodification, for example, suggest that the genome is a resource existing independently of the means and activities through which it is visualized and rendered. Since IP creates relations of legitimated power by privileging particular forms of inscription, the simple denial of inscription is one of the means by which IP is resisted or refused.

Anthropologists have explored the ways in which the legal recognition of some “natural” substances as authored or “cooked,” and others as discovered, or “raw” has social consequences for both persons and things (Hirsch 2010; Pottage and Mundy 2004). For example, positioning simple DNA as part of the public domain enables rather than discounts its political consequence in terms of the identities people may claim, as debates about DNA testing to confirm tribal identity suggest; conflating ancestry with racial, ethnic, or tribal kinship discounts the cultural and social means by which tribal belonging was historically rendered (Tallbear 2013). Contests over the ownership of plants reconstruct them as discoveries or inventions at different moments. The valuable properties of the South African hoodia plant, for example, could be represented as a patented molecule, a solid drug, a liquid food, or a wild or cultivated plant. While the state patent on hoodia hinged upon molecular isolation of the plant’s appetite suppression chemicals, San peoples’ claims to benefit sharing relied upon demonstrating their traditional knowledge of the whole plant’s medicinal properties (Foster 2017).

Subjectification: Authors and Stewards

A long tradition of critical theory showed that historical legitimations for IP imagine authorship or innovation as originary individual inscription, relying upon gendered tropes and the naturalization of paternal authority (Rose 1996, 2002; Woodmansee and Jaszi, 1994).⁶ Such gendered structuration is replicated in global IP discourses where creative work that is rendered natural rather than cultural, reproductive rather than productive, or social rather than individuated is relegated to an inferior status. In the sphere of digital cultural production, even “hacker culture,” which otherwise flouts IP protections, nonetheless partakes of a similar legitimating logic in which individual male activity is celebrated as transformative expressive work rather than “mere” reproductive labor (Liang 2010, 2011). This discursive logic may be traced across diverse fields of activity, stubbornly re-emerging under conditions of technological change.

Practices of creolization and hybridization often identify new subject positions and express subjectivity. The global circulation of cultural goods, the ease of their reproduction in new contexts under conditions of digital communications, and the inclination to recombine them may be considered constitutive of conditions of postmodernity (Harvey 1989) as well as indicia of cosmopolitan subjectivities (Novak 2010). Where “remix culture” is naturalized as a form of global cultural identity, however, critics complain that it universalizes the conditions of subjects with particular privileges, discounting the ways that conditions of remediation may allow others to maintain the alternative value systems in which cultural goods figure (Christen 2005). IP, subjects, and moral economies tend to coevolve in complex dialogues and dialectics. A great deal of contemporary scholarship has addressed remix practices as creative acts of “piracy” that express new subject positions. For example, the literary “hack” in India rewrites classical works to engage in contemporary social and political criticism (Poduval 2014).

Expressing knowledge of IP legalities and practices of illegality may be means of mimicking modes of modernity and drawing attention to global entitlements and their relationship to local social exclusions (Dawdy and Bonni 2012). If the contemporary politics of pirate practice tends to criticize global corporate hegemony, in Bolivia artists have also found new means of distribution and publicity to support local, independent, small-scale cultural producers (Stobart 2014). Creators of “peripheral” musics in Brazil, for example, not only rely upon remix practices, but work outside of dominant channels of distribution, giving away music on social media in order to build careers and reputations (e.g., Lemos 2014).

Traditions of cultural expression, medicine, and artisanship require the social maintenance of a production commons that is often overlooked and may well be undermined by efforts to extend IP. People are becoming more conscious of their practices of stewardship over both natural and cultural resources. Many Indigenous communities, in particular, have adopted this subject position with respect to biodiversity congruent with international recognition of the value of their traditional environmental knowledge. They reject IP encroachments and instead emphasize their cultural histories of cultivating plant genetic resources (e.g., Coombe and Kisin 2020; Rhoades 2006; Shepherd 2010). Claims of stewardship and rights to exercise ancestral responsibilities over biocultural resources are now routinely asserted by local communities and environmental NGOs (Bavikatte 2014). Certain specialists, like shamans, have been elevated to a new social prominence

in this new role, with Brazil, for example, portraying them as bulwarks against corporate biopiracy (Alberts 2015). In India, however, the state itself has usurped the position of steward over traditional medicines and therapeutic practices (Fish 2014).

