

# Articles

## OWNING CREATIVITY

Cultural Property and the Efficacy of Custom on the Rai Coast of Papua New Guinea<sup>1</sup>

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**Abstract**

This article examines the reasoning behind calls for the protection, and restitution, of cultural property, particularly by UNESCO, between 1970 and 1998. I reflect on discourses that value objects, identity, heritage, and customs in a package, which make cultural groups look like individuals to whom certain rights are attached. I do so in the light of material drawn from fieldwork on the Rai Coast of Papua New Guinea. There too, people place a high value on what they term '*kastom*'; a word in Neo-Melanesian which derives from the English term 'customs' but has a rather different meaning. I suggest that Nekgini speakers' valuation and validation of '*kastom*' contrasts sharply with notions of value built into heritage and cultural property. There is a particular conception of integrity and continuity, a relevance based on the needs of the state or individual identity which is embodied in the notion of cultural property. I contend that this conception obscures the creativity which Nekgini speakers value in the practices of '*kastom*'. My wider point is to question the direction in which recommendations covering the protection of cultural property has led.

**Key Words** ◆ cultural property ◆ *kastom* ◆ love magic ◆ moral personhood ◆ UNESCO

### INTRODUCTION

All Nekgini speaking people that I know avow that marriage depends on love magic.<sup>2</sup> They say that a woman would '*never*' accept life with a husband if she was not forced into doing so by love magic. Love magic turns a woman's mind, it is said; it moves her to emotion for a man, and

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inexorably precipitates her move from her natal hamlet to the hamlet of her lover in marriage. Women's response to such feelings is irritation and even anger (see also Harrison, 1993: 122). In feeling an emotional pull to a man who is not her brother or father, a woman knows herself to have been the object of someone else's extractive attentions.

Now speaking of contested extraction, in this article, I discuss cultural property. It is a phrase that has come to have currency in recent years, particularly through the work of UNESCO (1984). It covers sites or items of historic importance, which are linked to the cultural heritage of nations, or of ethnic groups. Cultural property is often at the centre of disputes over ownership or control. The presence of the Elgin/Parthenon Marbles in the British Museum, and the claims over them made by Greece, are a famous example of a dispute over cultural property. UNESCO recommendations place great importance on the restitution of such items to their rightful owners. Even more emphasis is placed on preventing their removal in the first place (and see Tunbridge and Ashworth, 1996).

I examine the reasoning behind such calls for the protection and restitution of cultural property in what follows. In doing so I reflect on the current discourses which value objects, identity, heritage, and customs in a package which make cultural groups look like individuals to whom certain rights are attached. I do so in the light of material drawn from fieldwork on the Rai Coast of Papua New Guinea. There too, people place a high value on what they term '*kastom*' – a word in Neo Melanesian, a form of Pidgin English, which is the lingua franca of PNG.<sup>3</sup> I suggest that Nekgini speakers' valuation and validation of '*kastom*' contrasts sharply with notions of heritage and cultural property as they are articulated in a current and prominent view of culture. There is a particular conception of integrity and continuity, a relevance based on the needs of the state, or individual identity, embodied in the notion of cultural property which, I contend, denies the creativity that Nekgini speakers see as inherent in the practices of '*kastom*'. This in turn rests upon a contrast in assumptions about the relationship between objects and persons entailed in the UNESCO notion of cultural property, and the Nekgini notion of '*kastom*'. I outline this contrast in what follows. My wider point is to question the direction in which recommendations covering the protection of cultural property has led.

Recent claims to the restitution of cultural property define its removal from a country, or ethnic group, as theft. But it is viewed as theft of a very particular kind. The removal of objects of cultural property does more than deny their originators rights to enjoy these items. It seems instead that the removal of cultural property, in fact, is an attack on the integrity and coherence of that group or nation's identity. Cultural property, in what is a moral as well as a legal discourse,

seems to be an 'inalienable possession' (A. Weiner, 1992), of objects which resist transaction, and acquire their value through other mechanisms than exchange. Mike Rowlands has written recently that this kind of value is generated by the connection of completeness and possession, which speaks of authenticity (Rowlands, 1999).

Museum curators have already had to think long and hard about the issues surrounding the repatriation of culturally significant objects. One may extract from their debates that there are all sorts of complex interactions between notions of identity, ownership, and control at stake. Anita Herle writes, in the context of control over objects held by Canadian museums, that, 'If decisions are being made on '*moral*' and '*ethical*' grounds as opposed to legal ones, there is an enormous grey area in which issues are to be resolved by negotiation. How does one define 'cultural patrimony'? What happens when different value systems collide?' (Herle, 1994: 62).

One way in which such value systems may collide, and I must make clear that I do not discuss Canadian material here, is in the very valuation of culture itself. In the following material I establish a contrast between the valuation of culture as tradition and heritage, embodied by objects or sites, and notions of culture that appeal to the inherent and ongoing creativity of human engagement with the world. In both cases form is imposed upon another entity, but with very different consequences in terms of the ongoing political relationships involved.

