

# Multiple Expectations of Ownership

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## Introduction

In this paper I discuss some contemporary examples of ownership expectations on the Rai Coast, Madang Province, Papua New Guinea. Some people in this area have attempted to introduce new forms of individual ownership, which they see as relevant to production for the cash economy. However, in calling upon the aid of kinsmen as labour for this endeavour, they generate expectations of a different, or what we might term '*multiple*' system of ownership, (much like that discussed by Porer Nombo in his paper). To illustrate this, I examine the ethnography of contemporary business practice, comparing the expectations of multiple benefits it engenders, with the ownership traditional valuables including contemporary artistic creations. This leads me to formulate a Rai Coast distinction between old and new which crosscuts European and American assumptions about innovation, as they are apparent in Intellectual Property Law. My methodological point is that by attending to transactions themselves, one can unravel the intricacies of productive relations, and thus expectations of ownership, in such contexts. In fact, my first point is that expectations about ownership are generated by all productive activity, and these expectations are consistent with local 'kastom', whether the object discussed is a 'traditional' valuable, a product of the modern cash economy, or some hybrid of the two. Discourses of kastom and tradition, when employed in contemporary rural contexts, do not necessarily refer to the past. I conclude by returning to the notion of multiple ownership, and its relation to creativity. Understanding creativity as envisaged by Rai Coast people is the basis of understanding multiple ownership in the area. Sensitivity to the specifics of multiple ownership is necessary if IPR laws are not to stifle the very creativity that they seek to encourage and protect in other contexts. The underlying laws ability to incorporate custom opens possibilities for such general understandings of multiple ownership to, over time, help formulate appropriate specific laws regarding IP, through building customary precedent.

## Kinship, Labour power, and Business

The area of the Rai Coast in which I am currently undertaking fieldwork is rather isolated and, in local as well as metropolitan perception, underdeveloped.<sup>2</sup> However this does not mean that monetary transaction is new to the people there. There is both a twice-weekly market, and a number of agricultural business ventures underway in the village where I live. I come back to market transactions later. Firstly though, I focus upon two cocoa fermentry businesses that exist there. I talk in general terms to spare any potential embarrassment on the part of participants, as

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<sup>2</sup> With the advent of Ramu Nickel, this may not remain so for long. However, the subject of this paper (ownership expectations in relation to local business failure) may well become yet more pertinent in the context of that development and its effects.

the example is representative of many failures in business enterprise. This paper seeks to understand the reason for business failure through a discussion of different ownership regimes.

Opening a fermentry on the Rai Coast is a large undertaking in terms of labour, and a significant economic development in villages with at most a small trade store or poultry shed. Both labour, and perceived development, breed expectations of a wide dispersal of income. For example, although there is a vehicle road to the village, it is unserviceable for most of the year. Roads also require cars to run along them, and such large capital investments are beyond most inhabitants of this area. This means that labour is required for the portage of materials, for the collection of fuel, and for the heavy work of carrying the product (dry cocoa beans) to the coast where they may be transported by sea to the local town. The two fermentries which have been opened in the area to date have both relied on variations of residence group (kin) formations for the recruitment of labour.

There is a rhetoric employed by the organisers of these businesses, which deploys the notion of communal enterprise by an extended family group, or a village community as a whole, to generate interest and willingness to provide labour. This rhetoric focuses on the self-sacrifice of the organiser in providing a 'service' (*sevis*) for his fellow community members, and thus his role in 'changing' (*senisim*) their backward rural existence. Promises are also made about access to the facilities. Others are told they will benefit. But these promises are generally also made in terms of the customary needs of the residence group. The form of words is usually; 'we all face difficulties in finding enough wealth to fulfill our affinal obligations - for marriage, child and death payments. Whoever helps with this project will now be able to ask for a space (in the schedule) to buy and dry cocoa. The fermentry is for everyone and will help with the kinds of difficulties we all face'. The most recently established fermentry is employing a variation of this based on a 'membership scheme', which works in the same way, but requires the 'family' to express their willingness to assist by a small cash contribution to the pooled resources of the business, as well as provide the labour to run it. This particular fermentry had not yet come 'on-line' as it were at the end of 2000. But although the notion of membership appears to be a new departure, the same issues of recruitment and distribution had already become apparent in disputes over authority to use pooled membership resources.

