

Chapter Six

Incorporating Huli: Lessons from the Hides Licence Area

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According to Stirrat (2000: 31), the practical or pragmatic impact of reports written by anthropologists working as development consultants 'is in many ways irrelevant' because such reports are assessed on aesthetic criteria generated by the culture of modernity and their structure is pre-ordained by the interests of the client who commissions them. If the point is to attain 'closure' rather than 'dialogue' (Henton 2000: 586), then the author of such reports may come to feel that they are being used much as a drunk uses a lamp-post — for support rather than illumination. For their part, clients often suspect that the consultant anthropologist is more interested in pickling and preserving 'cultures' than in addressing the practical problems of 'development'. The result for both parties may be a portrait of the consultant as 'someone who borrows your watch to tell you the time' (Stirrat 2000: 44). Reticent to adopt the mantle of the social engineer, the anthropologist falls back on the strategy of telling developers or development agencies what they already know or can work out for themselves.

Nevertheless, resource developers currently operate in a political climate where sensitivity to indigenous cultures, rights and voices has never been so acute, and so they frequently and desperately seek answers from anyone who appears to exhibit confidence or experience in such matters. Much as they might wish to ignore the complexities of local social organisation and culture, engaging such issues is the only way to demonstrate their corporate social responsibility in respect to the design, implementation and monitoring of their projects. This chapter examines some of the issues faced by all stakeholders involved with indigenous lands rights and customary land group registration in the context of oil and gas development in Papua New Guinea (PNG). It suggests some of the rethinking that may be necessary for the anthropologist and other stakeholders to sustain a relationship that works in the best interests of any community affected by this kind of resource development.

Retrospective on Incorporated Land Groups

Development of petroleum reserves around Lake Kutubu in the Southern Highlands Province of PNG began in the late 1980s. The original developer, Chevron Niugini Ltd (CNGL), established a system of Incorporated Land Groups

(ILGs) in the project area with the approval and support of the then Department of Minerals and Energy. These ILGs were established under the *Land Groups Incorporation Act 1974 (LGIA)* — a law that was meant to empower customary groups to manage the acquisition, use and disposal of their own customary land and regulate their internal affairs and disputes in accordance with ‘custom’ (see Fingleton, this volume). As a piece of legislation, the Act is deliberately general in nature so as to reflect the diversity of customary social organisation found across PNG. For example, it often comes as a surprise to those who consult the Act that it does not contain the word ‘clan’.

There is no legal compulsion on landowners to form ILGs, nor are developers under any corresponding obligation to perform the function of ILG registration. Under Section 47 of the *Oil and Gas Act 1998*, the holder of an exploration or development licence is only required to produce ‘Social Mapping and Landowner Identification Studies’ for the information of the Minister and the Department of Petroleum and Energy. However, other sections of the Act make further reference to ILGs. Section 169(2)(b) states that the Minister shall determine by instrument

the incorporated land groups or, if permitted in accordance with Section 176(3)(f), any other persons or entities who shall represent and receive the [landowner] benefit on behalf of the grantees of the benefit.

Section 176(3)(f) states that

unless otherwise agreed between the State and the grantees of the [landowner equity] benefit or prescribed by law, the beneficiaries of the [landowner equity benefit] trust shall be incorporated land groups on behalf of the grantees.

The *Oil and Gas Act* therefore seems to imply that ILGs should be seen as the default system for landowner benefit distribution in the absence of some other agreed upon system.

From a strictly legal point of view, the registration of ILGs is a responsibility of the Registrar of Titles (ROT) in the Department of Lands and Physical Planning. However, because ILGs are also one of the vehicles by which accredited landowners receive financial benefits from resource development projects, other government departments, such as the Department of Petroleum and Energy (DPE), are also involved in the process of registration and the management of issues that arise from it. Recognition of an ILG depends on the preparation of a certificate that includes a detailed constitution for each group (see Fingleton, this volume). Although resource developers have no legal responsibility for the production of these documents, CNGL had little option but to accept some of this responsibility because of the limited capacity of government agencies such as the ROT.

There are currently some 600–700 ILGs representing the customary owners of Petroleum Development Licence (PDL) and Pipeline Licence areas in PNG. While CNGI could reasonably argue that the ILG system ‘has worked’ and the ‘benefits have flowed’, the systemic and persistent factionalising of ILGs has interfered with the process of registration and validation, and has delayed the distribution of landowner benefits. As I noted in one social mapping study:

The pattern that has emerged during the course of fieldwork is one where multiple sub-clans, and sometimes lineages, are constituting themselves as separate units for ILG status ... [I]n this regard it seems an appropriate juncture to pause and take stock of current ILG work to pose the question whether this trend is one that is cohesive or divisive of the communities and their fundamental structural bases ... [T]he fear with the present trajectory of ILG work is that it may promote and institute a pattern of division which breaks down clan mores and implants fissionary tendencies that are counter-productive in the long run (Goldman 1997: 20).

The consensus is that groups have been opportunistically massaging their oral histories and manipulating the lands officers employed by the resource developer in order to maximise their financial benefits. This can be done by splitting ILGs to reduce the number of ‘members’ attached to any given landholding. In effect, the ILG system has become yet one more mirror to reflect the kind of shifting politics endemic in PNG’s wider society. The question is whether these ‘resource project cultures’ are moving from a predominantly clan-based form of social organisation to one of nucleated families whose members only recognise the wider principles of common descent in a very loose way and whose claims for ‘separate’ landholding status merely express these generic tendencies and trajectories. My argument would be that these are not broad-based changes but rather a manifestation of the narrower opportunistic concern of each group to maximise its financial gains from the system. The ideology of group membership is unchanged and still expresses the way that people relate to each other, to the supernatural world, and to the ground beneath their feet.