Pirates and Their Practices

A number of ethnographic studies illustrate the various means by which IP and the policing of its violation have constituted new figurations of pirate subjects while simultaneously encouraging reflexivity among subject populations about community identity and the norms that reinforce peoples' senses of communal belonging in these circumstances (e.g., Reinberg 2015; Thomas 2013). The figure of the pirate has re-emerged in the West as a rogue "other" properly subject to industrial demonization, surveillance, and punishment or, alternatively, celebrated as a subaltern challenge to corporate cultural industries. These moral positionings are often gendered and racialized. Acts of piracy that "merely" make copies or reproduce goods are often defamed with tropes of passive imitation and effeminacy contrasted to more muscular "transformative" acts of appropriation (Liang 2011, discussing Larry Lessig; Vats 2020). The omnipresence of informal markets, however, also reveals that different kinds of copies carry distinct values in local moral economies and that a variety of pirate subjectivities may be locally recognized (Dawdy and Bonni 2012).

Antipiracy campaigns attempt to impress upon socially disadvantaged peoples a normalized, universal, and transhistorical human subject that puts targeted communities outside the pale of proper ways of life and legitimate economic activity (Thomas 2016). IP piracy is often essential to accessing cultural goods and engaging in cultural reproduction more generally in the Global South (Liang 2011). Local assessments of necessary, permissible, desirable, and blameworthy acts of IP violation tend instead to reflect a wide range of community norms. Accusations of piracy made by local artists in Mali were shown to have more to do with assertions of citizenship and perceptions of state failure than concerns about lost revenues (Skinner 2012). The pirate may also locally represent a position of protest against the disintegration of state–subject relations in polities that appear to value cultural resources over human ones (Dawdy 2011), and foreign economic interests over citizens' social needs.

Anthropologists studying the phenomena of piracy have refused to privilege the private property–public domain binary, showing how, why, and to what ends this modern conceptual division is rejected by subjects whose economic circumstances exclude them from IP's circuits of recognition and exchange (Grassmuck 2014; Poduval 2014). For example, in urban Bamako, piracy has been both the cause of artistic precarity and the rationale for new kinds of cultural governmentality, creating a crisis in political subjectivity where musicians struggle to maintain professional livelihoods amid weak state oversight and a flourishing informal economy in copied music (Skinner 2015). Challenging the purported dangers of piracy to mainstream industries, while exploring the politicized nature of creative counterfeiting practices, anthropologists attend to the abject subjects and public anxieties generated by the policing of illegalized cultural goods (Dent 2016, 2020; Eckstein and Schwartz 2014; Thomas 2016).

Assessments of piracy exceed considerations of subjectivity when they explore political economies, moral economies, and the policing of cultural circulation in the Global South. Anthropologists increasingly ask, not who is a pirate and why, but rather, what does piracy *do*, shifting inquiry to issues of labor, technology, monopoly, cultural consumption, and political representation. Attending to the productive dynamic between “appropriate” circulation and digital piracy in Brazil, for example, revealed how social groups enact, challenge, and, ultimately may modify IP law by exposing its contradictions and fault lines (Dent 2016).

Although considered illicit by state and international powers, pirate practices in Guatemala were shown to have local legitimacy in communities that rejected police powers exercised on behalf of foreign corporate actors who are clearly unaccountable to the people so governed (Thomas 2016). Antipiracy campaigns, draconian enforcement regimes, and punitive measures amplify antagonisms between emerging classes in informational capitalism, the structuring principles of whose interrelationship are still obscure (Dawdy 2011).

Personas, Brands, and Communities

Legal anthropologists have long recognized that law does not merely reflect social worlds but constitutes, authorizes, and legitimates social identities and relationships (Dent 2013). To the extent that IP promotes forms of recognition, enables streams of royalties, and encourages investments, it fosters practices of individual and collective public subject formation. Cultural anthropologists have been particularly interested in public personas and the branding of collective identities (e.g., Bunten 2008; Foster 2007; Mazzarella 2003). Public personas are created through expressive investments and particular forms of circulation, both of which are shaped by IP protection of the symbolic attributes of the persona that may artificially freeze fields of connotation and stifle subaltern challenges to dominant meanings. Studies of pen names, for example, show how an authorial persona is constructed as a brand to mediate between producers and consumers in mass-market publishing in North America (Taylor 2018). The intersection of different regimes of value for restricting the circulation of iconic imagery also engenders new politics of publicity. Where the commercialization of ritually important Hindu images provoked criticism from diasporic communities, for example, these conversations spurred new aesthetic practices in expressions of shared identity (Ramachandran 2014).

