

From Six Directions: Documenting and Protecting Zuni Knowledge In Multiple Environments

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A dissertation  
submitted in partial fulfillment of the  
requirements of the degree of

Doctor of Philosophy

University of Washington

2013

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Program Authorized to Offer Degree:

Information Science

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**Abstract**

**From Six Directions: Documenting and Protecting Zuni Knowledge  
in Multiple Environments**

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As a ‘cornerstone’ of American anthropology (McFeely, 2001), the A:shiwi, the Pueblo people of Zuni, New Mexico, have long experienced unsolicited and unwanted documentation of our everyday and ceremonial activities by outsiders. This research explores legal and theoretical applications of intellectual property rights to protect Indigenous knowledge and examines three projects initiated by the Pueblo aimed at protecting and documenting Zuni history. The cases are tribal resolutions passed by the elected body of the Pueblo, the Map Art Project, and the “Morning Prayer” mural in Albuquerque, New Mexico. Each case represents actions decided upon by groups within the community and are juxtaposed with YouTube videos of Hopi social dances posted by individuals without community discussions prior to the postings.

The cases were analyzed using the Peoplehood Model (Holmes, Pearson and Chavez, 2005) consisting of interconnected elements (land, language, ceremonial cycle and sacred history) as analytic tools to answer the research questions of “how is Zuni Pueblo documenting its knowledge?” and “how is Zuni Pueblo protecting its knowledge?”

The findings of this research include a set of tribal protections employed by several different Indigenous communities not dependent on outside or mainstream legal mechanisms, instead the protections are based on the customary laws (RaoRane, 2006) and traditions of that particular community. The findings of this research also include observations of the methods Indigenous communities employ to address breeches of protocol, whether the breach occurs in a traditional, ceremonial space or in an online environment such as in the comment pages of a YouTube video.

Three general principles have emerged from the analysis of the cases and from observations of Indigenous methods of protecting ceremonial activities. These principles are infrastructure, discussion and awareness. Infrastructure refers to community based cultural advisors who can help determine culturally appropriate actions when questions arise related to potentially culturally sensitive works or actions. Community-wide discussions help communities to build upon previous and current work already done by fellow community members. Community-wide discussions help build awareness within Indigenous communities that equip and prepare community members as ambassadors for documentation and protection efforts being pursued by the community.

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## **Acknowledgements**

A great number of people and organizations have made this dissertation possible. I would like to thank my committee: Cheryl Metoyer, Raya Fidel, Harry Bruce, Nancy Marie Mithlo and Jose Antonio Lucero. Their support, guidance, questions, confidence and feedback have significantly helped refine this research. I also thank Mike Eisenberg for serving on my committee while Professor Bruce was on medical leave.

Marisa Duarte, Sheryl Day, Juan Carlos Chavez, and Sandra Littletree – fellow PhD students and friends in the Indigenous Information Research Group - made our corner of the academy an absolute pleasure. Our weekly meetings provided much needed relief from the daily obstacles of academia and was a wonderfully safe and nourishing place. A bear hug and thank you to Allison “Ally” Krebs, IIRG member in spirit, whose use and support of the Peoplehood model has directly impacted the analysis of my data, and whose brilliant mind and endless enthusiasm continues to inspire me, particularly in the application of Indigenous Knowledge Visualization.

The Native community here at the University of Washington has been a great place to share everything from meals to big ideas. Knowing there are Native faculty whom I could turn, and other students who were working towards similar goals made my individual path easier as we shared work, frustrations and milestones. There is a comfort in recognizing friendly faces on such a big campus. My friends and colleagues in the Native Organization of Indigenous Scholars, as well as our advisor Augustine McCaffery, create a presence on campus and I always enjoyed our annual research symposia. Thanks to Charlotte Coté for her support, helpful feedback and guidance through the academic process. I look forward to congratulating her and the Working Group when the Intellectual House opens.

It takes a village to raise a child, and many organizations to send that child through graduate school. I am grateful for the support of the Information School but my degree would not be possible without generous contributions from The Skolnick Foundation, The Pueblo of Zuni, Sealaska Heritage Institute, Graduate Opportunities-Minority Achievement Program and the Bank of America Minority Fellowship, American Indian Science and Engineering Society,

Goldbelt Corporation, Huna Totem Corporation, Washington Indian Gaming Association, and the American Indian Graduate Center.

Over the years I have had the great fortune of knowing people who have shown me that a PhD was not only a possibility, but also a reality that I could make my own. It was through their example, their continued support and encouragement that I found myself having the audacity to apply for a PhD program in the first place. Some of these remarkable individuals are Drs Cheryl Metoyer, Rosita Worl, Nancy Marie Mithlo, Jolene Riccard, Cynthia Chavez Lamar, Angelica Lawson, Clint Carroll, Liz Moran Clayton, Alicia Gonzales, Tamara James and, Gabrielle Tayac.

Special thanks to Uncles Octavius Seowtewa, Reinaldo Rivera and, Jim Enote. They made themselves available to me over the years and helped me to improve this work. They explained when they were able and when they were not, they let me know why. I am forever grateful for the time and knowledge they invested in me as I worked on this research. Each of these uncles works in different ways to protect our spiritual ways of life. I will continue to be inspired and strengthened by their efforts.

My parents, Linda Belarde and Hayes Lewis, and my brother, Raven Belarde-Lewis, have always supported me, no matter what I was pursuing. My Aunties, Uncles, Cousins, extended family members and friends in Zuni, Hoonah, Juneau, Seattle and Suquamish have no idea how their smiles, concern and praise over the years have provided much needed mental sustenance as I worked on this dissertation. I know my grandparents are watching and I think of them often. I know they are here with me as I go about this work.

My #1, Terry “TJ” Johnson, is the reason I made it through the first year. Thank you for being such a good ku:wai’yeh all these years and for helping us to raise Bi:tsu’di Du:di.

Lastly, I would like to thank Gyasi, Likoodzi and Du:shi for their love, patience, support and encouragement – for helping me to know what is important; for celebrating every step with me as I moved closer and closer to finishing. I could have done this degree without them, but it would not have meant nearly as much, nor would it be as satisfying to complete. Thank you, and love you, my loves.

## **Dedication**

For my future grandchildren.  
May they know the strengths of our people.



## Introduction



The group who became *A:shiwí*, The People, began our existence deep in the belly of *A:weh'deh'li:nne Tsi'da*, the Earth Mother. We ascended through the four underworlds into this, the fifth world. We emerged at *Chimi'yana'kya Deh'yah'* and began our journey to find *Ha'lo:nah'we It'di'wana*, The Middle Place. This abbreviated and incomplete story is part of the beginning of *A:shiwí* history. It describes where we came from and how we found *Ha'lo:nah'we It'di'wana*, present-day Zuni Pueblo in west-central New Mexico. This

story is well known to many Zunis. It is not season specific, meaning it can be told during any time of the year. The emergence and migration history is part of the shared, general, cultural knowledge in Zuni Pueblo and helps define us, as us.

The painting presented alongside this history is a map. It was painted by Geddy Epaloose, a Zuni artist. It is his rendition of *Chimi'yana'kya Deh'yah'*, the emergence spot of the ancient *A:shiwí*, a place known in the English language as Ribbon Falls in the Grand Canyon. The map is part of a global Indigenous movement to reclaim traditional territories through the process of asserting traditional ties to landforms and geographic areas using the

place names used by our ancestors. Jim Enote, director of the A:shiwi A:wan Museum and Heritage Center (AAMHC) in Zuni Pueblo points out that Indigenous peoples “have always had maps. We’ve had maps in songs, in prayers, etched in stone, woven into fabrics, painted on pottery. It’s only been in the last 500 years that we’ve been re-mapped....This is an important thing because places are an important part of our identity. These paintings, these are counter maps that show our connection to these places....”<sup>1</sup> In the exhibition catalog *A:Shiwi A:wan Uhlonanne: The Zuni World*, Enote wrote that “Zuni map art is a collective, revisionist effort to elaborate Zuni history and cultural survival independent from the non-Zuni narrative,” and does so “in a lovely and appropriate way.”<sup>2</sup> The appropriate way that Enote speaks of is in response to the unauthorized written works that have described the religious practices, the innumerable acts of theft that have supplied museum collections with sacred Zuni objects, and the thousands of unauthorized photographs that have documented Zuni ceremonies. The appropriate ways that Enote speaks of are part of the ongoing process of “protecting” that this research seeks to document and highlight as a unique aspect of cultural and historical documentation within Zuni Pueblo.

The research outlined in this dissertation is being driven by two related yet distinct research questions: 1). How is knowledge being documented in Zuni? And, 2). how is knowledge being protected in Zuni? Zuni Pueblo is the focus of this case study not just because that is where I was born and raised, but because there is a rich history of documenting and protecting Zuni knowledge prior to legislative mandates such as the Native American Graves Protection and Repatriation Act (NAGPRA), and prior to the social media and massive

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<sup>1</sup> “A:shiwi A:wan Uhlonanne” [http://www.youtube.com/watch?v=SAWYw20lOZo&list=PL1AMWbJeK3EolviqGozcb-E38YamMohvC&feature=player\\_embedded](http://www.youtube.com/watch?v=SAWYw20lOZo&list=PL1AMWbJeK3EolviqGozcb-E38YamMohvC&feature=player_embedded). Last accessed 6 May 2013.

<sup>2</sup> Enote, “A:shiwi on A:shiwi: Zuni on Zuni,” 8.

digitization projects that have created the complicated technical world in which we find ourselves. Zuni knowledge has evolved, has been nurtured and has been sustained for thousands of years. In this way, it is very much like Indigenous knowledge found in all parts of the globe in that it is dynamic and changing,<sup>3</sup> but is ultimately rooted in the specific area of its creation. In this case, that specific area is present day west-central New Mexico.

## **Protections**

“Protecting” is one of the 25 indigenous projects Maori scholar Linda Tuhiwai Smith describes in her groundbreaking text *“Decolonizing Methodologies.”* She reminds us “the scale of protecting can be as enormous as the Pacific Ocean...or as small as an infant,...that it can be as real as land and as abstract as a belief about the spiritual essence of the land.”<sup>4</sup> Professor Smith writes that the act of protecting Indigenous knowledge and cultural property is a “multi-faceted” project, one that every Indigenous community is engaged in, and that every Indigenous community is working to “protect several different things simultaneously.”<sup>5</sup>

The project of protecting is “concerned with protecting peoples, communities, languages, customs and beliefs, art and ideas, natural resources and the things indigenous peoples produce.”<sup>6</sup> The need to protect these ways of life are intimately tied to the protocols surrounding the sequence of events as they occur in Indigenous communities, as well as the behavior expected from the participants and the spectators of the ceremonial events. Smith asserts “[t]he need to protect a way of life, a language and the right to make our own history is

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<sup>3</sup> For more on the dynamic and complex nature of Indigenous Knowledge, please see Dei, “Rethinking the Role of Indigenous Knowledges in the Academy.”

<sup>4</sup> Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*, 2nd edition (Zed Books, 2012). P. 159.

<sup>5</sup> Smith, p. 159.

<sup>6</sup> Ibid.

a deep need linked to the survival of indigenous peoples.”<sup>7</sup> Zuni religious leader Octavius Seowtewa echoed these sentiments when he stated that “we do not want to risk the death of our culture just to satisfy your curiosity,”<sup>8</sup> referring to the consistent barrage of illicit photographs and other mechanisms used to record ceremonial events and knowledge about Zuni.

The language used by Smith to describe the project of protecting is intentionally vague; she outlines the bare bones and essence of what Indigenous communities seek to protect, but leaves the specifics for each community to define and articulate on its own terms.

The broad strokes painted by Smith’s outline of an indigenous project of ‘protecting’ are in stark contrast to the overwhelming details required to protect intellectual property using Euro-American legal mechanisms of protection. There are certainly instances when state, federal and international laws are required to assert indigenous rights to repatriate sacred objects to indigenous communities. Legal tools include the usual suspects of copyright, trademark and patents. National mandates such as the Native American Graves Protection and Repatriation Act (NAGPRA) are useful for instances of domestic repatriation of human remains and associated ‘grave goods.’ The strength of international bodies such as the Berne Convention,<sup>9</sup> the international cultural property agreements reached by the United Nations Educational, Scientific, Cultural Organization (UNESCO) in its 1972 World Heritage

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<sup>7</sup> Ibid.

<sup>8</sup> Octavius Seowtewa. Personal communication. July 2011.

<sup>9</sup> The Berne Convention of 1886, last revised in 1979, is “for the protection of the rights of authors in their literary and artistic works” (Article 1) with artistic works being a blanket term for “every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression, such as books, pamphlets and other writings; lectures, addresses, sermons and other works of the same nature; dramatic or dramatico-musical works; choreographic works and entertainments in dumb show; musical compositions with or without words; cinematographic works to which are assimilated works expressed by a process analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works to which are assimilated works expressed by a process analogous to photography; works of applied art; illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science. Article 2(1). World Intellectual Property Organization. [http://www.wipo.int/treaties/en/ip/berne/trtdocs\\_wo001.html#P85\\_10661](http://www.wipo.int/treaties/en/ip/berne/trtdocs_wo001.html#P85_10661). Last accessed July 10, 2013.

Convention<sup>10</sup> and enforced by Interpol are being tested by courts in Paris, by art collectors and auctioneers - all with the international eyes watching via the Web.<sup>11</sup>

Legal and theoretical mechanisms of protection will be described in-depth in the literature review. However, the need to repatriate items to the home community is indicative of a reactionary position Indigenous communities repeatedly find themselves in. Without taking away from the importance of this ongoing work, this dissertation focuses on the ways Pueblo communities are exerting control over how knowledge is transferred and documented within *our own territories* and prior to the export of the knowledge and objects we seek to protect and bring home. We will begin this exploration by examining Zuni systems of knowledge.

## **Zuni Systems of Knowledge**

There are, at all times, many concentric systems of knowledge at work in Zuni Pueblo. At the request and commission of the Pueblo of Zuni, TJ Ferguson and Richard E Hart undertook an immense 12-year project of mapping Zuni terrain, natural resources, historical trade relations, rainfall, and various histories. In 1985 the resulting resource “*The Zuni Atlas*” was published; in it they remarked on the oral traditions within the Pueblo noting that:

The Zuni accounts of tribal origin and migration...are known in general outline by all tribal members and in greater detail by members of the several religious groups. Each religious group recites its own origin account that summarizes early tribal history and provides the religious sanction for their organization and rituals. Thus, instead of a single origin account there are many accounts,

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<sup>10</sup> UNESCO focuses on protecting the cultural heritage sites of the world by pairing the sites with environmental concerns. For example, the first world heritage site UNESCO focused on helping was an Egyptian archaeological site in danger of being submerged by a dam project. <http://whc.unesco.org/en/convention/>. Last accessed July 10, 2013.

<sup>11</sup> As of July 2013, one of the masks up for auction in Paris has been returned to the Hopi people. <http://www.usatoday.com/story/news/nation/2013/07/18/hopis-recover-kachina-sold-at-paris-show/2567299/>. Last accessed August 5, 2013.

accentuating and elaborating on different aspects of the same general story according to the special knowledge of individual narrators.<sup>12</sup>

Ferguson and Hart further state that the origin accounts have basic tenets common to all the variations of the shared history and embody “sacred truth,” differentiating the history from folk tales, which are also of ancient origin.<sup>13</sup>

Enote has remarked on these many accounts and what he refers to as “silos of knowledge” that operate within Zuni culture.<sup>14</sup> There are different types of knowledge in Zuni Pueblo, each with different caretakers. The general migration history is part of the cultural knowledge available to the entire community, and to anyone who wishes to know and learn about the Zuni migration. General information about the Zuni people and our community can be gained by reading books such as *The Zuni Atlas* (1985), *Mediating Knowledges*,<sup>15</sup>(2007) and *The Zuni*.<sup>16</sup>(2000).

There are entire systems of ancestral knowledge that are passed along clan and family lines; these knowledge systems are clearly reflected in families of artists; potters, jewelers, carvers, and weavers tend to teach these art forms to children and extended family members who may then carry on specific designs and techniques from generation to generation.<sup>17</sup> Various religious and medicine groups care for and transfer privileged esoteric and ritual knowledge amongst each group from senior members to junior members. Membership in these

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<sup>12</sup> Ferguson and Hart, *A Zuni Atlas*, 21.

<sup>13</sup> Ferguson and Hart, *A Zuni Atlas*, *ibid.*

<sup>14</sup> Jim Enote. Personal Communication. 26 April 2013.

<sup>15</sup> Isaac, *Mediating Knowledges*.

<sup>16</sup> Ladd, *The Zuni*.

<sup>17</sup> Ostler, Rodee, and Nahohai, *Zuni*; Nahohai and Phelps, *Dialogues with Zuni Potters*; Levy, *Who's Who in Zuni Jewelry*.

groups is based on established and elaborate initiation rites as well as years of training and participation in the groups' annual religious activities and responsibilities.<sup>18</sup>

In this study, I will focus on initiatives such as the Map Art Project as an example of documentation and protection occurring on Zuni terms. The Map Art Project is a prime example of a documentation project that protects privileged knowledge within an Indigenous community, as well as helps to make the case that one need not expose privileged knowledge within an Indigenous community in order to discuss the various methods of protecting that knowledge. Aside from some of the more general points related to the esoteric knowledge in Zuni (i.e., describing how the esoteric knowledge is split amongst the different religious and medicinal groups within the Pueblo) the privileged and ritual knowledge we seek to protect as a community will be referenced but is not the explicit focus of this research. I will not participate in any further exploitation of the sacred knowledge of my father's people, nor will I participate in the further exploitation of any other Indigenous community. I do not view the purposeful withholding of cultural information to be a limitation of the work; instead, I see this as an opportunity to explore this research area in a way that not only illuminates ideas and methodologies new to the academy but also as an opportunity to participate in the ongoing protection of Zuni, Pueblo and Indigenous knowledge.

Zuni systems of knowledge are part of a larger phenomenon at work in Indigenous communities. There are many variations of the terminology: Indigenous Knowledge, Native ways of knowing, Indigenous systems of knowledge, traditional ecological knowledge, etc. I use the terms interchangeably but Aboriginal scholar Marie Brant Castellano contends that there

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<sup>18</sup> Wright, Southwest Museum (Los Angeles, Calif.), and Dishta, *Kachinas of the Zuni*; Iverson and Judson, *Myths and Legends of California and the Old Southwest*; Parsons, *Notes on Zuni*; Stevenson, *The Zuñi Indians and Their Uses of Plants*; Bunzel, *Zuni Origin Myths*; Cushing, *Zuni: Selected Writings of Frank Hamilton Cushing*.

are three broad categories of Aboriginal knowledge in Native communities: *traditional knowledge*, which is inter-generational history and knowledge; it instills values and beliefs and is passed on by community elders; *empirical knowledge*, which is “gained through careful observations” of the surrounding environments over long periods of time; and *revealed knowledge*, which is provided through dreams, visions and intuition “understood to be spiritual in origin.”<sup>19</sup> The names for these knowledge sets implicitly and explicitly make connections to land, and the predominantly oral nature of conveying knowledge from one generation to the next. As it will be shown in the following section, knowledge in Native communities is based in relationships to land and the shared responsibilities to other people within the community.

This research seeks to explore Zuni methods of documenting and protecting knowledge within the framework of protecting. The two broad questions guiding this research are:

- How is knowledge being *documented* in Zuni?, and
- How is knowledge being *protected* in Zuni?

In the following section, I explore the concepts of Peoplehood and Bounded Space and how these related concepts have influenced my understanding of Indigenous protections.

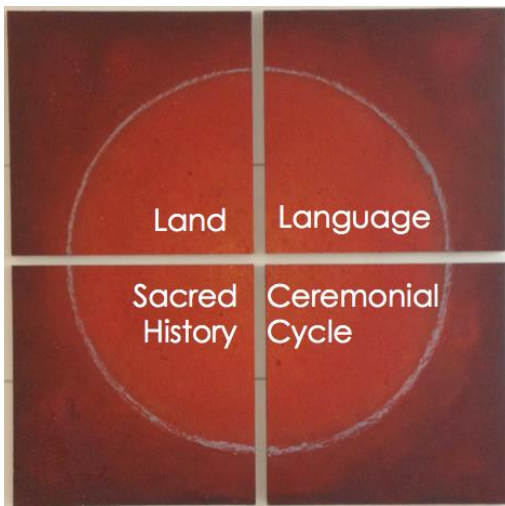
## **Context and Framework--Peoplehood and Bounded Space**

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<sup>19</sup> Castellano, “Updating Aboriginal Traditions of Knowledge,” 23–24.

The emergence and migration history is part of the shared sacred history of the Zuni. It constitutes one element of Indigenous Peoplehood as articulated by Holm, Pearson and Chavez.<sup>20</sup> The concentric elements of the peoplehood matrix are:

- land
- language
- ceremonial cycle
- sacred history



As noted by Holm et.al., “the interrelationship of the four aspects of peoplehood is essential. No single factor is more important than the others and all necessarily support each other as well as a particular group’s larger sense of identity.”<sup>21</sup> Likewise, “the factors of peoplehood make up a complete system that accounts for particular social, cultural, political,

economic, and ecological behaviors exhibited by groups of people indigenous to particular territories.”<sup>22</sup>

Apache philosopher V. F. Cordova describes these particular territories as “bounded space.” Bounded space has “explicit boundaries to which the people can point in order to

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<sup>20</sup> Tom Holm, J. Diane Pearson and Ben Chavis, ‘Peoplehood: A Model for the Extension of Sovereignty in American Indian Studies’, *Wicazo Sa Review*, 18 (2003), 7-24 (pp. 12-13).

<sup>21</sup> Holm, Pearson and Chavis, p. 12.

<sup>22</sup> Holm, Pearson and Chavis, p. 12.

describe their “home” or “place.””<sup>23</sup> Each distinct group of peoples was defined by the natural boundaries that occur where bodies of water meet land, the coastline, plains, grasslands, wooded areas or mountain ranges and the areas that their group, *belonged to*, rather than which areas of land the people *owned*.<sup>24</sup> Noting that almost every group “thought of themselves as being “created” for one specific part of the planet” also extended into the belief that “other peoples, those unlike themselves, were also “created” for their own places...with each group having a set of “truths” that pertained to their own unique circumstances and locales.”<sup>25</sup>

Cordova acknowledges that there are usually four directions that are mentioned when referencing Native concepts of centeredness or triangulation within the universe. She is careful to remind us that when defining their places and justifying their concept of centeredness, many Indigenous groups not only associate sacred properties with east, south, west and north, but also to the Zenith and the Nadir, otherwise known as up and down. This is why the title of this dissertation; “from six directions” works in two critical ways. First, it describes the triangulation for Zunis is appropriate as we center ourselves and know our place within the universe. Second, it references the variety of methods Indigenous communities employ as we confront challenges to the maintenance, documentation and protection of our knowledge systems, particularly the privileged and esoteric knowledge that has been long sought after by a great number of anthropologists, ethnographers, and tourists. We have experienced the exposure of our knowledge through a variety of media: text and photographs have been printed and now are available online and now we have to contend with micro-recording devices that can directly link content to the Internet.

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<sup>23</sup> Moore et al., *How It Is*, 186.

<sup>24</sup> *Ibid.*, 188.