The troubled history of ILGs in PNG is also discussed by Fingleton, Weiner and Filer in this volume. Succinctly stated, whatever system has been put in place eventually falls prey to the process of constant fissioning whereby ILGs break up into smaller and more exclusive units. There is opportunistic registration, de-registration and re-registration, all of which signals a more general failure of ILGs to function as anything more than conduits for the distribution of resource project revenues (see Weiner, this volume). While all parties bemoan the parlous state of customary group registration, and acknowledge the problems posed by the process, solutions have so far been conspicuously thin on the ground.

The origin of these problems is frequently attributed to a number of circumstances. Project operators were compelled by default to usurp the functions of the national government in establishing ILGs in the first place because of a lack of government capacity and resources, but while they did not abrogate their responsibilities under this ad hoc arrangement, the operators were not willing in the first instance to do any more than the minimum necessary to ensure that the project met its own milestones. In effect, the operators identified the beneficiary ILG groups, prepared the paperwork, submitted the forms to the ROT, and managed the process of disseminating the outcomes. This procedure was known as ILG 'facilitation'. The ROT conferred with the DPE to seek initial endorsement of ILG applications since these pertained to existing PDLs. Once DPE staff were satisfied, the ROT usually just endorsed the applications that had been received. There appears to have been little formality to this process: for example, there were no joint committee meetings or decision-making forums involving both government agencies.

While developers took on the burden of creating ILGs, they did not have an exclusive monopoly on this activity, either in law or practice, so even in a new operational area, their efforts could be matched by local people taking their own initiatives, travelling to Port Moresby and filing their own certificates of registration with the ROT. As we have seen, local people's empowerment was precisely the objective of the 1974 Act, but the lack of coordination between the stakeholders was not conducive to a sustainable outcome. In effect, the project operator soon lost control of which, and how many, groups were actually registered within the licence areas. Groups sought to increase their share of project benefits by establishing their own independent ILGs, both as a marker of structural autonomy and as a reflection of the dynamic political shifts and entrenched factionalism that has always characterised indigenous social organisation in both lowland and highland societies of New Guinea.

Once registered, the ILGs received little support by way of training, monitoring, or assistance that might have enabled them to develop their corporate functions and meet their obligations as modern organisations. In effect, the beneficiary ILGs simply became conduits for cash distributions. Since Landowner Companies and Landowner Associations were simultaneously established to cater for the political and economic representation of landowner interests, no further role for ILGs was envisaged by any stakeholder. A succession of studies has shown that ILGs simply do not function as micro-corporations of the kind envisaged by the *LGIA*. They do not cooperate in the management of their resources and only rarely reinvest their cash receipts in business ventures; they do not regulate their membership lists or manage land disputes; they do not have functional Dispute Settlement Authorities as required by the Act; and they have not received any infrastructure support or training over the course of the last decade (Goldman 2005). Social impact assessment data collected since 1998

shows that landowners' dissatisfaction with the performance of ILGs has been increasing, while their dissatisfaction with the performance of Landowner Companies and Landowner Associations, although still high, has been falling (Figure 6-1).

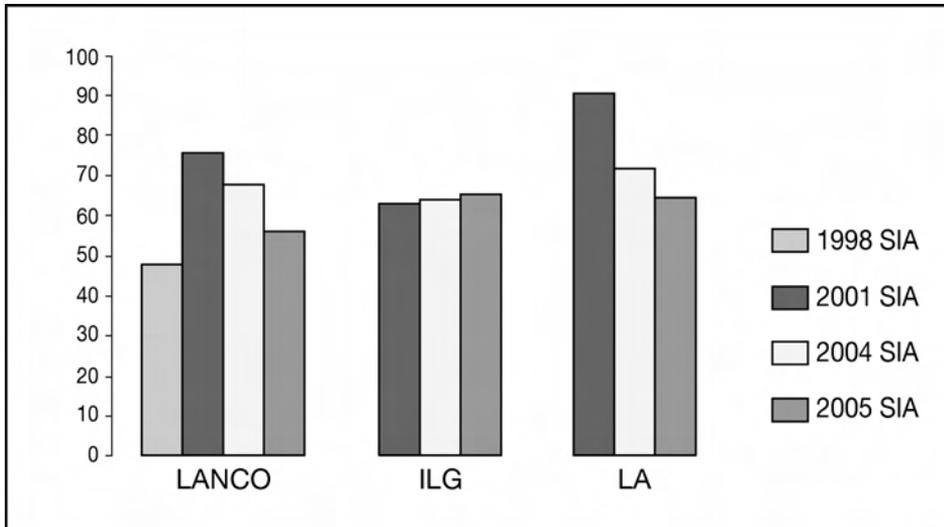


Figure 6-1: Percentage of landowner households dissatisfied with different types of landowner organisation, 1998–2005.

Source: Goldman 2005.

While it seems that landowners do not want ILGs to do anything more than distribute benefit streams, many are still dissatisfied with the current regime. Often ILG members do not get their cash benefits because these are stolen by the ILG's bank passbook holder — usually a male household head. But there are broader systemic problems that pose substantial risks for any further resource development in the affected areas, and therefore seem to demand a new kind of solution. Briefly stated, the problems are common to each of the PDL areas established since the early 1990s — Hides (PDL 1), Kutubu (PDL 2), Gobe (PDLs 3+4), and Moran (PDL 5) — as well as the route of the oil pipeline to Kikori (see Figure 6-2). However, the community affairs teams dealing with landowners in each of these areas have lacked a unified vision or strategic plan for managing such problems. Customary landowner registration has not been carried out in a way that was sensitive to the impact which programs in one area may have on other areas, and different principles for ILG formation and benefit distribution have been applied in different areas. Serious questions have therefore been raised about the need for a common approach to customary landowner registration across the extractive industry sector, most especially when dealing with landowners who belong to a single 'culture area'.