The relationships between signs (e.g., trademarks), the virtual commonalities their circulation enables (and their owners capitalize upon), and the social imaginaries they actualize is a rich area of ethnographic inquiry, particularly in post-socialist contexts (e.g., Vann 2006). Anthropological approaches to trademark and branding involve semiotic explorations of their fields of meaning as well as explications of the material infrastructures of their production and consumption. Ethnographers explore the folk ontologies and ideologies that are latent in the legal and economic discourses that legitimate brands and their circulation (Manning 2010). Subaltern groups in India, for example, were shown to use the repertoire of cultural forms provided by trademarks to express their understanding of and protests against corporate powers, while creating new forms of surplus affective value (e.g., Nakassis 2012, 2013).

Anthropologists have been interested in brand behavior—the creative social engagements that trouble a singular social intelligibility for the IP-protected commodity. Branding takes place on multiple scales and embraces a range of actors beyond corporate producers and individual consumers, and now encompasses issues of statecraft (e.g., Thomas 2013). The phenomenon of nation-branding, for example, is a new means of communicating national identities and interests that engages corporate publicists and constitutes the state as an entrepreneurial subject (Aronczyk 2013; Cao et al. 2019). Advertising and marketing professionals emphasize the need to maintain the singularity (and restrict the diversity) of national collective connotation, which may limit public discourse, channel political conversation, and become a means to discipline everyday social conduct (e.g., Scher 2014). Anthropologists have explored the further extension of branding to European cities (e.g., Graan 2013) and the convergence of marketing and militarism in Colombian peace-building strategies (e.g., Fattal 2018).

IP and Its Territorializations

Just as the extension of the IP into new markets and jurisdictions has enabled the production of new subjectivities, it also has provoked processes of territorialization.⁷ Such processes may include the inscription, delineation, and valuation of place and regional heritage through legal mechanisms such as geographical indications as well as deliberations over territory, sovereignty, and authority that arise in the extension of regulatory frameworks to new jurisdictions. Most ethnographic work in this vein has engaged with two related processes that accompany such legal change: the (re)signification of product origins and attachments to place, and the authorization of space, territory, and markets that stirs struggles over sovereignty and citizenship.

Place, Terroir, Authenticity, and Heritage

As markers of natural distinction and cultural difference gained value within global informational markets, IP protections that signified the origins of products were elaborated and extended to new regions. These include older vehicles such as appellations of origin and collective and certification marks as well as new geographical indications (GIs) such as European marks for “typical products.” As marks indicating conditions of origin, these protected designations signify that specific product attributes are a result of the qualities of a particular place and its environment (or *terroir*). They may also signify social or economic aspects of production, including cultivation techniques, methods of labor, or culturally unique production practices—often asserted to be based on a region’s heritage (which may be quite newly minted). Hailed for their potential to protect biodiversity, foster sustainable economic development, support traditional knowledge practices, and add value to biocultural goods, marks indicating conditions of origin are both a means to secure monopoly rents and vehicles to express identity (Coombe and Aylwin 2011).

Ethnographic studies of GIs consider how place-based product protections affect local understandings of identity, heritage, and history. GIs may provide a vehicle for artisan communities, such as producers of clay whistles in Matera, Italy, to assert long-standing,

affective attachments to the goods they produce and to guarantee their authenticity (Bortolotto 2010). GIs may also redefine geographical boundaries, notions of authenticity, and conceptions of belonging and indigeneity (Bérard and Marchenay 1996; Grasseni 2016; Ives 2017). In France, for example, where the formalization of GIs under the *appellation d'origine contrôlée* system dates to the early 20th century, the law is meant to reflect the confluence of *terroir* and local standards of production. Although the law often registers local consensus on geographic and cultural boundaries, it has also been an important tool for socially reworking them, as excluded producers struggle to obtain membership in the exclusive clubs who control these designations (Farmer 2014).