#### NEKGINI KINSHIP AS CREATIVITY

Keesing (1982) notes a fact he considers significant to the politics of Pacific nations: decolonization occurred there after the nations of Africa. His early article on the development of the notion of '*kastom*' in Pacific nations proposed that coherence of identity, shaped around common themes in culture or tradition, overcame tribal divisions in newly formed African states during decolonization. This appearance of cohesion allowed an assertion of an identity, which was also in part fashioned against the colonial power. He argues that similarly, and even borrowing from the African experience, '*kastom*' in Pacific nations was developed as a conscious or semi-conscious reification of the past, and of tradition, made for political purpose ('the codification of '*kastomu*' has become a historical leitmotiv of Kwaio resistance . . .' (Keesing, 1992: 125).

Helping us to unravel some of the assumptions behind a view of the assertion of custom or tradition as primarily political resistance, Handler (1988) has written on the importance of culture, in the form of reified possession, as a central feature of nationalism. Harrison (2000) paraphrases Handler thus; 'the proof that a people are a nation is, above all, their possession of a distinct "culture" of their own creation' (after

Handler, 1988: 192). Keesing, extrapolating from the particular situation of 'pagan' and 'traditionalist' (1992: 13) Kwaio, inhabitants of the interior of the Solomon Islands, links the interest in '*kastom*' throughout Melanesia to local peoples' struggle for autonomy, or just dignity, in the face of colonial and mission intrusion.

Now in apparent contrast, the translation which Reite people most consistently use to turn the Neo-Melanesian term '*kastom*' into their vernacular language (Nekgini) is '*turum maliemung*'. Translated literally, this means 'gathering things together' (to give away). The reference is to the giving of food and wealth to affinal kinspeople, in exchanges that result from marriage. 'Making food' was also a common substitute term for '*kastom*'. '*Kastom*' in this case appears not so much a reification of the past, as it does a description of what is known in the present about the process by which affinal relations are managed. It describes a process in which work and produce are given form in order that they are acceptable to others. This contrasts with definitions of '*kastom*' in the Pacific, most notably by Keesing, who sees the term as primarily a reification made for political purpose, something which bestows identity against others (Keesing and Tonkinson, 1982).

It is important to point out in this context then that the political situation in Papua New Guinea throughout my fieldwork has been very different to that found in other colonial and post-colonial situations. The constitution of the country gave recognition to rights over land held by what are known as 'customary landowners'. The focus of contestation about land is not then on who has rights of ownership; at a general level, this is clear. Some 97 per cent of all land in Papua New Guinea is held under customary title (Filer, 1998: iii). Rather the disputes centre around notions of compensation or appropriate resource rent payment, made by those who wish to develop resources in or on the land. Such negotiations are limited to the locality in which they occur, as are the dubious benefits of primary resource extraction.

It must also be said that the reach of the contemporary Papua New Guinean state is limited. Rural areas such as the Rai Coast are, in effect, governed through a level of local government, which has deliberately utilized local forms of leadership and dispute resolution, rather than imposing a radically different structure of administration on rural people. Perhaps most significantly in the context of my argument here, there is little opportunity for what people in the United States call 'pork-barrel politics', that is, there is limited (although prized) redistribution of wealth through taxation and expenditure. What little does appear in the form of health care provision, communications infrastructure and business development funds are distributed through networks that make no explicit reference to '*kastom*'. In this article I point out the contemporary situation in relation to politics, as well as some pointers to the

history of the area, in order to establish that although '*kastom*' may well have wider political purpose in terms of state politics in other places, the particular connotation of '*kastom*' among Nekgini speakers does not seem to have the thing-like quality (reifications of the past) which has often been taken for granted by anthropologists.

This said, there has been a period in the history of the Rai Coast in which '*kastom*' had significance in anti-colonial activity (Worsley, 1957). But we ought not assume that this contestation was through the kind of reification of culture and tradition which is a recognizable element in the rhetoric of nation states just because it may well have been a period in which power was contested. The north coast of PNG has been the site of some of the major cargo movements that have become staples of the anthropological literature. Burridge (1960) wrote of Manam island off the north coast, Lawrence (1965) wrote of Garia who inhabit the mountains behind Madang town, and Yali Singina, the protagonist of *Road Belong Cargo*, was a Rai Coast man. He came from the next language group to the east of Nekgini speaking people, a language called Ngaing. Yali is still very much a feature of Nekgini speakers' discourse today, cited with approval for his insistence on the importance of '*kastom*'. I will discuss Nekgini understandings of what they call '*kastom*' in some detail to establish it as an explicitly relational and exchange based interest.

The centrality of '*kastom*' in Reite was apparent to me from early on. My initial impressions of Nekgini social organization were made chaotic by the fact that the entities people referred to in Pidgin English as '*klen*' ('clans') bore little systematic relation to descent.<sup>4</sup> This was further complicated by the information I received about marriage, where it became clear that although Nekgini speakers state the preferential marriage a person should make is to a cross-cousin, at a distance of three generations, many people married kin closer than this. Indeed, it turned out that a full third of marriages made by men currently alive and resident in the hamlets of Reite were to women classified as sisters or mothers (Leach, 2003). This was not seen as a problem, although it did merit comment.