Both functioning examples of this business enterprise, one long established (14 years) and one more recent (2 years) only work sporadically. There are conflicts and disputes over both of them, and thus difficulty in recruiting labour. The history of one fermentry is illustrative. A succession of 'managers' have given up buying, drying and organising the transportation of cocoa because the original 'owner' of the fermentry, who is also one of the elders of the residential group in whose name it was established, has not distributed the profits of their labour to them. He has not paid much in the way of wages either. In addition, he has often complained that those resident in the village and managing the facility misuse (his) money. The complaint is based on his perception that as the investor of capital (although this is complex and contested), and the elder of the people who work there, both custom (*kastom*) and business sense dictate that he should receive all the profit of the enterprise and then redistribute it as he sees fit. As there are constant tensions and multiple claims, he does not see fit to make such distributions, and instead channels the money to his own children's school fees. One rationalisation I have heard of this use of the money being that they are the children of the residential group, and thus an investment in the future of the village as a whole. The promise of access to the fermentry itself has also fallen by the wayside. Any such request brings complaints from the originator that his kin have not run his business properly for him, and been consuming money from his hard work in putting the fermentry there in the first place for long enough. he does not see why he should let them carry on doing so. Such rhetoric is more than enough to dissuade people from making the request to

use the facility. For 9 or 10 months of the year the fermentry remains unused -- a kind of sad memorial to the complaints it has generated -- standing in the village plaza.

It would be unfair to name the individuals, or even the village involved, as this set of circumstances fairly describes not only fermentry businesses in the area, but also trade stores (none of which have lasted more than 4 years), coffee buying schemes, and also 'Youth Group' and 'Mother's Group' activities. Always, it seems, there is someone who claims the enterprise is the result of their own strength and endeavour, ignoring those who have provided labour and support, and consuming the capital of the business. I suggest here that expectations of multiple ownership, based on customary principles of shared interest in the products of people's labour, conflict with a convenient reading of capitalism on the part of the organisers of business. This reading places all power and resources in the hands of the capitalist -- they are his 'property'. Convenient, because at the same time, the entrepreneur appeals to customary authority and multiple interests, rather than wage-labour payments, to recruit their major resource (labour). There appears to be no local solution to such disputes, and thus no ongoing development of business.

### **Kinship and Valuables**

In contrast to these business endeavours, there is a form of activity specifically related to intangible valuables, where expectations of multiple ownership are adhered to. They are locally justiciable, as we shall see below, and this appears to make a great deal of difference.

As Porer Nombo's paper highlights, this region of the Rai Coast, for various historical reasons<sup>3</sup>, has maintained an interest in *kastom* which is more than just rhetoric. The spiritual life of many people there is consciously understood as an alternative to Christianity, and is a living contemporary form (Leach 1999). In Tok Pisin, such religion is known as *tambaran*, and covers a complex kaleidoscope of practices and understandings, which generate growth and change. One aspect of *tambaran* is a male musical cult with secret ritual paraphernalia. The tunes and designs used by this cult are associated with particular people and are owned by them (Leach 2000). That is they have a named owner. Yet as Nombo describes, this ownership does not give the right of disposal. They are not 'property', yet they are transacted.

In 1998, people in the village of Goriong decided they wanted to purchase the tune, words and associated carved designs of a particular *tambaran* spirit called *aelung aelung* from their neighbours in Serieng. The residential group and their close affinal kin discussed the request, and acceded to it. They suggested that the Goriong people put together a payment, the amount of which was to be at their own discretion. Ten men claimed to be the family group that were descended<sup>4</sup> from the originator of the spirit voice, and they went to Goriong to receive the payment. The Goriong purchasers called each one of them in turn, placing money<sup>5</sup>, traditional valuables, and clothing in their hands. (This is a form of payment used in the distribution of bride wealth). Serieng were also given a live pig, and a cooked pig. The owners of the *tambaran* ate the cooked pig, and carried the live pig back to Serieng, where they distributed it to the rest of the village. Thus the transfer of the spirit voice was made public through the exchange. Goriong have made public their use of this spirit, and their ability to sing and dance with it in other villages. In local terms they are able to use this spirit to 'generate happiness and pride, and to eat pigs drawn from others in appreciation.' They are also able to transfer the *tambaran* to another set of people for a similar payment, should they wish. 'They are now the owners', as it was explained. Serieng have not lost their *tambaran*, and they can still use it for their own

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<sup>3</sup> See Lawrence 1964, Leach 2003.