GI protections may provoke assertions of belonging that are at odds with policies valorizing place-based heritage. For example, bemoaning the fact that in France, GIs are so hegemonic that without a cheese you are deemed to lack a culture, people have nonetheless crafted a sense of place and shared local identity by emphasizing their very lack of the types of products that GI designations protect (Filippucci 2004). Even where attempts to attain GI protection fail, campaigns to demonstrate the heritage status or the regional typicality of a product may transform its cultural and regional significance (Terrio 2014). Thus, unsuccessful efforts in Italy to obtain a GI designation for the Zolfino bean nonetheless transformed the crop from a sharecropper's staple into a heritage food whose new market value attracted the attention of large, wealthy farmers (Badii 2013). Such efforts often activate deliberations over the meaning and history of place at the same time that they heighten economic reliance upon increasingly distant markets for the continued production of locally authentic products (Grasseni 2014).

Marks indicating conditions of origin are often embraced as a means to foster rural development by providing small-scale producers a distinctive edge in increasingly competitive and homogeneous global food markets. The use of GIs may, however, have deleterious social effects on the communities they are meant to serve (Coombe et al. 2014). GIs function ideologically to convey harmonious social imaginaries of territories that integrate production activities, communities, and natural environments, but in practice they enable forms of fetishization that may obscure and support unfair and exploitative labor conditions (Coombe and Malik 2018; West 2012). In India, for example, the GI for Darjeeling tea harnessed discourses of *terroir* and place-based distinction to fashion a luxury commodity for global markets, but in the process, the exploitative, racialized labor relations of colonial-era tea plantations were further entrenched (Besky 2014a, 2014b).

Likewise, attempts to define and enforce GIs may commodify traditions of practice in ways that foment competition and exploitation, thereby eroding feelings of shared social interest and collective identification. In Peru, state efforts to use GIs to bolster artisanal ceramic production led, ironically, to the codification of traditional practices and ultimately their industrialization as rural towns and producers were linked to international markets only to the extent that "native" goods were produced using standardized practices that enabled them to be mass-marketed (Chan 2014). State projects to promote GIs for rural development may favor larger, wealthier actors who are already positioned to take advantage of emerging markets. In crafting GIs for tequila in

Mexico, only elite landed farmers possessed the infrastructure and networks to profit from these new origin-based protections, and in the process, both traditional knowledge and traditional terroir were lost (Bowen 2010).

Nonetheless, under specific conditions of governance, such marks may enable alternative assertions of value and attachments to place while linking producers and consumers in relations of recognition and identification (Coombe and Aylwin 2011). To these ends, a third generation of certification for place-based goods is evolving to communicate new forms of production and distribution grounded in environmental norms and an ethic of agroecology and socio-natural or cultural reproduction (Coombe and Malik 2018). Local actors may push for place-based marks that go beyond indices of terroir, heritage, or authenticity to capture other aspects of production, such as labor conditions and environmental standards. Farmers and their intermediaries may use the GIs to build place-based economies that are more varied than any single, legally structured, place-based marketing initiative (Ofstehage 2011). In Bolivia, for example, farmers in the region of Los Lipéz worked with NGOs and industry actors to create GI protection for their quinoa in an effort to distinguish the unique qualities of the region's crop and its ritual origins. This unique mark of origin did not omit other economic avenues for farmers in the region, but became one among many pathways for bringing quinoa to market (Ofstehage 2012).

Territorialization: Sovereignty, Jurisdiction, Securitization, and Markets

If ethnographic work on GIs has tracked the social and political negotiations over authenticity, heritage, and belonging that are activated by place-based IP protections, anthropologists have also explored how other vehicles of IP protection, such as copyright, patent, and benefit-sharing contracts for the use of traditional knowledge and cultural expression, may prompt political conflicts over sovereignty and jurisdiction. The roots of this anthropological inquiry may be traced to early critiques of state sovereignty over biological resources and its implications for Indigenous peoples and small farmers (e.g., Brush 1993). More recently, anthropologists have explored “the politics of scale” in the creation of national patrimony, which depends upon the usurpation of local traditional arts (e.g., Aragon and Leach 2008 exploring this in Indonesia). Anthropological consideration of such processes as new modes of territorialization gained traction in the 2010s.

Bioprospecting, for example, spurs territorialization through the extraction and regulation of plant life. As a long-standing companion to both colonialism and capitalism, it continues to be central to state expansion (Besky and Padwe 2016). Where bioprospecting involves plants and resources territorialized through their globally recognized association with local and native knowledge, as it did in South Africa, struggles over the ownership of patents and the benefits arising from projects to commercialize those resources may provide fertile ground for peoples historically marginalized by the state to assert alternative forms of national belonging (Foster 2017).

