

Chapter Nine

Determinacy of Groups and the 'Owned Commons' in Papua New Guinea and Torres Strait¹

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The means of owning and managing customary land (also known as traditional land) in Australia and the Pacific has been treated in many ways in the century and a quarter since Sir Arthur Gordon's initiatives in Fiji (France 1969) — the first large-scale attempt to accommodate native ownership in the framework of a Western system of administration.² In Australia, discussions of the essence of native title, the local vehicle for customary ownership, have been framed in terms of a 'recognition space' where Western law and customary law intersect but remain separate. However, I deal in this paper with cases where this concept is not an especially useful prism through which to view the situation, and I choose not to pursue this line of argument.³ In the cases I present, indigenous groups have been successful in pursuing their claims to land through various processes of landowner identification, including through litigation, but have found the outcomes extremely difficult to work with afterwards. In several cases, the key problem is that the indigenous system had either to be misrepresented by witnesses or misinterpreted by state officials in order for *any* outcome to be arrived at. This happened in a different way in each case, but the

¹ I would like to thank Jim Fingleton and James Weiner for comments on this paper, and Peter Bennett, Ngawae Mitio, Lengeto Giam, the spokesmen for Nauti, Akikanda, Minava and Yokua villages, the office bearers of Mer Gedkem Le, the Mer Island Council, and the individual persons in all other communities I have consulted for being extremely forthcoming with information. I also acknowledge all the relevant organisations for whom I have worked as a consultant or employee for enabling the field investigations reported in this chapter.

² In this chapter I will necessarily have to use terms that are familiar and comfortable in one jurisdiction, but conventionally require qualification in the other. Thus the usages 'custom', 'law', 'customary', 'traditional', 'indigenous', 'landowner' (or 'land owner' or 'land holder' in some discussions), and more have a particular history in the relevant bodies of literature relating to PNG and Australia. But except where I specifically qualify a term, I am trying to use such phrases in such a way that general principles can be derived across the two jurisdictions.

³ A metaphor that has been used in native title discussions is the intersection of two circles in a Venn diagram (Mantziaris and Martin 1999). The metaphor has the arguably political purpose of disclaiming the intention of state-made laws to connect directly with customary law, and perhaps even to deny the possibility of this. In Papua New Guinea and the Pacific, though, the political agendas of statehood emphasise the emergence of the state from customary forms of society — whether this is accurate or not.

result was essentially the same: landowners have been left to their own devices struggling to make their custom inter-operable with their state's administrative system.

Approaches to Identification of Traditional Owners of Land

The administrative systems of both Papua New Guinea (PNG) and Australia provide a variety of legal mechanisms for recognising the ownership of customary land. In both cases the solution has two steps: the recognition of owning entities, and the description of land estates and the connections that the owning entities have to them.⁴

In both PNG and Australia landowners often emerge in a political context prior to more specific identification. Sutton (2003: 116) suggests that indigenous custom in Australia reflects a dual system:

The living holders of specific traditional land interests, often now called the 'traditional owners' ... hold title in the proximate sense, while underlying titles are maintained by the wider regional cultural and customary-legal system of the social networks of which they are members.

There is no provision to recognise 'underlying title' in Australia other than politically. It is manifested in the creation of Native Title Representative Body areas based on criteria such as occupation of ethno-geographic regions (for example 'Torres Strait') or modern political regions (for example 'Victoria'). Another illustration is the 12 per cent of Western Australia held by the State's Aboriginal Lands Trust, which was established by the *Aboriginal Affairs Planning Authority Act 1972*. Many of the reserves that this includes are leased or occupied by Aboriginal corporations, but quite a number are not, and might therefore be considered as falling under indigenous commons ownership (see Glaskin, this volume).

In PNG, the equivalent of 'underlying title' is, I suggest, also shown by political representation. One example is the creation of 296 Local-Level Governments that are intended to group together people of ethnic and linguistic affinity or, in Sutton's terms, people who share the same 'cultural and customary-legal system'.

The Handling of Proximate Titles — Papua New Guinea

When land is required for a non-customary use, a Land Investigation Report (under the *Land Act 1996*) must be carried out for each separately owned parcel by a government Lands Officer. A Schedule of Landowners, with attached signatures (or thumbprints), is attached to a survey plan and other descriptive

⁴ 'Owning entity' is a choice of words here that does not prejudge what kind of body it is that owns land in a particular case: a named person, a family, a 'clan' (defined in some way), a Schedule of Owners, or a made-up legal entity such as a Body Corporate.

details. The Schedule of Landowners is not an 'owning entity' but a list of people who attest to the fact that the description of the land is accurate and that they have interests in it.

A formal kind of body that has the *potential* to be an owning entity for indigenous land in PNG is the Incorporated Land Group (ILG), under the provisions of the *Land Groups Incorporation Act 1974*. The main usage of ILGs has been in forestry, where legislation requires their formation, and in the Southern Highlands oil and gas projects (see Filer, this volume). The key defect in the administration of this legislation is that applicants merely pay a fee to the Registrar General's office to register an ILG. No branch of government exists, or is contemplated, for the purpose of vetting applications, in other words seeing that they are properly formed or even that they really exist.⁵ In consequence, there are now believed to be over 10,000 registered ILGs, with the number increasing at 10–15 per day (Fingleton 2004: 117).

Not only is it easy for ILGs to proliferate in terms of absolute numbers, the absence of provisions for the governance of ILGs has created ideal conditions for existing ILGs to undergo rapid fission. Among the Foi and Fasu (Weiner, this volume), members of subgroups within incorporated clans complained that the executives and passbook signatories failed to distribute benefits fairly and they split off to form new groups.

I can suggest here that the checks and balances provided by proper governance — the holding of regular meetings freely attended by members, the keeping of minutes, the election of and submission to accountability of the office bearers — could have counteracted this propensity to fission. As I point out below, in PNG the system is full of owning groups but empty of governance, whereas in Australia the equivalent system is full of governance but empty of owning groups.

The Handling of Proximate Titles — Australia

All the 'title' forms of indigenous tenure in Australia require that some kind of incorporated group be formed first. In the Northern Territory the vehicle used by the *Aboriginal Land Rights Act* is the Aboriginal Land Trust. In the Queensland legislation, a land trust is used with trustees appointed by the Minister for Aboriginal and Torres Strait Islander Policy. The High Court, in the second Mabo decision,⁶ was not prejudicial to any particular form of traditional ownership, such that the wording used by the majority (Brennan J at 61) was copied in Section 223(1) of the *Native Title Act* as 'communal, group or individual rights and interests' which are said to belong to the 'common law holders'.

⁵ See Burton (1993) on the registration of five groups at Hedinia.

⁶ *Mabo and Others v Queensland* (2) (1992) 175 CLR 1.

Be that as it may, the Act goes on to make it clear that the standard means of implementation is for the 'communal, group or individual rights and interests' to be loaded into a Prescribed Body Corporate (PBC) after a successful claim. This is the pointy end of the native title process and there is little provision for anything beyond incorporation (Mantziaris and Martin 1999, Chapter 2 and Figure 2).