The term that people were translating as 'clan' turned out to be of great significance. This term – '*palem*' – describes a kind of fulcrum to a generative system of kinship-connection based not on descent, but on co-residence and co-operation. A '*palem*', as well as being the word for the pre-eminent social grouping among Nekgini speakers, is also the name for a ceremonial house construction in which visitors to a hamlet are seated, fed, and in which decorative ritual effigies are constructed out of wealth and food for affinal exchanges. A '*palem*', in the sense of a social group, takes its name from this ritual construction. Affinal exchanges crystallize residential groups and sets of siblings into those people who are related to a wife, and thus receive the wealth displayed

in a '*palem*', and those who are related to a husband, and thus contribute to the '*palem*' construction. As a consequence of co-residence in the hamlet, which makes an affinal payment in the form of a '*palem*', those people come to be known as a '*palem*', which is named after the land upon which it is built. Thus Nalasis '*palem*' is a social grouping resident on clay ('*nala*' - ground, '*sis*' - sticky). '*Palem*' construction, then, generates named social groups (and see Leach, 2000).

Residence and co-operation in constructing a '*palem*' produce kinship-like connections. In fact, it may be that the notion of cognition itself (Lawrence, 1984), based as it is on the notion of connection through substance transferred at birth, is a red herring here. Persons resident in the hamlet from which an affinal payment in the form of a '*palem*' has been made treat one another as siblings. Their children are siblings to one another. All residents are known to others as '*one palem*', named after the place in which they achieved the construction. '*Palem*' sites shift over generations, and it is up to each new generation to make their place of residence known in the landscape of named places, through affinal exchanges made from there. As people are supposed not to marry siblings, marriage within a hamlet, or '*palem*' group, is discouraged. The logic of the generative pattern of '*palem*' means marriage within a hamlet entails the construction of a new '*palem*' by siblings of the man, removal to his own land in order to achieve this, and therefore hamlet fission. The resulting disruption and truncation of supportive sibling relations appears to be the source of comment and anxiety in such marriages. It was '*this*' complex that was identified as '*kastom*'.

Now at the heart of Lawrence's analysis of cargo movements in Madang is the interpretation of a particular myth. This was a myth which Reite people told me as a priority on my arrival in their village. I had explained my presence as generated by an interest in '*kastom*', and they had agreed that I would live there and record this '*kastom*'. Being self consciously '*kastom* people', unlike their neighbours who are 'church' ('*lotu*') or business ('*bisnis*') orientated, they congratulated me for having come to the right place. That is, one with a knowledge of '*kastom*'. Old men arrived at my house on the very first morning, and sat me down to tell me their most important knowledge. The term used in Nekgini, '*patuki*', refers not just to what we might call myth, but to knowledge itself, and to the characters who reveal knowledge in myths. The most fundamental knowledge that these people had of the world, I was told, was embodied in the story and characters that followed.

It turned out this was a story with which I was familiar from my reading (Lawrence, 1964; Pomponio, 1994). Although unsurprised that my arrival elicited such a story, I took for granted at that point the kinds of interpretations I had become familiar with from reading Lawrence and other ethnographers of the region (Harding et al., 1994). They argue

that this is not an origin myth, but a post-facto claim over cargo, using the intellectual resources available to local people, to make explanations about their disinheritance.<sup>5</sup> The myth is called Pomo in Reite, after the place where a '*palem*' was made in the distribution of wealth items in the myth, and which is still visible as a pile of stones. It is important for my argument about love-magic and *kastom* to be familiar with the rudiments of this myth.

It begins with two brothers and 'a woman'. This woman is variously referred to in the preamble as mother to the men, as their sister, and/or as wife to one of them. The action starts with the younger brother tattooing a design on the inner thighs of this woman. She was said to feel shame in showing this design, and hid it under clothing. The elder brother wondered what she was hiding under this covering, and tricked her into revealing it to him. On seeing the design that was there, the elder brother became angered. He killed pigs and called on all those in the vicinity to come and eat pork in return for drawing the designs they wanted identified with them on a house post he set up for this purpose. Eventually, his younger brother had a turn, and when the design was revealed (it is called '*Yandi Imang'*) the elder knew who was responsible for what had happened to the woman. He was furious with his sibling, and they fought. Eventually, the younger brother removed himself to another place where his elder could not easily follow and fight with him, and from there called for the elder to come and receive wealth items which he generated there, and eat pork. At this reconciliation, the younger brother offered his elder valuable knowledge, which was refused, and thus the younger went away altogether, disappearing, many now say to white-man-land, taking with him the new forms of knowledge which had been rejected.

The standard reading of this myth has been that it describes anger and jealousy over adultery, and a subsequent loss of the knowledge. However, I think an alternative reading is profitable. Firstly and most significantly perhaps, in the opening of the myth we are presented with an ambiguous identity embodied by the woman, and an unproductive situation. That is, there are no children, no affines and no exchange. The ambiguous position of the woman here should alert us to something about the gender of these three characters. In fact, we have an image that is not unlike a sibling set, living together in a hamlet. They apparently lack nothing. But there is stasis. Hamlet groups generated around '*palem*' construction are in this position. Male and female siblings learn to co-operate and subsist through divisions of productive labour. In this sense, there is gender differentiation. But there is no productive sexuality. The action of the myth is precipitated by an act, always interpreted as adultery. But I suggest that the tattooing amounts to an act of gendering. And it is this act which begins the differentiation of the world

through marriage and exchange. From this initial act comes the separation of the siblings, the population of the landscape by different kinds of person and being, and the instigation of the use of wealth items in exchanges. Places come into being as separate and named entities, each containing potential to produce wealth and knowledge.