Industries built upon copying and counterfeit products create marked zones that contain both new goods and new values. In cases where technologies of reproduction and distribution are more powerful than the state economic structures that may constrain them, as they were in Nigeria,

piracy transforms the infrastructures through which globalization—as the flow of informational goods and media imagery—takes place (Larkin 2008). The extension of IP into new jurisdictions effects territorialization by demarcating zones of licit and illicit production and distribution. In some cases, this may give rise to counterfeit economies that enable marginalized peoples to generate livelihoods and enclaves of production and distribution, but it may also provoke new forms of state intervention and surveillance. Ethnographic work in Brazil showed how acts of piracy enabled often marginalized actors to gain some control over strategic spaces, even where formal state powers work to control, surveil, and set the boundaries of licit market activity (Dent 2016, 2020). In South Africa, the threat to public health posed by the counterfeiting of medication was used by the state as a rationale to transform drug safety regimes into more territorialized drug security regimes, linking pharmaceutical corporations and state authorities in ways that exacerbated predatory police interventions and encouraged the territorializations of security industries (Hornberger 2018). Piracy also tends to produce new networks that traverse state boundaries, facilitating traffic in cultural goods, and, where technologies of reproduction and distribution are more powerful than state economic structures, affective connections to new territorial infrastructures of global belonging (Larkin 2008; Reinberg 2015).

In Closing: Commodification, Circulation, and Ethics in Colonial Pasts and Decolonial Futures

IP has provided a new lens to explore concepts such as property, culture, personhood, and place. Attention to the political economy of informational capital has afforded opportunities to consider issues of commodification, power, and inequality while movements to decolonize knowledge relations have forced reconsideration of ethical practice, gesturing toward new futures for the discipline and for policy. Challenging liberal distinctions between private property and the public domain, anthropological attention to IP has explored the diversity of publics constituted through the production, circulation, and consumption of cultural goods. In the process, anthropologists have tracked the construction and translation of tradition in deliberations over the law, the variety of ways that people articulate rights, responsibilities, and obligations with respect to intangible goods, and the formation of new subject positions and new modes of occupying place.

Despite this shared ground, neither the field of legal protections known as IP nor their anthropological study should be considered integrated fields. The variety of IP vehicles now legally available derive from a diversity of legal traditions and are justified by a range of economic, political, and social philosophies. Ethnographers writing about IP tend to focus on narrow areas of inquiry; those studying traditional landraces in agriculture, for example, are unlikely to show familiarity with the moral economies of popular music. Specialists in handicraft arts and their ritual transmission do not attend to drug patents and compulsory licenses for pharmaceuticals. Anthropologists working on IP issues do not share a body of references that may be deemed a disciplinary canon of scholarship, and discussions across topical subfields are rare. It is thus premature to attempt to synthesize this area of inquiry.

Nonetheless, future research in this area may address some common themes. Cross-cutting commentary about the colonial nature of IP protections and enforcement, for example, underscore a need for more attention to the relationship between modern laws' colonial legacies and decolonizing social movements. Given the increasing emphasis placed on IP protection within the realm of food and agriculture, this may be most pressing for anthropological work pertaining to plant genetic resources and transnational food sovereignty movements. Similarly, contemporary discussions about race, intersectionality, and structures of privilege and disadvantage point to a need for a better understanding of the intersection between rationales for IP protections and practices of racialization and how racial formations are linked to IP in practices of accumulation by dispossession. As shifts in law and technology reshape access to knowledge and resources, there will be a need for anthropological attention to processes such as the dematerialization of genetic resources and the financialization of IP enabled by speculation on technological futures.

With technoscientific innovation increasingly touted as a primary means of mitigating climate change, it will be important to track how IP is invoked and deployed in projects to shape more resilient futures. Questions about how IP distributes access to crucial technologies and values the knowledges, technologies, and innovations used by peoples living in marginalized environments who maintain the resilience of these territories may assume ever greater importance. The anthropology of IP will continue to explore historical and emerging forms of power, transnational fields of regulatory government, and fields of creativity that illustrate distinctive acts of normative assertion, resistance, and social solidarity, as well as distinctive articulations of justice and injustice.

