Law & Social Inquiry (2025), 1–31
doi:10.1017/lsi.2025.18

Law& Social Inquiry

ARTICLE

Legal Consciousness and Cultural Intimacy in Turkey's Intellectual Property Reform

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(Received 19 February 2024; revised 06 August 2024; accepted 26 November 2024)

Abstract

The Turkish state long enforced intellectual property (IP) rights only loosely. Then, in the 1980s and 1990s, market liberalization and trade agreements drove an overhaul of the country's copyright regime that transformed musical ownership and creativity, though music copyright stakeholders view this legal reform as ongoing. This article builds on existing accounts of legal consciousness to ethnographically document how a range of music industry actors—including legal professionals, musicians, music industry executives, and commercial users of copyrighted music—participate in IP reform. I identify a distinct set of cultural schemas that mediate such actors' legal consciousness in this context. The internationally integrated nature of the copyright system, together with Turkey's geopolitical positioning on the margins of Europe, has produced a reflexive aspect of legal consciousness in which Turkish citizens exhibit a heightened group status awareness as they compare their experience of domestic IP law to the imagined situation elsewhere. In a novel contribution to the literature, I observe how they often make sense of perceived dissonances between the ideals and practice of the law through culturally intimate narratives, taking the copyright system's purported failures to typify something essential about what it means to be a citizen of Turkey.

Keywords: legal consciousness; Turkey; intellectual property; cultural intimacy

> As you know, there's a thesis that people always talk about, how correct it is I don't know; why is it that all Muslim countries have stayed backward? I can't say if this idea is correct or not, but it's an observation. And there's another observation. But this one is definitely correct. What is it? The countries that

> place the most importance on intellectual property and that protect it are the most developed countries.
>
> — *İşyerleri İçin Müzik Eserlerinde Telif Hakkı Uygulamaları: Panel* (2004, 41)

This is how the judge of one of Istanbul's specialized intellectual property (IP) courts framed the stakes of copyright licensing when she spoke at a summit, sponsored by the city's Chamber of Commerce, that brought together the leadership of professional organizations for Turkey's touristic businesses (hotels, retailers, and transit operators) with the leadership of copyright collecting societies.

Copyright collecting societies, or collective management organizations, are agencies that rights holders authorize to administer their rights by licensing certain uses of copyrighted music and distributing this income as royalties to their members (see Gervais 2010). In Turkey, such societies include the Musical Work Owners' Professional Association (MESAM in Turkish) and the Musical Work Owner's Group (MSG in Turkish), which administer the rights to musical compositions and lyrics, and the Turkish Phonographic Industry Society (MÜ-YAP in Turkish), which manages record labels' rights in sound recordings. Legally, the touristic businesses are required to purchase licenses from the collecting societies for their use of copyrighted music (such as when they play it over the speakers in a hotel lobby, store, or bus for their clientele). The users often resist paying for music or haggle for lower rates. A lawyer from MÜ-YAP had depicted such resistance in stark terms in his own address to the summit, which stressed the universality of IP norms:

> When you look at the international structure, since the eighteenth century, international efforts drive internal laws, so, on the one hand, internationally there is a universality to the order. They say, brother, you're going to protect property. You're going to put importance on human rights, pay the cost of intellectual rights. On the other hand, you have the local order, a few national realities, and taking these few national realities into consideration, you're saying, brother, the conditions in my country are different. To get the guilty to confess, it might be necessary to beat them. Maybe even torture them. Or maybe I don't have to pay for rights related to intellectual property, or when I get a refrigerator, I can take it without paying and say, "some day later we'll talk about the money." . . . In the end, it is the people of a country that create that kind of order. But that is your internal order, and if you continue to operate according to these rules, you cannot be a member of international society. . . . We have to accept international norms. (*İşyerleri İçin* 2004, 24–25)

Both the judge and the MÜ-YAP lawyer are heavily invested in what I call IP reform in this article. Turkey long enforced its IP laws only loosely, a dynamic that shaped the country's music sector, where rampant record piracy made for low profit margins in the record industry and led international major music companies to abandon the market by the early 1970s (see Çakmur 2001). The state proved reluctant to enforce copyrights in music until a period of economic liberalization and integration with Europe that began in the 1980s. As part of the trade relations

https://doi.org/10.1017/lsi.2025.18 Published online by Cambridge University Press

that Turkey cultivated during this era, including its efforts to join the European Economic Community (and, subsequently, the European Union [EU]) and its signing of the Trade-related Aspects of Intellectual Property Rights (TRIPs) Agreement in 1995, the state sought to revamp its IP system through police actions that shored up anti-piracy enforcement, through developing domestic IP expertise, and through establishing a bureaucratic apparatus that effectively collects licensing income and efficiently distributes it as royalties to rights holders (see Keyder 1996; Karlıdağ 2010). The formation of copyright collecting societies to license the public performance of music was part of this process. During my research, I found that copyright stakeholders tended to view this reform process as ongoing since many measures indicated that the copyright infrastructure was not living up to its potential in Turkey. For example, rights-holding musicians often complained to me about their low royalty payouts, and the leadership of the collecting societies often referenced the overall low licensing income that they were able to bring in relative to other countries that were comparable in terms of their gross domestic products, their populations, and their ratios of locally produced music to international repertoire within domestic consumption (CISAC 2022).

That individuals such as the judge and the MÜ-YAP lawyer, who have professional stakes in the copyright system would advocate so strongly for it is hardly surprising; their remarks seem to be aimed at pressuring the professional organizations by depicting them as an element keeping Turkey from joining the modern, international order. More striking is how their rhetoric suggests an acute awareness of group status—that there are collective stakes for everyone involved. IP norms are framed as unquestionable because they are universal; if Turkey fails to respect them, the rhetoric suggests, it will be a second-rate, backward country.

The users seemed to take some aspects of this framing for granted. A representative for the hospitality industry commented: "In earlier meetings or in the molding of public opinion it was said that the tourism [sector] doesn't want to pay copyright . . . but within Turkey the touris[tic business operators] are a relatively civilized society; no one is opposed to paying copyright; actually copyright is going to be paid and has to be paid. This is very natural, and there's nothing to say against this" (*İşyerleri İçin* 2004, 29). Having affirmed the normative grounding offered by the MÜ-YAP lawyer and the judge—that paying for copyright is "natural" and that those who do so are "civilized"—the representative pivots, however, toward a pragmatic consideration of the disparity between such lofty IP ideals and more concrete economic considerations: "Sir, we can't forget the realities of the country in my opinion; I mean we compare everything with [how things are] abroad, and that's beautiful and good; why don't we compare the base pay [here] with the base pay abroad, or the price of a hotel where you stay overseas with the price of a hotel here? In other words, the expenses have to be presented in parallel with the income" (29).

In his pivot, the hospitality industry representative thus shifts between two perspectives on copyright legality: one that is an affirmation of IP's normative basis and the other that is a pragmatic engagement with the question of how the idealized vision of copyright should be realized in the immediate context. In this article, I track such shifting perspectives on copyright in order to sketch an ethnographic account of legal consciousness in Turkey's music sector, defined broadly to include not only musicians and music company executives but also lawyers and government officials

https://doi.org/10.1017/lsi.2025.18 Published online by Cambridge University Press

concerned with copyright, IP courts, and licensees of copyrighted music. Within this account, I describe the normative and pragmatic perspectives between which the hospitality industry representative pivots as two (out of four) dimensions of their legal consciousness.

Scholarly interest in legal consciousness has grown in recent years (Halliday 2019). The term has been defined in a variety of ways (see Engel 1998; Marshall and Barclay 2003; Cowan 2004; Silbey 2005; Halliday and Morgan 2013). Legal anthropologist Sally Engle Merry (1990, 5) glossed it as "the ways people understand and use law." In their study *The Common Place of Law*, sociologists Patricia Ewick and Susan Silbey (1998, 247) called it "participation—through words and deeds—in the construction of legal meanings, actions, practices, and institutions." Central to such accounts is that what participants construct is not just the law as expressed "on the books" (Pound 1910) but also an emergent social phenomenon called "legality": "the meanings, sources of authority, and cultural practices that are commonly recognized as legal, regardless of who employs them or for what purposes" (Silbey 2005, 347). As socio-legal scholars David Engel and Frank Munger (2003, 11) put it, "[l]aw is one of the elements that constitute the categories and routines of everyday life; and, in turn, these very categories and routines—and the individuals who participate in them—give form and meaning to the law. ... The term 'legal consciousness' is now widely used to characterize the two-way process and the behavior and cognition of the social actors who participate in it."