<sup>25</sup> *Ibid.*

We also have to be cognizant of free-will: individuals have, can, and will take it upon themselves to divulge information and knowledge not deemed appropriate for sharing outside the group. These personal initiatives are difficult if not impossible to control and monitor, however, there is an expectation that one who grows up within the ‘traditional’ ways of the home community subscribe to the community norm of withholding that information from outsiders. Protecting esoteric knowledge is seen as a part of the collective act of protecting the knowledge of the community. Zunis, and all other Indigenous groups whose systems of knowledge and unique aspects of Peoplehood have been documented and exploited have to consider and be vigilant from a variety of stand points and methods if we are to effectively maintain our ways of living, being and knowing from within our bounded space.

The concept of bounded space far exceeds the state-defined boundaries of reservations, reserves or land holdings defined by corporation membership.<sup>26</sup> Bounded space is the exact opposite of the concept of “containment,” an area explored in depth by Lakota historian Phil Deloria. For example, a reservation can be situated within or near the traditional territories of the Native community, however, a reservation is a space that was designed to contain Indians, as opposed to being the physical location a group was directed towards as part of their believed divine instructions.<sup>27</sup>

When considering the importance of acknowledging the bounded space in today’s society, Cordova warns that “[w]ithout a sense of bounded space, there is no sacredness accorded to one’s own space or place; one is not standing “in the center of the universe” looking

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<sup>26</sup> In extremely simple terms, within the United States American Indians live on Indian reservations, Alaska Natives (a different legal category of Indigenous) are members of corporations who have land holdings, and in Canada Aboriginal peoples live on reserves.

<sup>27</sup> For more on the notion of containment and the violence this containment can spur, please see Philip Deloria, *Indians in Unexpected Places*, 15–51.

out onto definite boundaries that define who and what one becomes. And if one grants no sacredness to one's own space and place, there is certainly no recognition of the sacredness of other peoples' places."<sup>28</sup> The Zuni have the luxury of occupying both sets of spaces; we have remained in our traditional territories, even though we find ourselves in the contained space of our present day, state and federally sanctioned reservation borders.

Earlier I mentioned the fact that visual knowledge is represented well in the family styles of pottery, jewelry, fetish carving and other artistic styles. The visual knowledge represented in the material culture of the Zuni is in part a result of occupying our bounded space, knowing the natural resources that are available, and being cognizant of trade networks to secure the needed items that would foster innovation within artistic styles of expression and a distinct material culture that can be referred to as a "Pueblo sensibility." Occupying a bounded space for countless generations has allowed Indigenous groups to develop what Maori scholar Robert Jahnke and others refers to as a "customary," or traditional style that begins with our ceremonies, develops our specific iconography, is connected to our lineage and genealogies, and to other ways of knowing that reflect a bounded space in the material culture that is literally created from that space.<sup>29</sup>

The interrelated matrix of land, language, ceremonial cycle and sacred history that define a people, that create a long-standing relationship with a people's bounded space, are the elements that create the "complete system" which in turn shape and define each group's definitions of *what is theirs*, *what is sacred* and *what is worth defending*. This brings us to the concept of property and how it is described here, in an Indigenous-centric context.

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<sup>28</sup> Moore et al., *How It Is*, 192.

<sup>29</sup> For more on customary and non-customary works of Maori art, please see Jahnke, "He Tataitanga Ahua Toi: The House That Riwai Built, a Continuum of Maori Art."

## Property

My use of cultural property echoes the work of Professors Debra Harry and Le'a Malia Kanehe. In 2006 they stated cultural property is used in an "all encompassing sense as "everything that belongs to the distinct identity of people," which "includes inheritances from the past and from nature, such as human remains, the natural features of landscape, and naturally occurring species of plants and animals with which a people has long been connected."<sup>30</sup> In her 1993 United Nations report for the Sub-Commission on the Prevention of Discrimination and Protection of Minorities "*Protection of the Heritage of Indigenous Peoples*," Special Rapporteur Erica-Irene Daes described "cultural heritage" as:

The heritage of indigenous peoples includes all moveable cultural property as defined by the relevant conventions of UNESCO; all kinds of literary and artistic works such as music, dance, song, ceremonies, symbols and designs, narratives and poetry; all kinds of scientific, agricultural, technical and ecological knowledge, including cultigens, medicines and the rational use of flora and fauna; human remains; immovable cultural property such as sacred sites of historical significance, and burials; and documentation of indigenous peoples' heritage on film, photographs, videotape or audiotape.<sup>31</sup>

Daes further explained that the responsibility of holding a song or medicinal knowledge meant that one is accountable to their communities to perpetuate that knowledge and to "show respect to and maintain a reciprocal relationship with the human beings, animals, plants and places with which the song or story is connected."<sup>32</sup> It is in this way that Indigenous cultural and intellectual property can be characterized as "a bundle of

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<sup>30</sup> Harry and Kanehe, Le'a Malia, "Asserting Tribal Sovereignty over Cultural Property: Moving Towards Protection of Genetic Material and Indigenous Knowledge," 31.

<sup>31</sup> Daes, *Protection of the Heritage of Indigenous Peoples*, 12.

<sup>32</sup> *Ibid.*, 26.

relationships, rather than a bundle of rights.”<sup>33</sup> It is also important to note that even though I am using the term ‘property,’ this is not to convey ownership, nor to be used in the profit-making sense that has come to characterize the word. Cultural property is meant to convey a sense of belongingness to a people, rather than ownership over things.<sup>34</sup>

An example of belongingness stemming from my mother’s side of the family, our Tlingit side, relates to the concept of *at.óow*, clan ownership of ideas, images and property.<sup>35</sup> Dr. Rosita Worl, Tlingit anthropologist and president of the Sealaska Heritage Institute, explains that in mythic time, or a time before memory, when Tlingit ancestors would lose their lives to a mountain, to a wild animal or to an act of nature, their remaining family and clan earned the right to use that mountain, animal or body of water as their clan crest. From that time forward, the family members and all the descendants of the ancestor who lost their life, entered into an “exclusive relationship with the supernatural entity,”<sup>36</sup> and now are owners of the image, recounting the event which took their ancestor’s life. They and their families earned the right to carry that image with pride, that image now “being precious to their clan, family and to Tlingit people.”<sup>37</sup> As the generations pass, each re-telling of the clan’s history becomes a “legal transaction in which title to the *at.óow* is validated as the property of the...clan.”<sup>38</sup> She goes on to explain that according to “traditional Tlingit property law, all members of a clan collectively own their clan’s *at.óow*. They own the intellectual property...in the same way they hold their

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<sup>33</sup> Ibid.

<sup>34</sup> I am indebted to my uncle, Reinaldo Rivera, for helping to clarify these notions in my mind.

<sup>35</sup> *At.óow* literally translates into ‘our things’ or ‘our possessions.’ Each Tlingit clan has their own *at.óow* and can be represented in different ways in clothing, on house screens, on totem poles, on musical instruments and other clan materials.

<sup>36</sup> Worl, *Celebration*, 39.

<sup>37</sup> Dauenhauer and Dauenhauer, *Haa Kústeeyí, Our Culture*, 15–16; Dauenhauer and Dauenhauer, *Haa Tuwunáagu Yís, for Healing Our Spirit*, 15.

<sup>38</sup> Worl, *Celebration*, 39.

tangible property.”<sup>39</sup> The transactions that created claims to the intellectual property are recognized within the community and become part of the traditions of the broader Tlingit Nation, identified through images, iconography, stories and songs associated with that ancestor, event, place and clan.

Another term that relates to how I am defining cultural property is the 1990 Native American Graves Protection and Repatriation Act’s (NAGPRA) definition of “cultural patrimony:”

...an object having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian tribe or Native Hawaiian organization and such object shall have been considered inalienable by such Native American group at the time the object was separated from such group.<sup>40</sup>

There is one major difference in the way that I am applying the term cultural property as it is defined by Daes and to the definition of cultural patrimony as it is defined by NAGPRA: I explicitly include non-physical, “intangible” objects in my use of the term, a use not mentioned once in the NAGPRA legislation and only alluded to in Harry and Kanehe’s use of Daes work. Granted there is a hint of it in the legislation by using the word “conveyed” and NAGPRA was passed into law in 1990; today many Indigenous groups assert, and federal agencies acknowledge, the non-physical nature and the belongingness of prayers, oral histories, and clan songs. My use of this term also includes visual images, iconography and styles of objects that are specific to a certain group or village and the histories and songs that belong to distinct

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<sup>39</sup> Ibid., 40.

<sup>40</sup> Public Law 101-601; 25 U.S.C. 3001 (D).

clans within Indigenous groups. My use of the term also includes art works for sale, not just those works that are sacred in nature.

Some might argue that the World Intellectual Property Organization's (WIPO) definition of Traditional Cultural Expressions being "music, art, designs, names, signs and symbols, performances, architectural forms, handicrafts and narratives,"<sup>41</sup> is a more appropriate and more encompassing term for my work here. I do not use the definition and terminology associated with TCEs for three long-winded reasons. First, I find the language ill-suited to the reality of Native communities and our needs. There is nothing in this excerpt and the extended definition that describes religious practices and the need to protect them; instead, our ceremonial dances are diminished by the use of the word "performances" as if these were done for the enjoyment of the viewer and not because they are necessary obligations of a complex religion. Second, the term TCE is under the "Traditional Knowledge" section of WIPO that states:

Traditional knowledge (TK), genetic resources (GRs) and traditional cultural expressions (TCEs, or "expressions of folklore") are economic and cultural assets of indigenous and local communities and their countries.<sup>42</sup>

The acknowledgement that these traditions can be used in an economic context is in many instances the opposite of how Indigenous communities regard the spiritual and ceremonial aspects of their ways of life. It is acknowledged by both Indigenous peoples and researchers working with them that current times have forced many communities to recognize "the changing world" that we live in, even as we strive to uphold the "ideal" responses to the selling

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<sup>41</sup> World Intellectual Property Organization. n.d. <http://www.wipo.int/tk/en/folklore/>.

<sup>42</sup> World Intellectual Property Organization. <http://www.wipo.int/tk/en/>

cultural property for individual or tribal profit.<sup>43</sup> The home countries of these local communities stand to benefit and provides an avenue for further exploitation in the guise of bettering the collective knowledge and economics of the State without recognizing the fact that many Indigenous communities are living at sub-standard economic levels and are in contention with their State(s).<sup>44</sup>

My final point on this matter is that the term ‘traditional cultural expressions’ is newer term. It has not been used in any legislation although it is appearing more frequently in international declarations recommending protections of Indigenous and cultural intellectual property and is the subject of much debate by information organizations such as the American Indian Library Association and the American Society of Archivists. The passage and implementation of NAGPRA has created a set of terminology that is known to both Indigenous groups and the many layers of juridical entities. The terms as defined by NAGPRA and other legislation are useful, albeit imperfect, at least for the time being.

### **Local and International Levels of Protection**

This research examines the strategic actions negotiated by Pueblo communities to secure protections of their cultural property and to control the flow of information and knowledge publicly available to various audiences. These actions operate within the parameters of local, state and federal laws, however, in the absence or ignorance of these laws, indigenous communities are forging new paths to protect their cultural property and influencing policy as they go.

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<sup>43</sup> Soleri et al., “Gifts from the Creator: Intellectual Property Rights and Folk Crop Varieties,” 32, 35.

<sup>44</sup> Kloppenburg and Gonzales, “Between State and Capital: NGOs as Allies of Indigneous Peoples,” 164.

The United Nation's Declaration on the Rights of Indigenous Peoples (UNDRIP) references, among other inherent rights, the deep seated ways that protections are of utmost concern to Indigenous peoples worldwide, are necessary for cultural and thus spiritual and physical well being, and are in need of additional attention and protections from each indigenous nations' respective State entities. Article 11 of the United Nations Declaration on the Rights of Indigenous Peoples asserts the rights Indigenous peoples have to "maintain, protect and develop the past, present and future manifestations of their cultures" as well as the States responsibility to provide redress for any "cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent..."<sup>45</sup>

The call for these basic elements of consent was made by Grand Chief Edward John at a 2012 special session of the International Federation of Library Associations (IFLA) meeting on Indigenous Knowledge at the University of British Columbia. The need for consent has also been gaining momentum amongst Information Science scholars as grounds for repatriation of, and access to, archival materials.<sup>46</sup> Anishinaabe scholar, Allison Krebs, made this point in a 2012 article reviewing Vine Deloria Jr.'s 1976 arguments that tribes have the "right to know" what information and knowledge is stored about the tribes by the nation states libraries, museums and archives. In addition to this right is the assertion that "information and knowledge are critical tribal assets. Embedded within this recognition is the understanding that as Indigenous peoples we have not only rights to but also responsibilities for our knowledge. These responsibilities are reflected in our protocols around sharing of

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<sup>45</sup> United Nations University, "Declaration on the Rights of Indigenous Peoples" Articles 11.1, 11.2.

<sup>46</sup> Metoyer et al., "Archival Creative Friction: Indigenous Peoples' Existence and Resistance in the Archival Multiverse."

information”<sup>47</sup> and can help shape comprehensive plans by a Native community when seeking to protect their community knowledge.

This use of the term “property” can be a slippery slope in Indian Country and by Indigenous groups. If we use it too liberally, then it might be assumed that we are subscribing to the Euro-American usage and thus our creations, knowledge and histories are subject to property rights as they are defined by colonizing agents. If we are too cautious with its application, we make ourselves vulnerable to appropriation and the counter-argument that we are communities with “no such notion” as property. As with any endeavor in Indian Country, the application of terms such as property and ownership are ones that require deliberation and careful consideration.

## **Methodology**

This is a qualitative study; data was collected through a series of concentric phases. During these overlapping and iterative phases, I conducted conversations, conversational interviews, observations, participation, self-reflection, and an examination of documents, both in digital and printed forms. These phases overlapped with each other, and did not follow a strictly linear timeline. Instead, the phases build upon each other and focused on the notion of relational accountability as described by Cree scholar Shawn Wilson in his groundbreaking text “Research as Ceremony.”<sup>48</sup> Relational accountability is the responsibility the researcher has to any number of communities one belongs to and “has to demonstrate respect, reciprocity and

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<sup>47</sup> Krebs, “Native America’s Twenty-first-century Right to Know,” 177.

<sup>48</sup> Wilson, *Research as Ceremony*. Monash University, Australia. 2004.

responsibility.”<sup>49</sup> Thus, accountability encompasses ethics, responsibilities and axiology, as the ethics of the researcher in relation to those being researched.<sup>50</sup>

One of the main tenants of relational accountability is the building and maintenance of relationships, not only with the people involved with this research, but also with the concepts. The maintenance of the relationships with people, communities and concepts follow protocols common to many Indigenous communities. The protocols relate to mutual respect of all parties involved and to the process of actively listening to the speakers and holders of traditional knowledge within communities. Being an active listener while in the presence of any person with specialized domain knowledge acknowledges they are the experts we are learning from, not the other way around.

I was asked how relational accountability is different from participant observer research as a method of observation. The difference is one of relationships. When one engages in relational accountability within an Indigenous community, that person is affirmatively aligning themselves with the community’s well-being in mind and is making themselves responsible to that community. If an Indigenous researcher is from the community being researched, the level of responsibility to the community is greater and more pronounced than if one were to participate and observe in a business organization, or other entity where the members are not bound by the rules of kinship, blood and marriage.

My family and I have seen and experienced the harmful effects of careless research.<sup>51</sup>

Wilson’s Indigenist research methods call for the utmost respect for the community and the

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<sup>49</sup> Ibid., 98.

<sup>50</sup> Professor Wilson has made the case that one does not have to be female to be a feminist, nor does one need to be Indigenous to be an Indigenist; one must need to put the concerns of Indigenous communities first when conducting work as an Indigenist scholar and be cognizant of one’s role as a researcher and the ethics that are part of that privileged position.

people who inform one's research and the notion of relational accountability is something that I take seriously as a scholar and as a community member. As a member and researcher of my father's community, I have an additional layer of responsibility and accountability to the Pueblo of Zuni. This is not a community I can write about in isolation, nor is this a community where I am just another anonymous researcher, able to leave and never return. I want my son and I to always be welcome in Zuni. It is my home and thus necessitates great care in the collection, reporting and dissemination of my work related to this research. I will make mistakes, and they will be my own. However, by being careful and humble in my approach of this work, I can ensure that I tried my best and did so with a good heart and with the 'right' intentions. This cautious approach applies to all of the communities into which I was born and am fortunate enough to consider myself a member. My hands go up in heartfelt thanks to my mother's people, the Tlingit Nation and to the Suquamish people for making me feel at home. While relational accountability is not a well-known position within the broader academy, I am pleased to witness many other Indigenous researchers practicing relational accountability in their work, even if that is not the name they apply to their efforts to maintain respectful relationships to the people, communities and concepts in their work.

There has been research in Zuni pertaining to landforms and the geological composition of the community,<sup>52</sup> attitudes about intellectual property rights relating to corn,<sup>53</sup> to the development of our eco-museum,<sup>54</sup> the complicated nature of sensitive collections of Zuni

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<sup>51</sup> Cunningham, *Two Zuni Artists*. This book details the mental health decline of two of my family members and the dramatic effect their illness had on our family, a situation the two anthropologists witnessed and later wrote about in this book. The anonymous names they gave their informants were negated when they published pictures of our family members and labeled the photographs with their aliases. .

<sup>52</sup> Ferguson and Hart, *A Zuni Atlas*.

<sup>53</sup> Soleri et al., "Gifts from the Creator: Intellectual Property Rights and Folk Crop Varieties."

<sup>54</sup> Isaac, *Mediating Knowledges*.

photographs,<sup>55</sup> and a great number of books about the arts and artisans of the Pueblo.<sup>56</sup> As I encountered all of this work, it became clear that the majority of the research was done by non-Natives, and that the majority of the work does not combine legal research with the artistic use of Zuni images used to assert our intellectual property rights of our own cultural and spiritual knowledge. I find my work at the intersections of the distinct fields of Legal Studies, Arts Theory, Information Science, American Indian Studies and Indigenous Studies and thus am not able to compare my work to many others in these fields. There are researchers I consider peers, colleagues, mentors and friends in each of these fields and I draw heavily from different facets of each of these bodies of work. However, I found myself having to carve my own path as I decided on an appropriate method of analysis for this body of research. I am using grounded theory in my analysis of this data as my work intersects these bodies of literature and information. Connecting the literature and the data led me to narrow the scope of work to Zuni Pueblo as a case study as well as to the guiding research questions: How is knowledge being documented in Zuni and how is knowledge being protected in Zuni? It is with humbleness that I offer this work to my peers and future researchers in Information Science and to our colleagues in our sister fields as well.

The concentric phases of this work are outlined below and describe the various methods employed in the preliminary work, data collection, and modes of analysis used in this research.

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<sup>55</sup> Holman, "Curating and Controlling Zuni Photographic Images," 1996; Holman, "Photography as Social and Economic Exchange: Understanding the Challenges Posed by Photography of Zuni Religious Ceremonies."

<sup>56</sup> Wright, Southwest Museum (Los Angeles, Calif.), and Dishta, *Kachinas of the Zuni*; Parsons, *Pueblo Indian Religion*; Roscoe, *The Zuni Man-woman*; Levy, *Who's Who in Zuni Jewelry*; Cushing, *Zuni Breadstuff*; Ostler, Rodee, and Nahohai, *Zuni*; Nahohai and Phelps, *Dialogues with Zuni Potters*.

## *Genesis of the Research Area*

During the early stages of my research, I was exploring the idea of visual knowledge and the arts as systems of knowledge in Zuni. The area of indigenous knowledge visualization is a rich area of research, one the artist and museum specialist in me finds personally satisfying. While I could have stayed strictly within the parameters of knowledge visualization as it occurs in Indigenous “arts,” I repeatedly encountered a layer of distrust and guardedness in the statements made by the artists. These statements were made to me in personal communications and were echoed in the writings and narratives documented by community members in multiple publications. The distrust was directed towards ‘outsiders,’ past, present and future who have capitalized on artistic works and the associated knowledge that was involved in the creation of the artistic works. This led me to research ways artistic and cultural knowledge is drained from Indigenous communities without permission or knowledge and what can be done in response to this drain in terms of precautions and protections. The artists discussed ways that they protect their designs, their techniques and the resources used to create their art and I began researching legal mechanisms available to Indigenous artists and communities.

It was during this early period in my research that my clan uncle, Jim Enote, reminded me that I needed to ‘claim’ my maps. As part of the Map Art Project (MAP), the first three maps were copied at high resolution and made into posters, available for every Zuni household. It was then that I began to see the anti-colonial stance the MAP was a part of – these maps were created by Zuni people, for Zuni people. The place names were written in *Shiwi’ma Be:na’we*,<sup>57</sup>

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<sup>57</sup> Shiwi’ma Be:na:we’, the Zuni language, is a linguistic isolate; it is not part of a language family, there is no other language like it in the world. Some texts have claimed that there are similarities in some words and syntax with the

the Zuni language, and the process was underway to create more of the maps documenting our migration and our cultural history. As we discussed the creation of the maps, Enote informed me of the process of creating the maps and that selecting what *not to map* was of equal, if not more, importance than what was actually mapped. Enote also informed me of an upcoming mural project with the Indian Pueblo Cultural Center and the similar process that was unfolding to select the artist who would represent Zuni.

### *Archival Investigation*

In the summer of 2011 I obtained copies of the tribal resolutions passed by the Pueblo of Zuni that related to the protection of ceremonies. The tribal resolutions are housed in the Pueblo of Zuni Cultural Resources office. Tom Donglosky, the head of the Cultural Resources office, has been vested the authority to grant access to archival research materials at his discretion. If the research does not involve sacred materials or the photographs of sacred materials, the researcher need not seek additional tribal permissions for the research at hand. My work falls within this area and will also be on file within the Cultural Resources office.

### *Content Analysis*

Using the tribal resolutions supplied by the Cultural Resources office, I began a systematic content analysis for specific language found within the tribal resolutions. The key terms I was coding for were: ceremonies, photographs, banishment, and appropriate behavior for conducting one's self during ceremonial activities. Using the dates on the tribal resolutions as a temporal guide, I created a timeline for official actions taken by the Pueblo leadership in

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Japanese language (*The Zuni Enigma*. Davis. 2001), however, the language remains one of two isolate languages amongst the Pueblos, the other being Towa, spoken in Jemez Pueblo.

response to photographs being taken of ceremonies. The language used in the tribal resolutions to determine “inappropriate actions” was compared with documentation in secondary sources recording the use of photography of ceremonial activities.

Content analysis was also used to explore comments in the online platform of YouTube during two separate occasions; the first occasion was in July 2009, the second was in July 2011. During the course of exploring the photographs and videos of ceremonies available online I became increasingly aware of a large number of videos posted by Hopi tribal members from three Hopi villages – Moencopi, Kykotsmovi and Hotevilla.<sup>58</sup> The videos document Butterfly, Buffalo and Eagle dances. The dances are considered “social dances,” dances performed at museum openings, during parades, and other public events. The comments left on YouTube range from outrage to pointing out family members. While the commentators sometimes leave clues as to whether or not they are tribal members, the online space is unmediated and is ‘owned’ by individuals; ‘official’ tribal representatives have not sanctioned the videos. During the two separate observations open coding of the comments was guided by sentiments expressed by the commenters. The sentiments ranged from homesickness and thankfulness for posting the videos to outrage and dismay at the posting of the cultural events.