Integrity in native title is maintained by at least three levels of vetting. A Native Title Representative Body will in the first instance endeavour to avoid the formation of overlapping claim groups and overlapping claim areas by holding meetings with members of communities in its representative area. Next, the National Native Title Tribunal, through the application of the registration test (Section 190 of the *Native Title Act*) and its Geospatial Services, in checking for overlapping or geographically invalid claims, will screen out invalid claims and claimant groups. Last, contested claims that cannot reach negotiated settlement can be subject to trial in the Federal Court.

Examples of improperly constituted claim groups are groups consisting of only one person, containing non-indigenous people, or containing so-called 'historical' people — for example, indigenous people living in another group's area (Sutton 2003: 19–20). While the Office of the Registrar of Aboriginal Corporations (ORAC), in its acceptance of PBCs, does not have a role in the determination process, it is meant to continue to make sure that PBCs continue to correctly represent traditional owners by holding Annual General Meetings, electing office bearers with correct procedures, and submitting (brief) annual reports. In practice, PBCs often fall behind with compliance, whether they are 'empty' PBCs set up in anticipation of winning native title or PBCs that hold native title following successful determinations. Given that these bodies are unfunded, policy makers have no current answer to this situation — successfully claimed native titles could hardly be forfeited — so the effectiveness of the oversight role of ORAC in the governance of PBCs is moot.

The irony with these arrangements is that, with only 53 successful claims so far, Australia has an elaborate system that is empty of owning groups, while PNG has 10,000 owning groups but nothing like the National Native Title Tribunal to vet applications or ORAC to ensure that each of the groups is properly formed and sticks to its rules.

Determinacy, Bounded Groups and 'Owned Commons'

From the above it can be seen that there is a strong expectation of the group ownership of proximate titles in both jurisdictions and that, at any point, the membership of an owning group is fully determined in the following senses: any reasonably knowledgeable adult member ought, at least in principle, to be able to list all the other adults in the group; no member is likely to contest the

eligibility of other members of the group to be in it, except in borderline cases which should be few in number; and, in a landscape of many similar groups, it is not expected that members with full rights in one group could also have full rights in another group, even if it is possible to have lesser rights in another group.

This essentially portrays such entities as *bounded groups*. It contrasts with the fully indeterminate situation in a parcellised landscape where many people each claim rights to many land parcels; an indeterminate number of people claim rights to any one parcel (that is, the information to work out how many claimants there are likely to be is not fully knowable); many of the claimants do not know of one another's claims, or identities, or both; and a large proportion of claimants dispute the claims of others. In the indeterminate situation, 'groups' — collections of people who can take coordinated action — cannot be found in a meaningful sense.

In the Australian context, Sutton foreshadows the possibility of considering more than two layers of title, but after briefly giving examples, he says that the 'usages refer to constructs that are different from the underlying/proximate distinction' he has made (Sutton 2003: 116). The concept he touches on but passes over is that of a 'grant' from a proximate title. It is worth noting here that no provision is made in either jurisdiction for differentiating the internal ownership of titles (or for varying the types of rights across a native title area). In consequence, when ownership is undifferentiated and collective, it can be said to be held as *owned commons*.

In PNG, influential writers seem more than content to go along with the 'corporate clan' or even 'corporate village': 'a village recognises itself as an independent, autonomous social unit ... identity constitutes the unit as a "corporation", an entity' (Narokobi 1989: 21–2). No extant public utterances offer a contrary view to the assumption that village-level social units — usually 'clans' or *wanpisin* in the newspapers — are the title-holding entities and the primary owners of land.

'Owned Commons' Cases: Dauan and Iralim

An Australian example of an 'owned commons' case is the native title determination over Dauan Island in Torres Strait.⁷ I have chosen this because of the small size of the island (4.5 km²) and the easy grounds for saying that the Dauan people, the Dauanalga, form a single owning entity. While they recognise totemic divisions among themselves, and families identify with particular areas of gardening land, no 'tribal' divisions were noted as relating to land when the then very small community of 67 people was first visited by a government agent

⁷ *Dauan People v Queensland* 2000 FCA 1064.

(Captain Pennefather) on 5 December 1879, and none are claimed today. In other words, such internal boundaries that exist are within the single polity represented by Dauanalaw, and negotiations over access are a matter of discussion between families. In this sense, Dauan fits the owned commons model reasonably happily.

In PNG, a nationally important example is the *Mining (Ok Tedi Agreement) Act 1976* that granted the Special Mining Lease around Mt Fubilan. Hyndman was present at the time and found that main ridges between drainage basins and the Ok Tedi River divided the landscape up in to 'parishes':

The ... parishes are territorial and social groupings which have claims on and ultimate rights to use named and delimited hamlet, garden and rain forest resources. Thus, the parish is recognized as a clearly bounded, territorially discrete unit (Hyndman 1994: 7).

This led to the identification of the people of the Wopkaimin Iralim parish as the traditional owners of Mt Fubilan. The residents of Bultem and Finalbin villages, within Iralim parish, were treated for all intents and purposes as a single group of landowners (Welsch 1979; Jackson et al. 1981, Table 5.2).⁸

I use this example because it is one of very few in PNG where anthropologists and government lands officers concurred on the *absence* of internal differentiation in ownership rights. For example:

Wopkaimin land tenure is essentially communal in nature ... everyone in [the] community shares rights to a large tract of undeveloped forest land used for hunting and foraging. (Welsch 1987: 122).

Hyndman's map (1994, Figure 1.4) shows that a parish is further subdivided into bounded 'neighbourhoods', though he does not say if parish members have differentiated rights among neighbourhoods. At all events, there are few impediments to Wopkaimin moving among hamlets that can spring up anywhere within the parish, and Hyndman himself recounts that in 1973–74 his was the first house built at a hamlet called Moiyokabip, in the upper part of the Kam Valley, which had seven houses by the end of his stay. A short time later, most of the Wopkaimin had relocated to new settlements on the Ok Tedi mine access road, and by 1985 only 12 of 700 Wopkaimin were still living anywhere in the Kam Valley where almost all had lived previously (Hyndman 1982, 1994: 108ff.).

⁸ I am familiar with the case of the Wopkaimin from my time as co-leader of the Ok-Fly Social Monitoring Project, 1991–95, a consultancy project of the University of PNG for Ok Tedi Mining Limited. Field investigations were done in the neighbouring Ningerum and Awin areas in 1991–92 and touched on Wopkaimin matters only in relation to Ningerum and Awin claims to, and legendary associations with, Wopkaimin places.

The Collectivisation of Land at Mer Island

The Mabo case, which concluded in 1992, is widely known for its effect of erasing the concept of *terra nullius* — the idea that Australia had been the 'land of no-one' prior to white settlement (Beckett 1995; Keon-Cohen 2000).

This achievement has overshadowed the effects of the case on the Meriam themselves.⁹ The Mabo plaintiffs did not present evidence to the Supreme Court of Queensland in the form of conceptual claims against the government, but as they had done for a century when litigating among themselves in the Murray Island Court. When the case was referred to the High Court in Canberra, and its judgement handed back to the Supreme Court of Queensland, the individual statements of claim were abandoned without resolution.