In keeping with such definitions, the present study ethnographically documents the agency that a variety of actors exercise in giving form and meaning to copyright law—and how legal categories shape their ideas and actions in turn—in the context of Turkey's ongoing IP reform, particularly as it pertains to the music sector. In what follows, I draw on research conducted for my forthcoming monograph, *Copyright Consciousness: Musical Creativity and Intellectual Property in Turkey* (Fossum 2025). For this project, I conducted ethnographic fieldwork and archival research in Turkey (primarily in Istanbul) during several periods: from August 2013 to May 2014, from January to November 2015, and during the summers of 2016, 2018, 2019, 2022, and 2023. This article draws primarily on the ninety-five interviews (and many more informal conversations) held with a variety of actors in Turkey's music copyright ecosystem during this research: musicians (both performers and creators of copyrighted content); industry executives, including record producers and music publishers; copyright collecting society officials; IP lawyers and judges; bureaucrats from the Ministry of Culture; music journalists; listeners; and licensees for commercial uses of music. I offer several contributions to the literature on legal consciousness explored more fully in the monograph. My aim is not to account for the purported failures and challenges that my interlocutors cited regarding the still-developing copyright system. Rather, I aim to show how they themselves understand and respond to such situations as they constitute legality in the music sector. My main argument is that the cultural schemas that mediate legal consciousness in Turkey's IP reform sometimes resemble, but are sometimes distinct from, those that scholars have observed in other contexts. Especially novel is my identification of what I call, following anthropologist Michael Herzfeld (2005), a "culturally intimate" aspect of legal consciousness in which actors make sense of the failures and shortcomings of Turkey's emergent copyright system in terms of familiar essentialisms about what it

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means to be a citizen of Turkey. After a theoretical overview that further clarifies these contributions, I sketch a picture of legal consciousness as I encountered it in the context of Turkish IP.

Theoretical overview

As more scholars have grown interested in legal consciousness, so too have the areas in which they have researched it. For example, while legal consciousness has long been associated with lay actors' engagements with the law in "everyday" contexts (Sarat and Kearns 1993; Silbey 2019), studies have increasingly examined the legal consciousness of elite actors such as judges, corporate lawyers, and bureaucrats (Yngvesson 1988; Richards 2015; Somanawat 2018; Tungnirun 2018). From its early focus on the United States, research has also expanded into international contexts (Gallagher 2006; Engel and Engel 2010; Kurkchiyan 2011; Kubal 2015; Hertogh and Kurkchiyan 2016; Khorakiwala 2018; H. Wang 2019; Liu 2024). The present article contributes to both trends by examining legal consciousness among a broad range of actors from musicians to copyright officials, industry executives, lawyers, and jurists in Turkey.

Since Patricia Ewick and Susan Silbey's (1998) classic account, legal consciousness researchers have often depicted legality as multifaceted, constituted through multiple, seemingly contradictory, ways that people approach the law. Ewick and Silbey described how, in the context of 1990s New Jersey, where they conducted extensive ethnographic research, citizens imagined the law as a transcendent realm removed from the particulars of the everyday, its legitimacy grounded in its impartiality. To remain relevant to citizens' lives, however, the law must also be available to them as a strategic resource to leverage in the world; when narrating this aspect of legality, they described or treated the law as if it were a game to be played. While these two stories of the law seemed contradictory, they mutually worked to reinforce the law's power: "Challenges to legality for being only a game, or a gimmick, can be repulsed by invoking legality's transcendent reified character," while "dismissals of law for being irrelevant to daily life can be answered by invoking its gamelike purposes" (230). A third thread consisted of resistive tactics (à la Michel de Certeau [1984]) and critical discourse. While this thread depends upon recognizing the contradictions between the law's ideals and the realities of how it plays out, in fact, it reinforces the law's authority by affording the disempowered a space of agency without disrupting its hegemony (Ewick and Silbey 1998, 233). These three stories or cultural schemas collectively structured legal consciousness in this New Jersey context.

A few subsequent studies have taken up this tripartite model of legality, sometimes modifying it. In her study of legal consciousness among gay and lesbian populations, socio-legal scholar Rosie Harding (2010) adds nuance to the account of resistive legal consciousness by incorporating theoretical insights from Michel Foucault's analysis of governmentality (compare Foucault 1991). Erik Fritsvold (2009), meanwhile, complicates the tripartite model by identifying a fourth story of the law in which people not only question the disconnect between the ideals of the law and the reality of the law in practice but also challenge the very ideals of the law themselves. Calling this story "under the law," Fritsvold documents how radical environmentalists view

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the law as "an active agent of injustice" that serves corporate capitalist power (816).[1] Other studies have built more loosely upon such a multifaceted model of legal consciousness. Criminologist Prashan Ranasinghe (2010) describes how members of business improvement associations confronting public disorder express a profound ambivalence toward the law, articulating a reverence for it while also finding themselves disenchanted with its outcomes. Similarly, legal scholar Pascale Cornut St-Pierre (2019, 344) describes how corporate tax lawyers affirm a classical story of the law as a set of coherent rules that states establish and by which lawyers play; their deployments of legal technique, however, reveal that they in fact "use the rules to produce something new and unexpected."

Responding to how this area of research had expanded in the early 2000s, Silbey (2005) critiqued how some scholars had lost sight of the critical agenda of accounting for how the law's hegemony is sustained despite the persistence of unjust outcomes. More recently, however, Simon Halliday (2019) has argued that legal consciousness research has never been limited to such a critical legal studies approach, as scholars have also long investigated the topic for the purposes of interpretive projects, cultural comparison, and legal implementation. Similarly, some scholars have distinguished between "power-and-resistance" approaches and "communities-of-meaning" approaches to legal consciousness (Engel 1998; Tungnirun 2018, 62ff, citing Greenhouse 1988; Yngvesson 1988). Ewick and Silbey's (1998) efforts to explain the law's hegemony represent the former, while projects in the latter category show how legal consciousness contributes to the construction of imagined communities to which actors feel they belong (compare Anderson 2006). One of my own contributions will be to offer an account that integrates these two concerns, showing how widely circulating social imaginaries mediate the processes that produce the law's hegemony.[2]

Like Prashan Ranasinghe (2010) and Pascale Cornut St-Pierre (2019), I draw a loose inspiration from Ewick and Silbey's (1998) multifaceted account, identifying multiple dimensions to legal consciousness that do not map perfectly onto Ewick and Silbey's model. In addition to the normative and pragmatic dimensions of legal consciousness that I have mentioned above, I highlight two further aspects of legal consciousness as well. Within what I call a critical dimension, actors observe purported shortcomings, dysfunctions, or injustices of the copyright system, often attributing them to self-interested actors wielding their power unfairly. A fourth and final dimension of legal consciousness that I identify in this context is what I call a culturally intimate one. Here, the apparent failures of the copyright system make sense in terms of widely circulating essentialisms about what it means to be a citizen of Turkey (compare Herzfeld 2005). This aspect of legal consciousness is in clear evidence at the summit quoted at the opening of this article, where all three individuals I have cited seem to express an anxiety that a failure to license the use of copyrighted music might confirm a stereotype about the country's supposed backwardness. As my opening examples

[1] Research into intellectual pirates has documented perspectives that resemble this "under the law" schema (see, for example, Dawdy and Bonni 2012), and while it stands to reason that such perspectives exist in Turkey, I did not encounter this sort of story in my research there.

[2] Other studies similarly highlight how citizens reproduce national and racial imaginaries while constituting legality (see, for example, Hertogh and Kurkchiyan 2016; Aliverti 2019).

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suggest, these distinct dimensions of legal consciousness that I identify often overlap, as some instances of discourse may exemplify more than one of them, and the same actors often modulate among them. Similarly, other scholars have emphasized how such distinct aspects of legal consciousness that they identify are analytical constructs that describe a messier social reality (Halliday and Morgan 2013, 12).

While many studies have therefore shown legal consciousness to consist of multiple, seemingly contradictory, but, in fact, mutually reinforcing aspects, two factors give a particular character to legal consciousness of copyright in Turkey. The first is the nature of copyright law itself. Copyright regimes are national in jurisdiction, and, thus, they implicate everyone in the domestic music industries together. It makes allies of music makers who operate in different genres and who identify with divergent political positions but who are often united as members of collecting societies looking to increase the overall royalty pool. It also sets up a series of sometimes opposing interests: between record labels and publishers or songwriters, who compete for slices of the royalty pie, for example, or between rights holders and the owners of public spaces such as shops and bars. National copyright regimes are, however, shaped by the terms that international treaties such as the Berne and Rome Conventions establish, and countries often work to harmonize their statutes with those of other countries that they view as key trade partners (for Turkey, these are usually EU states).[3]

Copyright collecting societies meanwhile maintain sometimes fraught cooperative relationships with societies in other countries where their members' music might also be performed and thus accrue royalties. All of this means that copyright establishes a set of sometimes cooperative, sometimes combative, relationships among both domestic and international actors. While some scholars have focused on identifying differences in legal consciousness among differently positioned actors—such as those who are more and less experienced with the legal system, for example (Gallagher and Wang 2011), others have analyzed narratives about the law that are widely shared among diverse individuals (Ewick and Silbey 1998). Throughout my own account, I will highlight some key differences in the legal consciousness of differently positioned actors—users' versus rights holders' views of copyright, for example—but I also show how some stories about the law may be taken for granted by almost all the actors involved (as when the representative of touristic businesses cited at the opening of this article shares with rights holders an assumption that paying for copyright is necessary for "civilized" people). I should also note that Turkey's legal system saw dramatic changes during the period of my research, including a major revision to the Constitution and the dismissal of thousands of judges from the court system following the failed coup attempt of 2016. The growing dominance of digital streaming platforms also transformed distribution, consumption patterns, and business models in the music industry. Nonetheless, I found that IP remained a relatively stable area of the law within this context and that the narratives shaping my interlocutors' legal consciousness seemed consistent. This may be because, in contrast to other arenas such as human rights that have been subject to legal and institutional reform as part

[3] Berne Convention for the Protection of Literary and Artistic Works, 1886, 828 UNTS 221; International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, 1961, 496 UNTS 43.