I experienced my own objections to the posted videos; however, thoughts like mine were in the minority. Most of the comments were in support of the videos and viewers used the videos as a vehicle to stay in touch with the home community seemingly unconcerned with the fact that these videos are now in the public view and have been shared without having been through any community protocol or process. In earlier writings, I expressed personal concern

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<sup>58</sup> There are 12 separate villages that comprise Hopi Pueblo. Each village operates under its own rules and delegates from each village comprise the Hopi Tribal Council, the ‘official’ governing entity of the Hopi Nation.

about these videos<sup>59</sup> but now I am reviewing the expressions for what they are: expressions of a community to which I am related to, but not a member, I explored the comments, and the videos themselves, as a contemporary aspect of the documentation and archival process that has been created by the technological advances of our time. The videos reflect future questions all Indigenous communities should address in our documentation efforts and as we make decisions regarding who decides what is documented and how.

### *Secondary Sources*

As part of the General Exam I explored a variety of legal, theoretical and tribal methods of protecting Indigenous Knowledge; the legal and theoretical methods described in the secondary sources of published materials are presented in the literature review and the tribal methods of protection comprise some of the findings of this work.

A key component of the secondary sources, was documenting the history of photographs of Zuni ceremonies. For more than 40 years, photographs of ceremonies were sanctioned as a strategic and diplomatic relations-building effort by the elected Pueblo leadership. Agents of the newly formed United States government took the photographs as part of ethnographic field collecting efforts as well as military and civil engineering campaigns.<sup>60</sup> These efforts were highly contested by many of the religious leaders in Zuni, and have resulted in a complicated legacy that encompasses the Pueblo of Zuni and information institutions that hold the photographs.

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<sup>59</sup> Belarde-Lewis, "Sharing the Private in Public: Indigenous Cultural Property and Online Media." 2010.

<sup>60</sup> The military campaigns were to determine if military aid was needed in response to Apache and Navajo attacks on Zuni villages. Civil engineering projects were aimed at building roads through the ever-expanding southwest United States. For more on these projects please see Holman 1996a and Holman 1996b.

The photographs taken by non-Native ethnographers, anthropologists, and tourists depict ceremonies still practiced in Zuni, but are now considered the intellectual property (i.e., are “owned” by) of the libraries, museums and archives for whom the photographers worked. A tension exists between the non-indigenous information institution and the Indigenous community which is the obvious subject of tens of thousands of photographs. All Indigenous communities experience this tension, despite the fact that there are some amazing photographic collections that give us a glimpse of our past. This tension is one that I have spent considerable time exploring and studying. However, the photographs represent the actions of others, and our subsequent *reaction* as a community. The primary aim of this research is to explore how our community is taking steps to be proactive in the maintenance of our knowledge, not merely to describe how our community is ‘dealing with’ the actions of others. The stance that we are always reacting to outside stimuli also places us in a victim mentality – an uncomfortable and inappropriate mindset for my community. Despite this tension, the fact remains that there are tens of thousands of photographs of Pueblo ceremonies and this fact is explored more fully in the literature review.

### *Attending various functions*

For the last four years I have attended museum openings, participated in meetings, and had informal discussions with the Director and staff of the A:shiwí A:wán Museum and Heritage Center (AAMHC), have written papers and made conference presentations<sup>61</sup> related to the Map Art Project, the “Morning Prayer” mural, the historic legacy of ceremonial photographs in Zuni

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<sup>61</sup> Conference presentations include: “But the Library of Congress Has These!: Restricting Access in a Previously Exposed Pueblo Community,” Native and Indigenous Studies Association, June 2012; “A:shiwí Aesthetics: Defining Ourselves,” Indigenous Essentialism?, National Museum of the American Indian, May 2011; “A:shiwí Arts: Connecting the Minds, Bodies and Spirits of a Pueblo,” Vine Deloria Jr Symposium, Northwest Indian College, July 2010.

and the visual manifestations of Zuni philosophy through our material culture. Some of the conferences related to Pueblo knowledge, culture, policy, and history in general<sup>62</sup> which provided the opportunity to discuss this research in informal contexts, and had a profound effect on the outcome you find here. It was during many of the conversations after the formal meetings and interviews that pertinent information was shared which had a snowball effect, with interviewees directing my attention towards others who could further my understanding of the situation and who could provide another view of this research.

The meetings were a vivid reminder that my relational accountability is not only to my home pueblo of Zuni, but is also to the broader Pueblo community of which I am a member. During these meetings I was reminded of a shared Pueblo belief that “all community members are gifted in various domains (speech/language, mechanical/technical, heart/generosity) and the essential question then becomes how each community member will use their gifts to benefit the Tribal community, the nation and the world.”<sup>63</sup> Leadership Institute Co-Director Regis Pecos asks all Pueblo peoples, not just those from his home in Cochiti Pueblo, “What will your contribution be?” As I explore the documentation and protection process in Zuni, I am growing increasingly aware of protective initiatives ongoing in other Pueblos – all with similar goals of protecting the privileged, esoteric knowledge inherent in every Pueblo community. As I write this dissertation and make aspects of it publicly available, I hope that my research will contribute to the conscientious documentation and protection efforts of Pueblo knowledge, not just in my home of Zuni.

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<sup>62</sup> Invited Delegate. Pueblo Convocation. Santa Fe Indian School Leadership Institute. March 2012.

<sup>63</sup> Regis Pecos. “Community Institutes.” <http://www.lisfis.org/community-institutes>. Last accessed May 18, 2013.

While reading for and writing the General Exam, and as the work continued into the dissertation space, I explored several methods of protecting cultural and intellectual property of Native and Indigenous communities. I limited my exploration to the Native communities of which I am part and to whom I have responsibilities – a continuation of the practice of relational accountability. I am part of the Zuni Pueblo, the Tlingit Nation and the Suquamish; the first two I was born into and raised within, the third is the community in which my family and I live. Witnessing the cultural protocols that take place within the Coast Salish community of Suquamish and witnessing the cultural protocols that take place during canoe related events has surfaced and brought to my attention a glimpse of the many different methods Native communities are using to protect their sensitive and cultural knowledge.

### *Modes of Analysis*

Prior to conducting the analysis, I found myself with large amounts of data, big pieces of rock that have form, even though I was not quite able to see the definition within the rock. In this way, I find myself akin to my carver cousins, slicing away bits of rock, uncovering the forms that lie within the rock waiting to be revealed. The slicing away of the stone is helped along by the two primary research questions. First, this research is asking how is knowledge being documented in Zuni? The second question being asked is how is knowledge being protected in Zuni? I understand that these are extremely broad research questions.

In order to create a manageable research project, I limited my analysis to the Peoplehood categories of land, language, sacred history, and ceremonial cycle. These four categories of peoplehood are the subject of documentation projects within the Pueblo and can also act as the themes of analysis. Each project, action and strategic initiative will

systematically be asked the question of *how* in relation to documentation and protection. First I am asking of the data: “how is this project *documenting* sacred history, land, language and the ceremonial cycle of the Pueblo?” Second I ask of the data: “how does this project *protect* the sacred history, land, language and the ceremonial cycle of the Pueblo?” The rigor of this method is in the systematic questioning of each project or action. The systematic use of the Peoplehood model as a mode of analysis creates a standardization with which to create categories of documentation and protection in Indigenous communities.

### *Iterative Literature Review*

I have continually expanded and updated the literature as I conducted my research. Due to the increasing quantity of information and the speed at which the reality of protections occurs, the ‘final’ literature review cannot include every resource related to the protection of Indigenous knowledge, Pueblo knowledge of pertinent legal situations that present threats to Pueblo or Indigenous knowledge. This is especially true of developments on the international stage. For example, there are numerous state sponsored projects to codify Indigenous, or traditional knowledge in South Africa<sup>64</sup> and international art auctions in France that feature sacred items from the American Southwest.<sup>65</sup>

As part of the grounded theory shaping the analysis of this data, there are ‘non-traditional’ sources that inform this work, that contribute to the literature review and influence the nature of the discussion section. Informal sources include blogs, opinion pieces, and events

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<sup>64</sup> Caroline B Ncube. “A Tale of Two Bills: Protections of Traditional knowledge in South Africa.” <http://carolinebncube.wordpress.com/2013/04/23/a-tale-of-two-bills-protection-of-traditional-knowledge-in-south-africa/> Last accessed May 18, 2013.

<sup>65</sup> Indian Country Today Media Network Staff. “‘Heartbreaking’ Auction of Hopi Katsinam Proceeds in Paris.” <http://indiancountrytodaymedianetwork.com/2013/04/13/heartbreaking-auction-hopi-katsinam-proceeds-paris-148791>. Last accessed July 13, 2013.

of which I am a part and many of which are unfolding as I type this dissertation.<sup>66</sup> The sources could potentially yield various perspectives related to this work. However, not all of them will and not all of them constitute research in the traditional academic sense. This is, however, not exactly a 'traditional' dissertation project. It is with great care and a discriminating eye that I have, and continue to review works as they happen or as they become available.

This dissertation is split into the following sections: the literature review, the analysis of the cases, the findings derived from the analysis and avenues for future research. The literature review covers legal and theoretical protections as well as a discussion of the history of photography in Zuni. The cases analyzed are presented as portraits; portraits of the tribal resolutions passed by the Zuni tribe, the Map Art project, the Morning Prayer mural and the YouTube videos of social dances are included and are described in-depth. The findings include tribal solutions and actions employed by Native communities when they are actively protecting their cultural property and ceremonial activities. The findings chapter also includes observations about how and in what settings Indigenous communities are addressing breeches of protocol and concludes with sets of general principles Indigenous communities are able to consider when they embark on documentation and protection projects centered around their knowledge, culture and history.

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<sup>66</sup> The 2013 Canoe Journey to Quinault began on July 15, two days before I submit this to my committee. As I prepare this dissertation my heart longs to be on the water with my canoe family, The Tana Stobs Family of Suquamish.

## Literature Review

Literature in the areas of Indigenous Knowledge, the protections afforded by intellectual property rights and the use of photography as a contentious means of documentation in Zuni all contribute to the massive and exponential growth of this body of work. The literature review echoes many of the facets used as frames of the dissertation space and appropriately so – my use of the literature is to gain a better understanding of how the tribal practices of protection are different from, and are based within, legal and theoretical practices of documenting and protecting not just Zuni, but Indigenous knowledge in general.

The literature review is situated in levels of protection. We will move from global examples of protections towards specific actions implemented as part of broader, existing knowledge systems. We also move from “western” paradigms of legal protections towards the cultural protocols that exist within Native communities, with a special focus on Zuni Pueblo.

### **Defensive and Positive Protections**

When discussing the various methods of protecting traditional knowledge, intellectual property professor Graham Dutfield explains that solutions to the cultural property quagmire are taking two general forms: positive protections and defensive protections.<sup>67</sup> Positive protections refer to the ways “the traditional knowledge holder” can claim an intellectual property right (IPR) such as a copyright or a patent. Defensive protections are the “provisions adopted in the law by the regulatory authorities” of a state to prevent IPR claims to traditional knowledge and

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<sup>67</sup> Dutfield, *Protecting Traditional Knowledge: Pathways to the Future*, 7.

cultural expressions by “unauthorized persons or organizations.”<sup>68</sup> The notion of positive and defensive protections provide a useful frame for a brief history of the protections of cultural property, even if we are stretching Dutfield’s definition of “regulatory authorities” to include sovereign tribal governments. The protections outlined in the literature review are legal and theoretical. The areas of legal and theoretical protections contain within them multiple avenues for the protection of Indigenous knowledges.

### **Use of legal protections**

This section describes the legal protections used by Indigenous communities to protect their cultural property. These protections include: copyright, patents, trademarks, contracts, trade secret, moral rights, and authentication marks. The success levels of each type vary. However, some scholars make the case that the existing laws of intellectual property are adequate for Indigenous communities, although they require adjustment in order to match the needs of Indigenous peoples. They further argue this adjustment of the existing laws can yield the fastest results sought by Indigenous communities, if the result sought is to increase the protections for Indigenous knowledge and the intellectual property of the Indigenous community.<sup>69</sup> The counter-argument to any proposed adjustment is that these laws were not created with the protection of Indigenous knowledge in mind and thus are not ever able to adequately protect in the wide variety of ways Indigenous communities seek to protect their cultural property and systems of knowledge. In addition to this counter-argument is the

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<sup>68</sup> Ibid., 8.

<sup>69</sup> Carpenter, “Intellectual Property Law and Indigenous Peoples: Adapting Copyright Law to the Needs of a Global Community.”

assertion that “property” is not the correct terminology to describe the heritage of a people, an aspect of “property” discussed earlier in this chapter.

### *Copyright*

The legal realm of intellectual property is structured as two separate, yet related groups: copyright and industrial property. Copyrights are generally used to protect artistic and literary works in order to promote creativity.<sup>70</sup> There are several weaknesses when applying a copyright to works derived from traditional knowledge:

- individual copyright holders and corporations are recognized as the copyright holders, communities are not;<sup>71</sup>
- the limited length of protection (70 years plus the lifetime of the author);<sup>72</sup>
- expired copyrighted material transfers into the public domain, available to everyone;<sup>73</sup> and
- copyright is granted for ‘new’ works,<sup>74</sup> a label traditional knowledge refutes, even in its name. Also, applying the label of ‘artistic works’ or ‘traditional arts,’ when discussing cultural property belies the importance of the cultural property in Indigenous communities and implies that it is a property eligible for commodification and to be consumed.<sup>75</sup>

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<sup>70</sup> WIPO - <http://www.wipo.int/copyright/en/>

<sup>71</sup> Mackay, “Indigenous Traditional Knowledge, Copyright and Art -- Shortcomings in Protection and an Alternative Approach,” 6; Anderson, “The Politics of Indigenous Knowledge,” 593–596.

<sup>72</sup> Mackay, “Indigenous Traditional Knowledge, Copyright and Art -- Shortcomings in Protection and an Alternative Approach,” 4.

<sup>73</sup> Blakeney, “Intellectual Property in the Dreamtime-Protecting the Cultural Creativity of Indigenous Peoples,” 11–12.

<sup>74</sup> Greaves, “IPR, A Current Study,” 8.

<sup>75</sup> Many thanks to Dr. Nancy Marie Mithlo for reminding me of the commodity connotation of the term “art.”

The Australian Copyright Act has been used to uphold the individual copyright holder's rights and has had some success preventing the exploitation of some cultural property,<sup>76</sup> making the country the leader in use and experimentation of intellectual property rights in Aboriginal/Indigenous contexts.<sup>77</sup> Despite this progressive stance, it should be noted that when a suit was successful in protecting sacred images or petroglyphs, the victory was granted to individual and not the clan claiming communal ownership.<sup>78</sup> In the U.S., there are many Native groups that are legally defined as corporations<sup>79</sup> leading me to the question: Why have these Native corporations *not* pursued the protections over traditional knowledge under corporate status protections? This may have to do with the codifying process that must take place in order to define traditional knowledge as a product of an industry, akin to the other products defined as industrial property such as "agricultural, extractive...manufactured and natural products,"<sup>80</sup> and legally determining who is entitled to divulge that knowledge. This creates an obvious tension many Native corporations, operating as tribal governments, might not want to face. Later I will incorporate the work of Stephenson who explores the use of software licensing intellectual property law to protect cultural property.

### *Patent, Trademark and Contracts*

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<sup>76</sup> Carpenter, "Intellectual Property Law and Indigenous Peoples: Adapting Copyright Law to the Needs of a Global Community," 64. See also *Yumbulul v. Reserve Bank of Australia* (1991), 21 I.P.R. 481.

<sup>77</sup> *Foster v. Mountford* (1978), *Yumbulul v. Reserve Bank of Australia* (1991), *Mabo v. State of Queensland* (1992), *Milpurrurru v. Indofurn Pty Ltd* (1994), *Bulun Bulun & Anor v. R & T Textiles Ltd*, (1998)

<sup>78</sup> See *Bulun Bulun & Anor v. R & T Textiles Ltd*, (1998) for an example of individual copyright being accepted and clan copyright being denied.

<sup>79</sup> Alaska Natives were defined and re-created as corporations under the Alaska Native Claims Settlement Act U.S.C. 1601-1629f, 1971; it was yet another assimilationist piece of government legislation. Defining Alaska Natives as business persons encouraged the self-exploitation of natural resources and placed an emphasis on share owning as a grounds for tribal membership.

<sup>80</sup> World Intellectual Property Organization, *Understanding Industrial Property*, 4-5.

There has been much controversy regarding the acts and the attempts by pharmaceutical companies to patent products based on traditional ecological knowledge, actions which would commodify plants, plant knowledge and other types of Indigenous knowledge.<sup>81</sup> Despite this controversy, some have discussed the applicability of intellectual property rights (IPR) as a means for Indigenous peoples to protect their cultural property. In the discussion of folk varieties of Zuni corn, Soleri et al., explore the possible use of patents, trademarks and contracts by Indigenous groups to protect agricultural property and the associated knowledge and practices surrounding heirloom varieties of Zuni corn.<sup>82</sup> They conclude that there are many difficulties in using these types of protections, including:

- inter-area competition which might become a priority for tribes instead of focusing on ‘external threats;’
- the costly historical and cultural difficulties in determining which tribe was the original cultivator of the crops; and
- the fact that patents have a timestamp similar to that of copyright which expires after 14-20 years, depending on patent type.<sup>83</sup>

Soleri et al., encourage the use of protocols and trademarks instead of patents. These approaches are more on the diplomatic and ‘positive’ side of Dutfield’s dichotomous terminology. A favorable aspect of applying trademark is “the granting of collective rights and providing perpetual protections,” however, because trademarks protect products that are

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<sup>81</sup> Harry and Kanehe, Le’a Malia, “Asserting Tribal Sovereignty over Cultural Property: Moving Towards Protection of Genetic Material and Indigenous Knowledge”; McGowan and Udeinya, “Collecting Traditional Medicines in Nigeria: A Proposal For IPR Compensation.”

<sup>82</sup> Soleri et al., “Gifts from the Creator: Intellectual Property Rights and Folk Crop Varieties,” 25.

<sup>83</sup> United States Patent and Trademark Office. <http://www.uspto.gov/inventors/patents.jsp>

currently in use by the community and are for sale,<sup>84</sup> it fails to protect unauthorized use of cultural property that are not billed for sale. Trademark can be of use in protecting against “false representations or descriptions related to marketed good and services,”<sup>85</sup> yet, if the ‘false representations’ are for personal use, the tribal community who is using trademark as a safeguard will be left without protection.<sup>86</sup>

Protocols are sometimes seen in the same light as international declarations regarding the rights of Indigenous peoples: ineffective. However, protocols and international declarations do set up a baseline of expectations regarding the conduct of the community, its visitors and those who wish to use, copy, or consume the community’s cultural property. These protocols create rules of conduct that can be referred to when the question of sovereignty over the cultural property is raised.

### *Trade Secret*

A trade secret is something that is considered confidential and has economic value.<sup>87</sup> Noting the great pains many Indigenous communities take to initiate members into various medicine and religious societies before disclosing certain types of knowledge, these practices indicate that the communities do consider these practices as privileged information, and are considered ‘secret’ information and knowledge. As Carpenter notes, it may be harder for a Native community to “demonstrate economic value...to demonstrate that the work was

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<sup>84</sup> Soleri et al., “Gifts from the Creator: Intellectual Property Rights and Folk Crop Varieties,” 25–26.

<sup>85</sup> Carpenter, “Intellectual Property Law and Indigenous Peoples: Adapting Copyright Law to the Needs of a Global Community,” 75.

<sup>86</sup> Ibid., 76; Merrill, Ladd, and Ferguson, “The Return of the Ahayu,” 528. The unfortunate case of some Boy Scouts reproducing Zuni Shalako masks and calling themselves Koshares (sacred clown) would not have been helped by a trademark on the Shalako or name Koshare unless the boys were selling them (Gendron, 1958, cited in Merrill et al, 528).

<sup>87</sup> Uniform Trade Secrets Act § 1, 14 U.L.A. 437.

improperly acquired,”<sup>88</sup> and as RaoRane argues, it places cultural property in the inappropriate realm of products sold for a monetary profit.<sup>89</sup> However, when making the case for the successful return of the Ahayu:da<sup>90</sup> to the Zuni, the Ahayu:da were deemed stolen and some were being sold in auctions,<sup>91</sup> proving improper acquisition as well as economic value as defined by the art market. By redefining the notion of economic value to include cultural value, trade secret may have some promise as a tool to protect cultural property.

### *Moral Rights*

Three intellectual property rights represent the core of moral rights: publication, paternity and integrity.<sup>92</sup> Moral rights allow the moral right holder of traditional knowledge to 1) decide if the work is suitable to be publicly available, 2) determine if the attributed work is ‘authentic’ and, 3) to protect their works from “distortion, alteration, or misrepresentation.”<sup>93</sup> Of these protections, the right of publication and the right of integrity could be used to protect the interests of the tribal community while the right of paternity protects the consumer of the traditional knowledge. For example, the right of publication could be invoked to protect an artist’s work before an image was used as a logo without permission to sell a product for commercial gain, and the right of integrity could be asserted to prevent a community house post in the Puget Sound, with arms raised in welcome, to market underarm deodorant. The

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<sup>88</sup> Carpenter, “Intellectual Property Law and Indigenous Peoples: Adapting Copyright Law to the Needs of a Global Community,” 75.

<sup>89</sup> RaoRane, “Aiming Straight,” 848.

<sup>90</sup> Commonly referred to as “war gods,” the Ahayu:da are protectors of the Zuni. Every winter the wooden forms of the Ahayu:da are left in their open-air shrine to return to the elements. If an Ahayu:da is found outside of its shrine, it has been stolen, according to the religious leaders in Zuni. This definition of a specific, eternal home for the Ahayu:da was key to arguing for the return of the Ahayuda from museums, private collectors and auction houses, prior to the passage of NAGPRA.

<sup>91</sup> Merrill, Ladd, and Ferguson, “The Return of the Ahayu,” 530.

<sup>92</sup> Blakeney, “Intellectual Property in the Dreamtime-Protecting the Cultural Creativity of Indigenous Peoples,” 12.

<sup>93</sup> Ibid.

right of paternity protects the consumer by assuring them they have purchased an “authentic” project, but does nothing to protect an Indigenous artist from the appropriation of their style of artistic creation, or their designs. Authentication marks help sort out the “authentic” quagmire but also present another set of drawbacks and concerns.

### *Authentication Marks*

A proposal by IP Australia, the national IP office, is the development of authentication marks to “works of Indigenous creativity.”<sup>94</sup> These marks are akin to the protection in the term “Native American Made” in the U.S., a result of the truth-in-advertising based Indian Arts and Crafts Act (IACA),<sup>95</sup> an act criticized for excluding Native Americans who are not enrolled members of their tribes or who are members of an unrecognized tribe.<sup>96</sup> The IACA is also criticized for protecting the consumer and the vendors of Native arts from fraudulent or “inauthentic” works, but not providing enough protection for the Native artists and their communities.<sup>97</sup> Clouding the cultural intellectual property argument with state sanctioned definitions of what is ‘authentic’ and ‘traditional’ can only create more disagreements and will result in more time spent in-fighting then working on valid solutions to the global issue of protecting Indigenous cultural property.

The legal protections discussed above all have strengths and weaknesses when used to defend Indigenous cultural property from unauthorized duplication, misrepresentation, publication, and exploitation. The following table was created with a variety of purposes in mind. First, it summarizes the protections described above and can be used as a quick

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<sup>94</sup> Ibid., 12–13.