<sup>4</sup> But see leach (2003) for a critique of the notion of descent groups in this area.

<sup>5</sup> About K20 each.

celebrations. The spirit voice has been 'extended' (*sugarim*), not sold in the sense of the transfer of exclusive rights, to Goriong.

In another transaction involving a spirit voice, in the late 1980's, people from the village of Maibang came to Reite, and asked an old man for use of the spirit voice known as Aiseer. The old man called together his kin group, and asked them if he might exchange the voice for one owned by Maibang. They all agreed, and so the transfer was made in return for the spirit *kongkong*. In this case, Maibang are *unable* to extend the use of the spirit to other people. They made no payments, and thus although they are able to use the spirit voice, they are not able to receive payment for its transfer. As the old man explained - 'tambaran spirits are like children (of the residential group). If you have not bought the mother of your daughter from her brothers and parents you cannot charge your daughter's husband when she marries. Her maternal kin will come with anger and ask why you think you are able to make such a charge. I am then not able to ask someone else to pay me for her. It is for this reason (multiple claims) that we try and pay for our wives (to remove some of the obligations in each generation).'<sup>6</sup>

These transactions illustrate elaborate understandings of the ownership of intangible items. It is interesting how superficially similar these look to copyright. However, and as others have discussed (Blakeney 1995) these instances of ownership are more inclusive and extensive in their coverage. What they do not illustrate is the concomitant rights of individual control envisaged by property regimes.

One form of Intellectual Property law makes the similarities of reference yet divergence in forms of ownership, clearly apparent. 'Moral Right', (as outlined by Kalinoe (nd)) amounts to the right of the originator of a work of art or scholarship not to be defamed or denigrated through the defacement or malicious reproduction of his/her creation.

If a *tambaran* of one residential group is used by another without the kind of transactions described above, then it is viewed as theft. If one member of a residential group, albeit the senior elder, passes on the *tambaran* to one of his kin in another residential group without the consent of the rest of his family, this too is seen as theft. And if someone from another place imitates (*tawa'narnung*) the spirit voices and words of their neighbours, even just for fun, then the owners of that spirit voice are able, in local *kastom* courts, to charge the offender. For example, in a *tambaran* song belonging to members of Asang village, the lead voice sings

### **Wau kekek, nana makie**

*Wau sakwing, nana makie*

[Small maternal uncle, my edible tree grub

Large maternal uncle, my edible tree grub]

During a performance of this *tambaran* in 1983, an old man from the neighbouring village of Sorang, standing on the sidelines, joined in the song, changing the words to

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<sup>6</sup> 'Em wankain pikinini. Mi no baim meri bilong mi, na mi gerup na sargim man long baim pikinini meri bilong mi, ol brata bilong mama bilong en bai kros na tok - yu no inup makim sarg bilong disela pikinini. Mi noken tokim man long baim. Na long disela as mipela mas traim baim mama bilong en.' Siriman Kumbukau, 1999.

## **Wau kekek, kuling kekek**

## **Wau sakwing, kuling sakwing**

[Small maternal uncle, small penis]

Large maternal uncle, large penis]

People standing nearby laughed, but later told Asang people what had been said. There was a village meeting, and the old man from Sorang was given 2 weeks to pay the owners of this *tambaran* 300kina and a pig. In 1983, this was a substantial charge (in fact even today such a high charge is only be made for the most serious offences involving violence to a person).

Local exegesis in this case points to the role of *tambarans* in celebrations and performances by a particular kin group, and the material concomitant of this, payments of pork and valuables, which flow to them at the time of their performances. *Tambaran* songs evoke memories of the dead associated with them, and in performing them, people make themselves and their ancestors, their particular myths, and the histories of their lands, into an artistic form. The form of presentation makes others feel emotion, cry for the dead, and feel empathy and desire for the performers. To make fun of these things, it is said, is to shame the performers, to defame their character and make them objects of ridicule. In the hearing which followed the incident outlined above the mediators said, 'you have *tambaran* spirits which you carry about in order to eat other peoples' pigs and celebrate what you are. We do not make this difficult for you. You know about *kastom* - if you stop others celebration, twist others songs, shout out during a performance - you will have to cook pigs for those you disturb. In the past, you would die for such misdemeanours'. People who feel ashamed feel unable to take the spirit voice and its song to celebrations again, fearing that people will laugh at them in their most exposed moments. But, people say, once you have received payment for an act of shaming, the shame disappears. The song can be taken to other places again, and pigs consumed on the back of this success.