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of the EU accession process, IP is not a highly politicized, symbolically charged field that receives much attention in public discourse (compare Babül 2017, 18).

The second factor shaping legal consciousness in Turkey is the country's geopolitical positioning on the margins of Europe. This positioning means that IP reform is often framed as necessary for consolidating the nation's status relative to the highly developed economies of the EU. The project also resonates with some of the country's founding Kemalist ideologies, which have located authentic Turkish national culture in vestiges of ancient Central Asian nomadic society and stressed the need to modernize this culture through institutions modelled on western European ones (see generally Lewis 1961; Landau 1984; Ahmad 1993; Mardin 2006). Such political ideologies have been decentered to some extent by the conservative perspective of the Justice and Development Party (AKP) that has dominated Turkey's politics for more than twenty years. The AKP has challenged the Kemalists' secularism in defining the Turkish nation and, in many ways, has sought to reorient the country away from Europe and toward a distinct regional Islamic or Middle Eastern modernity (Aslan 2013). On the other hand, as other scholars have shown, Turkey continues to undergo an "identity crisis" in which a strong desire to be recognized as belonging to Europe combines with the experience of rejection and failure in the EU accession process (Babül 2017, 14). This dynamic reinforces narratives salient since the early Republican era, according to which Europeans and other foreigners were meddling in Turkey's affairs in a quasi-colonial manner (97, 129, 151; see also Ahmad 1993; Oran 2007, 55; Ahıska 2010, 54ff). At the same time, as sociologist Meltem Ahıska (2010) suggests, Turkish citizens perform their modernity for a projected Western gaze—how they imagine the West sees them. This entails outwardly confirming the official narrative of progress while guarding shared, insider knowledge of the failures of such progress, which produces an intimacy among those involved in modernizing processes (39). The experience of IP reform—including the purported failures of the copyright system—exemplifies such a dynamic.

These two factors—the nature of copyright and Turkey's geopolitical positioning—generate a reflexivity to legal consciousness, a group status awareness that is not often present in legal consciousness studies set in North America or western Europe, though it may be a common feature of legal consciousness in those positioned on and beyond the margins of the global North. For example, socio-legal scholars Marc Hertogh and Marina Kurkchiyan (2016) compare legal consciousness in the United Kingdom, Poland, and Bulgaria. In their account, UK citizens favorably compare the legitimacy and effectiveness of their own legal system to those in other countries, while Polish and Bulgarian citizens are often cynical about their own countries' legal systems, a view that contrasts with their positive perceptions of EU law. As I will show, this reflexive aspect of legal consciousness runs through all four of the dimensions that I identify: the normative, the pragmatic, the critical, and the intimate. The project of establishing a well-functioning copyright system in the country is a collective one that matters for rights holders' livelihoods and the vitality of the music sector as a whole. But those involved in the project must make sense of how the copyright system seems dysfunctional at worst, underdeveloped at best. Actors tend to interpret the situation not only in terms drawn from copyright law itself but also in terms of larger narratives about the country's historical, cultural, and political positioning.

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Table 1. Dimensions and schemas of legal consciousness in the context of Turkey's music sector

Dimension of legal consciousness	Cultural schemas
Normative	Law's ideal is grounded in international norms more fully embodied elsewhere; an author's moral investment in the work makes copyright transcendent/unquestionable
Pragmatic	Law as a game to be played; copyright as "system" under development
Critical	Shortcomings of copyright system are caused by self-interested deployments of power. Copyright is a form of cultural imperialism. The disempowered assert agency through resistive acts.
Intimate	Copyright dysfunction makes sense in terms of self-essentialisms about Turkish society

In what follows, I examine each of the four dimensions of copyright consciousness in turn. Just as Ewick and Silbey (1998) identify the cultural schema of the law as a game, I trace a series of cultural schemas that pattern how actors constitute these dimensions of legality. I call them cultural schemas to emphasize that, while they often involve a narrative, the schemas can be as evident in how they shape actors' behavior as they are in explicit discourse (compare Halliday 2019, 863). Table 1 summarizes the following discussion by showing which recurring cultural schemas inform which dimension of legal consciousness.

In order to illustrate the dynamic interrelation among the four dimensions of legal consciousness, I then return to the issue of licensing the performance of copyrighted music in public spaces, discussed at the opening of this article. I analyze an interview with one actor, a former president of MESAM, about the specific challenge that he faced during his time in office. I show how, within his account, he modulates among all four of the dimensions of legal consciousness that I have identified. In a brief conclusion, I consolidate these observations, summarizing the picture of legal consciousness that I have sketched and highlighting their contributions to the literature in general.

The normative dimension: copyright as ideal

Within what I am calling the normative dimension of legal consciousness, actors depicted the law in idealized terms and affirmed its normative basis. I found that, in the context of music copyright in Turkey, two main cultural schemas informed how they did so. In the first, they located the ideal copyright system in an imagined international realm; in the second, they invoked the unquestionable rights of the author over their work. Turkey's Law on Intellectual and Artistic Works was initially modeled on Germany's, and many of its revisions have been driven by larger efforts to harmonize the country's IP laws and regulatory system with those in Europe to facilitate greater international economic integration.[4] Copyright has furthermore

[4] Law on Intellectual and Artistic Works, Law no. 5846, May 12, 1951.

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long been coordinated by international treaties such as the Berne and Rome Conventions. It should hardly be surprising, then, that a broad range of actors working in the country's IP bureaucracy and the music sector tended to ground copyright's normative basis in an imagined international realm or, more specifically, in western European standards, doctrines, and models.

In my numerous interviews and conversations with copyright administrators, executives, and musicians, they often referenced "how things are overseas" (*yurt dışında olduğu gibi*) or "in the West" (*batıda*) when suggesting models for how Turkey's copyright system should be organized or run. In addition to resonating with Republican ideologies that entailed modernizing Turkish society in the image of an idealized "West," this tendency to locate a normative model for copyright internationally makes sense because the process of IP reform has been driven by efforts to harmonize Turkey's laws with those of European countries, and it has often involved training judges in Europe and bringing in consultants from abroad to advise on legal revisions and policy. Leadership of the musical authors' collecting societies, MESAM and MSG, also attend meetings sponsored by the International Confederation of Societies of Authors and Composers (CISAC), where they tune into the latest developments in other countries. Rights holders may receive royalties when their music is performed abroad and may assign foreign collecting societies, such as France's Society of Authors, Composers and Publishers of Music (SACEM), the right to manage their overseas royalties, giving them a point of comparison for the workings of their domestic societies. And industry executives, meanwhile, often have relationships with multinational music companies from whom they gain an awareness of copyright management structures abroad.

An additional normative grounding for copyright lies in the idea of authors' rights as a moral or human right. In Turkey, as in continental Europe, copyright laws are rationalized in terms of a version of Hegelian personality theory: a work is the protectable property of an author to the extent that it reflects or constitutes some aspect of the author's personality.[5] The Turkish statute stipulates that, to be protectable, works must exhibit "*hususiyet*" (originality that necessarily bears traces of the author's personality) (Yavuz, Merdiven, and Türkay 2013, 64). According to this logic, authors (and even their families) have a moral investment in their works that justifies not only a set of economic IP rights but also certain moral rights: the right to be acknowledged as the author when one's work is copied, displayed, or performed; the right to prevent alterations to a work; and so on. Notably, the resonance between this moral justification for copyright and larger human rights discourse is affirmed by the inclusion of language protecting "the moral and material interests" of authors in Article 27 of the 1948 Universal Declaration of Human Rights (see Drahos 1999; Helfer 2010; Austin and Helfer 2011).[6]

[5] Note that this contrasts with the utilitarian logic rationalizing intellectual property (IP) laws in Anglo-American systems, where copyright is framed as a temporary monopoly granted an author in order to incentivize creativity. On the other hand, copyright laws on both sides of the Atlantic are informed in some ways by each of these distinct justifications (for a fuller discussion, see Hughes 1988; Ginsburg 1990; Boyle 2008; Gervais 2010, 13–14).

[6] Universal Declaration of Human Rights, GA Res. 217A (III), 10 December 1948.

