

*Old songs, worldwide, now in the Public Domain are often “adapted and arranged” and the new song copyrighted. We propose that a share, .01% or 99.99%, of the mechanical, print, and performing royalties go to the place and people where the song originated. Every country should have a “Public Domain Commission” to help decide what money goes where.*

Pete Seeger  
The Committee for  
Public Domain Reform

### **Plan for implementation proposed by Music In Common:**

The duties or functions of a Public Domain Commission would fall under three main categories. Preservation and Development, Resource Allocation and Accounting and Accountability. Each category is further defined below.

#### **1. Preservation and Development-The Conservatory**

- a. Canon formation
- b. Archive/library
- c. Masters/teachers

Exemplary works held to be so by general acclamation of the community, tribe, ethnic group or nationality involved would be assembled and performed by similarly exemplary masters of the tradition. These might be recorded in both print and sound forms but they would necessarily be carried on in oral form to be passed on as they have already been for generations or centuries. (this has been accomplished in some cases, has been partially done in others, and has yet to be undertaken systematically in still others)

#### **2. Resource Allocation**

- a. Funds for training youth
- b. Funds for exemplary performance (regular festivals, customary events, etc.)
- c. Funds for instrument building and performance space construction and maintenance
- d. Funds for sustaining Master crafts people (instrument builders, performers and composers)

To ensure the traditions are kept vital and alive new generations must be introduced to them in a way that honors the music itself as well as those who maintain its highest forms of expression. Infusions of new energy and enthusiasm must be balanced with the mastery of the spiritual and practical skills needed to perform the music well. Structures suited to local conditions and histories should be constructed to ensure long-term sustainability.

#### **3. Accounting and Accountability**

- a. Monitoring the health of the music, the musicians, and the community it arises from and serves
- b. Monitoring the uses to which the music is put in the rest of the world
- c. Collecting funds generated anywhere
- d. Dispersing funds correctly according to the principles outlined above

Through international agencies, performing rights societies, governmental bodies or combinations of all three, the uses of music can be monitored and evaluated. That the Public Domain be maintained in the public interest and available to all, as is a library, should not mean that moneys generated by sale somewhere not be returned to their source of inspiration: namely the peoples or countries whence they arose. Indeed, it would be one function of the Public Domain Commission to ensure that two apparently contradictory purposes are served: to ensure preservation and development of a “natural resource” for the benefit of all and at the same time limiting use by those seeking to profit from it and ensuring that a reasonable portion of those profits are returned to the source to sustain it. Ultimately, accountability to the local Public Domain Commission should be the rule. Thus, a universal principle would be applied locally by those entrusted to do so.

The composition of the Public Domain Commission should include music makers (musicians, composers and instrument builders) recognized as masters of their crafts. It might also include musicologists, historians and others sufficiently trained to ensure traditions are honored and healthily maintained. Educational and administrative functions corresponding to local conditions need to be constructed but oversight should always include music makers.

### **A UN Public Domain Commission**

There are three areas where a UN Public Domain Commission would be useful in the implementation of these proposals:

#### **Origins, Jurisdiction and Rights Designation**

The origins of much of the world’s music precede the formation of present-day Nations. Indeed, much of the world’s music continues to be made and used by tribal, ethnic or other groupings that reside in different countries simultaneously. Furthermore, there are cases where no national body is recognized or trusted by ethnic groups whose music is in question. In such situations a UN Public Domain Commission might afford the best solution.

This should not, however, be merely a juridical “court of appeal”. On the contrary, the principal function of such a body would be to ensure the preservation and development of the music in question in accordance with the needs and wishes of the people actually involved in making it. If no local entity has the capacity or authority to carry out this task then the UN Public Domain Commission should undertake it.

In determining a specific music’s origin the following questions should be answered:

- Who makes the music now?
- For what purpose is it made? (sacred, festive, work, education, etc.)
- How will this be preserved and developed in the future?

In determining what kinds of rights are applicable a UN Public Domain Commission should use the Conservatory model proposed above. The Conservatory’s basic function is to ensure that the makers and users of the music in question continue to flourish. Prohibition or limitation of use is a secondary function only useful in the context of the successful fulfillment of the first. This means:

- Resources from taxation, charitable institutions or profitable sale should be directed, first and foremost, to the preservation and development of the music and music makers involved
- Access to music should not be limited unless those who make and use it specifically designate it secret, sacred or otherwise

unavailable to the world at large (in which case its unauthorized appearance would not only constitute simple theft but desecration subject to human rights protections)

- Respect for the work, skill and creativity that have been and continue to be invested by those involved. This requires public education within and beyond the communities in question to ensure that all who hear the music know the history and present circumstances of the people who made it.

### **Pete Seeger's examples:**

*When I learned the story of how little royalties for the song "Mbube" ("Wimoweh" in the USA) had gone to the African author {Solomon Linda}, I realized that this was a worldwide problem. Why not try to start solving it? I had been collecting book and record royalties for "Abiyoyo", a children's story I made up in 1952. It uses an ancient Xhosa lullaby. The royalties are now split 50–50, with half the royalties going to the Ubuntu Fund for libraries and scholarships for Xhosa children near Port Elizabeth, in southeast South Africa.*

*Another example: in 1955 I put together a song "Where Have All the Flowers Gone". The basic idea came from an old Russian Folk song, "Koloda Duda". Some royalties for the song will now go to the national folk song archives in the Moscow library.*

*In 1960 I put a melody and three words, "Turn, Turn, Turn" to a poem in the Book of Ecclesiastes, written 252 BCE. The English translation was done in London 400 years ago. I have decided to send some royalties to an unusual group in Israel which is trying to bring Arabs and Jews together.*

*In the USA all the royalties for the song "We Shall Overcome" have gone, for 40 years, to the "We Shall Overcome Fund" which every year gives grants for "African American Music in the South". Bernice Johnson Reagan (Sweet Honey In the Rock) is the chairperson of that fund.*