## **New Valuables**

*Tambaran* songs are being innovated all the time. There is a stock of ancestral songs for each residential group, but new spirits are coming into being today. Powerful men dream new tunes, and compose words to accompany them. It is said that spirits of the particular places that men reside give them thought, and generate spirit children in the form of voices (tunes) and accompanying designs in their dreams. The spirit itself reproduces in the mind of a man. A man who has heard a new *tambaran* in this way must cook pigs and give people cooked food with the pork, in order to unveil the new creation. Having done so, he is known as the owner of this spirit voice. I have already discussed the requirement for all members of a residential and family group to discuss the transaction of such an entity. New *tambarans* have exactly the same conditions attached. A recent innovation in the carved designs displayed to accompany spirit voice renditions by people of Sarangama, which was created when an elder saw a snake twined around a tree in the sacred grove of a particular *tambaran* spirits carries the same restriction. When the man cooked pigs for a life cycle payment, he unveiled this new design to those who had come to receive the payment. Such an originator has no right to dispose of the design. In the same way as a new *tambaran* song it is owned multiply by the residential group that its creator belongs to.

This ethnography of transactions points to notions of innovations and creativity which I explore now in the final section of this paper.

In a telling contrast, innovations in the sphere of business do not generate ownership at all. As someone recently put it to me, 'whatever you find through your own endeavour in the arena of

the spirit cult belongs to all of us as a family. It is for us all to generate a name for ourselves and consume pigs on the basis of this name. But whatever innovations you accomplish on the side of business, you cannot claim the idea behind it.' People are constantly trying new ways of making money in these villages - one will construct an oven from old oil drum and cook cakes for sale in the market. Another will develop a system of gambling for plates of cooked rice and meat. Yet such new ideas are not equivalent to a new tambaran. People complain that whenever anyone comes up with a new idea for a business venture, everyone around them follows suit, and soon the market is flooded with cakes, or with gambling for rice plates. They describe this as 'an idiotic custom of ours', to copy and repeat others ideas (*tawa'narning*) and the word is the same as is used for the defamation of a spirit voice. Yet it does not bring the same penalties.

I surmise that the new idea here is business itself, the ways of money. When questioned about someone copying their business idea, people reply that everyone wants to make money, and it is open for anyone to try any way they can think of to do so. Business is novel, but it is public new knowledge. What is not public on the Rai Coast is the particular creativity, which is understood to be part of a family and its interactions with its ancestors, spirits and lands. This form of creativity is based in particular groups of people. We might say particular relationships. Thus people laugh and complain at *tawa'narning* in the sphere of business, but not with the indignation and appeals to *kastom* (and therefore fines) that single disposal of a multiply owned resource engenders.

From the ethnography of transactions and the complaints that arise in the context of those transactions, we can see that the songs and designs, which are generated in family relationships, are indeed seen as a resource. And a powerful one as they elicit the currency of kinship - the currency through which the exchange of which, new persons are created. But because of the kind of resource that they are -- a resource commensurate with other aspects of *creativity*, understood as the regeneration of people and places through the work of family groups -- then it is obvious that it must be *multiply owned*.

Common ownership is not an acceptable gloss of such a complex. Because the explicit equation of such resources with children -- the commensurate product of the valuables -- are not communally owned. Children, like tambaran designs, are generated in specific productive partnerships (what Porer Nombo in his paper describes as 'family'. Family here is not a simple designation. Ramifying cognatic connections make kinship in the Rai Coast region notoriously complex.)<sup>7</sup> Peoples' obligations to one another are due to this multiple endeavour in the production of families.

## Conclusion

In his paper on 'Intellectual property rights and related social and cultural issues in Papua New Guinea', Lawrence Kalinoe states that:

One thing is clear to us now, after reviewing the literature on the subject (Indigenous cultural and intellectual property rights/indigenous knowledge/traditional resource rights) that existing conventional IPR law does not have the capacity to offer much protection. This is because IPR laws are grounded in economic exploitative rights in intellectual property rights where the rights are bought and sold and the IPR laws are geared towards facilitating exactly that. Concerns over indigenous cultural and intellectual property rights may not, in all instances, involve economic exploitation of rights; but rather, the preservation of these materials so that it may continue to form a cultural base from which our people can carry on with their lives (n.d. 12).