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While this ideal of copyright as a matter of the moral rights of authors derives from legal doctrine, it also informs actors' legal consciousness. It frames copyright as a fundamental right whose neglect must be all the more objectionable for its moral valence. In my research, I found that composers and songwriters—especially those who had the most at stake in copyright or had been active in collecting societies—often spoke of authors' rights in terms of human rights. Sezen Aksu, one of the bestselling songwriters and recording artists in Turkey, for example, appeared on television to speak out about copyright during a period of intensive IP reform in the late 1990s. In one clip posted to her official YouTube channel, she tells a television audience:

> The problem of copyright is that we have this image of a few personalities, a few characters going around and just saying to our people, to the public, that we aren't getting our money for our compositions, our works, our lyrics. Now in the West it's the complete opposite, where they say creators' rights are given to the individual, in other words the creator of the work; these belong to the creator. So it is a matter of both economic and of moral rights. . . . So acknowledging moral rights, from the position of the people going around door to door looking for their rights—this is the pursuit of a democratic right no different from women's rights, animal rights, human rights, children's rights.[7]

Note how Aksu both characterizes authors' rights as a human right (downplaying their economic transactional aspect) and figures the West as the place where such rights are properly recognized and respected. Thus, the habit of locating transcendent IP ideals elsewhere introduces a reflexive element to this perspective on the law, a critical subtext according to which someone like Aksu affirms the ideals of copyright while also suggesting that the ideals have not been realized in Turkey. This aspect of normative legal consciousness resembles other examples of activists who draw on the aura of legitimacy that international human rights discourse imbues to advocate for local agendas (for example, Merry 2006; Levitt and Merry 2009; Tsutsui, Whitlinger, and Lim 2012).[8]

The pragmatic dimension: copyright as practice

If one aspect of copyright consciousness legitimizes the law by telling a story about its grounding in internationally derived legal concepts and a European philosophical tradition that frames authors' rights as transcendent and self-evident, another set of cultural schemas domesticates copyright, affirming its everyday relevance to actors in Turkey's music sector. In Ewick and Silbey's (1998, 28) classic account, citizens often describe legality in terms of a game, as "a terrain for tactical encounters through which people marshal a variety of social resources to achieve strategic goals." In my own research, I found many examples of actors in the music sector strategically and

[7] According to the description of the video, the clip comes from a 1998 episode of the program "Siyaset Meydanı," *Youtube*, 1998, https://www.youtube.com/watch?v=hvfN5WWbPOA.

[8] Some scholars have pointed out, however, how human rights activists' alignments with causes that official discourse often frames as terrorist (such as Kurdish rights) complicates the standing of human rights in public discourse in Turkey (Stork 2013; Babül 2017, 21ff).

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pragmatically engaging the law in a similar way. A good example comes from the opening of this article: the hospitality industry representative does not challenge the normative story about copyright as an unquestionable universal ideal; while he agrees that touristic businesses should and will pay for copyright, he seeks to negotiate the exact cost of such a license—in this case, by strategically suggesting that the price demanded does not sufficiently account for differences in income in Turkey *vis-à-vis* elsewhere. Yet such practical engagement involves not only negotiating the copyright regime's concrete terms but also pursuing strategies for profiting from it as it currently exists. One recording artist whose career I followed closely during my research pieces together his income through a combination of concert performances, running a music school, and selling recordings. He savvily incorporates copyright-derived revenue streams into this income. Around the time that digital streaming took off in Turkey, he left his long-time record label to start his own, presumably so that he could retain the rights to his sound recordings, which are much more lucrative in the streaming environment than are composition rights. For a period, he held an elected (and salaried) position within one of the collecting societies; a variety of musicians and industry executives suspected that those holding such positions were most interested in the stable income they provided. This strategy of combining copyright-related revenue with other means of deriving an income from music is widespread (see, for example, Hesmondhalgh et al. 2021, 18).

While I encountered such examples of a game-like engagement with the law, I also found that a different cultural schema more often shapes this pragmatic aspect of legal consciousness: my interlocutors frequently invoked the image of copyright as a "system" in whose construction they participated. While copyright stakeholders have international copyright norms on their side, realizing them in Turkey requires shoring up public consensus around respecting IP and developing the bureaucratic apparatus for licensing musical copyright and distributing royalties. These two projects are also interconnected since the well-functioning copyright system that these actors seek to build depends upon users of copyrighted music becoming accustomed to paying licensing fees that the system would effectively distribute. For actors taking up this pragmatic perspective on legality, the task was a tall one but not impossible. The account of one entertainment lawyer I interviewed who had worked for MESAM paints a picture of one example of such pragmatic engagement in building the copyright system:

> When I started at MESAM in 1997 we had three lawyers. The lawyers had no computer. That's how poor MESAM was. My colleague who worked in [the member relations department] would give us their computer when their work ended at 5 p.m., and we wrote petitions at night. The next day we would open lawsuits. That's how bad it was. MESAM couldn't collect any royalties. . . . The salaries and whatnot were also low. People who had truly devoted themselves to [the cause of] copyright were working there.

She also recalled how, especially in these early days before the state established dedicated IP courts and sent judges overseas to receive specialized training in IP law, she found it necessary in her role as a representative of music rightsholders to educate the courts about how rights management worked:

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> I am a graduate of Istanbul Law. Even though I graduated in [19]90, I finished school without learning a word about copyright. Of course the judges, the courts aren't going to know either. In our country, when you say "professional association [*meslek birliği*, the Turkish word for collecting society], a lawyer's bar association, an association of architects or accountants or something comes to mind. When we opened the first lawsuits in 1997, the civil courts would respond [by saying], "Who are you? How are you collecting money like this? Are you collecting extortion? Where did you come from?" The judge of the 8th civil court, very hard-working, was a judge who wanted to learn about the topic more deeply. I used to speak with them, explain it to them. When I was preparing the first cases, underneath [the files we submitted] we would first put [the Law on Intellectual and Artistic Works], then the regulations on collecting societies [*meslek birliği tüzüğü, tip statüsü*], and MESAM's founding documents. In other words, are we really rights holders [*eser sahipleri*] or not, what are we collecting—we would explain this. The law came out in 1952, but what is copyright [*telif*], no one knew.

While a variety of music sector actors articulated this pragmatic aspect of legal consciousness through such explicit reflections (often cast in heroic terms about the effort required for raising awareness and building the copyright system), there were many other times when their actions implied or constituted a pragmatic approach to the law. For example, one record producer, frustrated with how courts interpreted the terms of authorization agreements in lawsuits over sound recordings, decided to become a court-registered expert witness so that he might voice his perspective in legal briefs.

The critical dimension

The law appears, then, as both a transcendent ideal and a worldly endeavor. In the context of Turkish IP, one story of legality locates the ideal of the law in unquestionable norms better realized elsewhere (perhaps in western Europe), while, within another pragmatic construction of the law, actors domesticate IP legality by figuring these ideals as realizable in Turkey. But they often do so in an aspirational way. In my many conversations with actors in the music sector and the IP legal infrastructure, they were quick to point out the dissonances they perceived between the international ideals of IP and the ways in which the still developing domestic copyright system functioned in practice. Particularly in Turkey's music sector, where rights holders were often acutely aware of such perceived shortcomings of the judicial system and copyright infrastructure—whether they quantified the issue in terms of unrealized licensing income or rather recalled more qualitatively the frustrations they had encountered in their interactions with the legal bureaucracy—actors may feel a need to reconcile the apparent contradiction between the law as an ideal and in practice, finding ways to make sense of, or make do with, the situation.

A recurring theme in the literature on legal consciousness is how "[t]he contingency and indeterminate authority of legality afford the opportunity for conflict about the meaning and application of the hegemonic power of legality and define a space or a field for thought and action that challenges its constitutive or

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instrumental power" (Brisbin 2010, 26). Identifying the tensions between the ideals and practice of the law—the contingency and indeterminacy of legality—opened just such a space in the ethnographic context that I encountered. One industry executive, for example, decried the apparent irrationality and unpredictability of legal outcomes in Turkey, describing how going to court was "like a coin flip." Meanwhile, some IP courts critiqued how judicial precedents had vested expert witness testimony from musicologists with too much authority, making it impossible to rule in a way that challenged this testimony.[9] In one case, expert witnesses had suggested that there should be no finding of infringement in a lawsuit over an advertising jingle because the jingle was short; the court, which disagreed with the report's understanding of the (quite low) threshold of originality required for a melody to be copyrightable, had ordered new reports because the appeals court would likely overturn their ruling if they decided in a way that contradicted the musicological experts. Some courts unfavorably compared such situations to procedure in Europe.

Sometimes such critiques simply seemed to be aimed at identifying an issue with the copyright system as it currently existed, perhaps with a pragmatic approach to the matter in mind. Perhaps, for example, someone offering such a critique was hoping that, if their observation made it into my published account, it might help draw attention to an issue that could be addressed through policy improvements. Most of the time, however, purported shortcomings of the Turkish copyright system seemed to appear as a sign of something else, as a part of a larger pattern. Despite the contingent and contested nature of legality, I observed recurring cultural schemas that seemed to shape how actors critically reflected upon, or responded to, such tensions. Here, I identify two such cultural schemas that seemed to pattern what I call the critical dimension of copyright consciousness.

Copyright as a field of self-interested action that produces injustice

Early in my research for this book, I sat having tea with a musician and student attending one of Turkey's best conservatories. When I mentioned that I wanted to write about copyright in the country's music industry, he cringed as if I had dragged my fingernails across a chalkboard. "Copyright, . . ." he repeated. "Are you aware of the fights that have occurred over copyright?" He advised me to ask soft, indirect questions in my interviews and warned me of some of the interpersonal conflicts I needed to be aware of, that I should not mention [musician X] in the presence of [musician Y]. The conversation has stuck in my memory as one of the first instances in which I encountered the common idea that the state's efforts to shore up copyright enforcement had stoked interpersonal conflict in the music sector, including litigious behavior among rights holders. In many interviews and conversations, musicians would question the validity of lawsuits over melodic similarities by pointing out that the combinatory possibilities for constructing a melody were finite: "[A]nyway there are only 8 notes," as one musician put it.