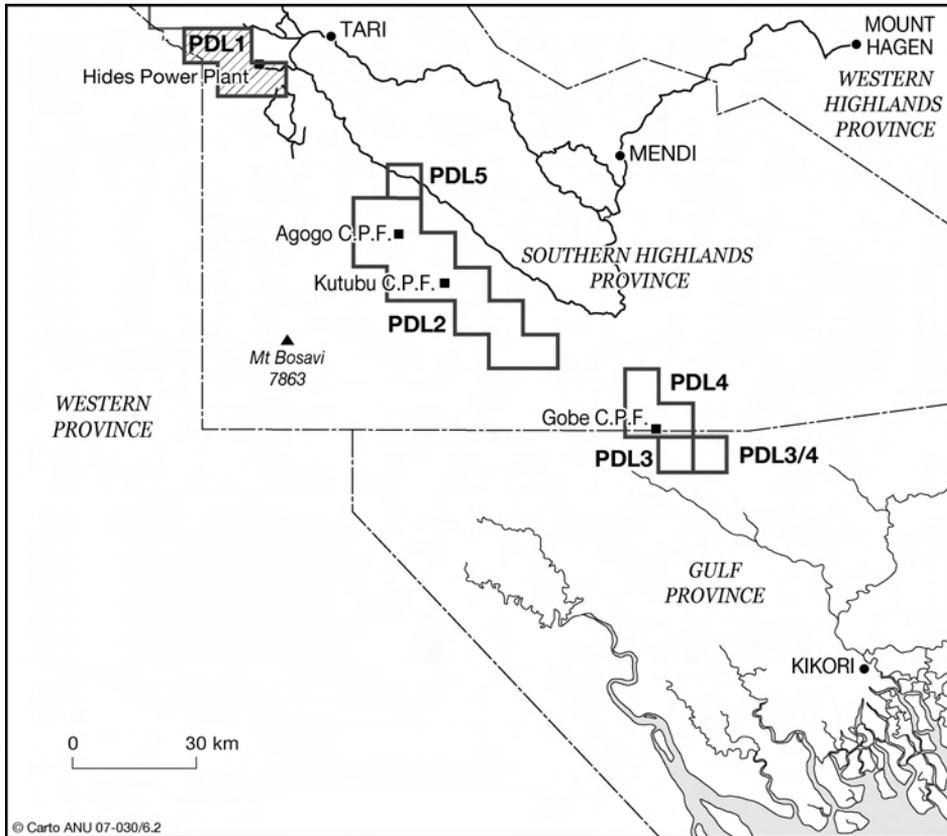


Figure 6-2: Petroleum Development Licence areas in PNG.

Making an accurate count of the number of existing ILGs in the licence areas is problematic because the DPE and the ROT do not have an electronic database containing this information, and no audit of relevant ROT files has yet been conducted. Furthermore, records inherited by the current project operators from CNGL are incomplete, and it is likely that landowners have registered many ILGs on their own account without the knowledge of the operators. Table 6-1 presents an approximate count based on evidence available in October 2004. In Gulf Province alone (along the route of the oil pipeline), it would appear that the number of registered ILGs doubled over the three years from 1997 to 2000. By the end of this period, there were at least 318 ILGs representing approximately 2500–2900 people, which meant an average of 7.8 persons per ILG in this region, as compared with an average of around 350 persons per ILG in the Hides Gas Project area (PDL 1). However, less than 50 per cent of ILGs known to exist in 2000 were in receipt of project benefits in that year. Table 6-1 indicates some of the problems of ILG proliferation (see also Weiner, this volume), but if these are considered as ‘operational’ quandaries, the anthropologist can see that the whole ILG venture is diseased in quite another sense.

Table 6-1: ILGs in petroleum licence areas, October 2004.

	Hides (PDL 1)	Kutubu (PDL 2)*	Gulf (pipeline)	Gobe (PDL 3+4)	Moran (PDL 5)
Registered	21	241	318	21	33
Deregistered	–	26	–	–	–
Pending	9	–	–	3	5
Applied	–	32	–	3	–

* Includes pipeline landowners in Southern Highlands Province.

ILG registration proceeded on a ‘user-convenience’ basis. There appears to have been no principled determination in any of the areas as to what unit of social organisation is appropriate for ILG registration. The evidence of systemic splitting of ILGs within a short period suggests that the ILG system is participating in, if not directly impacting on, the wider breakdown of customary social groups. The unchecked tendency for smaller and smaller social units to register as ILGs is a force for division, not cohesion. Although clans and sub-clans in the Kutubu region were always in the process of splitting, the pace and level at which this is now happening far exceeds what has previously been recorded as a ‘customary’ process.

The ethnographic evidence shows that, in some areas, the ILG system has also created new social units not previously recognised in custom. In the case of the Onabasulu people living to the west of the Kutubu production facility, the project operator’s enthusiasm for ILGs created ‘clans’ which are an artefact of a ‘certificate-based incorporation process and which did not pre-exist the era of petroleum development’ (Ernst 1999: 88).

The people identified as ‘Onabasulu’ are incorporated into 17 clans. This, incidentally, bears no exact relationship to the number of kinship groups, which are called *mosomu* in the Onabasulu language, that are a part of everyday social practice. Rather, the number 17 is important in Onabasulu cosmological beliefs and figures importantly in a cosmogonic myth. This myth has become, in the thinking of people at Walagu, at least, an important discursive tool for creating an exclusive people and category ‘Onabasulu’ analogous to the category ‘Fasu’ ... The ‘17 clans’ corresponds to an Onabasulu identity in relation to the cosmogonic myth of Duduma, not necessarily empirical extant kinship groups. But it does so by providing, ‘in law’, a fixed number of incorporated groups that are called clans (ibid).

In other words, the application of the *LGIA* induced social structural changes quite unforeseen and unanticipated by the developer. In place of ‘custom’, the application of the Act introduced newly adapted forms of social organisation and ethnic identity in a process which Ernst calls ‘entification’.