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Notes

1. The concept of moral economy has Marxist humanist origins in E. P. Thompson's *The Moral Economies of the English Crowd in the Eighteenth Century* (1991) and was influentially developed by the political theorist James Scott in *The Moral Economy of the Peasant* (1977). It has been revitalized in discussions of resistance to neoliberal globalization; see, e.g., Marc Edelman (2005), who also describes the significance of the concept in the discipline more generally in "E. P. Thompson and Moral Economies" (Edelman 2012).
2. The humanities scholar Lewis Hyde (1983) adapted anthropologist Marcel Mauss' discussion of gift economies to characterize the ways in which literature and other expressive works circulate in contemporary societies in a metaphor that was widely adopted (e.g., Barbrook 2003; Hellekson 2009; Macfarlane 2017). The Boasian potlatch, originally used to describe Kwakiutl rituals of redistribution, re-emerged to celebrate the social capacities of digital communications (Raymond 1999; Terranova 2000; Peres et al. 2008; Kaplan 2019), and a revitalization of commons movements and metaphors in digital economies (e.g., Lessig 2001; Bollier 2002; Stallabrass 2002; Dobusch and Quack 2010) was widely remarked.
3. The concept of co-production emerged out of scholarship in science and technology studies (STS) that tracked the dynamic dialectical relationship between the production of knowledge and social order or technology and society, often as a way to move away from theories of social or technological determinism. With respect to the formation of institutions, governance, and knowledge, the concept has been elaborated by scholars such as Sheila Jasanoff (2004) and Jenny Reardon (2005).
4. Under TRIPS Article 66.1, "least developed country Members" were granted a ten-year compliance window, with the possibility that the Council of TRIPS could "accord extensions of this period" after a "duly motivated request." An eventual extension for compliance to 2021 was affected through two separate decisions of the Council of TRIPS on November 29, 2005 (IP/C/40) and on June 11, 2013 (IP/C/64). After a Council of TRIPS decision on November 6, 2015, "least developed country Members" were given a further extension until January 1, 2033 to meet compliance for the protection of patents and undisclosed information on pharmaceuticals.
5. The authors use the concept of subjectivity as it is deployed more generally in the interdisciplinary field of socio-legal studies and law and society scholarship. The authors' usage better accords with the scholarship of Sherry Ortner (2006) than with the term's more psychological orientation in Biehl, Good, and Kleinman (2007).
6. For works to be protected under copyright, not only must they originate with an author, they must have both an expressive and material form. Although the amount or degree of the required expressive content varies according to the category of work, the protected work must be both derived from an identifiable act of human or corporate individuated agency and have some materiality. One can sing an original song, but until that song finds some form of *inscription*, it will not be protected by copyright as a work. The authors use the concept of inscription as an alternative to the mere legal requirement of fixation because it better reflects the law's ideological valorization of the agency of originary expression in acts of authorship that produce goods understood as works.

7. The concept of territorialization is more extensively developed in geography than in anthropology and is more prevalent in French than in English-language anthropological traditions. Nonetheless, attention to transformations in the use, governance, and identity of regions, landscapes, and built environments is becoming more frequent under conditions of neoliberal and environmental governmentality (e.g., Dickson 2012; Lee 2014) in studies that challenge the naturalized association of territory with nations and state governance (Malkki 1992). Vandergeest and Peluso (1995) describe territoriality as the efforts made by individuals or groups to shape and influence people, practices, events, and relationships by exercising control over a geographic area, explaining that “control by territorialization thus works by proscribing or prescribing specific activities within spatial boundaries” (388). Further, “territorialization is about excluding or including people within particular geographic boundaries, and about controlling what people do and their access to natural resources within those boundaries” (388). Indigenous peoples propound a concept of territory in contrast to the idea of land, re-enchanting or re-embedding grounded authority with other species and spirit worlds: “Territory includes the productive function of land but also encompasses the concepts of homeland, culture, religion, spiritual sites, ancestors, the natural environment, and other sources like water, forests, and belowground minerals” (Stavenhagen 2006, 208). In anthropological studies of IP, the concept is most often utilized with respect to plants (e.g., Besky and Padwe 2016; Ives 2017) and in relation to attempts to define regions and their products naturally and culturally for marketing purposes, particularly through the deployment of notions of terroir (Bérard and Marchenay 2006) in the establishment of geographical indications (e.g., Bowen 2011).

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