[9] Unlike in the US system that was more familiar to me, where defendant and plaintiff each bring in their own expert witnesses to testify in their own favor, expert witnesses in the Turkish system are supposed to be neutral.

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In some such comments, musicians seemed to echo more widely circulating critiques of copyright law itself: how it can allegedly squelch creativity by reframing transformative appropriations or accidental similarities as infringements (see, for example, Vaidhyanathan 2003; Demers 2006). Such discourse suggests that many cases of alleged infringement that hit the headlines in fact reflect the inevitability of melodic similarity that greedy and litigious composers refuse to acknowledge (see also Avcı 2021, 60). Thus, while these critiques often seem directed at copyright law itself, they also imply a cultural schema in which copyright has established a set of power relations among stakeholders, and many dissatisfactory outcomes of the copyright system might be chalked up to the tendency of actors to wield their power in self-interested and unjust ways (such as through unwarranted litigiousness).

In some cases, this cultural schema was voiced through explicit discourse, but, in other cases, it was more evident through action. The world of Turkish copyright lends itself to certain resistive tactics that are analogous to those that socially marginalized actors undertake elsewhere, such as avoiding interactions with the law or "taking the law into their own hands" (see Ewick and Silbey 1998, 180ff). Collecting society officials and IP lawyers often seemed to feel relatively empowered to respond to their dissatisfaction with the system by working to reform it. Working musicians less involved in the copyright infrastructure itself tended more often to turn to resistive tactics when the law's application seemed unjust. One night, for example, I attended a performance of works by a renowned composer at a relatively small cultural center, joining the performers for dinner afterward. Knowing that I was researching copyright, one of the musicians mentioned to me that the composer's heirs were known to tightly control the live performance of their testator's works, and so they had simply not reported the repertoire performed to the composer's collecting society.[10] Where actors engaging the normative dimension of legality construct the law as impartial, acts of resistance are responses to a recognition that certain individuals—the wealthiest and most popular recording artists or the heirs to the rights to the songs of a famous composer—leverage their disproportionate power over copyright licensing or distribution for undue personal gain.

Record producers, publishers, and a variety of musicians all frequently blamed the internal power dynamics of MESAM and MSG for the overall low licensing income in the sector. The societies are run by boards elected from the membership. This arrangement is supposed to align the interests of the society's leadership with those of its members. Many people I spoke with in the music sector complained, however, that this approach put musicians, rather than the better-trained legal experts or professional administrators, in charge of the societies.[11] The societies' internal electoral politics could get heated in ways that many saw as counterproductive.

[10] While the collecting societies generally do not force performers to get an authorization from rights holders to perform their works live, a 2004 revision of Article 41 of the Law on Intellectual and Artistic Works allows rights holders to get a court injunction to block public performances of copyrighted repertoire (see Okutan Nilsson 2012, 1039). A few composers have exploited this right—most famously, when the songwriter Kayahan blocked recording artist Nilüfer from performing his songs after the two had a falling out.

[11] It is worth noting that legal experts and professional administrators play key roles within the societies. While the MESAM board and president are all elected society members, at present, the general secretary, who advises the president closely, is a lawyer.

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During my fieldwork, this was perhaps most visible in the high-profile conflict between renowned folk music star Arif Sağ and Arabesk icon Orhan Gencebay, former friends who began to hurl vitriol at each other via news media as they competed for the presidency of MESAM.[12] The implication of many such complaints that I heard from a variety of industry actors was that those fighting for elected positions were interested in them for the salaries attached to them and that this incentivized them to stage ineffectual political performances aimed at shoring up their electoral bases within the societies rather than undertaking the work necessary to improve the functioning of the societies and the licensing income they brought in. However, the situation could also be tied back to larger international power dynamics. One independent record label executive characterized the societies' electorally based leadership model as having been carbon copied from international institutional structures promoted by CISAC. He thought the international major music companies,[13] which were influential within CISAC via their publishing arms, wanted collecting societies to work this way because it inhibited their effectiveness, allowing the major players to better control the flow of money.

Other critical observations targeted the relations among collecting societies and other corporate actors in the copyright ecosystem. Copyright stakeholders often perceived broadcasters and other commercial users of copyrighted music to hold a position of disproportionate power that they wielded in licensing negotiations or that they leveraged to influence legal revisions and policy. One of the quirks of the Turkish music copyright system is the presence of two competing collecting societies for musical authors (MESAM and MSG), where such societies in most European countries enjoy a monopoly within their respective territories, allowing them greater bargaining power and operational efficiency (see Katz 2005; Gervais 2010, 3–6; Towse 2012; Band and Butler 2013; Fossum 2024). Referencing the ongoing problems that the competition between MESAM and MSG created, one IP lawyer commented to me that "our country—especially because users don't want to pay for copyright—isn't structured in such a way as to resolve [the presence of] more than one society." The comment seemed to imply that representatives for these users were lobbying to maintain a situation that they were able to exploit for their own benefit since the rivalry between the two societies weakened them both: in periods when the societies failed to coordinate their licensing efforts, the users often resisted purchasing a license from the second society after purchasing one from the first.

Copyright as cultural imperialism

According to another cultural schema, some actors accounted for the copyright system's ongoing problems—the injustices it afforded or the fact that progress on its construction seemed too slow—by framing copyright reform as cultural imperialism. They pointed either to how IP law privileged more powerfully positioned

[12] See, for example, "Orhan Gencebay 11 milyon lira zarara soktu." *Sözcü*, March 21, 2014, http://www.sozcu.com.tr/2014/magazin/mesam-473794.

[13] The recorded music industries have long been dominated by a few major multinational companies. Due to consolidation over the past thirty years, there remain at present only three such majors: Sony Music, Universal Music Group, and Warner Music Group. Smaller music companies are labeled "independents." For one overview, see Marshall 2013.

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international actors or to how it represented a Eurocentric, foreign imposition on Turkish culture. In one 2022 conversation, an executive of an independent record company asked me, for example, if I had noticed how lifeless the atmosphere had become in Unkapanı, the cluster of brutalist structures where the Turkish record industry had been largely concentrated for the past fifty years. I answered that, yes, I had noticed this, but I was not sure if this was because the sector was dying or because music companies were simply leaving Unkapanı for other locations around Istanbul. The latter was happening, she confirmed, but the sector was losing life, a situation she attributed to a colonialist dynamic within the international recording industry. The small labels, she told me, had become sub-labels for the international majors. She also complained that the royalty rates from digital streaming were much lower in Turkey than they were in the United States. She described the international majors as "giant corporations" (*dev şirketleri*) and declared that digital distribution had become a monopoly (*dijital tekelleşti*) and that "we're being exploited" (*sömürülüyoruz*).

A former Ministry of Culture official who had worked on copyright statutory revisions in the late 1990s and early 2000s expressed frustration with international IP experts who came to Turkey to advise on the process (throughout our conversation, she sometimes described these experts as representing "the West," sometimes specifically the United States or the EU). She complained that they did not take the time to learn Turkish and understand Turkey, that they dictated revisions without appreciating the sensitivities of the relations among some of the actors involved. Furthermore, the experts had been condescending and critical of the state of copyright in Turkey without considering either the context of how much it had improved in recent years or the fact that, as she asserted, the Ottoman Empire (the predecessor state to modern Turkey) had possessed a highly developed copyright law when that of the United States—which long pursued lax copyright enforcement as a development strategy (Dutfield 2008, 41–42)—was in a worse state. This official critiqued the West right back, describing how, after the First World War, European powers had capitalized on the moment to seize Ottoman territory, on the one hand, while demanding that Turkey be developed, on the other hand. She also favorably compared the Ottoman policy in North Africa and the Arab world to later Western colonial policies there.

The culturally intimate dimension

Recall how in the opening example of this article, the judge, in addressing the meeting between the collecting societies and the tourism industry associations, asked: "Why is it that all Muslim countries have stayed backward?" Likewise, the MÜ-YAP lawyer suggested that the tourism sector's resistance to music copyright licensing undermined Turkey's claim to a spot in "international society." Notice the implication that the entire nation's international status is somehow bound up with the hotel and shop owners' payment of licensing fees. Such statements come from actors obviously invested in expanding the effectiveness of the national IP system and seem aimed at pressuring the professional organizations by depicting them as an element keeping Turkey from joining the modern, international order. The judge furthermore seems to hold strongly secularist views that are not likely shared by everyone involved. But the rhetoric nonetheless belies an expectation that invoking such national anxieties about progress toward modernity might prove effective.