My argument, then, highly condensed here, runs thus: In the myth of Pomo,<sup>6</sup> we have the origins of sexuality and therefore productivity as it is understood in Reite cosmology and practice. The '*Yandi Imang*' design is a mythic act of creation. From this act comes the distinctions of sexual (productive) identity. The act is thus is the origin of separation between persons which results from gendering. The anger and fighting in the myth is not jealousy over a wife, but the anger of being separated from a sister, and this anger still exists today. It can be seen in the fury that greets any suggestion that a sister has succumbed to love magic. This being the case, it is no wonder that this is a story which can also explain the separation from white people, from cargo, or from their deity. Whatever the separation, it is plausible because such separations are forms of the essential, the necessary, separation between kinspeople that generate the conditions for marriage and therefore social life and exchange. But the time of the myth is not 'the past', like the loss of cargo might be thought to be 'in the past', but is present and relevant to a loss that all people feel as siblings, and yet all know to be necessary to productive differentiation and creation of difference. Definition of a person, and their close kin, is imposed upon them through love magic. This imposition of gendered form elicits future productive relationships between the parties.

Just as it is acknowledged that no woman would marry a man (read; leave her natal hamlet to move to some unknown and potentially hostile place) without being forced into doing so through love magic, so no man whose sister expresses desire for another man is in any doubt what the source of this disruption is. He knows that the man his sister loves has performed love magic. Thus the practice of love magic is a fraught affair. Unmarried women avoid potential marriage partners who may be able to pass them some item containing the stuff. Despite its ubiquity, people do not accept other people's use of the practice. Married women will often swear bitterly, remembering their husbands' trickery in causing them to come to his hamlet, and cursing the men for it. Love magic is seen explicitly as an act of violence, an extractive process whereby a woman is moved by force from her kinsmen.

Violence is seen as the appropriate response to love magic as well. That is, a woman's brothers can be sure of the source of their sister's new desire to be with a man, for there are no circumstances under which she would want to be with him were it not for '*his*' use of love magic. It is customary then for brothers to vent their anger at what is perceived

as a loss, on the perpetrator. Men always fight when a woman falls in love in the villages where I lived, the extension of this being the understanding that the fight gives the prospective husband a right to marry the girl over whom he has suffered violence. The practicalities of the logic ensure that once recognition of the girl's desire is made, nothing could stop her removal anyway.

I suggest that the significant moment in the anger of brothers over the loss of their sister to a husband is not the moment that they catch the two together, nor the moment of her departure, but the moment that anticipates these inevitable consequences. This lies in her recognition not as sister, but as possible wife. Thus her lover's act with love magic is an act of gendering, as much as was the act of tattooing by the younger brother in the myth. In this hidden act of extraction, the future husband has imposed a form on one sibling, precipitating a loss which inevitably follows the recognition of this sister not as a female sibling, but as a sexually productive counterpart to another man.

A sister is not made a stranger, the consequences of the violence done to her (her extraction) and her husband (the fight) are carried forward into the future to make her children strangers. If the axiom of kinship is that everyone is related (cognatic kinship), then this is a solution to the problem of how one finds anyone different enough to marry. Physical removal is the start of a process of differentiation which produces affines and cross-cousins as distinct from their origin.

Now as I mentioned, Reite people are distinctly proud of their adherence to and continuing knowledge of '*kastom*'. They speak with scorn when their neighbours, who have given up '*kastom*' in favour of seeking power through Church or business, come to them for assistance with divination or love magic. '*Kastom*' is of value because it is known to have effect, and the effect that it has is precipitating the necessary and productive separation, which lies at the heart of all kinship, all human social life. They really do make such extraordinary claims, and it is not always comfortable to listen to them. Now as Lawrence and others found out, these claims are often made as claims to rightful control of white people's object wealth. Yet I contend, merely reiterating an old insight, that it is not in fact the '*objects*' that are the goal (Wagner, 1975: 32-3). The appearance of objects would mean recognition, dignity, terms Peter Worsley uses in his work on the proto-political nature of cargo cults (1957). We see all over contemporary Melanesia that objects fall out of use once their purpose in exchange or display has been achieved (e.g. Küchler, 1992). It is indeed power that Reite people are claiming. The movement and appearance of objects can be seen in such places as traces of the relationships which produce and reproduce persons. It is those relationships that are significant. The claim may well be that Nekgini speakers are the origin point of creativity through differentiation itself.

Extracting a partner through love magic has ongoing consequences in terms of debt, exchange and the production of new '*palem*' sites and wealth associated with them. Those consequences have their register one might say in ownership. As to claim connection, or ownership, is also to claim that there are those who are not oneself, who will not have this thing, and who may well desire it. This sounds remarkably similar to the position Reite people find themselves in with regard to the world of white people.

In the context of cultural property, my interest is that in combination with historical factors that have made Reite people think of their knowledge in comparison to others', a language with which to talk about the power of such knowledge has also emerged. This is the language of '*kastom*'. But as such, '*kastom*' appears very different to the kinds of effectiveness that are envisaged to be a part of controlling cultural property. That is, the ownership of objects for the sake of internal coherence. '*Kastom*' is the power to make relationships through imposing form and eliciting response, not control of objects already given form and value by some other internal specification.