<sup>95</sup> Indian Arts and Crafts Act (P.L. 101-644) 1990.

<sup>96</sup> Sheffield, *The Arbitrary Indian*.

<sup>97</sup> Smyth, “Cash, Color, and Colonialism”; Woltz, “The Economics of Cultural Misrepresentation.”

reference guide by Indigenous peoples, their representatives, lawyers and others working towards protecting the cultural and intellectual property of Indigenous groups. Second, this table was created as a reference for scholars interested in furthering the theoretical applications of intellectual property rights in the defense and protection of Indigenous cultural property.

**Table 1. Indigenous Intellectual Property Framework**

<u>Legal Protections</u>	<u>Defensive/ Positive<sup>98</sup></u>	<u>Symbol</u>	<u>Used effectively by, or potential use</u>	<u>Limitations</u>
Copyright	both	©	Yumbulul v. Reserve Bank of Australia (1991), 21 I.P.R. 481. Foster v. Mountford (1978), Yumbulul v. Reserve Bank of Australia (1991), Mabo v. State of Queensland (1992), Milpurrurru v. Indofurn Pty Ltd (1994), Bulun Bulun & Anor v. R & T Textiles Ltd, (1998)	<ul style="list-style-type: none"> <li>individual copyright holders and corporations are recognized as the copyright holders, communities are not;<sup>99</sup></li> <li>the limited length of protection (70 years plus the lifetime of the author);<sup>100</sup></li> <li>expired copyrighted material transfers into the public domain, available to everyone;<sup>101</sup> and</li> <li>copyrights are granted for ‘new’ works,<sup>102</sup> a label traditional knowledge refutes, even in its name. Also, applying the label of ‘artistic works’ or ‘traditional arts,’ when discussing cultural property belies the importance of the cultural property in Indigenous communities and implies that it is a property eligible for commodification and to be consumed.<sup>103</sup></li> </ul>
Patent and contracts	Positive	“Patent Pending”	Could be used to protect genetic materials including plant and medicinal knowledge and heirloom varieties of crops	<ul style="list-style-type: none"> <li>inter-area competition which might become a priority for tribes instead of focusing on ‘external threats;’</li> <li>the costly historical and cultural difficulties in determining which tribe was the original cultivator of the crops; and</li> <li>the fact that patents have a timestamp similar to that of copyright which expires after 14-20 years, depending on patent type.<sup>104</sup></li> </ul>
Trademark	Defensive	<sup>TM</sup> , <sup>SM</sup> , ®	The granting of collective rights and providing perpetual protections,” can protect against “false representations or descriptions related to	<ul style="list-style-type: none"> <li>trademarks protect products that are currently in use by the community and are for sale,<sup>106</sup></li> <li>it fails to protect unauthorized use of cultural property that are not billed for sale.</li> <li>‘false representations’ are for personal use,</li> <li>the tribal community who is</li> </ul>

<sup>98</sup> Positive protections refer to the ways “the traditional knowledge holder” can claim an intellectual property right (IPR) such as a copyright or a patent. Defensive protections are the “provisions adopted in the law by the regulatory authorities” of a state to prevent IPR claims to traditional knowledge and cultural expressions by “unauthorized persons or organizations.” Dutfield, 2006;7.

<sup>99</sup> Mackay, “Indigenous Traditional Knowledge, Copyright and Art -- Shortcomings in Protection and an Alternative Approach.,” 6; Anderson, “The Politics of Indigenous Knowledge,” 593-596.

<sup>100</sup> Mackay, “Indigenous Traditional Knowledge, Copyright and Art -- Shortcomings in Protection and an Alternative Approach.,” 4.

<sup>101</sup> Blakeney, “Intellectual Property in the Dreamtime-Protecting the Cultural Creativity of Indigenous Peoples,” 11-12.

<sup>102</sup> Greaves, “IPR, A Current Study,” 8.

<sup>103</sup> Many thanks to Dr. Nancy Marie Mithlo for reminding me of the commodity connotation of the term “art.”

<sup>104</sup> United States Patent and Trademark Office. <http://www.uspto.gov/inventors/patents.jsp>

			marketed good and services,” <sup>105</sup>	using trademark as a safeguard will be left without protection. <sup>107</sup>
Protocols and Declarations	Positive		United Nations Declaration on the Rights of Indigenous Peoples Protocols for Native American Materials creates rules of conduct that can be referred to when the question of sovereignty over the cultural property is raised.	Not legally binding until codified by signatory agencies or countries
Trade secrets	Defensive		Used to protect information and knowledge deemed confidential	Information and knowledge protected must be confidential and have economic value
Moral rights	Positive		<ul style="list-style-type: none"> <li>• Up to the right holder if the work is suitable to be publicly available,</li> <li>• to determine if the attributed work is ‘authentic’ and,</li> <li>• to protect their works from “distortion, alteration, or misrepresentation.” <sup>108</sup></li> </ul>	The right of paternity protects the consumer, and not the community where the traditional knowledge originates from.
Authentication marks	Defensive		Australian Copyright Act; Indian Arts and Crafts Act	<ul style="list-style-type: none"> <li>• Excludes Natives and Aboriginals not enrolled in federally recognized tribes/groups;</li> <li>• relies on State sponsored definitions of who is an authentic Indigenous person;</li> <li>• protects the consumer and not the Indigenous artist</li> </ul>

<sup>106</sup> Soleri et al., “Gifts from the Creator: Intellectual Property Rights and Folk Crop Varieties,” 25–26.

<sup>105</sup> Carpenter, “Intellectual Property Law and Indigenous Peoples: Adapting Copyright Law to the Needs of a Global Community,” 75.

<sup>107</sup> Carpenter, “Intellectual Property Law and Indigenous Peoples: Adapting Copyright Law to the Needs of a Global Community,” 76; Merrill, Ladd, and Ferguson, “The Return of the Ahayu,” 528. The unfortunate case of some Boy Scouts reproducing Zuni Shalako masks and calling themselves Koshares (sacred clown) would not have been helped by a trademark on the Shalako or name Koshare unless the boys were selling them (Gendron, 1958, cited in Merrill et al, 528).

<sup>108</sup> Blakeney, “Intellectual Property in the Dreamtime-Protecting the Cultural Creativity of Indigenous Peoples,” 12.

## Theoretical protections

The legal protections listed above are based in laws and legislation. This section examines six of the theoretical mechanisms being explored in the literature to protect Indigenous cultural property: the use of public protection models, domain public payant, the use of software licensing, sui generis laws, customary law, and the assertion of tribal sovereignty.

### *Public Protection Models*

The Model Provisions for National Laws on the Protection of Expressions of Folklore Against Illicit Exploitation and Other Prejudicial Action<sup>109</sup> advocated the implementation of fees for knowledge and products that have moved into the public domain. The Model Law “prohibited unauthorized commercial use of expressions of folklore” and “provided that where the competent authority granted authorization, it could set the level of remuneration and collect fees.”<sup>110</sup> Some reports in Australia<sup>111</sup> recommended the appointment of a “Commissioner of Aboriginal Folklore” whose responsibility it would be to “initiate legislation” rather than put the burden of filing suit against persons who violated Aboriginal clans’ claims to their cultural property. Blakeney observes that this type of paternalistic, government-administered jurisdiction over Aboriginal cultural property issues might be seen as yet another colonial method of the Australian government’s ‘dealing with’ the Aboriginal population. Blakeney asserts that countries that ‘have not endured this sort of colonial experience’ would find the notion of a Commissioner of Aboriginal Folklore amenable to their Indigenous populations

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<sup>109</sup> Ibid., 13.

<sup>110</sup> Ibid.

<sup>111</sup> Report of the Working Party on the Protection of Aboriginal Folklore (1981).

needs.<sup>112</sup> Presently I cannot think of a country whose Indigenous peoples have had a pleasant, exploitative-free experience with their colonizing government. That being said, having a national level office with jurisdictional power to file suit against perpetrators of cultural property rights, could be beneficial, given that the Commissioner was trusted by the Indigenous peoples and effective at their job.

### *Domain Public Payant*

Some states have implemented legislation that sanctions or fines the use of works that have transferred into the realm of public domain. The Tunis Model Law on Copyright encourages the use of the fines to help “protect and help disseminate national folklore.”<sup>113</sup> As noted by Blakeley, the logistics of using this system to protect cultural property are uncertain and would be dependent on the signatory states to implement and uphold.

### *Software Licensing*

In his essay “A Legal Paradigm for Protecting Traditional Knowledge,” David J. Stephenson Jr. describes the potential use of software licensing to protect Indigenous cultural property.<sup>114</sup> He makes his case by listing the various ways that traditional knowledge meets the standards of software: it is a collective, evolving product and it is modified and enhanced thanks to the efforts of many and over many generations.<sup>115</sup> Stephenson states that software-licensing agreements protect communal products in two primary ways. First, the licenses are

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112 Blakeley, “Intellectual Property in the Dreamtime-Protecting the Cultural Creativity of Indigenous Peoples,” 13–14.

113 Ibid., 12.

114 Stephenson, “A Legal Paradigm for Protecting Traditional Knowledge.”

115 Ibid., 182.

“typically non-transferable, non-exclusive, and perpetual”<sup>116</sup> meaning that once an Indigenous community has entered into a licensing agreement with a third party, the third party would be bound by the agreement to not share the traditional knowledge or cultural property with another person who had not signed on to the agreement. It would further mean that the tribe could share their traditional knowledge or cultural property with whom ever they chose and that these agreements would be binding in perpetuity.

Second, most licenses define their protected works “*very comprehensively*” (original emphasis),<sup>117</sup> a fact that could include and protect any modifications, regardless of form. Stephenson is quick to point out that by using software protections, Indigenous communities would have to form corporations in order to be eligible for this type of protection, and the licenses would have to be written so they “comply with an agreed upon set(s) of controlling laws in compliance with U.S. or International standards.”<sup>118</sup> Coming back to my earlier question “why can’t Native corporations use aspects of industrial property to protect cultural property?,” Stephenson cites Gary Anders in his critique of the supposed positive impact corporation status would have on Alaska Natives. According to Anders, corporation status has had a minimal impact on the overall well being of Alaska Natives.<sup>119</sup> Stephen uses this critique to caution the action of incorporating Natives and codifying who are the knowledge bearers and what types of traditional knowledge can be shared through the possible use of licensing agreements.

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<sup>116</sup> Ibid.

<sup>117</sup> Ibid., 182–183.

<sup>118</sup> Ibid., 184–185.

<sup>119</sup> Gary Anders (1989; 285-303) cited in *ibid.*, 186–7.

A factor seemingly not considered by Stephenson is the religious and ecological privacy of the tribes. Licensing agreements are in place when a person or corporation is prepared to share their information and is seeking protections before doing so; Stephenson does not address, nor does he offer any recourse, when an Indigenous group does not wish to disclose their information and knowledge but rather is striving to prevent this disclosure. To his credit, Stephenson does offer this possibility as “merely one of a wide variety of tools that indigenous societies could draw on to protect their intellectual property.”<sup>120</sup>

### *Sui Generis*<sup>\*121</sup>

While some have advocated the adjustment of current copyright law to the needs of protecting Indigenous cultural property, others recommend a sui generis body of laws, laws that are specifically tailored to the needs of Indigenous peoples.<sup>122</sup> The benefits of sui generis laws are that they can be drafted anew, based on the laws that have been effective, and to discard laws that have not provided adequate mechanisms for the protection of Indigenous cultural property. A negative, pointed out by RaoRane, is that copyright and sui generis solutions informed by copyright protections are based on a “Western intellectual property paradigm which fundamentally differs” from the protections needed and desired by Indigenous communities.<sup>123</sup> Claiming that this difference causes the laws to “over-reach or under-reach”<sup>124</sup> the protections for cultural property, the challenge with sui generis laws for protections are to

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<sup>120</sup> Ibid., 185.

<sup>121</sup> Sui Generis, according to the Merriam-Webster Dictionary, is “constituting a class all its own; unique; peculiar.”

<sup>122</sup> Blakeney, “Intellectual Property in the Dreamtime-Protecting the Cultural Creativity of Indigenous Peoples.”

<sup>123</sup> RaoRane, “Aiming Straight,” 843.

<sup>124</sup> Ibid.

factor in the flexibility needed to accommodate a multitude of sensibilities regarding what cultural property is, who can own it, who can sell and distribute it.

### *Customary Law*

The critiques of Western based law used to protect Indigenous and cultural intellectual property stem from the assumption that these types of protections are the only valid mechanisms to protect the cultural property of Indigenous groups. As Meghana RaoRane reminds us, customary law is “indeed law,” and argues that it is “more effective and should be implemented instead.”<sup>125</sup> RaoRane defines customary law as “customs and rules in traditional societies to be followed and upheld” which transform over time to meet the needs of the communities it governs and may be based on traditions only understood by community members.<sup>126</sup> RaoRane states that customary laws offer a flexible alternative to the many layers of bureaucracy entailed with Western forms of legal protections that are “sub-optimal” and “inadequate.”<sup>127</sup> RaoRane reminds us that customary laws determine who in the community is allowed to create sacred works, and who in the community is allowed to address any breeches of protocol surrounding the sacred works. She asserts that the cultural mechanisms that exist within Indigenous communities are extremely effective in regulating cultural property within Indigenous communities,<sup>128</sup> an observation I touch upon later in this dissertation.<sup>129</sup> RaoRane acknowledges the difficulty in implementing customary law into mainstream protective

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<sup>125</sup> RaoRane, “Aiming Straight,” 830.

<sup>126</sup> Ibid., 845.

<sup>127</sup> Ibid., 834.

<sup>128</sup> Ibid., 844.

<sup>129</sup> As I illustrate later, customary law still has an impact on the regulation of cultural property, specifically when ceremonial protocols and rules of conduct are being enforced within the traditional spaces of some Indigenous communities.

systems, but argues that due to the diversity of Indigenous groups, a one-size-fits-all solution will not suffice for the majority of Indigenous communities seeking protections under a protective cultural property law.<sup>130</sup> This is particularly true when considering the impact social media sites (SMS) are having on the customs, rules and regulations of Indigenous ceremonial activities. RaoRane concludes by stating that difficulty in implementing customary law should not be a legitimate deterrent to considering this as a valid protection option for the cultural property of Native and Indigenous communities. RaoRane is correct. Customary law is a regulatory process in Indigenous communities and an extremely effective one, when it is allowed to be implemented. The next section on tribal sovereignty examines in greater detail the challenge in asserting customary laws and tribal sovereignty to protect cultural property.

### *Tribal Sovereignty*

Sandra Lee Pinel and Michael J. Evans cite the work of Wilkinson in the definition of tribal sovereignty, that it “connotes legal competence rather than absolute power.”<sup>131</sup> Pinel and Evans remind us that in exercise of this competence, American Indian tribal governments can both pass tribal laws protecting cultural property and regulate the application of national laws such as NAGPRA on their tribal lands.<sup>132</sup> They further assert, “...the legal recognition of tribal sovereignty is in essence the recognition of communal or group rights.” The complicated factors noted in the use of customary law are echoed here; the argument to use tribal sovereignty is complicated by the fact that according to the Marshall trilogy of early Native American law, American Indian tribes are ‘domestic dependent nations.’ Law professor Rob

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<sup>130</sup> RaoRane, “Aiming Straight,” 847.

<sup>131</sup> Wilkinson (1987: 54-55) cited in Pinel and Evans, “Tribal Sovereignty and the Control of Knowledge,” 44.

<sup>132</sup> Ibid., 44-45.

Williams notes, “the Marshall Model of Indian Rights recognizes the exclusive right of the United States to exercise supremacy over Indian tribes on the basis of the Indian’s presumed racial and cultural inferiority.”<sup>133</sup> While Native/U.S. relations have progressed since the time of Marshall’s early 19<sup>th</sup> century Supreme Court decisions, the fact remains that asserting tribal sovereignty over third parties and to inappropriate uses of cultural property outside of reservation lands will be a difficult case to make.

### **Photography in Zuni**

In 1906 Matilda Cox Stevenson wrote a letter to her supervisors at the Bureau of Ethnology.<sup>134</sup> She complained that the size of her recently shipped field equipment was too big to discretely record ceremonial activity in Zuni Pueblo. She wrote:

The camera furnished me by the Bureau is not suitable for my work except where I might take inanimate objects. It is all right where time is no object and there is no opposition, but the camera is too large for me to slip up my sleeve until the all important moment. The greatest tact, and quickest manipulation of the camera is necessary in securing ceremonials and other animate pictures.<sup>135</sup>

Stevenson had been in Zuni intermittently since 1879, the year when she, her husband Colonel James Stevenson, and Frank Hamilton Cushing came to the village.<sup>136</sup> They were the first ethnographers in Zuni Pueblo and among the first ethnographers hired and stationed by the Bureau of Ethnology (BoE) in the Bureau’s inaugural year.

Stevenson, Cushing and others had been scolded several times by Zuni people for their avid documentation of ceremonies. The ethnographer’s notes, books and letters recount the

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<sup>133</sup> Williams, *Like a Loaded Weapon*, 58.

<sup>134</sup> Later the BoE was renamed the Bureau of American Ethnology.

<sup>135</sup> Matilda Cox Stevenson to William Holmes, April 7, 1906, NAA, as cited in Isaac, “Mediating Knowledges,” 75-76.

<sup>136</sup> Isaac, *Mediating Knowledges*, 61 Isaac asserts that the placement of Stevenson and Cushing at Zuni during the inaugural year of the BAE posited Zuni as a cornerstone of what would become American anthropology.

scolding, outrage and disapproval by Zunis. Stevenson and Cushing both wrote about the disapproving hand gestures, the crying and anguished community members expressed after viewing a family member's likeness or as sketches were drawn of *kokkos*, the kachina dancers.<sup>137</sup>

Nineteenth Century Zunis could have physically stopped the photography from taking place. Why didn't they take away the equipment or the sketches? One answer might be those Zunis did not realize what was happening, that they were the victims of late 19<sup>th</sup> Century paparazzi. Perhaps they had no idea what photographs were, nor did they realize the power of photographs as tools of documentation. Maybe they did not know they were being subjugated, made to be the other, or experiencing what David Jenkins has called, a "technology of domination."<sup>138</sup> This argument has been called bunk by Nigel Holman and others,<sup>139</sup> and is the subject of another dissertation.

Native communities need to be honest about the nature and history of photography in our communities. For instance, there are differing accounts of Zuni perceptions of photography in the mid 19<sup>th</sup> century. Nigel Holman, former director of the A:shiwí A:wán Museum and Heritage Center, has multiple works researching Governor Lai-iu-ah-tsai-ah, better known as Pedro Pino, and his strategic efforts to placate a growing U.S. empire.

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<sup>137</sup> Isaac, *Mediating Knowledges*.

<sup>138</sup> Jenkins, *Confronting the Challenges of Participatory Culture: Media Education for the 21st Century*, 9–21.

<sup>139</sup> N. Holman, 'Photography as Social and Economic Exchange: Understanding the Challenges Posed by Photography of Zuni Religious Ceremonies', *American Indian Culture and Research Journal* 20, no. 3 (1996): 93–110 Nigel Holman rejects this notion of passive subjects, citing multiple occasions in which the people in photographs earned supplemental income, noting Zuni Nick and Zuni Dick who became willing subjects for photographers in Zuni, posing for postcards and ethnographic documentation. Holman characterizes this as 'exchange,' rather than a passive act imposed on Zuni people. N Holman, 'Curating and Controlling Zuni Photographic Images', *Curator: The Museum Journal* 39, no. 2 (1996): 108–122.

The diplomatic efforts of Governor Pino included permissions to photograph ceremonies. Holman argues the newly formed secular seat of Zuni leadership sanctioned the photography as a relationship building activity. The permissions were in an effort to increase the amount of food, military support against raiding bands of Navajos and Apaches and to secure forms of “future benefit” from the U.S. government.<sup>140</sup> The religious leadership saw this concession “unacceptable,” as an “inappropriate use of religious activities for secular purposes” and possibly as an “overextension of the Governor’s authority.”<sup>141</sup> At the time, religious authority in the community was relinquished in order to fill the seat of Governor.<sup>142</sup> The two perceptions regarding photography of ceremonies caused tension between the religious and elected leadership within the Pueblo.

The religious leaders were not alone. In a Bureau of Ethnology report, “The Zuni Indians: Their Mythology, Ceremonies and Esoteric Fraternities,” Stevenson notes that while high officials were “eager” to accommodate expeditions and U.S. delegates, “the populace were so opposed to having their masks and rituals ‘taken away on paper’ that it was deemed prudent to take but few ceremonial pictures...and the alters and masks were sketched in color by the author without the knowledge of the people.”<sup>143</sup>

The decision to allow photography was contested with some groups in the community; however, early ethnographers *did* have permission from the elected government to document ceremonies. This leads us to two points. First, there are thousands of photographs depicting

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<sup>140</sup> Holman, “Photography as Social and Economic Exchange: Understanding the Challenges Posed by Photography of Zuni Religious Ceremonies.”

<sup>141</sup> *Ibid.*, 100.

<sup>142</sup> There is no longer such a clear divide in the elected and religious leadership in Zuni. Elected persons are not required to choose to be involved with the kiva or medicine societies or the tribal council, many choose to participate in both realms of the village.

<sup>143</sup> Stevenson, *The Zuni Indians: Their Mythology, Esoteric Fraternities and Ceremonies*, 17.

Zuni ceremonies, most of which were taken between 1875 and 1925.<sup>144</sup> Zuni is not alone in this documentation; ceremonies in all the Pueblos have been photographed in roughly the same time period. These photographs are scattered in archives, libraries and museums throughout the country. Second, there is a present day prohibition against ceremonial photography in most, if not all of the 23 Pueblo communities. The Zuni ban was established in 1923 after an argument between religious and secular officials. The elected leaders, and some religious leaders, gave permission to archeologists Hendricks and Hodge, to film *Shalako kokkos*, some of the winter solstice ceremonial figures.<sup>145</sup>

The present day ban of ceremonial photographs creates a complex present-day information problem regarding the photographs taken in the days of Stevenson and Cushing. If the Pueblo communities now deem these photographs illicit, what does this mean to have thousands of photographs residing in museums, libraries and archives?

In the case of Stevenson's photographs, the works were copyrighted to her and the BofE. However, now that the Smithsonian Institution (SI) and the National Anthropological Archives (NAA) have absorbed the BofE, many of Stevenson's photographs and field notes are held in the NAA on the Smithsonian Institution campus in Suitland Maryland. The Smithsonian can do what it will with its intellectual property. This prompts the question: does a community's cultural property cease needing protection when it is not the copyrighted, intellectual property of the community? That depends how you define cultural property and intellectual property.

In the introduction, I defined cultural property as former United Nations Human Rights Special Rapporteur Erica Irene Daes does, that it can be used in an all-encompassing sense, "as

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<sup>144</sup> Holman, "Photography as Social and Economic Exchange: Understanding the Challenges Posed by Photography of Zuni Religious Ceremonies," 98.

<sup>145</sup> Ibid., 100; Isaac, *Mediating Knowledges*, 57–60.

everything that belongs to the distinct identity of a people,”<sup>146</sup> and that “in essence, Indigenous cultural property is everything that Indigenous peoples have a relationship with and responsibility to.”<sup>147</sup> This includes, but is not limited to, tangible and intangible objects, sacred sites, ceremonies, languages, technologies, images, arts, sciences, bodily fluids such as blood and afterbirth, burial grounds, botanical, medicinal, star, and oceanic knowledges. I add photographs and the content depicted in them to this long and incomplete list of cultural property.