Subsequently, a PBC, Mer Gedkem Le (literally 'Mer Landowning People'), was created to act as the holder of Mer's native title. This promised to put Meriam customary ownership of land on a sound footing. The problem remained, however, that observations going back to the first moments of the annexation of Mer to Queensland in 1879 did not emphasise corporate or collective rights but personal ones.

In 1879, Captain Pennefather reported of Mer that the islanders 'are very tenacious of their ownership of the land and the island is divided into small properties which have been handed down from generation to generation'.¹⁰ In 1886, John Douglas, the Government Resident at Thursday Island, wrote: 'I do not see how it will be possible to administer these islands under the present laws of Queensland, more especially as touching the land question.' In 1891, Douglas commissioned Captain Owen of the Queensland First Regiment to make a land survey of Mer showing all dwellings labelled by household head — the only island in Torres Strait where such a detailed survey was undertaken (Douglas 1894).¹¹ Owen's map, it should be added, remained undiscovered during the Mabo case. Wilkin, a member of the Cambridge expedition to Torres Strait in 1898, began his account of land tenure with the statement that 'Queensland [in other words European property law] has not affected native land tenure' (Wilkin 1908: 163). J.S. Bruce, who presided over the Murray Island Court from the

⁹ I am familiar with the cases of Dauan and Mer from my time as Senior Anthropologist, Native Title Office, Torres Strait Regional Authority 2001–03. In the case of Mer, I spent a further month on the island in 2003–04 as a consultant to the latter body to prepare for a land dispute workshop held in January 2004 (Burton 2005). The native title determination at Dauan predated my tenure.

¹⁰ Captain Pennefather's 'Report of a Cruise in the Islands Lately Annexed to Queensland' is held in the Queensland State Archives at COL/A288/460.

¹¹ Owen's report, entitled 'Meer Island, the largest of the Murray Islands group, surveyed by Captain Owen, 1st Regiment Queensland, June 1891', is held in the Queensland State Archives at REP (formerly Q9 1891).

1890s, wrote in the 1904 annual report: 'I was present at the hearing of 29 of the [42] cases ... the land disputes are the source of a lot of trouble.'¹²

The dispute cases among the surviving records of the Murray Island Court¹³ (1908–83) leave the reader in no doubt that the matters at issue are about the struggles of individuals to assert rights to marked out pieces of land in a system of inheritance:

S wished to get possession of seven portions of land in the Piadram district which belonged to his uncle E (deceased). His father, I, succeeded to the land at his brother E's death and at his death his mother D looked after the land, at her death G was appointed the guardian of the land for K and S (the sons of E) as they were both minors (Murray Island Court, 25 August 1910).

M charged G with encroaching on her portion of land at ... by altering the boundary line. M is acting as a caretaker of the portion for her nephew E (Murray Island Court, 25 April 1913).

B disputed the right of E to a portion of land at ... on the ground that it was part of G's property and should go to her family as heirs. E stated that when she married D in 1901, G gave them the portion from the kapere tree to the point and up as far as the bamboos just on the other side of the street. She had been in possession for 24 years, using the ground for herself, and G had never disputed her right (Murray Island Court, 26 August 1925).

An annual average of 10–15 land cases went before the court up to World War Two and 5–10 thereafter, dwindling to none by the end of the 1970s. The reduction in cases after 1960 is in part a reflection of new life choices being exercised by Meriam. For example, a reduction in the frequency of disputes over garden land parallels the decline in importance of garden cultivation at Mer. Similarly, when Meriam began to migrate to mainland Australian towns in significant numbers in the 1950s, it is likely that pressure on land for family housing in the village area slackened. Meriam land tenure, of course had not changed at all:

The traditional system of land tenure persists, with ownership rights transmitted by inheritance and generally vested in individuals or a group of brothers. Everyone owns some land, though some are said to be short while others have more than they need (Beckett 1963: 174).

¹² Letter to H. Milman, Government Resident, Thursday Island, 27 December 1904 (Queensland Votes and Proceedings 1905).

¹³ Records for the years 1908–1983 are held in the Queensland State Archives (Microfilm SRS4117).

The final demise of the Murray Island Court may be laid at two institutional changes. The first is the evolution of the role of the council from mainly political representation in a system of colonial-style indirect rule — including presiding over the court — to acting as a service deliverer in the conventional manner of local government. The second is legislative change in the form of the *Community Services (Torres Strait Islands) Act 1984*, which included provision for a new, more formal island court system presided over by islander Justices of the Peace. This simply had the effect of killing off the previous system without replacing it. No Island Court is believed to have been convened in Torres Strait under this legislation; cases of a civil nature either go unresolved or are reformulated as offences that can be heard in the Magistrates Court on Thursday Island.

At Mer, disputes were put on hold from the inception of the Mabo case in 1982 until the High Court judgement of 1992, and after this until Mer Gedkem Le was registered (in 1999), and then until office bearers were successfully elected (around 2001). In the meantime, the disadvantages of living in a remote part of Queensland were now being addressed in the form of State and Federal grants for new housing, road sealing, reliable power generation, greatly improved access to education at all levels, better health care and care for the aged, new technology services such as electronic banking, and the 'normal' availability of telephones.¹⁴ This has stemmed the exodus of Meriam and it has led to a reversal of the direction of migration in some age groups.

These things have combined to create a heightened demand for housing land and a resurgence in land disputation. In 2002, the Council of Elders tried to hear eight dispute cases using provisions in the constitution of Mer Gedkem Le, but this escalated intra-community tensions when all eight decisions were immediately appealed. A workshop held in 2003, with funding from the Mer Island Council and the Torres Strait Regional Authority, was no more conclusive, but it did at least help to document more fully the backlog of at least 50 cases. A workshop in 2004, with the additional participation of the National Native Title Tribunal, probed the problems again with no greater success. The upshot is that the annual \$2–3 million construction program is compromised. Houses are not being built for needy families and building materials are frequently moved from house block to house block, as disputes break out one after the other, until they spoil in the weather and cannot be used at all (Burton 2004, 2005).

¹⁴ In his commentary on the Mabo case, Keon-Cohen (2000) pointedly observes that Mer had just one public phone in 1988.