#### **THE COHERENCE OF TRADITION AND THE ABILITY TO HAVE AN EFFECT**

The definition of a group's cultural identity by the nation state in which they reside can have significant consequences for their subsequent ability to claim land or other resources from, or through, that state (J. Weiner, 1999). The notorious Hindmarsh Island affair from South Australia (Mathews, 1996), for example, centred on a claim made by a group of Ngarrindjeri women to a stretch of water at the mouth of the Murray River near the city of Adelaide. Through the early 1990s, legal battles were fought between capitalist developers who wanted to build a bridge to this island (as part of the development of a leisure complex), and a group of local Aboriginal women who claimed the waters between the island and the mainland as sacred. These waters, it was said, held a central place in the women's fertility. The '*assault*' on the lands and waters in building a bridge was an assault on their bodies, and their reproductivity. Under Australian state and federal law (although these are not exactly the same), Aboriginal groups have the right to claim places of significance in their culture, and prevent their alienation to, or alteration by, developers. Yet such claims have to be proved in court. Thus statute law which defines tradition is paramount to such claims. When another Ngarrindjeri group came forward, denying the significance of Hindmarsh island in their culture, and accusing their counterparts of '*making up*' the stories of significance, the question of what constitutes Ngarrindjeri culture itself was called into question. Part of

the issue was about what the women might keep secret from the court. They claimed access to the knowledge of fertility was restricted, and therefore must not be disclosed as part of their case. A Royal Commission was established. In the discussion of what constitutes culture and tradition the anthropologist who was acting as proponent for the original group of women, made appeal to the dynamic nature of contemporary Aboriginal culture, and the rights of the women to keep their knowledge secret.

As James Weiner, then Professor of Anthropology in Adelaide wrote,

The Royal Commission assumed that the truth of a culture is the fidelity of its transmission over time. If the experience of peri-urban Aborigines like the Ngarrindjeri is viewed only as one of progressive loss of 'traditional' culture, then claims to such fidelity can be called into question. However, if it is acknowledged that Aboriginal culture is now a source of capital, both symbolic and otherwise, then disputes between those seeking to authorise it and legitimise it are inevitable. (J. Weiner, 1999: 206)

Anthropologists were implicated in the difficulties by their arguments for seeing culture as a dynamic and processual development of strategies for dealing with contemporary political situations (and see Kirsch, 2001).<sup>7</sup> Against the interests of the original claimants, as it turned out, this definition was not acceptable in law. As Weiner argues, the fact that the Australian state and its legislation are themselves now elicitory elements in the continuing constitution of Aboriginal culture is anathema to 'the definition given to Aboriginal culture as discrete both from Euro-Australian society and from the legislation that is defining it' (J. Weiner, 1999: 199). His suggestion is that a radical distinction between Aboriginal and Australian societies can only be by way of a 'construction' of a primordialist Aboriginal identity. Only a particular (static) definition of culture is admissible in this particular way of defining tradition.

In a famous case relating to the continuity of tradition, Allan Hanson caused a furore with his article in *American Anthropologist* describing the 'invention' of Maori tradition (1990). The controversy surrounding Hanson's work, which was intended as a contribution to the theory of cultural invention as part of a political engagement with contemporary conditions (see Jolly and Thomas, 1992: 243), shows just how much is at stake when the coherence of a people's tradition and continuity of practice is apparently questioned. There are actual consequences in access to resources and land. As Linnekin put it, '[w]riting about the contemporary construction or "invention" of culture undercuts the cultural authority of indigenous peoples by calling into question their authenticity' (1991: 446).

Paul Tapsell (himself a Maori, and a museum curator) has recently written of the significance of items passed down from ancestors, known

as '*taonga*', in contemporary Maori society (Tapsell, 1997). Two of the strands he weaves into the article are the contrasting registers of significance for '*taonga*'. One is their relevance as emotional, spiritual and political concentrations of transformative power in Maori understanding. The other is their consequent relevance to assertions of tribal identities in the context of both the nation state of Aotearoa-New-Zealand, and the increasing urbanization of Maori populations. He focuses particularly on the return of a '*taonga*' object, a woven dog-hair cloak, named after its maker, a woman called Pareraututu, from the Auckland museum to Arawa tribal lands. What is fascinating here is that although this return looks like the return of cultural property, its significance, even in the contemporary 'crisis' of Maori tribal coherence and authority, was not the fact of its return as a matter of ownership, but its return as an element in the ongoing creative power of Maori customs for tribal people themselves. Tapsell writes that,

Although a museum concept of 'legal ownership' still hangs over Pareraututu, it is generally seen as irrelevant by Te Arawa. Rather than enter into a legal debate over the 'ownership' of ancestors, all that truly mattered to the tribal elders was that Pareraututu and the three accompanying '*taonga*' were back home on Te Awara soil so they could once again be reunited with their descendants. Even the ongoing crisis of tribal identity in the face of urbanization was temporarily forgotten. (Tapsell, 1997: 350)

The creativity of '*taonga*' as they 'travel from one generation to the next [along with] . . . their complex genealogically ordered histories, or '*Korero*', which are individually attached to them' (Tapsell, 1997: 328), makes them absolutely appropriate for focussing tribal identities. But this focus comes from the complex interactions of genealogical knowledge, sacred rites and transformation in life-cycle rituals, not from the mere possession of the object as an item of property. In fact, Tapsell makes a critique of Annette Weiner's notion of inalienability, and her use of the terms 'possession' and 'ownership', because, he says, it is 'a maxim that you cannot "own" a "*taonga*" because they are your ancestors' (Tapsell, 1997: 362). It is the circulation and retrieval of '*taonga*' that make their return, as in the case of Pareraututu, transform the living.

