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### **The “Herzog/Navajo” Collection and the Intellectual-Property Issue**

The focus of my project is a body of 588 wax-cylinder recordings from a collection of some 1200 cylinders of ceremonial chants of the Navajo Indians of Arizona and New Mexico. Collected between 1931 and 1932, the songs were recorded by George Herzog (1901-1984) - an early, central figures in the discipline of ethnomusicology - on behalf of Mary Wheelwright.

Due to the short life-expectancy of early wax cylinder recordings, the originals were sent to Berlin for Galvano copies to be made (in the process of which the originals were destroyed) and preserved in the Berliner Phonogram-Archiv. Additionally, copies were sent to Wheelwright and a few American institutions such as American Museum of Natural History (New York) and the Bureau of American Ethnology (Washington).

In 1999 the Archiv was designated by UNESCO with “world heritage” status. This has stimulated an increase of public interest in the archive and with it the need to make its contents accessible to the public. The Herzog/Navajo collection is one of those in the archive that still needs to be documented, reevaluated and in one way or the other to be published.

The contents of the Herzog/Navajo collection comprises ceremonial songs of a number of chantways – the basic units of the Navajo ceremonial system. Chantways are led by specialist “singers,” who not only have command of hundreds of songs but also must be able to recite long prayers and retain a knowledge of numerous sand paintings and medicinal plants. Thus, individual singers can only specialize in some few chantways in the course of their lives. At one time about 24 Navajo chantways are said to have existed, organized into seven subcategories. Of these, only about eight have been reported still in regular use at the

end of the 20<sup>th</sup> century. According to the minimal documentation available in Berlin, the Herzog/Navajo collection encompasses songs of the chantways “Blessingway chant,” “Hail chant,” “Night chant,” and “Bead chant.” These encompass most of the range of Navajo songs dealing with the phenomenon of “sickness.” Half of the chantways listed are now said to be no longer in use.

All the songs in the collection were performed by the singer Hosteen Klah (1867-1937) one of the best-known specialists for some of the chantways preserved in the collection. Because Klah left no direct successor (his only student died in 1931), the collection is unique and priceless. It was compiled by Klah with the intention that his enormous specialist knowledge might be saved for future Navajo generations.

With regard to the imminent work on this collection it is essential to recognize the fact that the claim of the Berlin Archive to it is not the only one. While the official German point of view would hold that all original copyright claims are extinguished because more than 70 years have passed since Klah’s death, American institutions and representatives of the Navajo Nation would most likely judge the situation quite differently. Especially any to-be-expected Navajo claim is far more complicated than on first glance, because at the time the recordings were made it was decision of the specialist/performer to share the knowledge acquired by and passed down to him. But the rather recent issue of intellectual property rights for traditional cultures has changed the situation dramatically. The creation of tribal institutions and the ensuing political and cultural changes that occurred after World War II will have a determinative effect on conducting research on the collection and making publication of its results available.

## **Objectives of the Project**

The project will pursue two goals: first, to analyze, document, and reevaluate the collection and, second, to describe the judicial problems in connection with the collection and its contents from a historical perspective.

Regarding the first goal, one must assess research already done, at least, on certain aspects of the collection in the 1940s and 1950s by American scholars such as David McAllester. Therefore, a close cooperation with American scholars and institutions as well as as representatives of the Navajo Nation will be integral elements of the planned research.

In addition to compiling adequate documentation, another focus will concern the meaning of the collection and the importance of those songs of the chantways preserved for today's Navajo people. In this regard, I would raise two questions:

1) what influence does the radically changing socioeconomic conditions and modern technology have on a culture which was (and most likely in many ways still is) based on oral modes of knowledge transmission?

2) How does Navajo society and the keepers of traditional Navajo religious knowledge cultures deal with the challenges of a globalized world?

The second goal of my project is closely linked to the first, even though the range of issues in today's judicial complex extends beyond the Navajo with regard to the Herzog/Navajo collection. It ranges from traditional ownership rights and their reinterpretation in the light of the modern tribal judicial system among the Navajo to judicial complexes on the national (American and German) and international (UNESCO) level that are meant to regulate intellectual-property rights. It is the complex judicial situation surrounding this particular collection that will be considered.

Both goals of research are meant to enrich our understanding of Navajo society and culture today and to negotiate a better understanding among all parties involved in preserving and dealing with aspects of traditional cultures in danger of extinction.