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A wide variety of actors in the music sector and the copyright bureaucracy related the purportedly dysfunctional or underdeveloped state of IP to such larger essentialisms about Turkish society, taking perceived copyright dysfunction as somehow typical of Turkey. Such discourse resonates with anthropologist Michael Herzfeld's (2005) theorization of cultural intimacy. Herzfeld describes cultural intimacy as "a rueful self-recognition" of "those aspects of a cultural identity that are considered a source of external embarrassment but that nevertheless provide insiders with their assurance of common sociality" (3). As Herzfeld points out, "cultural intimacy is, above all, familiarity with perceived social flaws that offer culturally persuasive explanations of apparent deviations from the public interest" (9). Cultural intimacy may work to cohere sociality since, as Herzfeld puts it, "[n]ational embarrassment can become the ironic basis of intimacy and affection, a fellowship of the flawed, within the private spaces of national culture" (29). In several of my interviews, IP lawyers or industry executives, who usually described legal doctrine or copyright policy in quite nuanced terms, suddenly lapsed into familiar essentialisms about a collective self of the sort that Herzfeld describes. In one case, a music publishing executive had spent over an hour describing the details of his work to me, and, as we spoke about the relative profitability of different forms of rights licensing, the detail arose that he had never heard of income arising from sheet music sales. When I asked why he thought this was so non-existent in Turkey, he quipped: "Maybe it's because we're a nation that doesn't like to read."

Such expressions of cultural intimacy often took the form of an explicitly self-orientalizing discourse. One of the complexities of cultural intimacy that Herzfeld describes is its ambiguous relationship with official discourse; where official national narratives of Greece emphasize its status as the cradle of European culture whose civilized nature they contrast with Turkish "barbarism," Greeks, in moments of cultural intimacy, may "dwell on what they perceive as national failings and weaknesses … as evidence of their erstwhile condition as the serfs of *varvari*, barbarians" (Herzfeld 2005, 82–83). Such self-reflections admit the mutability and historicity of supposedly national traits, like civilization, that state discourse frames as essential and eternal (82–83). Similarly, the forms of cultural intimacy that I encountered in Turkey often belied an anxiety that the official state project of modernizing Turkish society might have been incomplete or insufficient, leaving Turkish citizens lagging in the game of progress.

Such cultural intimacy is a broader phenomenon that other scholars have documented and discussed in the context of Turkey. In her ethnography of EU human rights trainings, Elif Babül (2017, 151ff) has shown that a shared knowledge of how Turkish institutions fail to meet transnational standards forges an intimate sociality among the Turkish bureaucrats who guard such secrets as they perform their institutional role and status for foreign experts. Similarly, Ahıska (2010, 39) describes how "narratives of memory about destroyed or missing archives circulate and establish a different register of truth, an intimate truth of loss" since the fragmented memories contained in such archives complicate "the official truth of progress on display for the West."[14] Other socio-legal scholars of Turkey have similarly

[14] As Walton points out, the literature on political intimacy à la Herzfeld also overlaps with another strain of the anthropology of intimacy that other scholars of Turkey have taken up to show how state

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highlighted the dissonance that commonly arises when disturbing facts such as histories of political violence are disavowed in courts and official discourse and silenced in the archival record even as many citizens are aware of them (see Ayata and Hakyemez 2013; Ertür 2022, 143ff; Kurban 2024). It is in such dissonance that cultural intimacy is forged.

My own discussion builds on these accounts to highlight cultural intimacy's centrality to the constitution of legality. Like the critical dimension of legal consciousness, what I call the culturally intimate dimension involves reconciling the tensions between the ideals and practice of the law, tensions manifest in perceived dysfunctions and failures of the copyright system. In the critical dimension, actors account for such dissonances by pointing to power relations. By contrast, in culturally intimate discourse, actors make sense of the situation as a familiar and typical—even if objectionable—part of the experience of being a citizen of Turkey. Such cultural intimacy is furthermore facilitated by the larger social intimacy that the national copyright system constitutes through "the mechanisms that entangle authors and users, along with a range of material objects, with one another" in what ethnomusicologist Veit Erlmann (2022, 241) calls "collective worlding" in his ethnographic account of the Southern African Music Rights Organisation. Within this intimate space, perceived failures of Turkish copyright can invite explanations that frame the experiences as being indicative of some larger fact about Turkish society (compare Dent 2020, 23).

As a particularly colorful example, a former MESAM board member described a policy for which he had advocated and that the society had failed to put into practice despite the board's approving it. He accounted for the perceived failure as follows:

> I think this about it: we are a nomadic society. . . . A settled society has a literate culture. They write, they draw, they pass on information. . . . It's a different way of understanding things. . . . But in [nomadic societies] there's culture, there's culture of course. But they live in one spot, then pick up, go to another place. . . . This will only change with centuries. It's a different system: the West is an information society, a system society. In the Orient, we do things more from the heart.

For this individual, then, MESAM's failure to enact a policy appeared as a sign of Turkish society's continued underdevelopment in relation to the West. It is worth noting that this interviewee was a highly educated individual living in a major urban center who had not lived a nomadic life, and his assertion that "we are a nomadic society" is based on an ethnonationalist essentialism about Turks. Furthermore, there were other available explanations for MESAM's failure to implement the policy in question (a lawyer for the society commented to me that she did not think that they had the legal authority to do so).

Where my interlocutors sometimes chalked up the perceived incompetence or dysfunction in the collecting societies to their internal politics, some also saw the situation as typical for Turkey. Dağhan Baydur, owner of the music publishing firm

power and public discourse mediate private citizens' intimate relationships, affect, and subjectivity (Walton 2015, 62; compare Stokes 2010; Sehlikoğlu 2016).

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Muzikotek and founder of MSG, described his initial decision to leave MESAM in the late 1990s and form the second society as largely driven by his frustration at the lack of professionalism and competence he encountered on the MESAM board. Having begun his publishing career while living in the United Kingdom in the 1980s, he tended to compare the Turkish copyright system unfavorably to what he had encountered there. "I'll tell you, everything is down to magna carta," he told me, referencing the English document mythologized for establishing a set of personal liberties:

> Lack of magna carta. Not only copyright, all the problems that we have, is the lack of magna carta. I went to the exhibition in London, they found the four parchments signed by King John, the real ones, they're next to Euston station, British Library. They're great, I advise you to go and see those things. . . . [The year] 1215, 800 years ago, you know that's the problem. Turkey is spending what, maybe the third biggest money in European football [that is, soccer]. You know we didn't go to the football world cup for some years after spending all that money? In a private company you would be fired in 3 months. And those people are still the head of the federation. It's something similar to [the situation in] music.

This view resonates with a wider-spread tendency among Turkish citizens with cosmopolitan orientations to unfavorably compare the professionalism of Turkish firms to that of multinationals and to do so in self-orientalizing terms (Erkmen 2018). Here, the discourse is leveraged to account for the many problems—especially, low licensing income—that music sector actors face.[15]

Case study: negotiating performing rights tariffs

While I have identified four dimensions of copyright consciousness in my account so far—the normative, the pragmatic, the critical, and the intimate—in practice, I usually encountered them working in concert, with the same interlocutors engaging each of these dimensions at different moments. I now turn to a case study that offers a rich example of how the same actor may modulate among the dimensions of legal consciousness. Here, I build on the scattered examples I have so far presented from negotiations between music copyright collecting societies and commercial users of copyrighted music. I focus on this specific aspect of my conversations with Ali Rıza Binboğa, a songwriter and recording artist who served on MESAM's board during the early phases of my research and who had been MESAM's president in the early 2000s. He had presided over a 2005 MESAM symposium at which he had offered some impromptu opening remarks that commented, among other things, on the challenges the society had recently faced in negotiating with touristic and broadcasting organizations over the fees for licensing copyrighted music. His passionate rhetoric in the talk had been vague, and, in my interviews with him, I sought further clarity about the topic. Some background may help contextualize his comments.

[15] When I shared this passage with Dağhan Baydur as I was revising my manuscript, however, he did modify his comments by naming several Turkish firms that he perceived to be well functioning and successful.

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Article 41 of Turkey's Law on Intellectual and Artistic Works establishes the collecting societies' right to demand fees for broadcasting or publicly performing copyrighted music, such as in live venues or over the speakers of a bar, shop, or hotel lobby. The article tasks the Ministry of Culture with issuing regulations (*yönetmelik*) that govern the application of the statute, including the procedure that establishes the fees, which are known as tariffs (*tarife*) (see Suluk 2004, 177).[16] The language of the regulations—included also in more recent revisions to the statute itself—stipulates that the tariff determinations should consider the geographic reach and audience size of a broadcaster, the proportion of broadcasts relying on copyrighted music, and, for public spaces, the size of the venue. Tariff calculations should also be in line with international practice while adapting them to the country's "social conditions." With these criteria in mind, the sides negotiate a tariff that the ministry must approve, and if they are unable to agree, the ministry forms a mediating commission that includes representatives of the societies and the users of copyrighted repertoire to resolve the matter.[17]

In 2004 the copyright statute was revised, and the Ministry of Culture also issued a new regulation. MESAM had sued to overturn the previous regulation, from 2001, and the new version of the law was in some ways more favorable to the societies since it reduced the window of time that users had for contesting tariffs. But it also introduced a provision that if the ministry's mediating commission fails to broker an agreement, the sides could appeal to the courts to arbitrate.[18] Binboğa recalled how, after the 2001 regulation was thrown out in court in 2004, broadcasters and the tourism industry had lobbied for a tariff determination process that would favor themselves, and he attributed the provision to this lobbying. In his opening remarks to the 2005 symposium, where he addressed an audience of MESAM members, IP lawyers, and folk music experts gathered to discuss applying copyright in folk music, he had said:

> [D]ear friends, when [the 2004 revision to the copyright statute] came out, an event that had no parallel in the world happened in our Parliament and entered our law. That was this: If a user pays copyright—pays a royalty on the basis of any tariff whatsoever—and has permission to use those works, they can go to court over the tariff. There's nothing else like this in the world. We accepted this grudgingly. And in accepting this grudgingly, we considered this argument: we said, "truly, when we take our royalties from people, we aren't wronging anyone. We trust ourselves. If we have laws and judges, and if we have created a tariff and approached our interlocutors with a tariff that actually cheats them, let that person who has been cheated complain to the

[16] Law on Intellectual and Artistic Works, art. 41.