If we define intellectual property as the World Intellectual Property Organization does, then IP “refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs *used in commerce*,” with two primary types of IP, copyright and industrial intellectual property (emphasis added).<sup>148</sup> WIPO is quick to point out that “the innovations and creative expressions of indigenous and local communities are also IP, yet because they are “traditional” they may not be fully protected by existing IP systems.”<sup>149</sup> There has been much written about the lack of protection when using intellectual property frameworks, we can thank Terri Janke for her contributions to the field on this subject. However, if our goal is to reclaim photographs depicting ceremonies, and these are our strict definitions, then we are at an impasse. If a goal of Indigenous communities is to reclaim the physical property and not merely the intellectual property rights to the content depicted in the pictures, grounds to make such a claim become of utmost importance.

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<sup>146</sup> Daes, *Protection of the Heritage of Indigenous Peoples*, 24.

<sup>147</sup> Harry and Kanehe, Le’a Malia, “Asserting Tribal Sovereignty over Cultural Property: Moving Towards Protection of Genetic Material and Indigenous Knowledge,” 30.

<sup>148</sup> World Intellectual Property Organization, “What is IP,” n.d. Last accessed 28 May 2012.  
<http://www.wipo.int/about-ip/en/>

<sup>149</sup> Ibid.

One answer to the question of grounds lies in the United Nations Declaration on the Rights of Indigenous Peoples (hereafter UNDRIP).<sup>150</sup> Article 11.1 declares:

Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature,<sup>151</sup>

I argue that photographs represent one of these “manifestations” of culture, and are located in three temporal sites of past, present and future. Article 11.2 has more teeth as it declares:

States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with Indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior, and informed consent or in violation of their laws, traditions or customs.<sup>152</sup>

The two important pieces here are restitution as well as free, prior and informed consent.

Restitution has been seen as a way to right the wrongs of the past but will, in my view, be seen as an inappropriate means of justice in the case of ceremonial photographs. Free, prior and informed consent becomes an important distinction to make when determining how photographs were taken, if they were taken with the community’s wishes in mind. It might be prudent for communities to base repatriation claims on the facts that consent was not given when cultural property, in its many forms, was removed from the community.

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<sup>150</sup> The UNDRIP was ratified by the United Nations General Assembly in September 2007 with four dissenting votes from the United States, Canada, New Zealand and Australia. It has since been endorsed by each of these countries. It was endorsed in the U.S. December 16, 2010.

<sup>151</sup> United Nations University, “Declaration on the Rights of Indigenous Peoples,” Article 11.1.

<sup>152</sup> Ibid., Article 11.2.

We can add the words of the ethnographers, to build upon the concept and practice of free, prior and informed consent, as a basis for repatriation of these photographs. Twice I quoted Stevenson's letters in which she complained about the size of the camera – First, that it was too big to discretely take pictures of ceremonies, and second, when she noted the “populace” being opposed to her documentation. Anthropologist George Cullin hired intermediaries to steal objects from shrines in the dark of the night, after Zunis refused to sell them to him.<sup>153</sup> Cushing documents in his notes and in his book “Adventures in Zuni,” that villagers scolded him when he sketched dances in the plaza, prompting the Governor to ask him not to attend future dances.<sup>154</sup> In fairness, I need to repeat that Stevenson and Cushing had allies supporting their work, some of whom were religious officials. However, today in the Pueblo, religious and elected leaders are united in their stance that these photographs are inappropriate, regardless of permissions given in prior centuries.<sup>155</sup>

The concepts of free, prior and informed consent *and* the admittance of illicit actions not favored by Zuni people, provide a base from which to call for the repatriation of sensitive photographs. Pushing back on this call to repatriate, or even to restrict access, is the purpose of the institutions that house them. Libraries, museums and archives are information institutions. They were created for the explicit purpose of keeping objects, records and books in perpetuity, so they may benefit future generations. An admirable number of museums have repatriated sacred and burial objects and have created restrictive access designations for some objects and photographs. The Native American Graves Protection and Repatriation Act

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<sup>153</sup> McFeely, *Zuni and the American Imagination*.

<sup>154</sup> Cushing, *My Adventures in Zuñi*.

<sup>155</sup> For further reading on this please see Isaac, *Mediating Knowledges*, and Nigel Holman, *Curating Photographic Images in Zuni Pueblo*.

(NAGPRA) has been instrumental in encouraging federally funded museums to work with tribes. However, the mandate does not include photographs. The Society of American Archivists has endorsed the Protocols for Native American Materials and a growing number of archival institutions are adopting and implementing these protocols. The American Library Association is developing its statement on Traditional Cultural Expressions with the respect of Indigenous Knowledge in mind. Still, the idea of fully repatriating photographs has not taken hold and is most likely not a consideration at this point in time.

There are a great number of photographs in archival collections that have benefitted Native communities. Through these photographs we can see our communities pre-pavement and before ‘modernity’ took over. We can see the faces of relatives we’ve only heard about. However, we as Native people, must take on the responsibility to protect our cultural property, at the exact moment it is in danger of being appropriated in ways we disagree with or prohibit. This means preventing illicit activity as it is happening. In the Findings chapter, I present methods tribal communities are using to protect their cultural property in ways developed by the communities.<sup>156</sup>

The information institutions holding objects, photographs and documents that depict and embody our respective cultures must match the efforts put forth by Native communities. They can do this by continuing to work with our communities to identify sensitive materials and content. They can also work with those of us conducting research to ensure that our work and our research is respectful, honoring the wishes of the community regarding research conducted about them, another step which requires on-going communication with the home

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<sup>156</sup> “Sharing the Private in Public: Indigenous Cultural Property and Online Media,” 6–8.

community to determine what is appropriate to share and if need be, requiring permissions from the community to access certain collections prior to researcher access. These are steps that have not happened enough in the past. Fully repatriating sensitive photographs could be a 'next-step' in that direction.

In reviewing some legal and theoretical methods of protecting Indigenous knowledge, it is clear that there is much to be desired. Every Indigenous community is working to protect their systems of knowledge. In the following chapter I present three examples of protections occurring in the Pueblo of Zuni. Each of the examples are based in actions influenced by and are sanctioned by the broader community, with a final example providing a comparison when cultural knowledge and ceremonial activities are documented by individuals.

## Analysis

“The [Indigenous] project of protecting is ongoing and multi-faceted.”

Linda Tuhiwai Smith

I have provided several examples of the appropriation and abuse of Indigenous knowledge demonstrating the need for the protection of the unique systems of knowledge. Legal methods of protecting Indigenous knowledge have been explored as one avenue available to Indigenous communities. Yet, the legal mechanisms have been shown to have limited reliability, particularly when the legal claims are brought by groups of Indigenous peoples instead of individuals, and when the claims cross national borders. “Outside” initiatives such as photography and ethnography are a means of documenting Pueblo knowledge, which have not incorporated Pueblo group perspectives of what was important nor appropriate to document. An increasing amount of Zuni knowledge was documented, published and disseminated without the input and permissions of the Pueblo.

This chapter presents an analysis of several projects in the Pueblo communities of Zuni and one from the Hopi and uses the Peoplehood model as a method of analysis. As I described earlier, the Peoplehood model has been articulated by Holm, Pearson and Chavez as the defining characteristics connecting Indigenous communities.<sup>157</sup> Again, the concentric elements of the peoplehood matrix are land, language, ceremonial cycle and sacred history. As noted by Holm et al., “the interrelationship of the four aspects of peoplehood is essential. No single factor is more important than the others and all necessarily support each other as well as a

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<sup>157</sup> Tom Holm, J. Diane Pearson and Ben Chaves, ‘Peoplehood: A Model for the Extension of Sovereignty in American Indian Studies’, *Wicazo Sa Review*, 18 (2003), 7–24 (pp. 12–13).

particular group's larger sense of identity."<sup>158</sup>

Likewise, "the factors of peoplehood make up a complete system that accounts for particular social, cultural, political, economic, and ecological behaviors exhibited by groups of people indigenous to particular territories."<sup>159</sup>

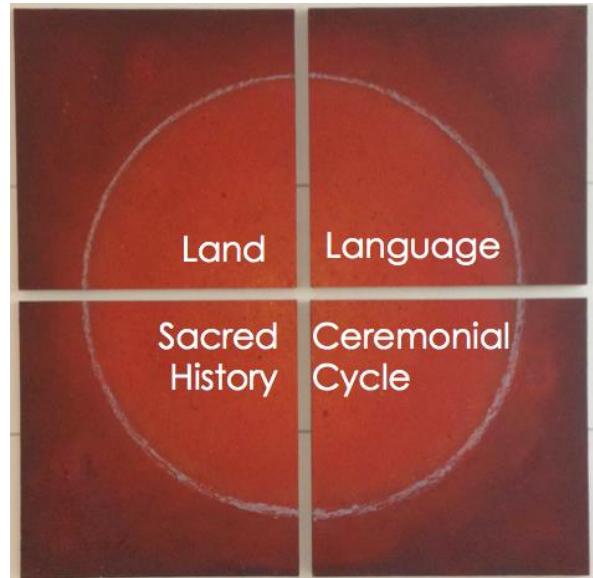
The Peoplehood model is being used as a method of analysis for these cases because of its focus on the interconnected elements of an

Indigenous community. The Peoplehood model works with the existing strengths of Indigenous communities and is based on an Indigenous frame of reference for what creates an Indigenous community.

### *Presentation of Cases*

I have selected three projects for the full analysis using the Peoplehood model and one project is used as a comparison case. The three projects are 1. Zuni tribal resolutions, 2. The Map Art Project, and 3. The Morning Prayer mural. The fourth case is a series of YouTube videos posted by Hopi tribal members. These cases have been selected for the following reasons.

First, the three examples represent multiple environments in which knowledge exists and flows. They represent the political, artistic and virtual realms in which we find ourselves as citizens of both our tribal communities and of the occupying nation states. Second, each of the



<sup>158</sup> Holm, Pearson and Chavis, p. 12.

<sup>159</sup> Ibid.

examples represents a different mechanism in its creation involving various levels of community input. Community input can be measured in terms of decisions being made by a committee, the tribal council or by a designated group of community members. Later, I examine a case involving YouTube videos whose placement online was determined not by community consensus, but by individuals within an Indigenous community. Third, these examples represent different temporal realities; the cases reflect past, present and future concerns of Pueblo communities. The tribal resolutions represent the past and the historical precedent set by the elected officials of the Pueblo; the Map Art Project and the Morning Prayer mural represent the present manifestations and actions of a Pueblo seeking to simultaneously document and protect its knowledge and sacred history; the YouTube videos represent the future as we consider and employ various forms of technology to record our histories, ceremonies, information and knowledge about, and for, ourselves.

Table 2 lists Zuni projects that work towards protecting and documenting Zuni knowledge. The projects are listed in chronological order by start date. One of the most striking aspects of the projects listed, is a unified focus on maintaining, defending, reclaiming and protecting the knowledge of the community, despite the absence of an over-arching and comprehensive plan of action.

Table 2. Zuni Projects	
1923	Posted signage in Pueblo
1920s, 1990s	Bans on non-Natives
1960s	A:ha'yu:da repatriation efforts

1960s - Present	Zuni tribal resolutions
1970s	Establishment of Zuni archaeology program
1970s	Establishment of A:shiwí A:wán Museum and Heritage Center
1980s	Establishment of Zuni Cultural Resources Advisory Team (ZCRAT)
1980s	Archival separation of sensitive photographs
1990s-2000s	Zuni Recovery Center program
1996	Map Art Project
2010	Morning Prayer Mural
2010s	Collaborative Cataloging

Documentation projects inherently include calculated risks for either the longevity or the sustainability of the information and knowledge being preserved, and these projects are no exception. Following the analysis of the cases, I present some complicating factors reflective of the practice of Indigenous knowledge preservation, the use of technology in this pursuit, or both.

The four cases are presented as portraits. Each case is first presented with an overview, followed by the analysis of how each project works to document and protect Zuni knowledge.

### **Tribal Resolutions**

As a sovereign tribal nation, the Pueblo of Zuni has the inherent right to create and pass laws and ordinances that apply to its citizens and are enforceable within its federally recognized boundaries. I analyzed 12 pieces of tribal legislation; each resolution or ordinance pertains to

- 1.) the rules and protocols surrounding the protection of Zuni ceremonies;
- 2.) unauthorized documentation of ceremonial activities and associated material culture, and
- 3.) the negative impact of actions contra-productive to the purpose of Zuni religious practices.



Because many of the activities are related, the overlap is, at times considerable. The overlap serves as a reminder that in many Native communities and situations, it is impossible to truly separate actions and initiatives related to the protection of Indigenous knowledge.

#### Land

The resolutions related to land document and affirm the connection between the present day reservation of the Zuni, but also affirm the connection to the Colorado River, the Little Colorado River, and the Zuni River as part of migration narrative known throughout the Pueblo and in greater detail by certain medicine and religious groups. Resolution No. M70-2010-C 086<sup>160</sup> and the attached Position Statement by the religious leaders of the Pueblo affirm

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<sup>160</sup> Pueblo of Zuni. "Resolution No. M70-2010-C 086." Received September 21, 2010.

the connection to the rivers in the Grand Canyon as sites of emergence and as places of active worship for various medicine, rain and kiva groups<sup>161</sup> within the Pueblo.

In previous resolutions,<sup>162</sup> the tribal council has affirmed and reaffirmed the Pueblo's connection to *Denatsali Im'a*, known as Woodruff Butte in Arizona and has objected to the mining of Denatsali Im'a by private individuals, mining companies and the Arizona Department of Transportation. The Pueblo of Zuni has repeatedly and in an official capacity supported the Hopi Tribe in opposition to the desecration and mining of the site, a sacred site for both the Hopi and the Zuni people. The resolutions of the Pueblo document the connection of Denatsali Im'a to the Zuni migration narration, as a significant place name in a primary prayer as well as "being a continuous use location for the collection of medicinal plants, flowers and herbs..." The call for protection and objection to desecration caused by mining was a common stance for the neighboring tribes; during the fight to save the Zuni Salt Lake, tribal resolutions of support were submitted by the Hopi, Acoma, Laguna and other Pueblos as well as by the All Indian Pueblo Council, based in Albuquerque.<sup>163</sup>

Resolutions and ordinances passed by various tribal administrations help to protect the land as the elected officials assert their "inherent duties and responsibilities of the Tribal Council as charged by the religious leaders of the Zuni Tribe include the duty to protect the people and cast out any influence which may be considered as undesirable or injurious to the members of the Zuni Tribe or to the Tribe itself..." (original underline emphasis).<sup>164</sup> The jurisdiction over Pueblo matters related to actions and the presence of persons "whose

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<sup>161</sup> Each of these groups is a separate entity within the Pueblo. Each group exercises autonomy with specific rules of conduct for their members and in the methods employed while practicing their specific role within the community. At times they are referred to under the blanket term "religious leaders."

<sup>162</sup> Pueblo of Zuni. "Resolution No. M70-90-L132." Received 1990.

<sup>163</sup> Hayes Lewis. "The Protection of the Zuni Salt Lake." Unpublished Chapter. 2008. P. 5-8.

<sup>164</sup> Pueblo of Zuni. "Ordinance No. 5." Received April 5, 1972.

presence may be injurious or undesirable to the Tribe or the members thereof...” has previously been established and is written into the Zuni Constitution.<sup>165</sup> The tribal council has the sovereign right to create and enforce laws within the legal boundaries of the reservation. The laws created pertain to different forms of encroachment of the cultural vitality of the Pueblo, yet the tribal laws are asserting the need and the authorization of the tribal council to protect the cultural needs of the community.

### Language

The tribal resolutions make clear that the religious and secular realms of governance in the Pueblo are not separate entities; the realms overlap and reinforce each other and the resolutions document that fact of Zuni life. As stated earlier, Ordinance 5 describes the duties and responsibilities the Tribal Council is “charged with by the religious leaders” of the Pueblo. Similarly, Resolution Nos. M70-78-991 and M70-78-993 adopted a statement of the religious leaders as the official position of the Pueblo in support of the religious leaders “in their efforts to protect and to secure proper care for, respect for and return of items of religious significance to the Zuni people...”<sup>166</sup> Resolution No. M70-94-L022 reaffirmed this position and confirmed its ongoing support “for the efforts of the traditional religious leaders to recover all Ahayu:da and return them to their rightful shrines;” the on-going protection and support of this effort is especially important as the resolution acknowledges that “the Ahayu:da that reside in museums and private collections in foreign countries continue to pose spiritual and cultural problems for the Zuni People.”<sup>167</sup>

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<sup>165</sup> Pueblo of Zuni. “Zuni Constitution. Article VI, Section 1.1.” Approved August 13, 1970.

<sup>166</sup> Pueblo of Zuni. “Resolution No. M70-78-993.” Received October 5, 1978.

<sup>167</sup> Pueblo of Zuni. “Resolution No. M70-94-L022.” Received February 22, 1994.

Many of the resolutions use diplomatic language when seeking protection for the Pueblo's cultural property. The resolutions seek assistance from information institutions, "art dealers, commercial auctioneers, dealers' associations and private parties or museums which may be connected with the national and international market in Indian art objects" and to help "prevent the sale and transfer of sacred Zuni religious items stolen from Zuni land."<sup>168</sup> The language of the resolutions also seeks to "secure proper care for and/or return of such items as may now be in possession of museums or other third parties..." in 1978, a full 12 years before national legislation in the form of the Native American Graves Protection and Repatriation Act (NAGPRA) was passed in 1990.<sup>169</sup>

Each of the resolutions is written in the language and style of the dominant language, the English language. The resolutions have been modeled after the resolutions and documents created and recognized by the dominant government. There are no tribal resolutions in Shiwí'ma Be:na'we', the Zuni language. This could be the result of adhering to the dominant style of government forced upon the Pueblo as part of President Franklin Roosevelt and the Commissioner of Indian Affairs, John Collier's plan to pass and implement the Indian Reorganization Act of 1934. The IRA modeled tribal governments after the US style of government in the hopes that each tribal community would "govern, develop and speak for their own communities."<sup>170</sup> This included the elected councils, template constitutions and the use of the resolutions to create and pass tribal legislation and resolutions. Later I will return to the question of colonial mentality as part of the complications of the analysis of the cases.

### Ceremonial Cycle

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<sup>168</sup> Ibid.

<sup>169</sup> Pueblo of Zuni, "Resolution No. M70-78-1020." Received December 20, 1978.

<sup>170</sup> Hoxie, *The Goals of the Indian Reorganization Act*, 1-3.

Each of the tribal resolutions assert the cultural sovereignty of the Pueblo, documents and honors the important connection between the religious leaders within the tribal laws. This relationship is known throughout the Pueblos; codifying the relationship as part of “official” tribal laws recognized by the U.S. government and other political entities, creates another layer of documentation of the theocratic nature of the Pueblo and helps establish the need for the protection of the cultural and spiritual life of the Pueblo. The resolutions document the relationship within the official statements of the Pueblo and build up another layer to document the importance of the ceremonial cycle to the Pueblo.

The resolutions not only make “official” the relationship between the religious and elected leadership in the Pueblo, but helps Zuni citizens protect the ceremonial ways of the Pueblo. Resolution No. M70-95-E074 grants authority to Pueblo members to confiscate recordings and recording devices of non-Zunis by stating “anyone who takes any record of any Zuni religious activity shall have their property and records (film, recording, sketches, etc.) confiscated, and shall be retained by Zuni authorities.”<sup>171</sup> This resolution bestows upon each Pueblo member the authority to enforce the ban of photography during ceremonial events and grants Zuni authorities the discretion and authority to confiscate and retain any and all of the records and devices, as well as the right to escort any “non-Zuni who broadcasts, televises, photographs, sketches or records any Zuni religious activity” off the Zuni Reservation. This stance is a reaffirmation of Ordinance 5, passed in 1972, when Section 2.e. states that “Interfering with or photographing Zuni ceremonies or religious shrines without permission of the Zunis involved” is grounds for non-members of the Zuni Tribe may be excluded from the reservation. In this way, each Pueblo member has the responsibility and the authority to

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<sup>171</sup> Pueblo of Zuni. “Resolution No. M70-95-E074.” Received August 9, 1995.

protect the cultural systems of knowledge of our home and our ceremonies and the Tribal Council has the right to banish any persons who are not in compliance with the official position of the tribe when it comes to adhering to the laws and rules regarding the respect for cultural activities in the Pueblo.

A complication of these laws is that while they clearly outline rules of conduct regarding the ways in which non-Zunis and their property are to be treated, the resolutions do not outline how Zunis are to be treated if we are the ones caught recording the ceremonies. It is possible that until recently, only non-Natives had the attention of the religious and spiritual leaders. It is clear that we have had to deal with insider trading all along with Pueblo members who willingly helped with unauthorized documentation of ceremonial activities. However, we now have to consider actions that may be taken against our tribal members. Situations that involve the enforcing of rules amongst tribal members are almost always fraught with political and personal complications especially when one is operating in such a small community. This is a manifestation of our contemporary reality and is one that we must address if our information policies and tribal laws are to uphold the established rules of the community.

### Sacred History

Many of the tribal resolutions not only state the importance of the land for ceremonial and sacred purposes, but the resolutions document and acknowledge our sacred history and connection to land as the reasons for protection. The call to return sacred objects to the Zuni homelands and to respect the lifeways of the Zuni is echoed in several resolutions, especially when the official documents describe connections to the migration narrative and the purpose of the Zuni ceremonies. Resolution No. M70-78-1020 concludes by stating that:

The Zuni Tribal Council respectfully requests the cooperation of foreign museums, governmental agencies, and private individuals to help secure the return of Ahayu:da to their home on the Zuni Indian Reservation where they will serve as spiritual guardians to protect the Zuni People, all people, mother earth, and the universe, and thereby fulfill the purpose for which they were created in the Zuni religion.<sup>172</sup>

Without discussing details that would reveal esoteric information or privileged knowledge, official documents of the Pueblo that include this type of description provide insight as to the importance of the sacred items as well as the basic reasons for the importance of the sacred items searched for by the religious leaders and protected by the tribal resolutions.

Rainbow and Brown trout have been identified as an invasive species in the Colorado and Little Colorado Rivers. The National Park Service (NPS) has developed a strategy to mitigate the invasive trout that involves catching and killing the trout by the tens of thousands. The NPS termed the catch and slaughter program “mechanical removal.” When religious and secular Pueblo leaders learned of the mechanical removal of the trout, official requests were made asking for the immediate halt of the program.<sup>173</sup> A resolution opposing the mechanical removal of the trout was passed by the Zuni Pueblo tribal council and was submitted to the NPS with an accompanying statement by the religious leaders of the Pueblo documenting the Grand Canyon as an “extremely important place in the history, religion, culture, and identity of the Zuni people...” continuing that

The Zuni people emerged from the Earth Mother’s fourth womb into the sunlight at a location in the Grand Canyon near present day Ribbon Falls. After emergence, the Zuni people searched for the center of the world, Idiwana’a (the

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<sup>172</sup> Pueblo of Zuni, “Resolution No. M70-78-1020.” Received December 20, 1978.

<sup>173</sup> Pueblo of Zuni. “Resolution No. M70-2010-C086.” Received September 21, 2010.