When Owned Commons is a Contrivance: The Case of Nauti

'Nauti' is one of three landowner parties with rights to Hidden Valley, a gold mine prospect on an extension of the Owen Stanley Range near Wau.¹⁵ The Nauti people are Hamtai language speakers, otherwise known as Watuts. The other two parties are 'Kwembu' and 'Winima' in the Biangai language area. The three names, which are the names of the nearest three villages to Hidden Valley, emerged from a 1987 ruling of the Provincial Land Court in Morobe Province.¹⁶ In 2000 they joined formed the Nakuwi Association to negotiate with the mining company (Burton 2001).¹⁷

For the benefit of the current analysis I want to deconstruct the meaning of 'Nauti' from the point of view of landownership. In the first place Nauti, a village in the Watut Council,¹⁸ is certainly not a 'clan'. Agnatic members of the Yatavo patriline — the descendants of a man called Yatavo — of Equata patronymic, whose spokesmen were the appellants in the Provincial Land Court case, made up no more than 26 per cent of the residents of the village, who numbered 330 in 2000. Their spouses and recently Nauti-born non-agnatic cognates (mainly sisters' children) formed another 26 per cent, and more distant relatives (mainly grandfathers' sisters' descendants) in six other patronymics (together with their spouses) make up the remaining 48 per cent.¹⁹

The word 'Nauti' is actually derived from the name of the Nautiya patronymic, which currently has *no members resident* in the main part of the village. It was probably first applied by the patrol officer K.W.T. Bridge who took up station at the nearby Otibanda Patrol Post in 1935, as shown in Blackwood's map of the area at the time of her fieldwork in 1937 (Blackwood 1950, Map 1; 1978). This was a correct designation at the time, but the original population of the Nauti

¹⁵ I worked on Nauti representational and social impact issues on a consultancy basis to CRA Minerals 1995–96, to Australian Goldfields 1997–98, and as an employee of and consultant to Morobe Consolidated Goldfields 2000–01.

¹⁶ Record of Proceedings, Provincial Land Court, 6–22 May 1987, before Geoffrey Charles Laphorne, Provincial Magistrate. The parties, incidentally, are alternately referred to in the proceedings as the 'Nauti clan', 'Nauti people', 'Kwembu clan', 'Kwembu people', and so forth. Space precludes me from deconstructing 'Kwembu' and 'Winima' here, but suffice it to say that, like Nauti, they are neither 'clans' nor do they map cleanly onto group-like clumps of people called the 'Kwembu people' or 'Winima people'. In the text, 'Nauti', in apostrophes, will refer to the court party and Nauti, with no apostrophes, to the physical village.

¹⁷ Nauti + Kuembu (alternate spelling of Kwembu) + Winima = Nakuwi. The mining company was initially CRA Minerals, then Australian Gold Fields, then Morobe Consolidated Gold (and Harmony Gold after the events described here).

¹⁸ The culture area was called Upper Watut by Blackwood (1950) and is to be distinguished from the Middle Watut which is inhabited by unrelated people speaking a different language; today Blackwood's Upper Watut forms the Watut Council, one of several Local-Level Governments in the Bulolo District. Blackwood also used the term Kukukuku; Watuts use this as an alternate today (for example in business group names) deriving it from *Kouka! Kouka!* or 'my boy! my boy!' in the Hamtai language.

¹⁹ See Burton 2003: 207–8 for this usage of the term 'patronymic' and a full dissection of the composition of Nauti.

area — who were of Nautiya patronymic — was almost completely replaced after epidemics of disease swept across Morobe at the end of World War Two.²⁰

Because of this complication, a meeting of hundreds of would-be claimants, from perhaps 20 villages in the Watut Council area, was held at a hamlet called Tontomea before the court case. At this meeting it was resolved to endorse the understanding that the Yatavo patriline at Nauti, the nearest village downstream of Hidden Valley on the Watut River, and their close relatives at Yokua, Akikanda and Minava villages,²¹ which are located in other parts of the Watut Council, would be designated as *ol man i go pas* ('those who go first'), and the remainder of the Watut claimants would *sanap baksait* ('stand behind them') to receive secondary benefits. This is referred to as the Tontomea Agreement.

The coalition had no name for itself so the spokesmen approached Guyo Saweo, the senior man of Nautiya patronymic living on the forested tracts of Nautiya land where Nauti had been in Blackwood's time (Saweo and Saris 1995). They asked for, and were given, permission to use the name of Guyo's *sit paia* (hearth), the place name 'Nauti'.

There was a strong expectation that the magistrate, whether an expatriate (as he was) or from another part of PNG, would only be capable of dealing with the most straightforward group name possible. The Watut claimants knew that their Biangai neighbours were going to court with two village names of their own, Winima and Kwembu, the nearest settlements on their side of Hidden Valley. The name 'Nauti' would match these for simplicity.

To Watut ears, use of the term 'Nauti' also conveyed the fact that this was a 'hearth', a real place, or, in language, *wa taka*. Strictly, the exact location of the current village was not a *wa taka*, because it was of recent foundation. The name owned by Guyo, though, was a real *wa taka*: that is, it referred to the traditionally founded Nauti that existed in Blackwood's time. When the spokesmen were granted the use of the name, it lent their litigation cultural authenticity.

The Provincial Land Magistrate duly set out a distribution of rights to an *area of common interest* at Hidden Valley among the three parties, and Nauti won 50 per cent of this area (Figure 9-1).

²⁰ See, for example, J.H.L. Armistead, Wau PR No. 5 of 1943/44 and Wau PR No. 1 of 1944/45.

²¹ These are the descendants of two men called Qavaingo and Pakieo.