The historical lesson from the Onabasulu ILG program is that it is important for developers to understand the culturally specific nature of local social

organisation before embarking on programs of incorporation if sensitivity to culture is to be a guiding operational principle. The Huli, Fasu and Onabasulu people have vastly different kinship and descent systems, and their complexity should compel caution when attempting to apply a 'clan'-based calculus to an ILG registration system. Nevertheless, the current trend in all areas is towards the formation of nucleated family groups constituting themselves as 'clan segments' in a manner that would not have occurred in the pre-development era. In part this may be because the family is the level at which on-the-ground property rights are actually held and exercised, but the ramifications for genealogical structure and descent group fission still have no precedents in the pre-colonial period.

Whilst the argument for change has ringing endorsement from all participants in the ILG process, the form that this should take is still opaque and the analysis of precisely 'what went wrong' is yet to produce any clear consensus. The argument I want to pursue here is that the ILG 'problem' is precisely the kind of rich landscape in which anthropological expertise of both a pure and applied kind can assist in the development of sustainable representative bodies for project landowners in a manner that also helps resource projects to pursue their business objectives.

Approaches to ILG Formation

The anthropologist may perhaps be forgiven, when faced with the task of advising on a new ILG program, for commencing with the obvious question: What unit of social organisation within this culture or region can we identify as being appropriate and feasible for the constitution of an Incorporated Land Group? Even accepting that an ILG system is fundamentally an attempt to organisationally freeze what anthropologists have long argued is a fluid, dynamic and ever-changing landscape of social relationships,¹ we need to unpack and spell out the preconceptions which might obscure our answers to this question and the legal constraints (arising from the *LGIA*) which might impinge on our considerations.

Developers and anthropologists both commonly seek out what Keesing (1971: 121) called the 'primary segments' of local society. These are building blocks — localised descent groups or primary residential/proprietary units — that provide a focus for economic, political and ritual interests. When faced with a directive to form ILGs, their common inclination is to identify discrete corporate units with separate territories at some level of social organisation. The idea is that the ILG system should become a mirror of a pre-existing social structure, and that ILGs should merely give another form of external recognition to what is already there. This belief is referenced to that catch-all term 'customary', and its legal

¹ Structure is always a 'becoming' not a 'being' (Goldman 1993: 23).

expression is the stated intention of the *LGIA* 'to recognize the corporate nature of customary groups'. However, since there is no occurrence of the word 'clan' in any part of the *LGIA*, we are entitled to ask whether the Act constrains us to identify social units which are 'already there'. Can we not take a more liberal interpretation of the term 'customary' so that it not only reflects the principles and visions which underpinned the Act itself, but equally takes cognisance of the fact that 'custom' itself is never a static phenomenon?

My argument is very simple: if anthropologist and developer would both forsake their natural inclination to search out 'primary segments', thus allowing for more lateral solutions to the basic problem, then more progress might be made with customary landowner registration in PNG. I am mindful that such a suggestion is easier to make than it is to instantiate, so what I want to do in the remainder of this chapter is to demonstrate the potential way forward once we loosen our ties to both the 'primary segment' model and its exemplification of 'customary groups'. The case in point will be the problem of incorporating the Huli landowners in the Hides Gas Project area, as shown in Figure 6-2.

The Hides Experience

The Hides Gas Project has been supplying gas to the Porgera gold mine since 1991 and has paid royalties to local landowners since 1994. The initial mechanism for benefit distribution was the so-called 'agency' system allowed under the *Land Act*. In effect, this meant that landowners appointed agents to represent their customary groups (mostly clans or sub-clans), to receive monies allocated to these groups, and then distribute these monies to their own group members. The system served the first and second operators of the project (British Petroleum and Oil Search) until 1999, when the proposed development of a new 'Gas-to-Queensland' Project raised the question of whether the 'agency' system should henceforth be brought into line with the ILG system used in the oil licence areas where CNGL had been the operator.

The task of finding a viable route to ILG registration for Huli landowners in the Hides area was encumbered by the complexity of the Huli land tenure system, in which there are three categories of people resident on any notional 'clan' territory, each with a different portfolio of land rights. Whilst land is notionally owned by clan and sub-clan 'corporations', individual members have rights in perpetuity to do with the land what they want — they are effectively the landholders. Individuals can sub-let land to anyone for a fee or for a fixed term, and can grant others use right or title to garden and hunting tracts by gift, deed or inheritance. In other words, who uses any particular piece of clan territory held by a clan member is at the discretion of that clan member and not subject to any group consensus or decision-making process. The only limitation on such discretion is that clan land can never be permanently and irrevocably alienated — the corporation holds the ultimate title and collective interest.

Two processes operate to cause the Huli clan groups on the ground to have a more complex and cosmopolitan make-up than the one envisaged in a simple 'one clan one piece of land' schema. These processes are at the heart of all problems encountered by lands officers attempting to grapple with the Huli land tenure system.

For all sorts of reasons — warfare, severe flooding or drought, the search for better access to hunting areas, or simply personal preferences — individuals often moved out of their natal clan territories to take up residence on a permanent or temporary basis with relatives or friends elsewhere, and they could do this without necessarily losing any of their rights to land in their 'home' territories. Huli distinguish two categories of migrant: those who are related to their hosts through descent from a female clan member (sisters' sons, for example) are known collectively as *yamuwini* (literally 'born of woman'), while those who have no direct blood tie, but are linked by marriage or friendship, are variously known as *wali haga* ('where women stayed'), *igiri yango* (male friends), or *tara* (others). To distinguish themselves from these other categories of resident, the patrilineal clan members living on their own clan territory refer to themselves as *tene*, which means 'source', 'origin', or 'main stem'. On any tract of clan land (or parish) there will therefore be three distinct classes of residents.