Middle Place) by journeying up the Colorado River, along the Little Colorado River, up the Zuni River, to where the middle of the world is located and settled there.<sup>174</sup>

The resolution describes the purpose of the annual ceremonies, that the ceremonies are carried out to “ensure adequate rainfall and prosperity for all life. The Zuni people pray not only for our own lands, but for all people and all lands,” and that the “mechanical removal activities” of the trout “creates counter-productive energy to the Zuni’s ceremonial efforts to ensure rainfall and the prosperity of all life.”<sup>175</sup>

In documenting the historical and on-going spiritual and cultural connections to the Grand Canyon, to the Colorado and the Little Colorado rivers, the resolutions declare that the US government should match the protective efforts made by the Pueblo. The US government has “a trust responsibility to manage Zuni cultural and natural resources” especially when the “cultural values and spiritual beliefs of the Zuni people are intimately related to its ancestral lands, to natural places, and to the plants, animals, and spiritual qualities of such lands and places.”<sup>176</sup>

The resolutions passed by the Pueblo of Zuni represent past manifestation of protections and documentation of Zuni knowledge. This does not mean that documentation and protections at the official tribal level have stopped or are no longer being passed. I am calling this a representation of the past because of the precedent set by earlier administrations to declare sovereignty over matters of utmost importance to the community, that of the cultural and spiritual well-being of the community. The next two sections represent the present, and

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<sup>174</sup> Ibid.

<sup>175</sup> Ibid.

<sup>176</sup> Ibid.

are current manifestations of efforts to document and protect Zuni knowledge through visual means via the Map Art Project and the Morning Prayer mural.

## **Map Art Project and Morning Prayer Mural**

Visual knowledge is a means of encoding Indigenous knowledge. In Zuni, visual knowledge is represented in pottery, jewelry, fetish carving and other material forms. Indigenous knowledge visualization (IKV) takes many different forms referencing everything from ancient, sacred and esoteric knowledge (migration history, spiritual beings, connections to animals), historical information and knowledge (contact with Spanish colonizers) and contemporary realities of colonialism and tribal sovereignty (blood quantum, tribal membership, treaty rights, cultural preservation). The IKV represented in the Map Art Project and the “Morning Prayer” mural reference all the different visual forms Indigenous knowledge can take. Both projects fall into the same type of category representing visual knowledge, and both projects represent the present tense, as manifestations of the current methods used by a Native community to document and protect the shared knowledge of the community.

The Map Art Project and the Morning Prayer mural at the Indian Pueblo Cultural Center in Albuquerque, New Mexico work in various ways to respect the religious sensitivities in Zuni while teaching and reminding Zunis of our rich history and complex religion. They simultaneously document and protect Zuni knowledge functioning as teaching tools and as “Zuni traditional control mechanisms...restricting outsiders’ access to knowledge.”<sup>177</sup> The analysis of the Map Art Project and the Morning Prayer mural are explored below. The two cases represent two separate entities and operate in different capacities.

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<sup>177</sup> Isaac, *Mediating Knowledges*, 127.

## *Map Art Project*

The Map Art Project (MAP) was initiated in 1996 by the A:shiwi A:wam Museum and Heritage Center (AAMHC). Zuni tribal member Jim Enote, the director of the AAMHC and former co-director of the Indigenous Communities Mapping Initiative, brought his previous experience with Indigenous mapping projects back home.<sup>178</sup> He recognized how “community-led mapping projects help tribes retrace their ancestors’ footsteps,” and can be used to help reclaim ancestral ties to land and can also be used to win back ancestral lands.<sup>179</sup> He recognized the practical nature of computerized maps, especially in court cases, but found himself wondering if computerized mapping and mapping offices “could sometimes create unintended gatekeepers for a community’s geographic knowledge.”<sup>180</sup> He further recognized “as an artist...there must be another way to dignify and represent our mother earth.”<sup>181</sup> The motivation to start the MAP in Zuni also stemmed from a personal space and longing. Enote admits that:

[e]ven though I am Zuni my knowledge of Zuni place names and locations was incomplete, and many other Zunis were in the same predicament...I also know some families are single parent families, and some may have lost members that could share or pass on this sort of knowledge. For many of us, pieces of Zuni culture were missing, and for a variety of reasons we were unable to find a suitable source to understand our cultural landscape.<sup>182</sup>

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<sup>178</sup> “Project Puts Tribal Lands Back on the Map.” High Country News. [http://www.hcn.org/issues/255/14152/print\\_view](http://www.hcn.org/issues/255/14152/print_view). Last accessed August 1, 2013.

<sup>179</sup> Ibid.

<sup>180</sup> Enote, “A:shiwi on A:shiwi: Zuni on Zuni,” 4–5.

<sup>181</sup> Ibid.

<sup>182</sup> Enote, “A:shiwi on A:shiwi: Zuni on Zuni,” 5.

When the AAMHC was considering the project, museum director Enote and museum specialist Curtis Quam convened an advisory board of Zuni people. The board members were from the religious and elected leadership, Zuni language teachers, librarians, schoolteachers, and members of the cultural advisory group. The advisory board discussed the MAP for one year before inviting artists to submit concepts in their proposals. The topics of discussion were first and foremost what *not* to map, what should be included in the maps, and the need to respect the privacy of the different religious societies and what types of considerations should be carefully weighed before documenting community knowledge.

The MAP began with three maps documenting the village of Zuni, the modern day reservation, and the bounded space, or the traditional territories of the Pueblo. The first three maps were “spectacular and made a huge impact on the people who saw them. We had never seen maps of our lands like these before. These beautiful maps portrayed areas the advisors believed all Zunis should know about and did so without revealing culturally sensitive locations.”<sup>183</sup> The first three maps were reproduced as posters available to every Zuni household with the intent of familiarizing every Zuni family with sites of sacred significance. As the advisory group supervised the first three maps, the possibilities literally opened up to them and they discussed other areas along the migration narrative to map. More Zuni artists were recruited and submitted their proposals of areas to be mapped. By doing so, each Zuni citizen is better positioned to speak in defense of our land, our territories and bounded space. The re-mapping of areas visited by ancient Zunis also reasserts the Zuni connection with areas long thought only inhabited, visited by and special to other southwest tribes, namely the Hopi and the Navajo.

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<sup>183</sup> Ibid., 6.

There are now nearly 30 maps depicting different sections of the migration narrative. Hawaiian scholar Manulani Meyers stated that Indigenous peoples are extremely “comfortable with ambiguity.”<sup>184</sup> By design, the maps blur the lines between art object, document and archive. Each painted map can function as any one or all three of these depending on the situation. The maps have been the focus of museum exhibitions and present striking images in a uniquely Pueblo-centric aesthetic. As Enote stated, “it’s easy to appreciate the paintings because of their



lines, the forms, the colors...but if you don’t understand what the forms are telling you, then your full appreciation of the maps and what they represent is limited.”<sup>185</sup> The need for a deeper understanding when viewing the maps is one of the protective aspects of the entire

project and will be discussed within the boundaries of the elements of the Peoplehood model.

## Land

The MAP re-maps the land according to the visual style of the Zuni, using symbols and iconography that reflect a Zuni aesthetic. The aesthetic is not only reflective of pottery, jewelry and carving styles, it also reflects our ancient relationship with the high desert plateau in which

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<sup>184</sup> Meyers, Manulani. “Hawaiian Epistemology.” <http://vimeo.com/7910477>. Last accessed August 1, 2013.

<sup>185</sup> Enote, Jim. Personal Communication. May 2013.

we have lived for millennia, a relationship documented in pottery designs and methods of manufacture.

The MAP documents and traces the migration history and so acts as a visual mnemonic device that helps us remember our history as we ascended through the four underworlds, and traveled across present day Arizona, Colorado, Utah, and into our middle place in present day west-central New Mexico.

In the past, our community was especially guarded with our knowledge of our relationship with land forms outside of the direct vicinity of Zuni Pueblo, namely Mesa Verde, Chaco Canyon, and the Grand Canyon.<sup>186</sup> The MAP asserts the Zuni connection and our shared history in these areas, and reclaims the land claimed exclusively by others. The intent is not to exclude others from their rightful claims to these areas considered sacred to each of our respective groups, but to remind the world that we also have a sacred connection to these areas and that the land formations are part of our traditional territories.

The images in the MAP protect Zuni history and sacred sites by encoding them. Depending on one's level of access, an individual might know the location of alters and shrines. Some viewers of the maps may know where the sites of worship are located. Others may have heard about them in prayers and ceremonial songs, but might not know where they are located. The sites painted use the techniques of photo-realism in some paintings, in others there is a certain amount of liberties taken by the artists to stylize the paintings, still others have been created using digital renditions of places within the Grand Canyon. The images are based on actual places and events that we, as a community, understand. In this way, the images illustrate different aspects of the migration narrative for specific viewers, namely people from

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<sup>186</sup> A:shiwí A:wán Uhlohnonne, *The Zuni World*. Exhibition video. 2010.

Zuni Pueblo who are familiar with the subject matter and the stories depicted in the paintings. The direction the maps provide for Zuni people echoes and replicates the efforts of our ancestors, when they left us images carved in the stone walls of the Grand Canyon, in Mesa Verde, Bandolier National Park and Chaco Canyon. Enote writes:

The Zuni have always had maps. We have maps in songs and prayers, painted on ceramics and etched in stone. Our maps aid our memories, they give reference to our places of origin, places we have visited, and places we hope to go. They also provide us with a reference of where we are within the universe and help to define our relationship to natural processes surrounding us. And because these maps are ours, they function within our particular cultural sensibilities.<sup>187</sup>

As religious leader Octavius Seowtewa stated, our ancestors “left us maps, they provided directions and clues for us to find hundreds of generations later that affirm our presence in those places as we searched for the middle place.”<sup>188</sup>

In 2005, the AAMHC began co-hosting river rafting trips with members of the Zuni Cultural Resources Advisory Team (ZCRAT). Enote notes that “interestingly, many of the artists had never been to the most distant places they were commissioned to paint, and consequently they and the cultural advisors journeyed to the areas together so the artists could observe and explore the sites while being informed of the roles the sites play in Zuni history.”<sup>189</sup> The river trips were to locate, visit and retrace the steps our ancestors took when they emerged from the Grand Canyon and started making their way towards Zuni. The sites they found in the

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<sup>187</sup> Enote, “A:shiwi on A:shiwi: Zuni on Zuni,” 4.

<sup>188</sup> Seowtewa, Octavius. Personal Communication. July 5, 2013.

<sup>189</sup> Enote, “A:shiwi on A:shiwi: Zuni on Zuni,” 7.

years since has helped us rediscover dormant knowledge, places and history preserved for us by our ancestors.<sup>190</sup>

### Language

The MAP traces the route taken by our ancestors and recounted in the migration narrative. The maps help us as a community become familiar with the stories and our shared history through the retelling of the narrative. The MAP reinforces oral tradition and provides storytelling opportunities for all age groups.

The MAP is creating a new visual language, one that reflects a Pueblo aesthetic and the specific artistic systems of knowledge made famous by our village of artists. The use of the visual in the Map Art Project is expanding our own use of the visual in our cultural documents. We have long been aware of our unique artistic styles evident in our art systems of pottery, jewelry, stone and woodcarving, and in painting. However, the Map Art Project is changing the very idea of what an archival document can look like, and is changing how and what we consider our history books. The Map Art Project and the ‘field trips’ being taken down into the Grand Canyon are reflecting the fact that our ancestors have been leaving these types of records for us to find all these hundreds and hundreds of generations later. The Map Art Project is simply the visual language we are creating for the time, media and cultural situations we find ourselves in right now.

The MAP helps us remember Zuni names for places, and does so in ways not based solely on the overlaying of GPS maps, but does so in ways created for and by Zuni tribal members. The place names added to the maps are not written in English, only in Zuni. This method is an effective protective mechanism, as it helps to protect the places actively used as

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<sup>190</sup> Octavius Seowtewa. Personal Communication. July 5, 2013.

shrines by different medicine and religious groups. Many times the names themselves are not literal place names, but reference the name of the site. Not only would one have to know what the Zuni name meant, they would likely also have to know what the name was referencing in order to fully understand what the name was conveying. Another protective aspect is to purposely omit sites of active worship. As a group, the cultural advisors have deliberated and selected sites that are culturally appropriate for all Zunis and the wider public to be able to view on the paintings.

### Sacred History

The MAP is actively creating a distinctly Indigenous style of archival document. It documents our migration narrative, how we came to be and preserves our unique history in a visual format that can be told in a series or individually. The MAP acknowledges ancestral ties to ancient Puebloans and formative sites of our history. The MAP creates visual reference to historical time, to our remembered mythic time and to the evolutionary past recorded in our migration narrative and in petroglyphs carved into the stone walls in the Grand Canyon.

As a protective measure, community members wanting more information have to take the personal initiative and ask for the knowledge. Only then are they given specific locations, or are told a more in-depth history of that place.<sup>191</sup> Knowing who to ask for additional information is another aspect of the protective mechanism of having to ask. One can ask museum staff, a member of the Zuni Cultural Resources Advisory Team, or if they have them, family members who are knowledgeable about such events, sites and history.

### Ceremonial Cycle

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<sup>191</sup> Octavius Seowtewa. Personal communication. July 5, 2013.

The MAP explains and shows events that happened to us because we did or did not follow our cycle or instructions. Different maps display the origin of certain images and ideas that we reenact or reference in ceremonies and which are retold at key points in the migration narrative.

Some of the artists involved in the MAP knew that certain prayers reference areas they had never seen before. When remembering his experience with places mentioned in prayers, MAP artist Geddy Epaloose noted “we hear these site names and place names in prayers, songs, and repeatedly, but you can only visualize in your head what it actually looks like...this is like a tool to bridge that gap – oral history and visual history.”<sup>192</sup> Through his paintings, Epaloose is helping the rest of us to view these locations.

Recognizing that Zuni systems of knowledge sometimes follow gendered lines, only the male artists and male members of the advisory board traveled to the places in the Grand Canyon referenced in our prayers. While women are members of the various medicinal societies, it would be inappropriate for most Zuni women to travel to these sites without being part of these groups. This is not oppression, or a marker of present day concepts of sexism. This practice reflects a respect and understanding of the natural balance of life and protects the customs of the community. Most Zuni people honor the “partitioned boundaries of knowledge within the Pueblo” which is, at times, along gender and initiation lines.<sup>193</sup> We transfer that respect to the places our ancestors lived in and traveled through. The MAP has helped our artists to visit and to locate areas mentioned in prayers that many did not know about before going on the river rafting trips down the Grand Canyon and along the Colorado River. Through

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<sup>192</sup> McLerran and Enote, “Artist Statement: Geddy Epaloose,” 29.

<sup>193</sup> Enote, “A:shiwi on A:shiwi: Zuni on Zuni,” 7.

the depictions in the images, we are all able to experience the places visited and that were previously inhabited by our ancestors. As Octavius Seowtewa states “we’re now in the process of getting that information out in a way that—instead of putting it in books, because there’s a lot of information out in books—but to have people to grasp and look at the sites without actually being there.”<sup>194</sup>

Connecting the artists with the sites in the Grand Canyon, exploring areas traveled millennia ago by our ancestors, has created a new level of understanding and awareness for the artists involved in the project. The awareness experienced by the artists has extended to their paintings, and has strengthened their own cultural knowledge and insight into this current form of historical document, and cultural preservation tools. Being part of the project has also created ambassadors out of each and every one of the artists involved, increasing the number of people actively working to protect the ceremonial cycle of the community. Some of the artists are deeply involved in the spiritual realm of the community, either as members or leaders of a religious group, as a member of the Zuni Cultural Resources Advisory Team, or both.<sup>195</sup> For younger artists, like Levon Loncassion, the Map Art Project is:

[V]ery important...in terms of how it gives us Indian people a chance to tell our side of the story and to at least give our viewpoint on how we see the world and how things are not as they seem to be in certain cases in terms of Native cultures; a lot of our identity is within the land...I think it’s also important for us to start making an effort to make choices to have all this information available for generations to come, and it has to start somewhere, and I think with this map art

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<sup>194</sup> Octavius Seowtewa, “Cultural Advisor Statement,” 23.

<sup>195</sup> Women can be part of the medicine societies but are not members of the kiva societies. Being part of these groups grants one privileged access to specific knowledge sets within the community.

project it's definitely a big start and a lot of information that is being gathered and stored and hopefully going to be shared for years to come.<sup>196</sup>

The map art project is a powerful example of a community initiative based in the cultural protocols of a community. The protective mechanism of having the Map Art Advisory Board help resolve questions regarding proprietary information has helped to provide guidance on other culturally based projects that employ visual systems that document and protect Zuni knowledge. The advisory board does this not by choosing which maps are for public audiences and which are for Zuni audiences; instead the board has selected which sites will be mapped and which sites will *not be* mapped. By doing so, the board has ensured, to the best of their knowledge and ability, that the maps in their present form are culturally appropriate for all audiences.

### *Morning Prayer Mural*

The Morning Prayer mural was created and operates in a similar fashion. The Indian Pueblo Cultural Center (IPCC) asked the Pueblo of Zuni to grant permission to commission a mural from a Zuni artist. In the 1970s, Helen Hardin, Charles Lavato, and others were commissioned to paint murals in the courtyard of the Indian Pueblo Cultural Center located in Albuquerque, New Mexico. Phil Hughte, an art teacher at Twin Buttes High School, painted the Shalako, which represents one of the primary kokkos of the end-of-the-year ceremonies in Zuni. Originally approved by the Indian Pueblo Cultural Center (IPCC) board, the Shalako painting was later sand-blasted and covered with a depiction of an Eagle dancer. A later board, formed

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<sup>196</sup> McLerran and Enote, "Artist Statement: Levon Loncassion," 51.

by the Zuni Tribal Council, determined that “the painting revealed too much of the Shalakos for public display.”<sup>197</sup>

The IPCC board did not want to repeat history and instead contacted the Zuni tribal council first to ask permission to commission a Zuni mural and to ask for recommendations of artists to submit proposals for the Zuni mural at the IPCC. The A:shiwí A:wán Museum and Heritage Center was asked by the tribal council to assist and together with the IPCC a call for proposals was drafted and circulated. The MAP advisory board was asked to rate the artists and their proposals. Mallery Quetawki, an artist involved in the MAP, was chosen as the artist for the mural; it was a blend of the mural design she proposed and her good standing within the community that helped contribute to her selection as the artist for the project.

The mural visualizes Zuni knowledge of our ancient origins, elements of our community history, critical historical events that forever changed our history, present and future. The panels of



the mural depict the rays of the Sun Father, the figures on the left side depict devout Zunis as they greet the sunrise and ask for blessings for self, family, and the universe. In dedicating the mural, Enote declared that this art evokes images of our ancestors trekking “across this great land...with an aesthetic that can only come from an appreciation of rain, the sun, fertile

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<sup>197</sup> Oxendine, as cited in Isaac, *Mediating Knowledges*, 126.

landscapes, crops, and the magnificent natural architecture of our mother earth.” He applauded Quetawki as an ambassador of new ideas and thanked her for bringing forth a “monument and testimony to the spirit of youth...as well as the perspective of women in a modern pueblo world.”<sup>198</sup>

## Land

The mural shows the ancient A:shiwí’s ascension through the four underworlds up into this, the 5<sup>th</sup> world we live in today. For Zunis, the underworlds automatically reference our connection to the Grand Canyon and the site of our emergence.

The panel depicting the water strider over Dowa Yalanne, Corn Mountain, shows our bounded space, defined by the placement of the water strider’s heart as we sought the Middle Place. Another panel shows Han’tli’bink’kya, the place where our clans were formed, thus helping us to avoid inbreeding and to help define responsibilities of each family group. One of the panels describes the connection with the Salt Woman and the Zuni Salt Lake, as well as our connection to traditional foods and the need to maintain and/or reclaim our connection to our homelands and traditional lifeways, even if we are not able to make a complete return to our traditional ways, we can make strides especially in our food choices enabling us to live healthier lives.

Recent history is explored in the panel displaying the boundaries crossed and encroached upon by Spaniards as they searched for the Seven Cities of Cibola, the fabled Cities of Gold. The Spanish conquistadors reached Zuni Pueblo in 1521 and since that critical event, the lives of Zuni people have never been the same.

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<sup>198</sup> Jim Enote. Mural dedication, Indian Pueblo Cultural Center. November 2010.

The mural protects Zuni land forms through stories. The stories are encoded in the individual panels of the mural and in the overall image of the surface. Each panel presents an opportunity to learn about Zuni history and spirituality while simultaneously encoding the history of our community in the depicted images. If one is not familiar with the stories, understanding of the mural is limited to aesthetic appreciation.

### Language

The very name of the mural creates a direct link between the language spoken in the Pueblo and documents one of the tenants of Pueblo spirituality, the offerings made during the morning prayer. The prayer represents one of the most important aspects of daily spiritual life.

The mural creates opportunities for different aspects of the migration narrative to be retold, depending on the viewers cultural, artistic and historical knowledge. The prayer itself helps create a connection to home, reminding the person viewing the mural of the chill, the smells and sounds of the Pueblo in the early morning light, just before dawn. In many cases, those living in the diaspora, away from the homelands are reminded of home in the viewing of a single set of images invoking the act of spirituality.

The mural as a whole and the individual panels represent different aspects of the migration narrative and different stories that convey importance to Zuni peoples. Similar to the way the mural protects Zuni land, the mural protects the Zuni language, creating opportunities for the stories to be told and retold. The retelling of the migration narrative and the exploration of the history depicted on the panels reinforces the relationship between the teller and the audience, creating a Zuni moment despite the location in the urban setting of Albuquerque in the IPCC between parents and children as they gaze up at the mural.

## Sacred History

The mural documents many aspects of the sacred history of Zuni Pueblo. The first image documenting the sacred history is the ancient A:shiwi climbing up through the under worlds into the 5<sup>th</sup> world. The water strider placing its heart over Dowa Yalanne is another aspect of the sacred history of the Pueblo, and one of the defining characteristics of our bounded space. The Salt Woman leaving our community for a location in which she would be more respected was a sad moment in our history, yet one we have to acknowledge as a warning to our future selves lest we stray from our spiritual ways; we risk losing the bounty provided by our spiritual entities.

The mural shows the first encounter with Spaniards, the point in time when our ways first became challenged by the missionary efforts and successive waves of colonization from Spanish, Mexican and American governments. Despite the federal campaigns to eradicate our spiritual ways of knowing, the mural's presence alone is a powerful public statement that protects the sacred history of the Pueblo. The location of the mural, in a state-funded museum in a major urban area, has created an opportunity for Qwetawki to reach out to other Zuni Pueblo members and to help preserve and thus protect the sacred history of our community.

## Ceremonial Cycle

The overall image acknowledges *Yaddokkya Datchu* (Sun Father), the recipient of our morning prayers and the provider of all growth and abundance on Earth. The use of corn and the connection to traditional foods, the planting and harvesting cycle are all tied to the

watching of the sunrise and the tracking of the solstices.<sup>199</sup> Likewise, the summer solstice ceremonies are to mark the spiritual calendar in preparation for the winter ceremonial activities.

The morning prayer is a daily affirmation of spiritual participation and is part of the individual's ceremonial preparation. The ceremonial participation and adherence to the ceremonial cycle are in part because our past negligence of our cycle caused our misfortune – flood, abandonment of our spirit beings and helped to solidify our commitment to our ceremonies and to our responsibilities as caretakers of our ways and our knowledge.