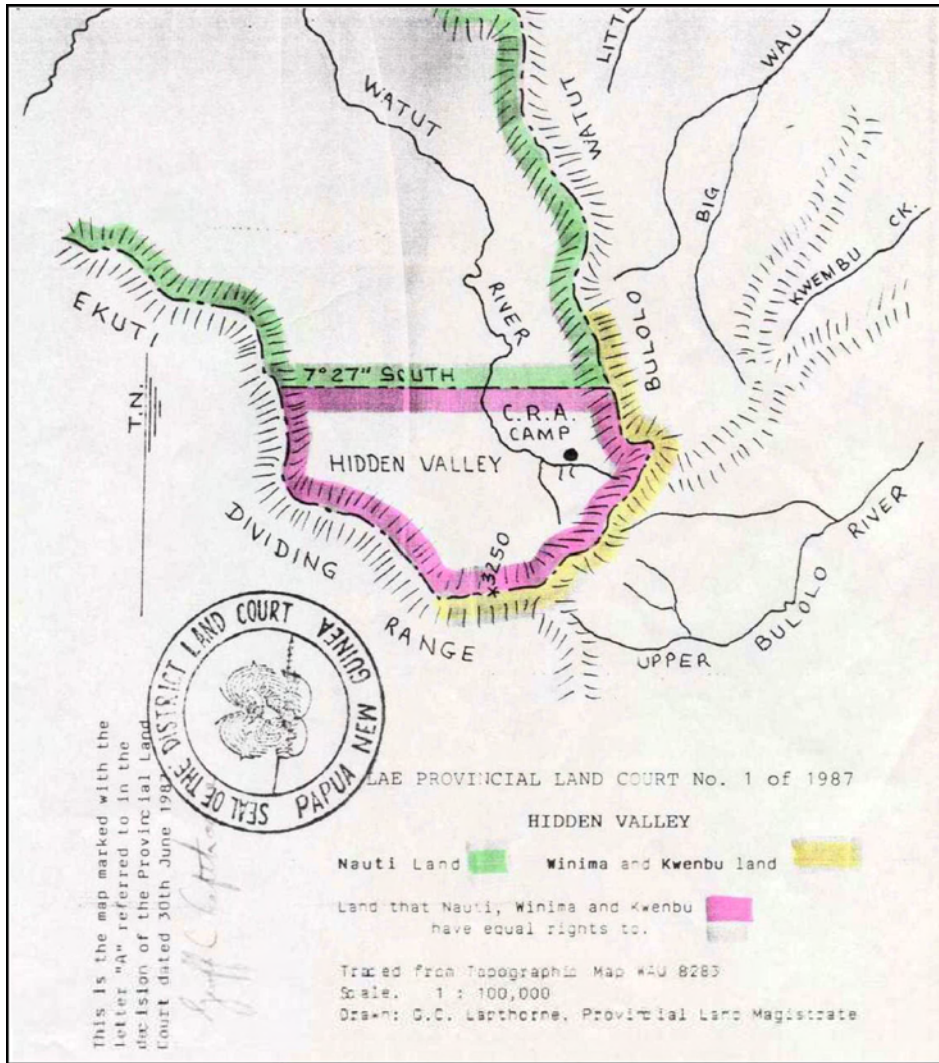


Figure 9-1: Area of common interest at Hidden Valley.

The compression of a multiplicity of Watut interests into the single entity ‘Nauti’ for the purposes of going to court — and even allowing the court recorder to represent it as a ‘clan’ — was a contrivance for the purpose of representing Watut rights in Hidden Valley to the outside world. In reality, ‘Nauti’ was made up of the 332 descendants of closely related patriline ancestors spread among five villages (Table 9-1).

Table 9-1: Distribution of living descendants of the 'Nauti' constituent patriline of Equata patronymic by village (in 2000).

ANCESTOR	VILLAGE					Total
	Akikanda	Kaumanga	Minava	Nauti	Yokua	
1. Yatavo	1	–	–	87	–	75
2. Qavaingo	43	1	9	1	50	104
3. Sons of Pakieo*	–	–	–	–	–	–
3a. Yandiyamango	–	–	26	–	–	26
3b. Mdakeko	23	–	–	–	–	23
3c. Tupango	23	–	–	1	–	24
3d. Yamaipango	–	–	32	1	–	33
3e. Aqipango	–	33	–	–	1	34
Total descendants	90	34	67	90	51	332
Total residents	198	90	162	330	129	991
Descendants (%)	45.5	37.8	41.4	23.1	39.5	32.2

* In agreements and in the business group name 'Yakaya', Pakieo's descendants area collected together as 'Yandiyamango' though Yandiyamango was strictly the name of the eldest of five brothers.

After the case the solidarity of 'Nauti' wavered. This can be seen in the subsequent evolution of the payment arrangements for occupation fees and bush damage compensation with the mining company. For several years, these cleared legal debts and earlier advances. The few bankable amounts left over were made out to 'Nauti Land Owners' and witnessed by patriline spokesmen.

In 1991, Yakaya Business Group²² was formed to be a new organisational umbrella. But this also failed to satisfy, and the government's Project Liaison Officer spent most of 1992 brokering a percentage distribution formula among the constituent groups.

From this point, cheques were raised for each subgroup separately. Then the Yatavo and Qavaingo groups fell into dispute and for a period in 1993–94 asked that no payments be made to them. At the same time, the number of signatories proliferated in each village (Figure 9-2).

²² Yatavo + Kavaingo ('Qavaingo', the spelling on their own documents) + Yandiyamango = Yakaya.

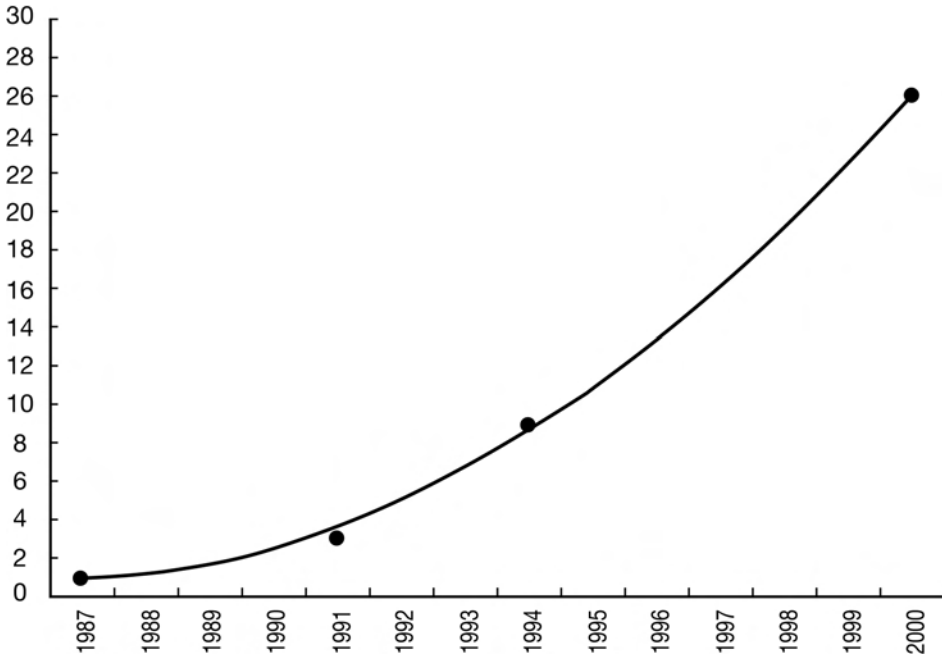


Figure 9-2: Approximate number of signatories for 'Nauti' by year.

This tendency to break down into ever-smaller groups is sometimes taken as evidence of a society fragmenting under the pressure of modernisation. But here we can see that a collection of people with joint rights in a property created a contrived owning entity to win recognition from a court. That accomplished, what is seen is not fragmentation but a reversion to normality.

Discussion

I will now revisit some of the concepts I introduced earlier to produce a more critical analysis of each situation. Table 9-2 provides a summary of the criteria by which the four cases can be differentiated.

Table 9-2: Some attributes related to commons ownership in four cases in Torres Strait and Papua New Guinea.