[17] See Regulation on the Procedure and Principles Related to the Use of Intellectual and Artistic Works in Radio and Television Broadcasts, 2001; Regulation on the Procedure and Principles Related to the Use or Communication of Works, Performances, Productions, and Broadcasts, Law no. 25486, June 8, 2004; Law on Intellectual and Artistic Works, art. 41.

[18] See the revision to art. 41 of the Law on Intellectual and Artistic Works, as established by Law no. 5101/25, March 3, 2004, https://tr.mu-yap.org/mevzuat/ulusal-mevzuat/5101-sayili-cesitli-kanunlarda-degisiklik-yapilmasina-iliskin-kanun/ (the same language was included in the ministry's regulation that accompanied this revision).

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> court on their power to defend themselves." Why? Because even if we take the conditions of our country into account, we were always approaching our interlocutors with a tariff that was far below global standards. But we accepted this argument grudgingly. (MESAM 2005, 2–3)

Binboğa characterized the professional organizations representing the broadcasting and tourism industries as civil society organizations whose roles were necessary to Turkey's status as a democracy but who were motivated by "some populist concerns. . . . [T]he civil societies confronted us with a resistance as if money had been taken out of their pockets for no reason. And they didn't do the duty that had been placed on them" (2–3).

In an interview with Binboğa, I showed him the transcript of this talk, asking him for further detail about the negotiations. He told me:

> We are taking our copyright, in other words our rights, from the hands of dominant powers [*egemen güçler*]. Who are these dominant powers? Those who have money, the media, television, radio. These are extraordinary powers. . . . A person who owns television [companies], they have the power to change the government of the country, and I go up to him and say, "you are using my right, and you have to give me my right." . . . They've taken the state to their sides. As I was just saying, radio, television, and the tourism sector nourish the state. How? Tourism brings in income. . . . The lobbies of all these dominant powers, they put pressure on the state and the government. Because at the same time they control the voting base. They can quickly manipulate the people and guide them to their own views.

Several times, Binboğa suggested that he and MESAM had been reluctant to go to court even though they were confident in their case and that their goal was to habituate users to the idea of paying for copyright licensing. He characterized his position *vis-à-vis* the users as follows: "I am demanding very little money from you. Since I trust myself, you go to court, that court is going to decide in my favor. Because I'm not demanding too much money from you. It's enough that you become accustomed to giving this." Elsewhere in our conversation, Binboğa told me:

> We said, we have to be rescued from this chaos. Yes, track rights and give the rights to their owner. Yes, develop [people's] awareness of copyright [*telif bilinci*], but as you develop copyright awareness don't make people feel the compulsion of this legal force. In other words, if you don't pay my copyright, I'll drag you to court, I'll hand you to the court, I'll give you a penalty. This isn't our complaint. We know that if people become aware of it they're going to come and pay copyright. But we're faced with such a situation that we may even encounter an argument like "ok, so why didn't you go to court and get me convicted?" That's why we have an obligation to do what's absolutely right regarding our rights.

Binboğa thus seemed to suggest that MESAM had intentionally chosen a strategy of setting tariffs that were below international standards in order to reduce user resistance to paying copyright and so to naturalize licensing.

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Returning to the topic of the 2004 provision that users can contest tariffs in court, he continued:

> Afterward we came up with a different solution to this in the law. We said, I'm going to publish my tariff, I'm going to send you my tariff. You take these tariffs and examine them. You're a professional association, and you represent thousands of users. . . . You take my tariff and examine it. Later if you need to, say: "let's compromise over this tariff." Let the Ministry of Culture summon us. Let's come to the table, wherever it doesn't seem right to you let's compromise.
>
> These mediation commissions [*uzlaşma kurulları*] always happened, but they never lasted more than five minutes. Why? Because the user came to discuss it anew for everyone. Come for those who object! Here there are 100 people [that is, businesses that the professional associations represent], 90 of them accept the tariff, 10 of them object. We're discussing something that's already been accepted. In other words, the user is sitting there with a hidden intention to turn the tables on us and bring our tariffs to a place where they're being renegotiated entirely. We rejected all of this every time. And now those mediation commissions don't work in their true sense. We announce our tariffs by the end of September. They have a right to object within one month. If they use [that right] they use it; if they don't, the tariff becomes operative. So we have solved this matter. . . . We were confronted with something that was like nothing else in the world, but because we were in the right, we solved it.

In positioning himself and MESAM as being in the legal and ethical right, Binboğa thus invokes international practice. Following up on this, I asked: "How do you know there was nothing else like it in the world?" He told me:

> We're a member of CISAC . . . . Every year we go to CISAC, the top organization for composers' unions [that is, musical authors' collecting societies] in the world, and . . . [we] meet with those who have come from every country and discuss radio-television licensing, how much is demanded from television, radio, hotels, what sorts of tariffs there are, what the new licensing arenas are. Up to today, only in one country, I think it was Australia, they objected to the bar and discotheque tariffs. They said "this tariff is expensive." The user went to court. The court found the collecting society in the right, raised the collecting society's tariff to 15 times more than the tariff the users had objected to . . . . When users go to court, when it comes to matters of copyright tariffs, around the world they have been filtered over a long time period. It's not easy for someone to demand more than is their right. In fact, in some countries, it has become like a state tax. For example, in Italy it's like a state tax. In Greece when the tax collector comes, when necessary, they can ask "you're using music here, can you show the receipts that you've paid for the copyright?" It's become a state policy. While all these [examples] exist, in our country we still haven't been able to reach that point. In our country, we gave years to this struggle. There's a right called copyright. This right is so obvious it's unquestionable. If you've used a work in a commercial sense, you're

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> required to pay the fee for it. Actually, we solved this in quite a short period of time, considering that in our country the dominant powers are very powerful. With us it's all or nothing; there's nothing in between, no such thing as moderation. With us there's no such thing as "let's think about it [from this other perspective] for a moment." If a man believes it's one way, you have to work very hard to convince him otherwise. That's the kind of country we are. We're at the extremes; we don't have a middle color [*orta renk*].[19]

In this account of one specific challenge that MESAM confronted in licensing performing rights, Binboğa engages all four of the dimensions of legal consciousness that I have described so far in this article. It is worth bearing in mind that Binboğa spoke as an official elected to a leadership position in MESAM; he thus had a strong investment in, and a particularly informed perspective on, copyright policy negotiations. He also had an incentive to boast about successes and to play up the obstacles he faced. But, to the extent that he may have been tailoring his rhetoric to these concerns, he would have had to do so in terms that he anticipates will resonate with larger narratives that mediate how musicians and his interlocutors in the negotiations understand IP and Turkish society in general.

Binboğa engages what I am calling the normative dimension of legal consciousness by presenting the normative situation as one in which paying performing rights tariffs seems natural to commercial users of music. Elsewhere in our conversations, he told me: "What we call one person's own internal respect for another's rights, it has to become established as a normal situation, like breathing." He furthermore grounds norms around tariff determinations in international practice: "We were always approaching our interlocutors with a tariff that was far below global standards." His account of MESAM's strategy in the tariff determination process meanwhile reveals a pragmatic legal consciousness. While he expresses confidence that MESAM will prevail in any legal challenge to their tariffs, he describes his primary goal in terms of developing users' "copyright awareness" or "copyright consciousness" (*telif bilinci*), a phrase that rights holders and IP professionals often use to refer to the internalization of IP rights as an unquestionable norm, respect for which indexed social progress.[20] He thus frames MESAM's tariffs as intentionally set so low that users will willingly accept them and so become accustomed to paying them, thus becoming inculcated with the desired "copyright awareness." Binboğa depicts the negotiations with the users in a way that resonates with Ewick and Silbey's (1998) "game" schema, describing how his interlocutors came with "a hidden intent" and tried to "turn the tables." Binboğa and MESAM had to strategize to overcome such

[19] Ali Rıza Binboğa appears to reference the 2007 decision by the Australian copyright tribunal, Phonographic Performance Company of Australia Limited, ACN 000 680 704, under section 154(1) of the Copyright Act 1968 (Cth), [2007] ACopyT1. Binboğa seems to mischaracterize the ruling in which the tribunal did in fact raise the tariff rate for nightclubs from 7.26 cents per person that the club's capacity could accommodate per night to $1.05, a more than fourteen-fold increase; however, this was less than half the Phonographic Performance Company of Australia's desired increase that the users had objected to (see Homan 2010).