The mural depicts the perpetuation of the ceremonial cycle and protects the cycle by encouraging parents to model behavior that will teach our children the different ways of knowing needed in order to maintain our spiritual ways of life. The mural works to protect the cultural ways of the Zuni by providing visual reminders of our history and migration narrative and reaches out, acting as a beacon for Zunis and others familiar with the Zuni migration narrative. The mural acts as a reminder of home in the city-scape of Albuquerque.

## **YouTube Videos**

The tribal resolutions and the efforts to carefully document Zuni knowledge, history and culture are in stark contrast to efforts of some individuals. The 12 villages of the Hopi lie 161 miles northwest of Zuni, yet the Hopi are similar to the Zuni in customs and protectiveness of their spiritual knowledge.

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<sup>199</sup> Kidwell, "Systems of Knowledge."

During two separate occasions, I located and analyzed 52 YouTube videos depicting dances in the Hopi villages of Moencopi, Hotevilla and Kykotsmovi. The dances are considered “social” dances by many and are the types of dances one can see when attending a museum event featuring a Hopi collection, or during a parade in the Southwest. The videos I analyzed were not featured as part of museum programming, nor were they in an open, urban setting. The videos were filmed in the plazas, the community gathering spaces, of the villages, a space considered by many to be sacred and one of the areas where photography is prohibited. The assumption that filming in the plazas is taboo, is reflected in the comment pages of each video, albeit some illicit more of a response than others.

The comment pages of the videos display a striking array of emotions and feedback including anger, gratitude, homesickness and networking opportunities.<sup>200</sup> The comments sometimes reflect anger and encourage the Hopi authorities to put a stop to the videos.<sup>201</sup> At times the comments are used to chastise the user for posting the video,<sup>202</sup> and criticize fellow Hopi members from different villages for their behavior.<sup>203</sup> Still others use the comments to identify their family members,<sup>204</sup> and to compliment each other’s dancing and/or songs.<sup>205</sup> The comments, while showing and displaying the shock of some when viewing dances filmed in the plazas, also reveal happiness, cultural pride, homesickness and a connection to homelands for many Hopis living away from home.

Despite my own shock at seeing the videos online, the realization that the videos were creating a direct connection to home for tribal members was eye-opening and forced me to

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<sup>200</sup> See “Sharing the Public in Private” for a detailed content analysis of some of the YouTube comments.

<sup>201</sup> *Hopi Dance 2*.

<sup>202</sup> *Hopi Dance*, 2008.

<sup>203</sup> *HOPi*.

<sup>204</sup> *Hopi Dance*, 2008.

<sup>205</sup> *Hopi Buffalo Dance 2*.

reconsider my initial feelings about the videos. Some comments came from tribal members in the military, away at school or living away from home for long expanses of time. Being in this same category of people who have lived away from home for over 15 years because of school and employment opportunities, I share the pain of living away from my homelands with the people commenting on the videos and came to see the videos in a different light.

The difference between the tribal resolutions and the visual documentation of the Map Art Project and the “Morning Prayer” mural and the YouTube videos is process and deliberation. The MAP and the mural were the result of a deliberate process, long deliberations and consensus amongst a group of community representatives. The YouTube videos, to the best of my knowledge, did not undergo a similar process before they were posted online; the videos were posted by an individual deciding for themselves that this was an action they would pursue on their own. The tribal resolutions passed by the elected officials of the Pueblo reflect a particular situation (cultural and material appropriation, unauthorized and culturally harmful research practices, contested photographs of ceremonies) and a community response to that situation. Tribal resolutions take time to consider, draft, approve and enact. The MAP advisory board met for over a year before the artists were selected, deciding what would be mapped and what would not be mapped. The advisory board was already in place when the Indian Pueblo Cultural Center wanted to commission a Zuni mural but even with that infrastructure in place, it took time for the Board to deliberate on who the artist would be and if they agreed on the subject matter of the proposed mural.

The difference in deliberation and community input is the major difference. In this analysis, the Peoplehood model is used to examine not only the ways YouTube videos of social dances might be used as tools for documentation and protection of Pueblo knowledge and

cultural events, but also as a platform for comparing the process between deliberation and individual initiative.

This example is not clearly split between documentation and protection. Instead, each quadrant of the Peoplehood model is discussed in a comparative analysis between the YouTube videos (individual initiative) and the projects analyzed above (community initiative). This area of the analysis is intended to show a correlation between the present and the future, not in a full or exhaustive manner, but to pose new questions and to briefly explore the complications that social media sites and instant access present to Indigenous communities when the goal is to protect Indigenous Knowledge.

### Land

The videos all show some aspects of the landscape and the sacred space of every village is filmed. The location of the plaza within each village is not shown, but is instead shown in detail. There is documentation of which village is being shown in the video titles and descriptions of the videos, however this is not always the case. If there comes a time when the internet survives and the dances or village do not, this is one way to document the dances and the look of the plazas.

Another feature of the dances being filmed and uploaded is the names of the dances. This documentation alludes to the connection the Hopi people have to the animals in the dances (Butterfly, Eagle, Buffalo) and how each distinct village pays homage to the animal beings.

### Language

The videos record the songs and drumming styles of each song and in the village(s) where the songs are sung. In most of the videos, the songs are not recorded in their entirety, a limitation of YouTube<sup>206</sup> has inadvertently created a means of protection of the songs by not allowing anyone to learn entire songs by watching any one video. If a tourist, anthropologist or enthusiast were trying to learn the songs from watching a group of videos, they would most likely be missing sections of the songs, lost to the practice of having to split the videos into several clips in order to upload the entire filmed sequence.

### Ceremonial Cycle

The videos depict dances and participants of a ceremony that has gone on for hundreds if not thousands of years. This cycle has been unbroken, even if it has been modified to incorporate contemporary elements of cloth, beads, acrylic paints, etc. The dances have continued and the videos do showcase that.

The videos do not explain the dances, the videos merely document them – in this vein, we have to question: how valuable are the videos as a community resource? If the project is elusive by design, as the MAP can be, this could be seen as a protective measure and function of the videos. The MAP requires initiative on the viewer's part to ask more questions in order to truly learn more from the MAP. The videos certainly do encourage discussions in the comment pages, however it is unclear if the individuals providing the explanations are authorized to do so, or if there are any restrictions to the information they are providing.

### Sacred History

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<sup>206</sup> YouTube has since changed its allowable clip length. Prior to 2011, the maximum length of an uploaded clip was ten minutes. Anything longer was uploaded by the user in parts (e.g., Kykotsmovi Butterfly dance 11/10/10 Part 1).

The videos document several dances honoring animals and the interconnectedness of the animal and human worlds. However, the videos do not explain why these animals, and how the animals and the humans dancing their forms are connected. This might be a form of insider information, that the Hopis other Pueblo peoples viewing the dances will inherently understand the dances and no further explanation is needed.

## **Conclusion**

In the analysis and presentation of these cases, I encountered some complicating factors reflective of the practice of Indigenous knowledge preservation, the use of technology in this pursuit, or both. When comparing the effectiveness of the community based initiatives and the individual initiatives, the first complication is that of consensus. With any decision within a group regarding its documentation process, there is bound to be dissent somewhere in the ranks. The same can be said about individual initiatives but if a decision is made by representatives of a group, at least the group can then discuss it further. If the decision is made by one person, regardless of their position within the community, their action could potentially create tension for the community and can lead to the uncomfortable situation of one person being accused of trying to be the spokesperson of the tribe without the proper training, information or authorization.

A complication of using technology in documentation projects is the changing nature of the technology. If recording ceremonies is a viable method used by a Native community, the storage needs to be considered and needs to be carefully backed up. Those of us in Information Science are well aware of the risks of placing utmost faith in technology and the dangers that

can befall us, and our information, should that technology fail. The use of technology can be used as a powerful means for cultural preservation, however the considerations need to be carefully weighed before they are embraced fully by any organization wanting to document its practices.

Social media is having an effect on cultural events; the awareness of its ubiquitous presence during these events has worked its way into our consciousness as contemporary Indigenous peoples. The ease with which photographs and videos are being posted online is adding to the protocol of cultural events of which I am a part and witness. The prerequisite line: “Please turn off your phones during this time, after we finish (insert cultural activity here) then you can take pictures...and make sure to tag me in them!” is usually followed by knowing smiles and laughter at the Facebook reference. It is still, however, a social media reference and one that has made its way into the cultural spaces and realities of Native protocol.

A complication of this work is uncovering the colonial mentality that is present in the methods of documentation and protection of Zuni knowledge. It is hard to admit that our minds are still colonized and that this colonized mindset deeply influences our actions and sometimes even our intentions. A colonized mindset regarding the documentation process could be seen in the ways we are limiting ourselves as to what a document looks like. The paintings in the Map Art Project are helping us to see new ways of conceptualizing our knowledges and histories. For many of us, we have limited ourselves to documentation projects that emulate and conform to standards of documentation that are still quite foreign to us as Indigenous peoples. Utilizing “mainstream” methods such as analog and then digital recordings and through the use of written documents work on some level but are not consistent with our ancient methods of preserving information and passing knowledge down through the

generations. Projects like the Map Art Project are a step towards the decolonization of our mentalities regarding the ways our communities choose to document and protect our history, languages and knowledges.

Another way our 'colonized mind' is evident, is by the fact that all of our tribal resolutions are written in the English language. Perhaps this is because the intended audience of the resolutions is non-Zuni and not expected to speak the Zuni language, let alone to be able to read it. This could also be a limitation of the time; I am Zuni, but am not fluent in the Zuni language. I am not alone. Although we have retained a great number of fluent speakers, our language, and all Indigenous languages, remains in jeopardy of extinction. Writing the resolutions entirely in the Zuni language would prevent the full access of many of the official documents to a large portion of the community. While these complications are present, they are not the focus of this research. I briefly discussed them here to illustrate the fact that these questions and concerns have surfaced, and have not escaped my notice; I simply am not concentrating my efforts in this area of exploration as I work towards the findings.

## **FINDINGS**

The analysis of the four cases – Zuni Tribal Resolutions, The Zuni Map Art Project, The Morning Prayer Mural, and the YouTube videos - have led to several different sets of findings. In this chapter, I discuss the findings that have arisen from the data and the analysis. The findings consist of tribal-based solutions, the spaces where breeches of protocol are addressed, and a set of general principles for other tribes to follow when they pursue documentation and protection projects that involve their cultural and spiritual knowledge.

### **Tribal Solutions**

Different situations require different methods of action. Knowing when to enact those different methods of action takes tacit knowledge of each situation and knowledge of the cultural and political landscape. Tacit knowledge of political environments, and the diplomacy that goes along with it, is extremely difficult to teach and most likely can only be gained through years of experience within those circles and experiences. There are, however, a variety of tactics already available to Native communities, tactics and strategies that are described below as tribal protections.

Tribal protections fit into both Dutfield's categories, positive and defensive.<sup>207</sup> Protections take place within multiple environments: within the Native community, off-reservation, and in online spaces. Below I describe several forms of tribal protections including: posted signs, verbal instruction, restricted access, proactive relations, self-documentary, self-censorship, and self-policing.

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<sup>207</sup> Positive protections refer to the ways “the traditional knowledge holder” can claim an intellectual property right (IPR) such as a copyright or a patent. Defensive protections are the “provisions adopted in the law by the regulatory authorities” of a state to prevent IPR claims to traditional knowledge and cultural expressions by “unauthorized persons or organizations.” Dutfield, 2006;7.

## Posted Signs



When entering the middle village area of Zuni Pueblo in west-central New Mexico, there are signs posted with rules of visitor conduct. These rules include the prohibition of photographing, sketching, audio recording, video recording and touching of

religious figures. For the most part these rules are obeyed, however, as Gwyniera Isaac recounts, it was not always customary for the Pueblo to assert these rules. In the 1970s several Zuni tribal administrations marketed the ceremonial activities as tourist attractions, and considered sacred sites for tourism opportunities.<sup>208</sup> Community members voiced their vehement opposition to the proposal and tourism activity, calling for a halt to the use of sacred sites as tourist destinations, and signaled the current era where it is “the community’s desire to restrict visitors to the Pueblo rather than to encourage the growth of tourism;”<sup>209</sup> the signs posting behavior of Pueblo guests reflect that stance. As I explain below, Zuni Pueblo is not as restricted as Jemez Pueblo,<sup>210</sup> however, the posted signs at every entrance to the middle village

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<sup>208</sup> Isaac, *Mediating Knowledges*, 93.

<sup>209</sup> Ibid.

<sup>210</sup> More about Jemez below. <http://www.jemezpuablo.org/>

clearly state the Pueblo’s behavioral expectations of its visitors and are enforced by Zuni Tribal Police Officers, elected officials, religious leaders and members of the tribe.<sup>211</sup>

### *Restricted Access*

The Pueblo of Jemez, as a sovereign Pueblo nation in New Mexico,

[H]as a closed village policy due to the lack of tourism facilities and out of respect for the privacy of those who live there. The village is therefore open to the public only on Feast Days. The Pueblo now chooses to no longer allow these days to be publicized due to over capacity and for the reasons stated above. Visitors should go to the Walatowa Visitors Center which is open year round.<sup>212</sup>

Potential visitors are instructed: “Do not wander around the village.”<sup>213</sup>

Jemez is located 55 miles northwest of

Walatowa Visitor Center Albuquerque, off

the main road – a geographical fact that

helps the Pueblo restrict access to their

Pueblo. The Jemez website states that they

have no ‘tourist facilities,’ a deliberate move

to deter tourist intrusion and to allow the

Pueblo members to live in peace. Before

dismissing the intrusion of tourists into



private homes as hyperbole, it is important to note the second bullet point on the Indian

Pueblo Cultural Center’s (IPCC) *Etiquette* webpage: “Although most Pueblos are open to the

public during daylight hours, the homes are private. Like any village, the Pueblos are home to

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<sup>211</sup> See “Sharing the Public in Private” for a discussion of tourists taking pictures of the ceremonies in Zuni and their reaction to having their camera and film confiscated.

<sup>212</sup> Jemez Pueblo website. <http://www.jemezpueblo.org/>. Accessed April 11, 2011.

<sup>213</sup> Ibid.

those who live there and should be respected as such.”<sup>214</sup> This suggested behavior outlined under “Pueblo etiquette” indicates that there are people who did not consider the homes of Pueblo peoples as private residences. If visitors are coming into the private homes of Jemez residents, not respecting them as actual homes lived in by actual people, what are their expectations for, and what liberties have they taken during the ceremonies they witnessed?

Zuni Pueblo has periodically restricted access to the Pueblo during ceremonial times. In the 1950s the tribe threatened to close the Pueblo if action was not taken against the Boy Scout troop that was making replica Shalako masks and whose members named themselves the Koshare (sacred clown).<sup>215</sup> In the late 1980s the religious leaders of Zuni asked the elected leaders to help them enforce their request to “not to have Anglos visit the Sha’lak’o ceremony,” noting the threat to “Zuni religious observances” by outsiders showing a lack of respect during the prayer recital and asking questions about subjects they were not authorized to know about.<sup>216</sup>

The elected officials did not grant the request in the late 1980s, however, the request was again made in 1995 and was made to a favorable tribal council. The memorandum released by the tribe stated that the “crucial reason for restrictions on non-Indians attending ceremonies” was “the control of religious information.”<sup>217</sup> This was a controversial decision, which some felt was a contradiction to the purpose of the ceremonies, which is to pray for the well being of the entire universe. If that is the purpose of the Sha’lak’o ceremonies, then excluding people from observing them would lower the efficacy of the prayers. Some

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<sup>214</sup> Indian Pueblo Cultural Center. “19 Pueblos, Etiquette” <http://www.indianpueblo.org/19pueblos/etiquette.html>. Accessed April 11, 2011.

<sup>215</sup> Gendron (1958), cited in Merrill, Ladd, and Ferguson, “The Return of the Ahayu,” 528.

<sup>216</sup> Virgil Wyaco quoted in Isaac, *Mediating Knowledges*, 53.

<sup>217</sup> Ibid.

community members fully supported the ban and thought that it was long overdue. Whether Zuni tribal members supported the ban or not, Isaac correctly observes that “Zunis are nevertheless brought together over their shared desire to prevent the use of religious knowledge outside of Zuni...and united by their opposition to visitors’ photographing the ceremonies.”<sup>218</sup>

The IPCC website reminds would-be visitors that most Pueblos require permits to take photographs, sketch and paint on location, if recording in any manner is allowed at all, and that “cameras and film can be confiscated.”<sup>219</sup> The same rules are posted on the signs at the entrance points of the middle village of Zuni. While the signs posted and the restricted access may deter the unauthorized taking of cultural property, different strategies are required when people and organizations off the reservation are in possession of the cultural property of the tribe.

### *Proactive Relations (The return of the Ahayu:da)*

The Native American Graves Protection and Repatriation Act<sup>220</sup> (NAGPRA) is national legislation that was passed in 1990. It mandates museums that receive federal funding are required to itemize their objects and submit copies of their collection records to tribes who are affiliated with those collections. The tribes can then peruse the list and determine if the museum is in possession of sacred objects or human remains that belong to that tribe. Official

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<sup>218</sup> Ibid., 56.

<sup>219</sup> Indian Pueblo Cultural Center, “Pueblo Etiquette.”

<sup>220</sup> NAGPRA (PL 101-601; 25 U.S.C. 3001 et seq.);

consultations, the involvement of the Federal Register and many negotiations later, the tribe may be able to secure the repatriation of the objects to their home communities.

Zuni Pueblo negotiated all these elements and more, prior to NAGPRA. The tribe's campaign to return the Ahayu:da lasted from 1970 to 1992 during which time the Pueblo recovered 69 wooden images of the "war gods," 26 of these returns prior to 1990.<sup>221</sup> The campaign spanned several different tribal administrations and worked in tandem with the religious leaders of the Pueblo.<sup>222</sup> Together they clarified statements which explained why the Ahayu:da are important to the Zuni, and did so without disclosing any religious information that is not appropriate to be shared with uninitiated persons. In addition to these written statements, members of the religious societies and the various tribal councils made personal visits to museums and with private collectors and worked with the Federal Bureau of Investigation to help secure the return of the Ahayu:da to Zuni.<sup>223</sup>

After reading the Merrill et al. article recounting the efforts to return the Ahayu:da to their open-air shrine on the Zuni reservation, it is clear the specific efforts of the Zuni tribal members and their allies working on this campaign had a significant impact in the creation of NAGPRA.<sup>224</sup> Specific efforts include asking for itemized lists of museum collections, the face-to-face consultations between tribes and museums and the assertion and work to explain the inalienable nature of cultural patrimony. It is also clear that tribal communities can be extremely effective in their efforts to self-determine the ways in which we protect our cultural property and sacred beings. To me the term 'self-determination' means that a tribe has to be

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<sup>221</sup> Merrill, Ladd, and Ferguson, "The Return of the Ahayu," 527.

<sup>222</sup> *Ibid.*, 528–533.

<sup>223</sup> *Ibid.*, 533–542.

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proactive about the actions they engage in when protecting their cultural property; it means that we do not have to wait for the laws to be made, we can assert our values for the use, viewing, and consumption of our cultural property. The Ahayu:da case shows that when tribes take action in this way, legislation along the same lines is possible but not always necessary for Indigenous communities to assert our cultural rights to our spiritual ways and beings.

### *Self-restriction*

Perhaps “restriction” is not the correct term for this section. However, the voluntary choice of tribal members to withhold religious information or iconography in their art can be called self-restriction. The Map Art Project is an example of self-restriction because while the maps contain history, genealogies, spiritual references and the locations of formative sites of Zuni history, the maps visually encode and thus protect the history and knowledge of the Zuni people.

Exercising self-restriction when presenting visual knowledge to the general public does not necessarily mean internal members will be excluded, however, if the tribal members do not know the significance of the images, the maps become an opportunity to learn about the history, language and spiritual practices of the community. There is quite a bit of information left off or encoded into the maps that is esoteric even in Zuni, controlled by certain members of one of the religious, medicine or kiva societies in Zuni. In recognizing this, the A:shiwi A:wam Museum and Heritage Center (AAMHC) and the Advisory Board have laid a carefully thought out plan to document and preserve Zuni history in a “lovely and appropriate way.”<sup>225</sup>

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<sup>225</sup> Enote, “A:shiwi on A:shiwi: Zuni on Zuni,” 8.

### *Self–Documentary*

Earlier I described the posting of inappropriate video footage of the Makah entrance during the Tribal Journey, despite their requests for audience members to turn off their cameras and phones. During the entire week of Protocol in Neah Bay, WA camera crews were filming, but as McCartney explained, that was the only video footage sanctioned by the Makah tribe for the entirety of the week. Furthermore, the tribe respected the privacy of the other nations and honored requests to turn off the video cameras as appropriate.

The Makah use video media like that shot during Tribal Journey to create their documentaries. McCartney explained that the films use different songs that are both community and family owned. The songs are not played continuously throughout the film, instead the songs are shuffled and are incomplete. In this way, the Makah are protecting both family and communal property and are protecting people who might try to learn the songs on their own “without the proper spiritual training” to do so.<sup>226</sup> Just as the Ahayu:da have protective power and the possibility of causing havoc if not properly cared for, the Makah songs contain deep history, many of them honoring Wolf or Killerwhale, and require the utmost care when being brought out, care that cannot be provided without proper training and without proper permissions. In protecting their cultural property from appropriation and inappropriate use, the Makah are also protecting everyone else from committing spiritual harm, even if that is not the intention of the song learners.

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<sup>226</sup> Micah McCartney. Interview by author. August 13, 2010.

### *Self-policing*

YouTube is a website used to “broadcast yourself.”<sup>227</sup> Everything from personal confessions, sexual exploits, teenaged Fight Clubs, observations on popular culture and how to do 1960s style hair are included, a site boasting “hundreds of millions of users from around the world,”<sup>228</sup> and is the subject of numerous research endeavors.<sup>229</sup> The Hopi Nation is comprised of twelve villages and its website informs visitors that each village has their own rules of conduct but recording of any ceremonial activity is prohibited. Despite this posting of these rules, some Hopi tribal members have been posting videos of ‘social’ dances in their villages on the site.<sup>230</sup> As I discussed earlier, some dances are shared at museum openings and in inter-tribal parades. These dances include the Butterfly Dance, the Buffalo Dance and the Eagle Dance. Despite this willingness to share these dances in public venues, some Pueblo people feel that separating between ‘social’ and ‘sacred’ in Pueblo dancing is a false distinction.<sup>231</sup> They feel that all Pueblo dances are sacred.

The comments underneath YouTube videos provide a forum, and a record, of viewpoints and the assertion of cultural rules. The requests for more videos from “home,” the shock that the videos were taken and then posted, and the demands to remove them from the site are different examples of self-policing behavior, acting either as deterrents or encouragement. Individuals took it upon themselves to post the videos, a phenomenon commented on by

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<sup>227</sup> YouTube. [www.youtube.com](http://www.youtube.com).

<sup>228</sup> YouTube. FAQ. <http://www.youtube.com/t/faq>

<sup>229</sup> Wesch, “An Athropological Introduction to YouTube”; Lange, “Publicly Private and Privately Public”; See “Sharing the Private in Public,” Burgess et al., *You Tube*.