#### **CULTURE, PROPERTY AND MORAL NOTIONS OF THE PERSON**

James Weiner puts forward the proposition that '[w]e may wish to accept that in contemporary cases of indigenous cultural revival around the world, "traditional religious practices" may be more important for the contribution they make to identity management and promotion than to social and cosmological maintenance' (J. Weiner, 1999: 204). Given the

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importance placed upon cultural property in such constructions, what is it then that makes the notion of the return or inalienability of objects so central to contemporary identity politics?

In trying to answer this question, I turn to recent writings on cultural property and heritage. Tunbridge and Ashworth, social geographers, tell us that '[u]ntil not very long ago the word "heritage" had a simple and generally accepted primary meaning; it was the collective generalization derived from the idea of an individual's inheritance from a deceased ancestor' (1996: 1). Given this connection with notions of descent and rights, it seems unsurprising that we might locate a kind of extension of notions of the rights of the person, to the rights a nation or cultural group might have over their past. And of course, the connection to identity is also apparent. In 1984, the director for the Council for British Archaeology, Henry Cleere was writing that 'the role of the cultural heritage in the establishment of cultural identity in emergent nations is a fundamental one, since it constitutes tangible and monumental proof of distinct nationhood' (Prott and O'Keefe, 1984: v).

UNESCO took up the task of defining the rights emergent nations ought to have over their self definition, and in many cases, linked such rights to the control over what came to be known as cultural property. In the 1970 'Preamble' to their 'Recommendations on Cultural Rights as Human Rights' for example, in an interestingly prescriptive tone, they defined cultural property as an 'essential element in the personality of peoples of the world . . .'. They go on, '[t]he significance and message of cultural property become a part of the spirit of peoples who thereby may gain consciousness of their own dignity . . .'. I say interestingly prescriptive, because one can identify in such statements an image of the kinds of 'personality' nation states, or ethnic groups within them, ought to aspire to in order to be players on the world stage. As Greenfield says in her book, *The Return of Cultural Treasures*, in third world countries, 'culture has a more political meaning equated to anything which heightens national consciousness or identity' (1995: 253). These are forms of what James Weiner described as 'constructionist' views of culture. They are based on building coherence over time, and in content.

A transition, then, has occurred whereby one of the defining features of a nation or cultural/ethnic group resides in their cultural identity. There is a further slippage here which we must be aware of, and that is to defining the control over such aspects of one's identity as a moral matter. The protection of cultural property, UNESCO was to say by 1978, 'and the prevention of risks are much more important than compensation in the event of damage or loss, since the essential purpose is to preserve the cultural heritage, not to replace by sums of money objects which are irreplaceable'.

The fact that objects of cultural property derive their value outside

transaction, even in opposition to value created in transaction, makes them part of cultural identity in the same way that subjectivity, or for that matter, bodily substances or organs, are integral to the moral person itself in western discourse. The process of creating nation states and cultural groups whose basis for cohesion is in identity and tradition, makes the elements which embody that identity and tradition, morally, and not just circumstantially, attached to them as entities. Their integrity as persons, one might say, is threatened by removal.

The very materiality of cultural property is of importance here. That is, the objects which are defined as cultural property are both objects in their own right, and as such, rightly controlled by humans. And yet they are part of something which has a worth of its own, on a par with the subjectivity or self-proprietary which stand behind the notion of the legal person in western discourse. Control over such objects rightly lies only with their creators, and of course, with the descendants of those creators (Handler, 1988: 46–7). Hence the emphasis on continuity, mirrored in the Hindmarsh Island case. One of the ploys used by the British Government in refusing to return the Parthenon Marbles was that there was no direct connection between those who created them in antiquity, and contemporary inhabitants of Greece (Greenfield, 1995). This ploy of course invoked an appeal to the same lack of continuity in transmission over time. And there is a term, which is used in this context, which perfectly describes the modelling of connection through kinship idioms – that term is patrimony. These are items which have value because of their transmissibility, rather than their transactability. This, as Benjamin points out in the context of book collecting, makes the continuity of their history all important (Benjamin, 1968: 64). The object-status of such items makes them appear available for transaction, when in fact, because of the moral discourse in which they achieve their value, they are not (Rowlands, 1999).

Interestingly, it is precisely the same morality that makes problematic the sale of body parts, or the patenting of genetic sequences removed from other's bodies, in contemporary western debates. The language in which such items are given value, by drawing on notions of human creativity and authentic connection through transmission, models derived from kinship and personhood, has its own ongoing consequences. In fact a review of the first edition of Jeanette Greenfield's book *The Return of Cultural Treasures*, which appeared in *The Times Literary Supplement* in 1990 described 'the rather morally beautiful idea', contained in the book, 'that certain objects belong by right to a culture, and that in certain circumstances this overrides rights of circumstantial ownership'.