	Dauan people, Torres Strait	Meriam people, Torres Strait	Wopkaimin of Iralim parish, North Fly District, PNG	'Nauti', Bulolo District, PNG
Area over which ownership asserted	Dauan Island	Mer Island	Mt Fubilan	50% of Hidden Valley
Is the owning entity 'fully determined'?	Yes	Yes	Uncertain	No
Is the owning entity a well bounded group?	No, but Saibai + Dauan are well bounded	Yes	Yes, (with qualifications)	No
'Owned commons' appropriate?	Yes	No	Yes, (say the anthropologists)	No
Ownership determined by Connection Report/Land Investigation Report?	Yes	No, litigated outcome	Yes	No, litigated outcome
Did community acquire legal title?	Yes	Yes	No	No
What was the form of recognition used?	Native Title by consent	Native Title following Maboz 2	Agreements endorsed by government Lands Officers	Decision of Provincial Land Court magistrate, 1987
Did external boundaries exist?	Yes, the sea	Yes, the sea	Yes	No
Were external boundaries determined by survey?	Yes, long-standing property description (Queensland)	Yes, long-standing property description (Queensland)	In parts only, other sections follow ridges and waterways	No, 'Area of Common Interest' ruled on by magistrate
Was internal ownership differentiated?	No	Yes, very strongly	No	Yes, but concealed
Were internal boundaries surveyed?	No	No (sketch plans part of evidence)	No	No
Were there other primary claimants to the area from the same ethnic group?	No	No, other Eastern Islanders claimed their own islands	No, other Wopkaimin (Wangbin, Migalsim) had claims elsewhere	Many
Was ownership encumbered by other members of the same ethnic group?	Saibai people: close relatives but focussed on their own claim over Saibai Island.	No, although an identity problem resulted in an ambit claim by a family not believed to be from Mer	Other Wopkaimin: uncertain, but focussed on their primary claims elsewhere	Yes, very greatly
Were there secondary claimants to the area from neighbouring ethnic groups?	No	No	Yes, Ningerum, Awin, Faiwolimin, Telefomin preferred for employment (<i>Mining (OK Tedi) Act</i>)	Yes, Biangai claimed the whole area and gave place names in their own language
Were there secondary claimants to the area from distant ethnic groups?	Ambit claims from Papua, but dealt with in Torres Strait Treaty between Australia and PNG	No, claimants all genealogically connected to the Eastern Islands only	Yes, Tari and Kopiago for example, but dismissed as frivolous (see Welsh 1987: 127)	Many, but dismissed as frivolous by residents of the Bulolo District

Determinacy of Groups

Were the claimant groups 'fully determined' in the sense I have used? With the Wopkaimin, it is possibly surprising that we cannot say for certain. On the one hand Hyndman (1994: 7) says that a Wopkaimin parish is a 'clearly bounded, territorially discrete unit', but on the other he describes the cognatic Wopkaimin as having far-flung connections of kinship across the wider Min cultural region. Thus the Wopkaimin could be characterised as the 'proximate owners' among an indefinitely extended network of 'underlying' Min owners, all of whom are, at least in theory, secondary right holders anywhere in their cultural region (Welsch 1987: 129). The many informal settlements around Tabubil known as 'corners' and built by immigrants from other Min areas may be a symptom of this. Analysis of the flows of mine-related benefits from the Wopkaimin to non-Wopkaimin relatives, such as occurs between landowners and their relatives at Porgera (Banks 1994, 1997), might also cast light on the situation. Unfortunately we have little information on the subject.

The Dauan and Meriam people are 'well determined' as groups. A short distance beyond their shores there were traditionally no more Dauan or Meriam people. The only ambiguity is posed by drawing a line between them and their neighbours: for Dauan, this was Saibai and Boigu Islands, and for Mer, Erub (Darnley Island) and Ugar (Stephen Island). Beyond these places there were no further speakers of their respective languages, Kala Kawaw Ya and Meriam Mir. Genealogically speaking, the lines were quite easily drawn, with the exception of some families with shared Dauan and Saibai ancestry. The situation did not resemble that of a seamless net of kin extending into a hinterland.

The 'Nauti' are not 'determined' at all, which underscores their problem. The name represents a composite of many descent lines and, while the core lines are arguably 'determined', in the sense that the agnatic descendants of particular apical ancestors are knowable, there are many competing histories which could have placed — or could yet place — an ancestor from a different descent line in the same position.

Boundedness of Groups

The Wopkaimin parish boundaries, as indicated by Hyndman, have the integrity of a local organisational type²³ where main ranges and large rivers form land estate boundaries.

²³ To avoid a lengthy discussion, I will use this terminology at face value for present purposes. Two key attributes of the type in question are that it is common in areas of low population density, and 'excisions' (bits of territory excised to another territory along the boundary) and 'pockets' (enclaves of other clans or tribes in the middle of a territory) are uncommon.

Being islands, Dauan and Mer have external boundaries which give the native title areas a ready integrity such as is much harder to come by on the mainland of Australia.

This configuration of land estate is ostensibly found in the 25 km long valley formed by the headwaters of the Watut River above Nauti village where principal ridges and creeks draining from the high ranges form the boundaries of family landholdings. But it is hard to portray this as an absolute boundary of 'Nauti' because of the indeterminacy of the group. The map of the 'area of common interest' at Hidden Valley (Figure 9-1) does show a boundary — it follows the crest of the dividing range for the most part and is completed by a straight line at latitude 7°27" south — but it is an artificial line created by prospecting authority maps in the 1980s. 'Nauti', the entity discussed in court, is not bounded after all.

Were Internal Ownerships Differentiated and Boundaries Surveyed?

In no case were internal boundaries surveyed. At Dauan and among the Wopkaimin, as I have discussed, internal boundaries are purported not to have existed or, if they did (as in the case of Wopkaimin 'neighbourhoods'), they were not seen as relevant to the main issue of community identification.

Around Nauti village, as noted, principal ridges and creeks delineate the family landholdings of residents, but it took me several years to ascertain *which* families matched with *which* ridges and creeks.²⁴ Nauti leaders were reluctant to disclose information that might enable family heads to bypass them in relation to lease and compensation payments (see Figure 9-2). My view was that maintaining their positions as signatories was a burden upon leaders that stood to poison their relationships with community members and obstructed them from representing community viewpoints effectively. It was also leading them to make extremely inequitable distribution arrangements. Surprisingly, these did *not* always advantage the principal families; in 2000 an obscure cousin lineage of five men shared K17,000 while 62 men in a main lineage had to divide up K20,000. This was just bad arithmetic; I sought to move benefit distribution to a fairer census-based formula along the lines already being used for the mining company's discretionary assistance schemes, such as housing improvement and school fee payments. I devoted a section of my socio-economic impact study (Burton 2001) to how this should be done, but the project was sold to a new company shortly afterwards and neither I nor my PNG counterpart have been contacted since to see how this formula should be implemented.

²⁴ See previous footnote on the circumstances of fieldwork in this area.

At Mer, the internal differentiation of landownership and maintenance of boundaries is a key element of Meriam culture and identity. The colonial response to Meriam landownership was to commission an immediate land survey of the island and to create an island court — both accomplished by 1892. The court's records contain many sketches of land portions and boundaries (Murray Island Court 1908–1983; Sheehan 1987–89). But as time went by, Mer's internal boundary problems were taken less and less seriously by the Queensland Government. Since the 1970s it is probably true to say that hundreds of thousands of dollars have been expended on survey work for infrastructure improvement, but not a single garden, patch of bush, *deup* (traditional boundary bank or line of piled volcanic rocks), or customary house block has been surveyed in the same period. I did sufficient social mapping in 2003–04 to scope out the problems, but my work ran against the trend of a policy blank in the area of assisting PBCs to sort out internal governance issues. At Mer, as I have said, these are severe (Burton 2004, 2005).

Were There Other Primary Claimants from the Same Ethnic Group?

It would be rare indeed if there were not competing claimants to a land estate, but at Dauan, Mer and among the Wopkaimin, the position of the primary claimants is not seriously challenged by others from the same language group.