In practice all of these residents are indistinguishable in their everyday behaviour, but the *tene* are regarded as primary members in the sense of holding a sort of freehold title, while the others are secondary members holding a sort of leasehold title. Another way of conceptualising this relationship is to think of the agnates or primary residents as hotel owners and the secondary residents as guests who occupy hotel rooms, often with open-ended bookings, who could in theory be evicted by their hosts (Goldman 1993).

The second process which produces changes in the 'one clan one piece of land' model is in effect the repercussion of the first process over a period of generations. As secondary members migrate from various Huli clans and stay as guests on their hosts' land for several generations, the result is a complex mosaic of Huli clan segments scattered across wide distances. Migrant groups may eventually account for anything up to 99 per cent of the total population of a clan parish, but each of these groups will still retain some knowledge of, and share a sense of identity with, their natal clan. The members will still be *tene* of Clan A while they count as *yamuwini* or *wali haga* for Clan B whose territory they now occupy. Thus any one Huli clan may have several segments scattered outside its own ancestral land (see Figure 6-3).

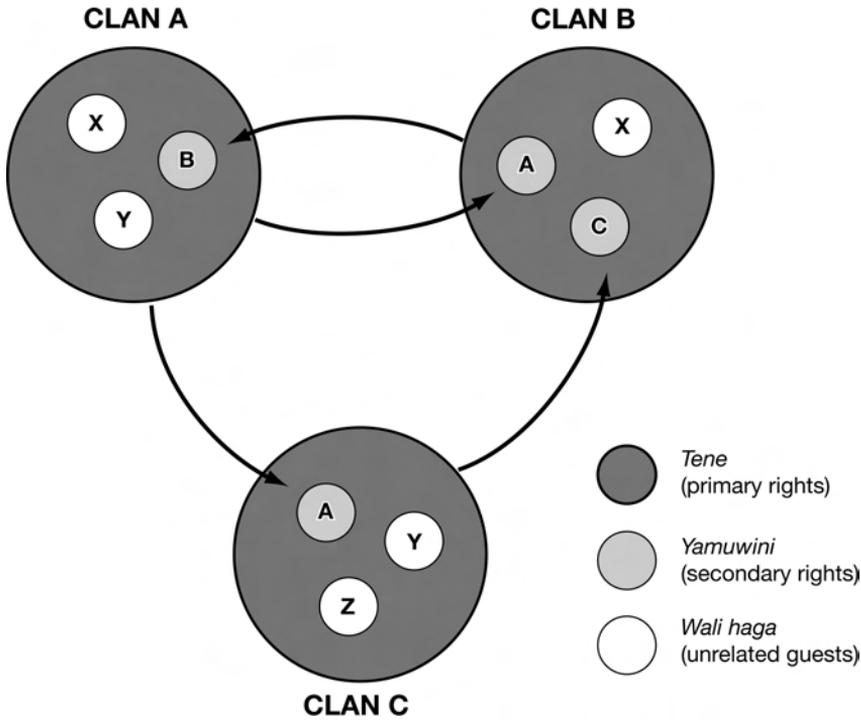


Figure 6-3: A simplified model of the Huli descent and residence system.

The experience of CNGI in the Moran area (PDL 5) had shown that resident groups in each category would try to assert their right to a discrete ILG status, and this meant disputing their relative status as owners, guests, or guests of guests. To make matters even more complicated, Huli people generally have gardens in many different named parish areas, so a person would claim membership of more than one potential ILG and thus claim entitlement to multiple benefits on the basis of this customary practice.

The process of clan boundary demarcation in the Moran area took more than two years and identified approximately 15 per cent of the land as being under dispute. There is still no agreement on the part of the landowners about the number and names of the ILGs that need to be recognised. After initially identifying more than 200 possible social units for registration, CNGI introduced the concept of a 'stock-clan' in order to prioritise some groups for registration as ILGs. Each ILG was to be named after one of these 'stock-clans', which angered those resident groups with different descent affiliations. Initially, 12 groups were registered, and then a further 14 groups were added to the list but without the due process of gazettal having been followed. This created another wave of discontent and a further demand for recognition of 17 more groups that was eventually met by the DPE and the ROT. Project benefits have been distributed in proportion to the area of land within PDL 5 that is held by each of the claimant

groups. Although PDL 5 is only one-sixth the size of PDL 1, closure has still not been achieved on a lengthy and costly process of land boundary demarcation and ILG registration.

The proposed development of the PNG Gas Project posed new questions about the need for stable and democratic landowner representation in the negotiation of new benefit-sharing agreements, as well as the actual distribution of cash benefits to project beneficiaries. Government agencies and the project proponents both began asking themselves whether a special model was needed to deal with the organisation of Huli landowners, and if so, whether it should be retrospectively applied to existing 'brownfield' licence areas as well as to new 'greenfield' areas on which development licences had yet to be granted.

More than 400 Huli clans had so far been identified, and satellite segments from each of these clans might be represented in any one licence area. Moreover, these satellite groups might not be confined to discrete segments of land, but might be scattered across several locations within a licence area. The predictable outcome for a developer attempting to locate and register 'primary segments' would be a system under constant challenge from groups dividing into subgroups of ever-diminishing size. At the same time, land boundary work would presage a series of land court claims which would be protracted, costly and counter-productive for all parties.² Providing solutions was very much a matter of finding the satisfactory interface between culture and commerce. In consultation with Oil Search community affairs managers, the search began with an effort to isolate and remove each of the variables in the equation that would constitute a subject for disputation. For example:

- Not using a 'clan'-based name for an ILG would remove the appearance of assigning precedence or priority to one social unit over another or signaling the allocation of a tract of land to the sole custody or ownership of that clan.
- Not performing land boundary demarcation would sidestep the problem of trying to pinpoint something which may never have been there in the first place, and which in any event might best be left 'unspoken' or unrepresented.
- Raising awareness of the implications of trying to register more than 400 ILGs in light of the Moran and Gobe experiences would help the landowners to gain some insight into the dilemmas confronting the developer.