[20] While this sense of the phrase "copyright consciousness" does overlap with the normative dimension of legal consciousness as I describe it here, note that in this article I have been using the phrase in a distinct sense to refer more broadly to legal consciousness of copyright.

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maneuvering but believed that they had the law on their side: "Because we were in the right, we solved it." In effect, Binboğa's actions seem geared toward shifting the frame of performing rights licensing from a game-like negotiation over tariffs toward the establishment of an efficient system in which tariff payment is automatic, with the proceeds funneled smoothly to rights holders as royalties.

The critical dimension of Binboğa's legal consciousness is in particularly rich evidence here. He figures the opposing side in the tariff negotiations as "dominant powers" who use their influence to obstruct the just application of copyright law. He describes them as motivated by "populist concerns" according to which it was "as if money had been taken out of [users'] pockets for no reason." He seems to link the users' lobbying to the belated development of Turkey's copyright legal infrastructure. For example, he frames the international examples of Italy and Greece as expressing the most developed form of copyright, purporting that in these countries the payment of tariffs is enforced by the state so that the collecting societies do not have to expend effort and resources on such licensing: "While all these [examples] exist, in our country we still haven't been able to reach that point." Here, we are not far removed from the intimate dimension as well, and, indeed, Binboğa eventually seems to characterize the users' stubborn resistance as an obstinance typical for Turkish citizens: "If a man believes it's one way, you have to work very hard to convince him otherwise. That's the kind of country we are. We're at the extremes."

This case thus richly illustrates how inextricable the strands of legal consciousness can be. While I have emphasized how Binboğa's framing of the relatively low tariff rates that MESAM demanded constitutes the pragmatic dimension of his legal consciousness, his account also implies a critical reading of the issue since he compares licensing income unfavorably to international standards and accounts for this gap as the result of the concessions that MESAM is forced to make in the face of the users' unfair political leveraging of their importance to the state. And while his unfavorable comparison of the licensing process in Turkey to the apparently automatic process in Greece and Italy evinces a critical perspective, we might also read in it a pragmatic construction of legality since these examples are highly selective (if even accurate) in a world where collecting societies in many jurisdictions still accomplish performing rights licensing only under the threat of legal action.[21]

[21] I ran Binboğa's characterization of licensing in Greece and Italy by Giovanni Maria Riccio, president of Liberi Editori e Autori, one of Italy's two musical authors' collecting societies. Riccio suggested that Binboğa may be misunderstanding the situation: "In Italy, it works like this, like in many other countries: if I organize a concert in a public space, I go to the collecting society's website and pay for the license. In Italy, within the framework of copyright law, the former monopolist SIAE still has an agreement with the Revenue Agency to be able to monitor, through its employees, that the organizers of live events have paid the copyright license and are also in compliance with other regulations (e.g. workplace safety) unrelated to copyright. Keep in mind that in Italy there are two collecting societies for copyright (many more for related rights), but only SIAE [Italian Society of Authors and Publishers] has this power and, most importantly, can impose fines to the organizers of live events" (personal communication, January 24, 2024). We might also question Binboğa's idealization of performing rights licensing in Greece, where the Ministry of Culture revoked the dominant collecting society's, the Hellenic Society for the Protection of Intellectual Property (AEPI), operating license in 2018 "due to mismanagement and breach of lawful

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Conclusion

While scholarly interest in legal consciousness has grown over the past two decades, such studies examining the contexts of IP and of Turkey have been rare. In addressing both of these lacunae, I have argued that, in the context of Turkey's IP reform and in the music copyright ecosystem in particular, a distinct set of cultural schemas mediates actors' participation in constituting legality. A multidimensional model of legal consciousness, according to which the same actors take up contrasting cultural schemas of legality at different moments, proves useful in that it helps the ethnographer both account for the tensions that arise with actors' seemingly contradictory experiences of the law and for how such actors themselves reconcile such tensions.

The nature of copyright law, which is national in jurisdiction but embedded in a larger international regulatory framework and a set of transnational relationships, makes it distinct from some other areas of the law that legal consciousness scholars have researched. The ethnographic context of Turkey, where international practice provides a normative grounding that is less salient in the US context, accounts for further differences. This produces a reflexive awareness of group status that shapes all four dimensions of copyright consciousness. It leads actors to imagine that copyright's normative ideals are best realized abroad. Actors taking a pragmatic approach to the law frame the project of developing the country's copyright system as a matter of harmonizing and integrating it with more developed national systems located elsewhere. Normative and pragmatic dimensions of legal consciousness may stand in tension with each other, as most evident in the persistent perceived shortcomings of what stakeholders viewed as a still-developing copyright system. Actors strive to reconcile the tensions through resistance, critique, and culturally intimate discourse. Critical perspectives on copyright may, for example, chalk up the tensions between the ideals and practice of the law to a form of cultural imperialism exploiting differences of culture and power between Turkey and those countries where copyright has had longer to develop. And most dramatically, actors may make sense of their frustrations with Turkey's system by integrating them into culturally intimate narratives about what it means to be a citizen of Turkey. I suggest that this reflexive dynamic likely has parallels beyond Turkey, especially where IP enforcement is framed as being crucial to a country's status as a developed nation (compare Darian-Smith 2002; F. Wang 2019; Dent 2020).

Where scholars such as Ewick and Silbey (1998) have pursued a critical agenda in which they attempted to account for how the law's hegemony is sustained despite the persistence of injustice, the reflexive dynamic that I describe may offer an additional explanation: actors make sense of the tensions between the ideal and practice of the law in terms of familiar, culturally intimate self-stereotypes. By observing this dynamic, I also contribute to studies of legal consciousness by revealing an intersection of what scholars have called the "power-and-resistance" and "communities-of-meaning" strains within this area of research. Through culturally intimate readings of legality, actors both reproduce common narratives that shape collective identification and reconcile the tensions between the ideals and practice of

obligations that showed, as per the Ministry's decision, the lack of AEPI's viability and its inability to effectively manage authors' rights" (*JD Supra* 2024).

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the law, reinforcing its hegemony. Critical and resistive legal consciousness was central to Ewick and Silbey's account since it afforded the disempowered a space for asserting their agency in ways that nonetheless failed to disrupt the law's hegemony. But what of actors who are relatively empowered to reform the law, as in the case of the collecting society officials or legal professionals in my account?

Cultural intimacy provides an explanation for why even such actors are able to accept or at least account for the status quo, thus reinforcing it. Babül (2017), for example, describes how Turkish bureaucrats involved in human rights trainings share intimate knowledge of common human rights violations perpetrated or tolerated by the state. In the context of the trainings, the revelation of these embarrassing secrets removes the shame attached to them while failing to produce any legal or moral consequences for the perpetrators even as the trainings add legitimacy to the state, thus reinforcing the legal status quo (181–82).[22] Similarly, cultural intimacy offers a convincing explanation for the law's hegemony in the case of music copyright: failures of the legal system are accepted because they may confirm an actor's anxieties about the nature of the society of which they are a part. Conversely, my study reveals how the multidimensional model of legal consciousness that Ewick and Silbey (1998) pioneered is also relevant to a "communities-of-meaning" approach to the subject since such perceived failures and injustices of the law are easily integrated into widely accepted narratives in terms of which actors understand who they are. Ewick and Silbey pointedly highlight the tensions between normative, idealized images of the law and the more pragmatic, game-like constructions of the reality of how the law plays out. In Turkey, such tensions—especially those between international legal norms and actors' own knowledge of the imperfect or unjust reality of domestic legality—are also what forges cultural and social intimacy. Thus, the "power-and-resistance" and "communities-of-meaning" approaches to legal consciousness may represent overlapping, not entirely opposed, research agendas.

Acknowledgements. In addition to the many people in Turkey who shared the knowledge on which this article is based, I am grateful to several colleagues for their feedback, especially Aman Gebru, Esther Viola Kurtz, Marc Perlman, Trevor Reed, Zvi Rosen, Guy Rub, David Samuels, Aleysia Whitmore, my colleagues at Arizona State University's Melikian Center, and four anonymous reviewers. The research for this article was conducted under Institutional Review Board protocols at Brown University (no. 1308000901) and Arizona State University (no. 00015960). This work was supported by the US Department of State, Educational and Cultural Affairs under an American Research Institute in Turkey dissertation research fellowship and the Reed Foundation's Ruth Landes Memorial Research Fund. Portions of this article also appear in my book *Copyright Consciousness: Musical Creativity and Intellectual Property in Turkey* (Wesleyan University Press, 2025). Interview excerpts and quotes from Turkish-language sources were translated by the author. Any errors are my own.

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[22] In a related argument, Jeremy Walton (2015, 62) describes how intimate narratives of brotherhood between Sunni Muslims and Alevis in Turkey "obscure[] a broader reckoning of the political violence Alevis have frequently suffered at the hands of Sunnis."

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Cite this article: Fossum, D. (2025). 'Legal Consciousness and Cultural Intimacy in Turkey's Intellectual Property Reform'. *Law & Social Inquiry*. https://doi.org/10.1017/lsi.2025.18