A qualification at Mer is that a current land dispute concerns whether a disputant's ancestor was from Mer or Erub, a neighbouring island; it is thus about group membership, not whether non-Mer people claim bits of Mer.

Among the Wopkaimin, people whom residents of Iralim parish and outsiders alike might not see as Wopkaimin — because they were born and reside elsewhere — might believe otherwise. Although they would not contest Wopkaimin title, on the grounds that they already believe themselves to be inside the claim group, this is an encumbrance on ownership by people of the same ethnic group.

On the other hand, the 'Nauti' were and are vigorously contested in their rights to land by other speakers of their language. Competing claims take the form of assertions by men of distant lineages that their ancestor preceded any other on the land and that they alone know the hidden history of the area (even though they do not live in it). As with the preceding, this is an encumbrance on ownership by people of the same ethnic group. However, the challengers repeatedly fall down because they cannot — and it does not occur to them to do this — form a claim group representative of a putative resident population 50, 100 or 150 years ago. The 'Nauti' are safe from challenge from a tribe-like or clan-like entity from among other Hamtai speakers because the problem of determinacy besets the challengers as much as it does the incumbents.

Were There Secondary Claimants from Other Ethnic Groups?

At Dauan and Mer there are no effective secondary claimants from neighbouring ethnic groups, mainly because the main candidates living to the north are politically cut off by the international border between Australia and PNG.

The Wopkaimin are subject to political challenge from Ningerum and Awin speakers to the south from time to time. For example, a councillor of Mongulwalawam village, in the Ningerum council area, in 1984 claimed a billion kina a fortnight compensation on the grounds that Mt Fubilan was *not* a Wopkaimin place (Burton 1997: 42). This kind of claim is ineffective, and the Wopkaimin have been defended both by government officials and anthropologists — Welsch said none of the Ningerum 'have any obvious claim ... on Mount Fubilan' (1987: 121).

Welsch discusses the claims to the mine area made by the Faiwolmin, Tifalmin, Telefomin and other northern neighbours with considerable cultural affinity with the Wopkaimin. He says the Wopkaimin did not dismiss the claims in principle, but also did not entertain the idea of sharing their royalties with what would potentially have been another 20,000 people (ibid: 129–130). Politically, these broad area sentiments had a certain amount of traction, because the *Mining (Ok Tedi Agreement) Act 1976* granted the Kiunga (including Awin and Ningerum) and Telefomin people 'preferred area' status for employment and business development. Ambit claims were floated between 1978 and 1980, when Kopiago and Tari people (in another province and separated from Ok Tedi by impassable geographical barriers), and the OPM (Organisasi Papua Merdeka) in West Papua, each claimed ownership of Mt Fubilan (Welsch 1987: 126–7). None of these claims made any political headway for obvious reasons.

I have already mentioned the court settlement reached in 1987 between the 'Nauti' and their eastern neighbours, the Biangai villages of Kwembu and Winima, now joined in the Nakuwi Association. This also now faces new claims. Candidate claimants include the Manki, a relict enclave of distantly related Anga speakers in the Upper Watut; and the Taiak, Galawo, Kapin and Sambio people generally called 'Middle Watuts'. It would seem unlikely that claims from distant places would make political headway, but a salutary lesson is that the Buang Mai-i clan from Mumeng did succeed in claiming Bulolo township in 1999 and continue to grumble over Bulolo and Wau landownership to this day.²⁵

²⁵ Recently a Mai-i clan letter writer complained that 'the Nakuwi Association ... are not the rightful owners to that land [Hidden Valley] ... they lost the case several times against the Mai-i clan' (*Post-Courier*, 'Gold signing questioned', 5 October 2005). It is unclear what case the writer refers to.

Conclusion

The purpose of presenting these cases in detail is not to make out that indigenous and Western legal systems are universally incommensurable — I do not believe this to be the case — but to point to two problem areas.

The first area is that which current procedures allow outsiders — whether lawyers, anthropologists, lands officers or various representatives of the State — and traditional owners to map out together in the identification phase of a claim.

In Australia today, pre-litigation investigations and negotiations relating to the configuration of claim groups is often exhaustive but, on the other hand, the law is highly prescriptive about the rights that can be claimed and the kind of legal vehicle that will hold successfully claimed rights. This can subject the claims process to a hegemony of legalism that can be intimidating to both claimants and anthropologists alike, and stands to defeat the close rapport that may develop between claimants and investigators in the earlier stages of a claim (Martin 2004: 38–41).

In PNG, negotiations prior to litigation or registration have often been perfunctory in the past. Far from taking a firm grip of legal processes and standing over customary owners, the State has become enfeebled and is itself the victim of all kinds of rorts. It is notorious that many cases have been pursued by single litigants or very small groups of litigants acting against other parties without their knowledge.²⁶ There is no place for anthropologists, or any other professionals, in such actions.

In formal terms the situation has brightened since the 1980s. For example, social mapping is mandated by the *Oil and Gas Act 1998* and, although mining sector legislation does not require it, mining companies have adopted similar practices as part of the social impact assessment process since the mid-1990s. However, in both cases outcomes have been less than satisfactory over the longer term (see Goldman and Weiner, this volume).

How could the 'Nauti' have been helped? That they won at all is admirable, as they went to court without outside help. But they could have been greatly helped if there had been a way of getting the same outcome without having to pretend they were one of Mr Narokobi's 'independent, autonomous social units'

²⁶ The main contribution to the large number of recent actions against the State are the 37 orders made by Papua New Guinea's National Lands Commissioner between July 1999 and September 2002 for the State to pay K80 million compensation to the supposed customary owners of Kiunga, Bulolo, Mt Hagen and parts of various other towns and plantations. In four cases I looked into in Hagen in 1999, the State had been unaware of the actions and the National Lands Commission had met secretly with the claimants. Similarly, the Commission awarded the Mai-i clan of Mumeng K1.2 million in 1999 for parts of Bulolo township without any of Bulolo's customary owners — in the eyes of the majority of the public — being aware of the action. The Deputy Chief Justice ordered the 37 cases to be reviewed in October 2005 (*Post-Courier*, Public Notice, 29 August 2005).

when they were not. As things stand, there is no provision for an alternative way of administering unincorporated rights without incorporating them.

The second problem area concerns the level of assistance to which customary owners can get access to help them properly 'operate' their native title, or recognition of customary title, once they have it.

'Nauti' quickly ran into difficulties because they were unable to devise governance procedures for the very few tasks that they needed to carry out in the years after 1987 — namely, holding simple meetings and distributing very small amounts of lease fees. A government liaison officer was available to them as a mediator, but he had few resources. For example, he had irregular access to a vehicle but his clients lived several hours' drive from town without means of communication with one another.

The Meriam do not need to be told of their litigious reputation and they are well aware of the predicament they find themselves in. In short, it is that the Mabo case says traditional 'laws and customs' should now govern land dealings among themselves, including dispute resolution, but it is not proving easy to adapt traditional ways to the point where any matters can be handled decisively and quickly. In Australia, no money is available to manage successfully claimed native title because PBCs are not funded.