The 'Zone ILG' Concept

What was eventually proposed as a result of these discussions was a system of 'zones' conceived as loosely drawn territorial areas occupied by an aggregated set of clans and clan sections which sustained long-term relationships based on intermarriage and exchange (see Figure 6-4). These relationships are more densely

² In the case of the Gobe licence areas (PDLs 3 and 4), the resolution of landownership issues took 10 years and legal proceedings cost millions of kina.

clustered within each zone than they are between neighbouring zones. In essence, the zone ILG was devised on the basis of customary behaviour patterns rather than principles of land tenure, albeit with a recognition that there has to be a certain degree of arbitrariness in the construction of zone boundaries. The best analogy is to be found in the customary exchange of pigs: If I give you a pig, with which of your neighbours are you compelled by custom to share it? The answers to this question provide the basis for defining a zone.

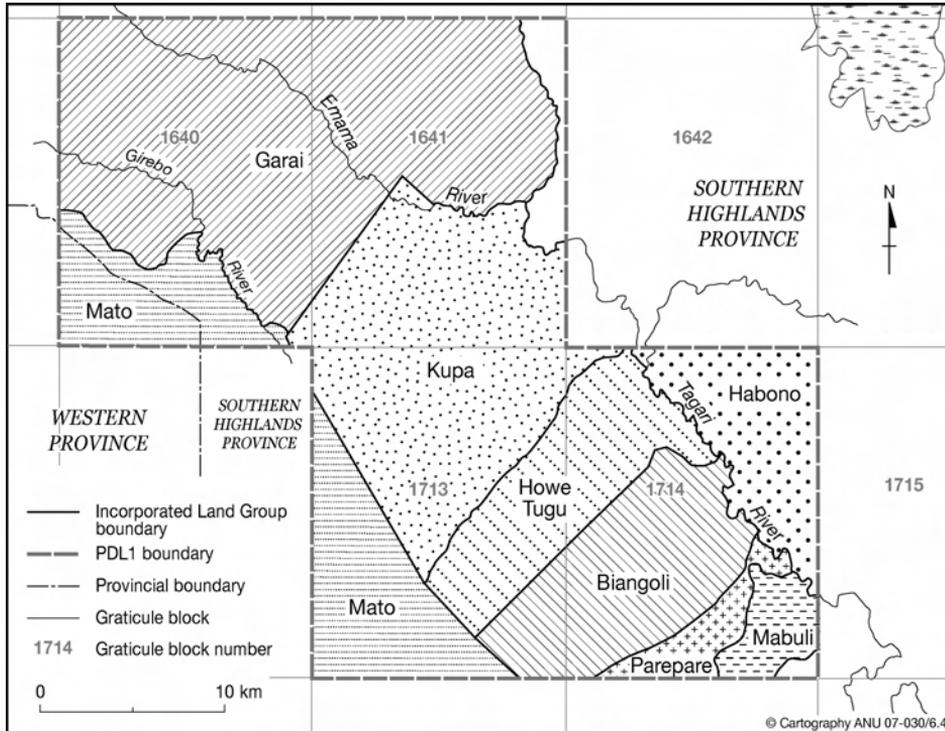


Figure 6-4: Zone ILGs proposed for the Hides licence area (PDL 1).

Each zone would in effect be an umbrella entity capable of subsuming or incorporating ILGs which have already been registered without the need for deregistration or disenfranchisement (see Figure 6-5). Its members would be empowered through their own Dispute Settlement Authority to decide who is or is not a legitimate landowner or landholder within the zone. Neither the resource developer nor the relevant government agencies would be required to adjudicate on competing genealogical footprint claims or make the final decision on who is and who is not an accredited project beneficiary. The actual make-up of any zone which might be established in other licence areas would necessarily reflect local circumstances in light of variations in social organisation across the wider region.

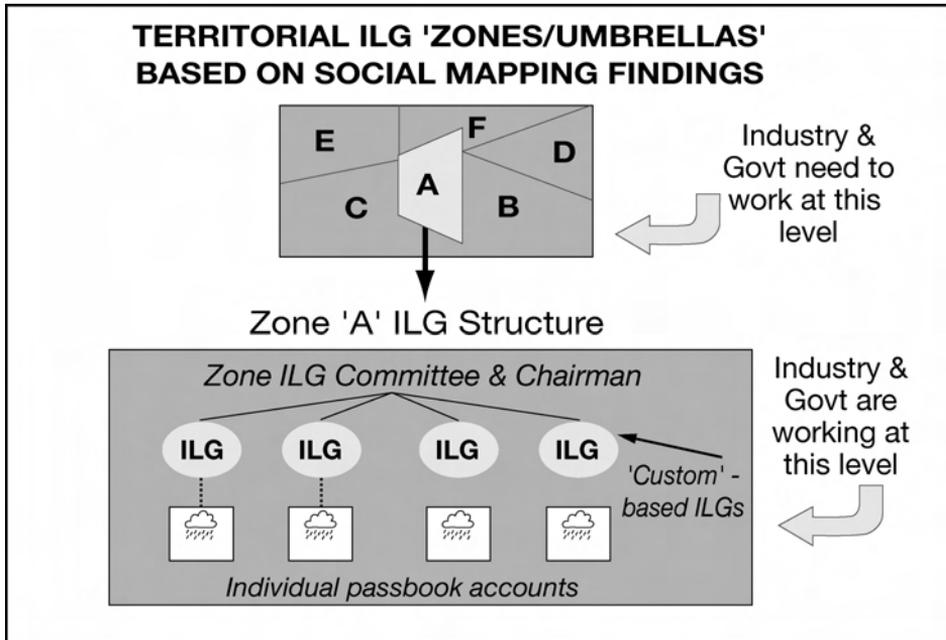


Figure 6-5: Zone ILG structure proposed for the Hides licence area.