Completeness is seen as essential to the identity of ethnic groups, or nation states, and against this ideal of completeness is fashioned the

unacceptability of colonial theft of treasures or artefacts. 'The inalienable nature of possessions presumes the argument that certain kinds of valuables and things should not enter into circulation or leave the possession of their original owners' (Rowlands, 1999). As with contemporary commentaries on the traffic in body parts (Scheper-Hughes, 2000), what is inalienable from the person is only seen as such against innovations which make what was previously inseparable, now 'inalienable'. A moral notion of completeness replaces the physical impossibility of dissolution. In the case of culture and tradition, this is a process whereby the ideal of a whole has become the background against which to envisage loss. In the current interest in heritage and cultural property, it is by constructing a notion of culture and tradition as complete, that the moral notion of alienation and theft is framed. But what does this notion of completeness serve? I contend there are assumptions about the moral subject, which are served by such notions of completeness and control.

In this construction, control over objects is thought to be a proper moral position for humans, and removal of this ability, to act on a person as if he or she were an object, amounts to an attack on their fundamental rights as a person. And here I wish to conclude by emphasizing the contrast between the UNESCO position and Nekgini '*kastom*' through returning briefly to love magic.

#### **CONCLUSION: DIFFERENT REGISTERS OF EFFECT**

Value, in the Lockean tradition, passes from the labour power of the producer into the thing itself. It is this transmission which makes an apparently natural connection between the producer and the object they produce. This is in turn based on a notion of the individual as possessor of him- or herself, and thereby, by extension, the products of his or her own labour.

I suggest that by locating value in relationships, and not in things, people on the Rai Coast, do not view the process of extraction in love magic, or in wealth exchanges, as one which devalues or permanently removes subjectivity from the person who has been acted upon. It is our focus on the thing itself (the woman or the exchange item) as the locus of value, which confuses us here. I think that for people on the Rai Coast, things are of little interest other than as the traces of what is valued – that is the capacity to extract things from others – or relationships. In fact, Eric Hirsch (1995) suggests that Fuyuge people living in the Wharton Ranges of Central Province in PNG coerce '*others*' into extracting things from them, '*in order*' that their capacity to produce is recognized.

Love magic makes women the object of others' extractive attentions. It imposes a form upon them. But that is a form constituted by an

ongoing relationship of affinity. It is an explicitly relational form in which objects and persons take the form of persons. Subject/object relations are not at the heart of the definition of personhood. In cultural property, the value of objects is seen in relation to their extraction and the infringements of rights this extraction entails. Objects and persons are not exchangeable, one must control the other as subject. Thus each kind of objectification has different connotations. In the first, I have suggested that the process of making an 'object' out of a woman is in fact the process of making difference between her and her siblings. It is hard then to see how this amounts to objectification of a person because of their inherent attributes. Value here is generated by the act of separation and differentiation, not by recognizing continuity, and thereby authenticity (read identity) in something which already has its essence internally. Others' extractive actions elicit capacities, elicit the productive potential of the person, and in doing so replicate the differentiation which is at the heart of creativity itself. They are acts which make effective the potential of persons. Control over oneself is not necessary to effective engagement in the world. Nor is self-definition.

In the case of the extraction of objects of cultural importance, western notions of the person, based indeed on the idea that individuals contain their essential attributes internally, and thus have a right to self determination, make value a matter of continuity and control as if once these things are acknowledged, effective relations with others may be built upon them. 'Being' may 'depend on having', in UNESCO's extraordinary phrase, but for whom? Not Reite people, I would contend, where '*kastom*' defines persons as those who are in relationship, and thus open to redefinition, to elicitation of capacities.

The notion of inalienability is an emergent one, which appears against the background of a particular construction of the person and how they can be effective (that is, through controlling objects). We have seen, through the generalized theorizing of this issue by UNESCO and various commentators, as well as from examples drawn from Australia and New Zealand, that there is something we might like to characterize as thinking directed through models of kinship and personhood at work. This is apparent not only in the particular issue of repatriation, but in the whole complex surrounding the value that is placed on culture and tradition. It appears essential that these elements attach themselves in very particular ways to groups, in order that these groups are efficacious. (That is, they achieve the political effect of legitimizing claims over resources.) There is an apparent circularity at work here, which comes from the double register that claims over coherence of tradition make over material items.

On the one hand we have the apparent inalienability of cultural property. Yet claims to control of such objects are dependent on making

a case for the continuity of the tradition and personnel who have (or ought to have) received them through transmission. Groups, like persons, carry these attributes '*internally*' as it were. They are thought of as patrimony, making cultural or ethnic groups like individuals with traceable transmission of the '*substance*' of their being.

On the other hand, we have the claims which this kind of coherence, a combination of material and mental capacities, allow entities constituted in this way to make over another class of objects. Those being resources, or what we might call objects which are valued through transaction and not transmission. Obviously diverse situations are more complex than this summary gives credit to. Many of the things claimed through coherence of tradition are indeed elements of that tradition. Land among Australian Aborigines is not well defined as gaining its value through transaction. However, developers could be prevented from exploiting Hindmarsh Island's potential as an object in transaction – alienable land – because of a higher order of value in which this resource has a place (in western legal discourse). Culture has effect, one might say, in a very particular sense.