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<sup>7</sup> See Lawrence (1984, 1965). For a detailed discussion of kinship in relation to residence and exchange, see Leach (2003), and in the context of ownership, Leach (2000).

I would agree, and in an attempt to make some positive conclusions out of a rather negative fit between such laws and the needs on the Rai Coast, I suggest that such protection may in fact be undermined by the WTO/TRIPPS versions of IP protection. Most significantly, following from my above analysis, and what is said by Porer Nombo, there is a need to rethink the whole basis of ownership. Where it is assumed that ownership of a kind envisaged by western property regimes is appropriate, as in the convenient mixture of familial obligation to assist in familial enterprise, and capitalist appropriation of profits with no regard to family obligation (in the cocoa fermentry businesses discussed above), we see development failing. It is clearly the inappropriate assumptions about the disposal of the products of resources by a single individual, once those resources appear in the form of cash, that is behind this failure. In similar vein, Porer Nombo complains that marking the brideprice of sisters as if they were tined fish to be sold in a store shortens the network of receivers unacceptably. Money is consumed by a single individual without reference to the long term relationships that people are engaged in to be productive. He equates this with the death of *kastom*. Laws which are intended to protect the exploitation of peoples creative endeavour from others profit (cultural and intellectual property laws) should not, through their inbuilt assumptions about ownership, contribute to this death.

Preservation of materials is one (important) thing, but it seems to me that of more basic importance is the preservation of the social conditions of creativity itself. Laws which take such property relations as their baseline will inhibit the development of indigenously appropriate mechanisms for the control, distribution and protection of indigenous resources.

We can see, through the focus on transactions, that ‘attempts should be made to develop new exchange taxonomies by analysing transactions in the light of social relations of which they are a part’ (Gregory and Altman 1989: 203). This focus makes clear that it is not just the material, *but also the actual form of social relations*, which must be considered. One way of achieving this may be to develop the concept of multiple ownership, which the PTC project members are working on. I suggest through my analysis here that it would be useful to develop multiple ownership not just as an issue in indigenous knowledge protection and transaction, but also in development planning as a whole.

As I have shown elsewhere (Leach 2001), the expectation of multiple distribution, that is distribution which reaches well beyond the immediate transacting parties and the transaction itself, is an outcome of entrenched understandings of multiple ownership which are reasonable given Rai Coast understandings of the interplay between labour, history, family structure, procreation and the generation of knowledge. (My analytic gloss for this complex of interactive elements is ‘creativity’. Admittedly this use of the term has a different set of conceptual referents to the image of a single creator which dominates western folk thought, and which informs IP law developed there).

In this paper we have seen that both ‘new’ and ‘old’ forms of economy are embedded in such understandings. However, the division between ‘old and new’ in business does not lie where we expect. Innovation in business ideas cannot be owned in the ethnography I presented because the whole sphere of business is an innovation, and is thus open to the borrowing of ideas and procedures. No one has made any one aspect of it their own by gathering kin and displaying their new creative resource by distributing its first fruits (as happens with a new tambaran). The division between old and new then in this instance is one which cuts across intellectual property understandings of innovation and the rights associated with creative endeavour. In contrast, the resources generated by *creativity* are multiplied owned *because* they are the product of creativity, and this by definition does not belong to any one individual. It is not an *appropriate* model of creativity, as is the model which informs IP law (see Leach, Forthcoming). Hence those that appeals to the form of familial creativity in their business enterprises run the risk of invoking multiple claims to ownership, rather than the right to prevent anyone else using their idea.

Multiple ownership of IP is thus also reasonable. But the links to creativity in this ethnography point to the integral connection between intellectual resources and all creation (Leach 2000). Multiple ownership can be developed to understand more than just IPR. Western capital based property relations *separate* through ownership. One might say that this Melanesian economy *connects* through ownership (cf. Strathern 1996). These principles point to very different modes of creativity. Our understanding of IPR needs to include such diversity or it will not serve the needs of worldwide populations. Papua New Guinea's unique position, whereby customary principles may become part of underlying law through precedent, will ideally allow for the concept of multiple ownership to be developed in a practical forum. As such, it offers possibilities for compromise between the obligations to WTO and TRIPPS, and the obligations PNG has under the CBD to protect its indigenous cultural heritage.

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