The zone ILG system has several advantages over the present ILG system:

- it provides a means of 'registering' interests without upsetting the status quo of the constituent groups in terms of their present ownership or usage of land;
- it obviates the need to undertake land boundary demarcation at a fine scale and thus avoids land disputes;
- it avoids giving priority in land ownership to any one clan at the expense of another (which is also a source of dispute between clan-based ILGs) because zones are not named after clans;
- it allows for non-resident claimants to be incorporated in a zone even if they are members of another ILG elsewhere, which particularly suits the multiple residential affiliations characteristic of Huli society;
- it discourages the process of ILG fragmentation because an existing ILG would gain no financial advantage by seceding from a zone;
- it facilitates a more transparent and efficient form of landowner representation in the negotiation of benefit-sharing agreements because there is a much smaller number of higher-order ILGs representing the landowners in each licence area;
- and this also makes it easier for a developer or an aid agency to build ILG capacities.

Zone ILGs would be formed in practice by a consensus of the component member units informed by social mapping and landowner identification studies undertaken in accordance with Section 47 of the *Oil and Gas Act*, and their social constitution would in that sense be guided by anthropological research. Zone ILGs would allow local-level politics to continue through the proliferation of smaller social units, but would contain the ramifications of this process within a set of higher-level boundaries. The message conveyed by this higher level of organisation is that closely related people need to ‘cooperate’ to mutually benefit from resource development rather than continue to argue and fight amongst themselves. Zone ILGs would to some extent be artificial entities, but would still be less artificial than the rectangular petroleum licence areas to which they are related. In each area, the licence holders (and government agencies) would only need to deal with a committee made up of the elected chairpersons of each zone, in much the same way as the mining company at Porgera deals with ‘super agents’ under the agency system (see Golub, this volume).

It is readily acknowledged that any system of this kind is subject to the risk of political manipulation and social strain. While the representative structures in a zonal system should provide constraints on benefit abuse by individual leaders, they would probably alienate the representatives of existing Landowner Associations who would be fearful of being marginalised in project negotiations. Equally, a reformed and rationalised ILG system would still need to provide the community with the level of benefit disaggregation they clearly desire — which means that benefits should end up with individual recipients and not the ‘representatives’ of larger social units.

Whether or not the zone ILG system needs to be justified in terms of local ‘custom’, there remains the question of whether it is consistent with the letter and spirit of the *Land Groups Incorporation Act*. Section 5(3) of the Act states that:

Recognition shall not be refused to a group simply because —

- (a) the members are part only of a customary group or are members of another incorporated land group; or
- (b) the group includes persons who are not members of the primary customary group, if the Registrar is satisfied that those persons regard themselves, and are regarded by the others, as bound by the relevant customs of the primary customary group; or
- (c) the group is made up of members of various customary groups, if the Registrar is satisfied that the group possesses common interests and coherence independently of the proposed recognition, and share or are prepared to share common customs ...

The zone ILG is precisely an entity of the type described in clause (c) if we understand 'common customs' to mean agreed principles of behaviour. It should therefore be evident that the *LGIA* does not oblige the developer or consultant anthropologist to chain the constitution of ILGs to some 'primary segment' model. Moreover, Section 5(5) even allows for an ILG to be constituted 'as a group consisting only of incorporated land groups'. The notion of aggregated units is thus specifically and explicitly allowed for in the Act, and if the zone ILG system places the onus for decisions about membership squarely back in court of the ILGs themselves, this is also consistent with the spirit of the Act.

If one does imbue such units with what Ernst (1999) called 'entivity', this may in fact be a positive factor for change in the community. The principles of Melanesian *kastom* are not inconsistent with the creation of a social artifact tailored to the interests of a state and a developer which also benefits the population of local landowners. Under the terms of the *Organic Law on Provincial Governments and Local-Level Governments 1995*, zones actually resemble the local government wards which are also aggregates of local clans and clan segments.

How the 'Zone' Concept Fared

In 2000, Oil Search instituted a 'zone' ILG system for PDL 1 and two adjacent Petroleum Retention Licence areas in anticipation of the PNG Gas Project. This exercise had written endorsement from the DPE and the ROT. Seventeen zones were proposed, and eight were actually registered with the ROT.³ However, following representations by some individuals from one of the adjacent licence areas (known as Hides 4x), further registrations were halted under instructions from the DPE. Zone ILGs have not yet had an opportunity to function as representative or beneficiary bodies because there is as yet no PNG Gas Project. However, zone ILG agreements about the distribution of future benefits between member sections within each zone are enshrined within the ILG constitutions.

PNG government agencies such as the DPE and the newly established Gas Office are still considering what is the best mechanism for the distribution of potential cash benefits to local landowners. Cash benefits from the existing oil project have either been divided equally between the number of ILGs in a licence area (as in PDL 2) or in accordance with the acreage held by each ILG (as in PDL 5). Whilst the retention of a 'clan'-based system has some attractions because of its apparent consistency with their understanding of *kastom*, government officials are also sensitive to the results of various surveys which indicate that people in some of the licence areas want benefits to be distributed on a per capita basis. This preference is evident in a household survey conducted as part of the

³ The eight zone ILGs registered by 2004 (Biangoli, Kupa, Habono, Obai Tangi, Kamia Gere, Mato, Mindirate and Ayagere) are included in the total number of Hides area ILGs shown in Table 6-1, while the other nine are shown as 'pending' in that table.

Gas Project Social Impact Assessment in 2005 (see Figure 6-6). However, this survey also shows a much greater preference for per capita distribution in Huli areas (Moran and Hides) than along the route of the current oil pipeline which follows the course of the Kikori River. This may reflect the already splintered nature of the ILG system in Gulf Province, where many individuals or families already have their own private ILGs. In all other areas, there is clear evidence of continuing dissatisfaction with the present benefit distribution regimes and support for the move to a more equitable system in which individual group members have their own passbooks and accounts, rather than having to rely on the decision made by ILG chairmen who look after the accounts of their respective groups.