If claims to the repatriation of cultural property, or the unthinkable but necessary compensation in monetary terms to those who have lost parts of their body in the organ trade (Scheper-Hughes, 2000), are made as moral notions which appeal to completeness, only conceivable when that completeness has been destroyed, Reite people's interest in '*kastom*' envisages a different form of completeness. Rather than a fetishized object, I suggest that Reite concerns are with creativity itself. And thus their idioms for connection to things do not speak of a completeness which ought never to have been destroyed; for the loss of which they might be compensated. Rather, one form of completeness – the primordial undifferentiated world – was substituted for a productive incompleteness (and see McKinnon, 1991: 38). If Reite people's interest in '*kastom*' is in fact with its power as the basis to generate new forms, new productive relations, and new kinds of wealth, then how are we to reconcile this value based on process with the value attributed in the discourse of heritage and cultural patrimony?

Another way of asking this question might be to say: 'what can we learn from the articulation of this difference?' What I suggest here in conclusion makes an attempt to answer this question. I have pointed out in this article that there is a paradoxical similarity between the actions of UNESCO, and those of men who use love magic in Reite. That is, they both impose a form on another entity whereby that entity becomes effective in a certain sphere of political and, what we might accurately call in this context, reproductive, relationships. For UNESCO it is the preservation of essences that give a culture its future viability – 'the well-being of all people depends, "*inter alia*", upon the existence of a favourable and

stimulating environment and the preservation of cultural property of all periods of history contributes directly to such an environment' (UNESCO, 1970). Groups have to appear in certain ways to be valid claimants. In both cases, one might say, this imposition of form is contested, or contestable. In the case of UNESCO's imposition, however, it is possible that the emphasis on inalienability predicts what will happen on the return of an object – it will be reincorporated into the 'being' of the culture in question. From this point on, the reason for a relationship of which this object was a trace, a relationship of inequality as like as not, is obviated. When the issue of repatriation disappears, that particular reason to make a claim on a relationship, disappears with it.<sup>8</sup> Now the lesson we might learn from Reite interests in '*kastom*' and the creativity it embodies, is that an ongoing relationship of elicitation and productivity between the parties is the major goal. Where objects trace relationships, and it is relationships that are valued, giving up objects themselves would be little valued. UNESCO's emphasis on inalienability and wholeness in fact serves to sever the responsibility of the powerful on return of the contested object, and therefore the relationship between the two parties. In theory, the recipient is apparently as powerful and able to act, as any other whole person. But achieving recognition of inequality and injustice which is symbolized, but not embodied by a particular object may be the burden of requests for repatriation. By this I mean to suggest that it may well be a political relationship, and recognition of history, disadvantage and colonialism in that relationship, which is the point of requests for repatriation of objects in some cases. UNESCO's emphasis however works against such an idea. The focus on the object itself obscures the desire for an ongoing relationship, with an image of equality based on a constructionist notion of the person.

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**Notes**

1. This article was written drawing upon literature and case studies up to the early 1990s. Recent changes in UNESCO policy are not addressed here. The argument is about a contrast in ways of understanding and valuing people's practices as it appeared during the 1990s.
2. The hamlets of Nekgini-speaking people are located on the Rai Coast, in Madang Province, Papua New Guinea. The Rai Coast has a population of around 40,000 people, who speak at least 40 different languages. I here use the term 'Rai Coast people' for convenience, as less cumbersome in a title than 'Nekgini-speaking people in the villages of Reite and Sarangama, on the Rai Coast'. It is, however, these people, living in the Mot 1 census district, to whom I refer. Fieldwork is ongoing, with periods of 18 months in 1994/5 and 3 months in 1999 and 6 months in 2000/1.
3. I deliberately chose the English word 'custom' for the title of this article because it seems to me to sit so uncomfortably alongside implications of efficacy and creativity, the meanings that the term '*kastom*' has for Nekgini speakers. I admit that this slippage between the English usage and the Nekgini resonances of custom/*kastom* is a ploy I use in order to set up a particular dissonance. I do not intend to dwell on the distinction in the present article however, and will use the neo-Melanesian term '*kastom*' from here on.
4. Nekgini-speaking people operate a system of kinship and residence organization which Peter Lawrence describes interchangeably as based on 'double unilineal descent', and as 'cognatic' (Lawrence, 1965, 1967). Interestingly, and as Marilyn Strathern has discussed (1992), he never made a completely satisfactory analysis of Garia or Ngaing social structure. Complexity is apparently generated through an individual's choice between descent, co-residence, ritual co-operation, shared totem, bush god, and so on, in making the associations which Lawrence calls 'security circles' (Lawrence, 1955, 1984). His book on the Garia comes to the conclusion that individuals make choices about their kinship affiliation based on an extremely complex set of ramifying relations with others.
5. Tom Harding, for example, writes,

Rather than being a corpus of instrumental tales . . . the set assembled here might be referred to as central motif myths: they reside in the memories of numerous members of each of the societies represented here, to be drawn on in debates about morality, rights to important resources, change, the problem of whites and so forth. (Harding et al., 1994: 5)

These myths then are seen as pseudo-history: a history made after the event, and are thus a mythic history, a cultural explanation which provided the basis for resistance to the denigration of native society by European colonizers.

6. Elsewhere known as 'Manup and Kilibob'.
7. Although the anthropological advocate employed by the Ngarrindjeri women, Deane Fergie, maintained the 'women's business' in this case was not a recent development.
8. Peers (2001) advances a different view. She argues that 'disputes over cultural property have become a composite arena in which relationships between indigenous peoples and settler societies are being renegotiated'.

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