<sup>230</sup> HOPI; *Hopi Buffalo Dance at Kykotsmovi 2009 Part 1; Hotevilla Buffalo Dance.; Zuni Butterflies at Shungopavi 2.*

<sup>231</sup> Andrew Othole, Cultural Preservation Officer, Zuni Pueblo. Personal communication. August 15, 2010.

librarian Kgomotso Moahi. Moahi recounted the transfer of cultural patrimony by state-appointed 'chiefs,' when the patrimony was not theirs to give; the cultural patrimony was the communal property of the entire tribe. In this case the 'chiefs' did not consider the implication of their actions on the rest of the community and the long-term effects of releasing certain objects and images into the open.<sup>232</sup>

The same type of scenario might be at work in this case. The online accessibility of YouTube and other online platforms makes it easy to deny or ignore cultural norms regarding the seemingly inappropriate act of filming dances in Pueblo plazas. Whatever the reason for individuals in some Hopi villages to decide that it is acceptable to film and post these dances, these videos make it clear that we have entered into a new realm of cultural property protections. The physical distance and the anonymity of sites like YouTube create extreme difficulties in regulating the exposure and the consumption of Indigenous cultural property. The following section describes how the regulation and consumption of cultural property and Native ceremonies is being addressed by the communities and within the ceremonial space.

### **Addressing Breaches of Protocol**

One of the driving forces of this research has been witnessing the effects of breaches of cultural protocol - in art, in our communities and online - and asking "where do we go from here?" As I worked my way through the tribal resolutions, the academic literature, the cultural events that I attend and as I monitor the online spaces with cultural content, there appear to be two distinct methods of addressing questions of cultural etiquette. One method is to deal with

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<sup>232</sup> Moahi, "Copyright in the Digital Era and Some Implications for Indigenous Knowledge," 8.

the issues in the online space. The second method is to deal with the issues in the traditional spaces of the community. Rarely do these methods overlap. Why is that? Is one method more effective?

One of the most striking features of the Hopi YouTube videos is that the dialog left on the comment pages. While passionate, rich and compelling, the dialog does not appear to be happening on the ground. The conversations regarding the appropriateness of the videos being posted on a social media site (SMS) are not stemming the numbers of videos being uploaded and does not spur the withdrawal or deletion of existing videos from YouTube. Instead, comments chastising the user posting the greatest number of videos, seem to have prompted user rlb95376, to change her profile from one listing her basic information (age, name, hometown) to one with a defensive stance that states that viewers who have a “problem with her content” can go watch other videos on the site.<sup>233</sup>

There are, however, tribal examples of the opposite happening. When there are breeches of cultural protocol happening in some communities, they are being addressed immediately in the same space where the breach of protocol occurred. The Zuni, the Tlingit, and the Makah tribes all provide examples of addressing these breeches of protocol in the traditional space when a cultural transgression occurs.

### *Zuni*

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<sup>233</sup> <https://www.youtube.com/user/rlb95376/about>. User rlb95376 has since edited her “about” page again; she has deleted any identifying information about herself. She has also deleted the defensive statement about her videos in 2011.

In the Summer of 2010, the *Ne:we'kwe*<sup>234</sup> were 'playing' in the plaza in Zuni. As a sacred clown group, the Ne:we'kwe accompany different *kokkos* into the plaza and engage in humorous activities in between the rounds of dances on each of the days the kokkos dance in the plaza. The humorous activities are a reflection of bad behavior on the part of community members; the sacred clown groups function as a mirror of our society and show us, through satire, how *not* to act and behave.

A Zuni tribal member recorded the activities in the plaza on their cell phone camera and



sent the video via text message to other tribal members.<sup>235</sup> The video text message was repeatedly forwarded until it got back to one of the Ne:we'kwe. As a group the Ne:we'kwe addressed the community on the fourth day of dancing.

The Ne:we'kwe were playing as usual, and one of the members was pretending to record the others with an old cell phone. The leaders of the group went up to the one pretending to record and snatched away the phone, throwing it to the ground and stomping on it. The leaders then addressed the crowd and chastised

everyone present for recording the activities in the plaza and for forwarding the text video. It

was declared in the plaza, in our traditional, public spaces, that

anyone caught with their cell phones out during dances would have

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<sup>234</sup> The Ne:we'kwe is the Zuni name for these types of clowns. They are commonly known as and referred to as Koshare, or simply as clowns.

<sup>235</sup> The phenomenon of cell phone text message forwards has taken an insidious turn in Zuni Pueblo, helping to further gossip and rumors, mainly plaguing teenagers in high school, however, adults are also frequently the subject of the forwards of seemingly anonymous origins.

the same happen to them; their cell phones would be taken away and destroyed right then and there.

The threat of action by the Ne:we'kwe, and the public declaration of the protective measures that would be taken present two types of protection of the ceremonial activities of the Pueblo. Even greater than the threat of a broken and shattered cell phone, is the threat that they, as a Pueblo person, would be singled out, humiliated and shamed in front of everyone in the community. Public shaming is an event not soon, if ever, forgotten in a small town, and this is especially true of a Native community. Public shaming is, in my opinion, an extremely effective means of community based sanctions, if there are community authorities whose



shaming of a group or an individual would be seen as a righteous action taken on behalf of the community, and not as a personal vendetta.

### *Makah*

The Makah of Neah Bay live in the northwestern corner of Washington State. They are cousins to the Ahousaht who live on Vancouver Island, directly across

the Strait of Juan de Fuca. The Makah, the Quileute, Hoh River and Quinault tribes all have Wolf dances. The tribes' Wolf dancers recently received world-wide attention when they were

made famous by the book and cinematic series “Twilight.” The “cult-like following”<sup>236</sup> of Twilight fans<sup>237</sup> have rushed to LaPush, Forks and nearby Neah Bay to visit and consume the culture of the towns and the Natives, and non-Natives<sup>238</sup> who live there.

Micah McCarty, Makah Tribal Councilmember and former Chairman of the Makah Nation, noted that there are aspects of the Makah culture that are public for all Makah people and there are aspects of the Makah culture that belong to certain families in Neah Bay.<sup>239</sup> The families pass ownership of the songs from generation to generation and this ownership is respected in an unspoken agreement within the community. Family ownership extends to songs, dances and the responsibilities of having a Wolf dancer in the family.

Tribes in the Puget Sound, Vancouver Island and along the Oregon and Washington Coasts annually make a Tribal Journey, a canoe journey. Each canoe group paddles to a new destination each day and is hosted by tribes along the canoe journey route. The culmination of Tribal Journey is Protocol Week, hosted by the destination community. Songs and dances, speeches, give-aways, and presentations are made by every tribe attending as well as by every distinct canoe family. When the Makah hosted the annual public event of Tribal Journey in July 2010, public songs were sung when the Makah took the floor and presented their songs and dances. Makah elders decided this to be the safest route, considering the “unfeasible” job of preventing unauthorized recording when thousands of people were in attendance. Former Makah Culture and Research Center director, Greg Arnold, reminded the crowd that the family

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<sup>236</sup> The Associated Press, “Vampire Tourism’ Breathes New Life into Small Town.”

<sup>237</sup> They sometimes are referred to as “Twi-hards” because of their fanatic zeal for Twilight merchandise and scenes described in the book and filmed in the movies.

<sup>238</sup> The Twilight series featured epic battles between the Natives who turned into werewolves, and the non-Natives who were vampires.

<sup>239</sup> Micah McCarty. Personal communication. August 13, 2010.

songs sung were “copyrighted materials,” that “the reason we still have these songs is because we have tight control over them.”<sup>240</sup>

During the Protocol presentations in Neah Bay, there were numerous announcements from the various groups indicating their permission or denial of photo, audio and video recording. The Ahousaht brought out masks, their ancestors, and Ahousaht tribal member Marlene Dick instructed that crowd that they could take photographs if they wanted to use them for their own personal use, but she warned the crowd: “don’t put our ancestors on the internet!”<sup>241</sup> Even with the verbal warnings from the MCs, members of Makah were actively patrolling the crowd, instructing visitors to stop filming and to put away their cameras. Taking the initiative in this way, the Ahousaht and the Makah were verbally and physically protecting their cultural property. Despite the oral, verbal and physical protections taking place, footage of the Makah Protocol presentation was posted to YouTube the very next day. This was done despite the warnings not to do so and after all the efforts of people helping to enforce the sovereign right of the Makah to forbid recording of their cultural property.<sup>242</sup>

### *Tlingit*

“*Ch'a Aadei Yei Unatee-Gaa*” is a cry song, sung when Tlingit clans of the Raven moiety, or Raven half of the Tlingit Nation, are in mourning. It is the property of the *Lukaax.ádi* (Sockeye) people of the Raven House of Haines, Alaska. It is brought out during a *ku.éex*<sup>243</sup> and

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<sup>240</sup> Greg Arnold, Makah Protocol, Neah Bay Washington, Tribal Journeys, July 2010.

<sup>241</sup> Darlene Dick, July 2010, Tribal Journeys, Neah Bay, Washington

<sup>242</sup> The video has since been taken down but it was seen by many who were at Protocol in Neah Bay and who heard the verbal announcements, pleas and instructions not to record the Makah’s presentation during Protocol.

<sup>243</sup> A *ku.éex* is considered a potlatch by many because of the give-aways that occur after the mourning is officially ended. It is also known colloquially as a payback party, where members of one clan, pay back members of the opposite clan for assisting during their time of mourning and loss.

is sung to mourn the loss of ancestors, ancient and recent. Austin Hammond, the Lukaax.ádi clan leader, gifted this song to all the Southeast Alaskan Tlingit people so they could cry for their land, so the younger generations can cry for their lost identity and remember what it means to be Tlingit, to be from the bounded space of Southeast Alaska.<sup>244</sup> Misconstruing what Hammond meant when he gifted it open access to everyone in



Southeast, it was branded the inappropriate moniker “The Tlingit National Anthem.” Tlingit people started singing the song as entertainment and assumed the Euro-American practice of standing for this song, as we are taught to do for our country’s national anthems.

During a ku.éex hosted by the Lukaaxádi, the clan reclaimed the song for its original purpose as a cry song owned by their clan, but encouraged all Tlingits to sing the cry song, when appropriate. In an open letter dated January 26, 2008, Nora Marks Dauenhauer, respected elder, author, poet and member of the Lukaax.ádi clan wrote that in a wider context the song can be used “to remember all those who fought for our land, and, by extension, other Native causes including citizenship, integration, voting and other civil rights, fishing rights, labor rights, language, culture, and identity.” Marks Dauenhauer and the Lukaax.ádi clan hoped that people who sing the song “educate their singers, and sing it with respect.” She finished her letter by reminding Tlingit people that it “can be a song of unity, but at the same time it asks each singer to be aware of and proud of his or her identity and ancestry in the

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<sup>244</sup> Keixwnéi and Dauenhauer, “Clarification on Ch’a Aadei Yei Unatee-Gaa.”

modern world.”<sup>245</sup> Fellow members of the Tlingit nation used the song in an inappropriate way and Marks Dauenhauer and the Lukaax.ádi clan addressed the inappropriate use of their clan’s intangible cultural property in a setting that declares and reaffirms the connection of the clan with the song.

The examples of addressing breeches of protocol within the traditional space of the Zuni, the Makah and the Tlingit powerfully illustrate the desire and the actions of Indigenous communities and groups towards the protection of their knowledges and their ceremonial ways of knowing. There are undoubtedly other communities and specific actions working towards these efforts, however, for this current research, these three cases provide a glimpse of the methods employed by specific Indigenous nations. More importantly, these cases and actions are examples of how the customary laws of the community are being used to regulate any actions seen as detrimental to the group or to their associated ceremonial activities.

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<sup>245</sup> Ibid.

## Identifying significance

This research focused on one primary case, Zuni Pueblo. This approach answers the call by legal scholar Jane Anderson when she stated that the creation of a body of work regarding the protections of Indigenous Knowledge requires specific examples from Indigenous communities.<sup>246</sup> Generalizing based on specifics echoes Hawaiian scholar Manulani Aluli Meyers' assertion that 'specificity leads to universality.'<sup>247</sup>

Following this logic, I will be able to contribute to the network of examples documenting protections from a variety of communities. Qualitative research in general and Indigenous Studies in particular has long been uncomfortable when making generalizable claims about research, however, Indigenous communities do have commonalities that place us in tandem with each other. These commonalities stem from our notions of bounded space, the ways in which Peoplehood resonate with our definitions of who we are as unique Indigenous peoples and in our sustained efforts to protect our ways of knowing. Another commonality is our effort to document and protect Indigenous knowledge, particularly when the knowledge is esoteric or privileged in nature and has the potential to contribute to the cultural sustainability of each community, as well as to the literature in multiple fields of study.

The general principles generated from this research will be a significant contribution to Information Science and to archival studies, expanding our understanding of how archival decisions are made in Indigenous communities, as well as expanding our notions of what an archive is and can look like. Applying multiple avenues of protection to one case can contribute to legal studies of Indigenous knowledge protections and also helps other Indigenous

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<sup>246</sup> Anderson, *Law, Knowledge, Culture: The Production of Indigenous Knowledge in Intellectual Property Law*.

<sup>247</sup> Meyer, "Indigenous and Authentic: Hawaiian Epistemology and the Triangulation of Meaning."

communities see themselves and their respective struggles reflected in the present work and can help them to identify strategies that best suit their needs. The compilation of legal mechanisms of protections available to Indigenous communities could prove to be a major asset as Indigenous communities fight to protect their critical tribal assets of information and knowledge. Having successful examples of documentation and protection to reference coupled with a reference guide of applicable intellectual property rights can make all the difference in positively influencing policy and winning court cases in favor of Indigenous interests regarding the protection of Indigenous cultural and intellectual property.

### **General Principles for Indigenous Communities**

Given the examples of documentation and protection of Zuni knowledge, as well as the actions by other Indigenous groups, there are several principles that Indigenous communities can follow when creating their own methods of protection and documentation of their unique systems of knowledge. These principles are infrastructure, discussion, and awareness.

*Infrastructure* is key and will be different for every Indigenous community. Each Indigenous community should have people within their tribe, clan or corporation who can answer questions and help create guidelines regarding the religious, spiritual and cultural ways of the group. Without those cultural leaders the questions about what gets documented and what is in need of protection are much harder to answer and for communities to prioritize. The Zuni Cultural Resources Advisory Team (ZCRAT) is comprised of religious leaders from various groups within the Pueblo. They work as a group to discuss culturally sensitive questions posed to the community regarding appropriate research, visit museums to examine

objects eligible for repatriation, help determine the appropriateness of cultural projects such as the MAP and so forth. The advantage of having the ZCRAT in place as a deliberating body regarding Zuni knowledge, is that we as a community have a resource that can help clear up cultural questions, can provide counsel on questions regarding documentation of cultural projects and who can assist in the design of solutions tailored to the community.

The *discussions* that take place amongst ZCRAT are part of the infrastructure needed to make cultural projects viable and sustainable. Another method of creating sustainable projects is to involve the wider community in the discussions. One way of doing so is to bring the cultural questions to the cultural advisors first, and after ensuring the appropriateness of the project, bring the cultural questions or proposed plans to the community members who can then provide input to the project and hopefully can reflect the concerns or questions some of us “average” community members might have.

As shown in Table 2, there are a great deal of projects going on in Zuni Pueblo that are not part of a coordinated master plan originating from a single source, yet each project is focused on one or more facets of the related yet distinct projects of documentation or protection of Zuni knowledge. The fact that there are so many projects in Zuni is testament to the fact that there need not be a coordinated effort, but perhaps *awareness* of each others projects is enough to keep from duplicating efforts and to ensure that the community is presenting a unified message regarding the ways the community wants the shared knowledge to be treated and regarded internally and by others. The goal of each project, whether explicitly stated or not, is not to impede others’ projects or progress, but to ensure that the progress made to reclaim or to protect Zuni knowledge is always moving forward, instead of taking steps backwards that might inadvertently harm the community in some way. Without the

infrastructure of the religious, cultural and spiritual leaders of the community, it is extremely difficult to know when progress towards protection of Indigenous knowledge has been stifled. Likewise, if the community does not engage in dialog within its own borders, protection efforts can also be stymied because of lack of working knowledge of what needs protection, what methods are appropriate to employ and, by whom. Knowing what efforts are underway in a community is important to build up a unified front, to build cultural awareness and to create ambassadors out of every community member. Each of us who possesses knowledge of the community-specific methods at work in our hometown is engaging in the process and actively participating in the protection of the cultural resources of the community.

### **Future Research**

As with any research project, the quest to answer two broad questions - How is Zuni documenting its knowledge and how is Zuni protecting its knowledge? – has generated as many questions as it has answers. The questions relate to colonial mentalities, the interests of the individual over the interests of the group, the use of social media sites in Indigenous contexts, and furthering our understanding of community initiatives focused on the strengths of the arts. In the interest of creating a manageable research endeavor, I have resisted the temptation to force these interesting and important areas of research in to this current project and instead make a call for fellow Indigenist researchers to take up these questions and to further the investigation of the protection of Pueblo knowledge. The emphasis on relational accountability varies for the following projects, but should be considered an important cornerstone of any research endeavor involving Native and Indigenous communities and

subjects. The avenues for future research are listed here in no particular order, as each are valid in their own way, and will require slightly different methods of research.

### *Interviews of Videographers*

This line of inquiry would require finesse and the Internal Review Board. The interview questions driving the interviews of the videographers would include: What is the purpose of recording these sets of dances? What is the purpose of posting these videos online? What feedback have you received about the videos? Are there dances that are not recorded? How do you decide when to record the dances? The goal of this research would be to explore the reasoning behind the recording of the dances. Tribal members who are not taking videos but commenting on them would be ideal participants in this line of inquiry as well.

### *Identifying Additional Tribal-Based Protections*

This avenue of research would add to this line of inquiry and expand our existing knowledge of innovative practices being employed by Indigenous communities with the goal of documenting and protecting Indigenous knowledge. While the danger of exposing the defensive plan remains a real threat to Indigenous knowledge, protections based on the strengths of the community – particularly visual strengths – would help ensure that without the right information and knowledge, one could only absorb so much from the visual manifestation of knowledge. In the case of the MAP, one must have working knowledge of what it is that they're looking at, in order to be able to extract any cultural knowledge from the images. Otherwise, they're merely looking at a beautiful painting. Surely, there are other projects of this type;

exploring them would provide even more examples for other Indigenous groups interested in tribal-based documentation of their systems of knowledge.

### *Inter-Tribal Comparisons*

One of the tenants of this research is acknowledging the bounded space of a specific Indigenous community. What is the relationship between Native groups and homelands they have been removed from? Governmental policies of removal (of tribes such as the Cherokee of North Carolina) displaced groups from their traditional territories, if they wished to continue to be recognized and maintain their status as a sovereign tribal nation. Yet the Cherokee have maintained their sense of identity and recognize both their traditional territories as well as their newly settled homelands in Oklahoma. How can this be when one set of Cherokee finds themselves in the diaspora, separated from the original group and homelands? This avenue of research would look deeper into the question of bounded space, and to the various methods and systems of knowledge that keep communities linked together despite having survived geographical dispersion of its peoples. This line of inquiry would have particular interest to our brothers and sisters of Oceania, many of whom are actively addressing the questions of retaining Indigenous identities despite living in the diaspora of their home islands and waters.

### *Photographs vs. Moving Images*

Is there a difference between still and moving images? Some might think so and this would place the YouTube videos in a different category of documentation or offensiveness because it records so much more than a singular moment of a cultural event. It records sounds, people,

context and a ceremony in ways that a photograph simply cannot capture. Does this change the nature of the concerns that an Indigenous community needs to contend with when working towards the documentation and protection of their unique systems of knowledge? This question can also pertain to different types of media, particularly in the art context. Do three dimensional models of kokko friends and paintings of ceremonial events violate the ceremonial privacy of Pueblo communities in the same manner that photographs seem to? Is the difference that Pueblo people created these images and so the offense is not as great or non-existent? If that is the logic, then photographs and videos taken by Pueblo peoples stretch the boundaries of appropriateness as well. Perhaps we're not ready to go there as Pueblo peoples. However, we need to be able to consider these questions now, as a community, before someone makes these decisions for us and before the actions of a few put the rest of us in cultural danger.

### *International laws and local issues*

There are international instances of sacred objects being auctioned off as art works<sup>248</sup> that have implications for national mandates such as the Native American Graves Protection and Repatriation Act (NAGPRA). The questions that remain are, how can we obtain the rights to our intellectual and cultural property on the international arts scene where the national laws of the U.S. are not applicable? It will be through a blend of strategic methods, diplomacy and hopefully international policy that we will be able to secure our sacred items and beings and help facilitate their return to our home territories where they belong.

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<sup>248</sup> Miranda Belarde-Lewis. "The Tricky Business of Contesting the Sale of Sacred 'Objects.'" Indian Country Today Media Network. <http://indiancountrytodaymedianetwork.com/2013/04/24/tricky-business-contesting-sale-sacred-objects-148993>. Last accessed May 18, 2013.

I hope that this research inspires others to continue in this work and serves as a model for researchers from other fields as well as other backgrounds. The use of the Pueblos in general and Zuni in particular is a small contribution to a large and growing awareness of decolonizing work that must continue on all the various levels of Indigenous existence and resistance.<sup>249</sup>

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<sup>249</sup> I am indebted to the work of Ally Krebs for her pioneering and tireless work in these efforts.

## Conclusion

This research has explored legal and theoretical methods of protecting Indigenous knowledge. Legal protections can only take us so far. When these methods of protecting Indigenous knowledge fail us, or do not provide the protection Indigenous communities seek, it is up to each community to decide if they need to take further action to document or protect their systems of knowledge.

There are many avenues available to Native communities, all of which require infrastructure, on-going dialog, awareness of threats to community knowledge, and awareness of community efforts towards the protection of Indigenous knowledge. The guidance from cultural, spiritual, and elected officials, community buy-in and dialog cannot be overstated. Threat awareness requires recognition of the following: what knowledge needs to be protected; and what makes migration narratives, emergence histories and explanations of ceremonial cycles vital for community empowerment. This awareness can equip Native communities with the basic knowledge of what is important and are what makes that community special and worth protecting.

The Peoplehood model was originally proposed as a unifying theory for American Indian Studies, and has been used as an analytic tool for this research. The interconnected elements of land, language, ceremonial cycle and sacred history provided a lens to evaluate the specific ways the Zuni Tribal Resolutions, the Map Art Project, the Morning Prayer Mural and the YouTube videos are working towards the documentation and protection of Pueblo knowledge.

As a member of the museum field, I am contributing my academic intervention<sup>250</sup> to Information Science, a field based upon the tenants of information access, and the promotion of the democracy of information expressed in the phrase, “information for all.” Being born and raised in a “traditional community,” I humbly, and not so humbly, disagree with both concepts. In Zuni, you have to earn information. Much of this information is medicinal and otherwise sacred in nature and is not public to most Zunis, myself included. The earned information becomes ritual knowledge as it is practiced on a daily, monthly and annual basis. As religious leader Octavius Seowtewa states, “this knowledge is to be protected as a precious object one is wholly responsible for.”<sup>251</sup> Whether we are in the community, researching there, or both, that responsibility begins with the individual.

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<sup>250</sup> Thanks to Dr. Vince Diaz for introducing me to the notion that at many times the academy is in dire need of an intervention and Indigenous scholars have a lot to offer in this regard.

<sup>251</sup> Octavius Seowtewa. Personal Communication. July 2011.

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