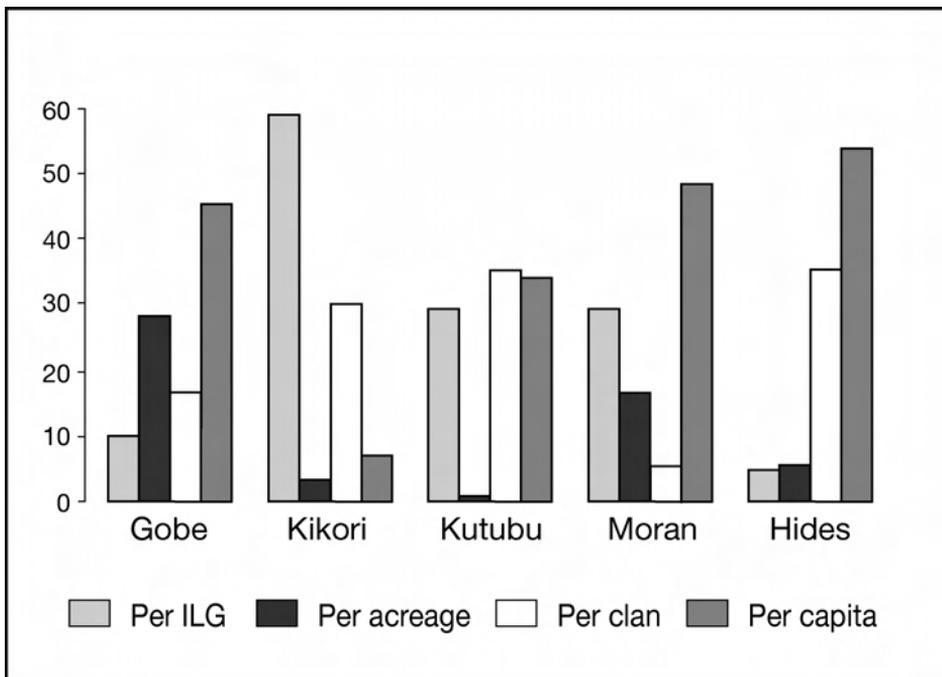


Figure 6-6: Landowner preferences for benefit distribution, 2005.

Source: Goldman 2005.

Despite these findings, PNG government agencies are still saddled with the task of deciding how best to derive a system of landowner representation, given the factionalised nature of local politics in Huli society, and how best to derive a list of ‘landowners’ that will be acceptable to local people, given the complex nature of Huli land tenure. Government officials seem to think that the social mapping and landowner identification studies required under Section 47 of the *Oil and Gas Act* should extricate them from this minefield by painting a frozen landscape whose ‘landowners’ could then be vetted or endorsed by the Minister of Petroleum and Energy as ‘entitled project beneficiaries’. This position is at

variance with the best advice of all consultant anthropologists who have worked in the licence areas over the last decade, who say that the task of providing a definitive beneficiary list based on people's status as individual 'landowners' is nigh impossible, and in any event is a task best left to local people to undertake in accordance with the wide range of factors that make up *kastom*. In the many meetings on this subject in which I have been a participant, the 'zone' system has been firmly rejected by government officials because of its 'non-customary' nature. Debate therefore continues on how to reconcile the equitable principle of per capita distribution with the perceived inequity of a 'clan' system that relies on clan leaders to 'cut up the pig'. This ongoing debate is enmeshed with considerations exogenous to the merits of a zone ILG system, such as the requirements of international financial institutions, the personal agendas of current landowner 'leaders', and misapprehensions or indecision on the part of the policy makers. The final scenarios have yet to be played out.

Conclusion: What Hides Reveals

The 'zone' system was conceived to address problems already experienced with ILGs elsewhere, and it anticipated what might happen with the formation of ILGs in the context of Huli culture and social organisation. From long-term research on dispute resolution and economic exchange in Huli society, a set of scenarios could be foreshadowed which would pose intractable obstacles to the progress and stability of a major resource development project. In one sense the 'zone' system was engineered to allow local-level politics to continue unimpeded: as local groups traditionally argued over the way in which pork should be distributed at ceremonial pig kills, so do these same groups now compete for increased portions of the 'project pig'. The solution was to establish a system with a built-in firewall such that these utterly conventional but highly localised competitive encounters would not necessarily hamper development activities.

At the same time, the solution seemed attractive to this consultant because it offered an opportunity to build a new form of 'community' within a socio-cultural environment which lacked village-like settlements or any aggregated form of residential pattern. Thus supra-local community would be a grouping of clans and clan segments sharing different parts of the 'benefit pig', with a democratically elected leadership committee that could then seek to expand its activities by applying for development grants from suitable aid donors.

It is important to add that a three-month process of consultation with landowners in the Hides licence area (PDL 1) found unanimous support for the system, partly because the problem associated with the previous formation of ILGs in the neighbouring Moran licence area (PDL 5) and the more distant Gobe licence area (PDLs 3 and 4) were already well known in the Hides area. Indeed, the success of the implementation process which followed the consultation

process reflected the real and historical relations of intermarriage and exchange between zone members.

Perhaps this shows how the anthropologist as consultant is able to 'gate-keep' a practical solution to a widely acknowledged problem by engineering a new social system that is not only consistent with the realities of economic development and the expectations of the developer, but also helps to manage 'custom' as a basis for sustainable innovation. According to Stirrat (2000), development consultancy work is commonly based on the mistaken belief that consultants can somehow penetrate to the 'truth' or 'essence' of what is going on in the world. But the consultant anthropologist who counts as an acculturated observer of one particular society is more like a translator who knows enough to anticipate social trajectories and provide constructive solutions to the problems they contain.

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