Personally, I was struck by the directness of the question which George Mye OAM, a well-known Eastern Islands elder first elected to Mer Council in 1955 (Beckett 1963), asked me when he found out I had worked in PNG: 'Can people in PNG own land individually?' While I could easily answer 'yes, of course' from the customary point of view, a lengthier response would have been that the *legislative response* to land matters in PNG, as in Australia, places an equally heavy emphasis on the collective ownership of land. This was the gist of Mr Mye's complaint: that Islanders had campaigned for years for autonomy, but when the government had finally given ground in the wake of Mabo, it was to give them something they did not want in the form of the *forced collectivisation* of traditional land.²⁷

How can the Meriam be assisted? This is not hard to set out. The Meriam are a case not readily covered by Sutton's two-tier conceptualisation of ownership, if it is 'proximate' ownership that matches with a determination of title.²⁸ In order for this model to fit their case, a 'family' tier of ownership has to be envisioned. Meriam operated customary transactions perfectly well for the first

²⁷ The antipathy of older Islanders to the threat of over-centralising governments may also be seen in the popularity of membership in the Mer branch of the Australian Legion of Ex-Servicemen in the 1950s (Beckett 1963: 205ff). This was one of several Australian ex-service organisations with a reputation for conservative politics and, in that period, anti-communist leanings.

²⁸ It could be said that the native title on Mer is an 'underlying title', but the regional system is a wider thing.

100 years after annexation because the Murray Island Court made it as if this tier was recognised by Australian or Queensland law. Native title has confused the situation and the community has yet to find a new institution to replace the old court.

It is not possible to be overly prescriptive about a replacement, but one attribute is easy to set down. Most disputes are inheritance disputes compounded by ambiguities over the intentions of the deceased, the recognition of the rights of adopted children; and the caretaking of land belonging to absentees. In these cases the ability to maintain proper documentation is an excellent aid to straightening out what particular disputes are about.

The Meriam themselves have evinced an avid interest in documentary evidence for a century. Oral testimony has been largely replaced in favour of the presentation of documents — typescripts, photocopies of genealogies that every family knows its place in,²⁹ and copies of wills and letters. Unfortunately, such official records of new disputes that are made have a typical lifespan of 2–3 years. Supporting documents disappear with the building contractors whose work could not proceed, and council, Island Coordinating Council or Torres Strait Regional Authority correspondence rarely survives beyond this time as offices are moved and files put in storage or just lost. The poor standard of documentation in the post-Mabo period means that there is a weak ability to track current disputes as they arise. A first step towards getting to grips with the 50-case backlog of disputes is to rectify this situation, and the failure to do so is primarily due to the inability of the various tiers of government to grasp the problem (Burton 2005).³⁰

²⁹ These include the 1898 genealogies of W.H.R. Rivers (Rivers 1908).

³⁰ Contrast this with the institutional reverence with which Eddie Mabo's papers, held at the National Library of Australia, are preserved (Mabo 1943-1992). They are one of only two Australian entries in UNESCO's *Memory of the World Register*, the other being Cook's *Endeavour* journal (<http://www.unesco.org/webworld/mdm/register/index.html>).

References

- Banks, G., 1994. 'Porgera Social Monitoring Programme Economic Modelling Project. Second Report: Gardens and Wantoks.' Canberra: Australian National University, Research School of Pacific and Asian Studies, Department of Human Geography (unpublished report to Porgera Joint Venture).
- , 1997. *Mountain of Desire: Mining Company and Indigenous Community at the Porgera Gold Mine, Papua New Guinea*. Canberra: Australian National University (PhD thesis).
- Beckett, J., 1963. *Politics in the Torres Strait Islands*. Canberra: Australian National University (PhD thesis).
- , 1995. 'The Murray Island Land Case.' *The Australian Journal of Anthropology* 6: 15–31.
- Blackwood, B., 1950. *The Technology of a Modern Stone Age People in New Guinea*. Oxford: Pitt Rivers Museum.
- , 1978. *The Kukukuku of the Upper Watut*. Oxford: Pitt Rivers Museum.
- Burton, J.E., 1993. 'Kutubu Petroleum Project Social Monitoring Programme: Commentary of Methodology and Results.' Port Moresby: Unisearch PNG Pty Ltd for Chevron-Niugini Ltd.
- , 1997. 'Terra Nugax and the Discovery Paradigm: How Ok Tedi was Shaped by the Way it was Found and How the Rise of Political Process in the North Fly Took the Company by Surprise.' In G. Banks and C. Ballard (eds), *The Ok Tedi Settlement: Issues, Outcomes and Implications*. Canberra: Australian National University, National Centre for Development Studies and Resource Management in Asia-Pacific (Pacific Policy Paper 27).
- , 2001. 'Morobe Gold and Silver Project: Socio-Economic Impact Study (3 volumes).' Wau and Perth: Morobe Consolidated Goldfields Ltd.
- , 2003. 'Fratricide and Inequality: Things Fall Apart in Eastern New Guinea.' *Archaeology in Oceania* 38: 208–216.
- , 2004. 'Investigation of Land Disputes at Mer Island, Torres Strait.' Canberra: Pacific Social Mapping for Torres Strait Regional Authority.
- , 2005. 'The People Remember and the Government Forgets: The Last 100 years of Land Disputes at Mer, Torres Strait.' Canberra: Australian Institute of Aboriginal and Torres Strait Islander Studies (unpublished seminar paper).
- Douglas, J., 1894. 'Report of the Government Resident at Thursday Island for 1892–3.' *Queensland Votes and Proceedings* 2: 914.

- Fingleton, J., 2004. 'Is Papua New Guinea Viable Without Customary Groups?' *Pacific Economic Bulletin* 19(2): 96–103.
- France, P., 1969. *The Charter of the Land. Custom and Colonisation in Fiji*. Melbourne: Oxford University Press.
- Haddon A.C. (ed.), 1908. *Reports of the Cambridge Anthropological Expedition to Torres Straits — Volume VI: Sociology, Magic and Religion of the Eastern Islanders*. Cambridge: Cambridge University Press.
- Hyndman, D., 1982. 'Population Settlement and Resource Use.' In D. Hyndman, J. Pernetta and D. Frodin (eds), *Ok Tedi Environmental Study — Volume 5*. Melbourne: Maunsell and Partners Pty Ltd.
- , 1994. *Ancestral Rain Forests and the Mountain of Gold*. Boulder: Westview Press.
- Jackson, R.T., C.A. Emerson and R. Welsch, 1981. *The Impact of the Ok Tedi Project*. Port Moresby: Department of Minerals and Energy.
- Keon-Cohen, B. 2000. 'The Mabo Litigation: A Personal and Procedural Account.' *Melbourne University Law Review* 35. Viewed 20 March 2007 at <http://www.austlii.edu.au/au/journals/MULR/2000/35.html>.
- Mantziaris, C. and D.F. Martin, 1999. *Guide to the Design of Native Title Corporations*. Perth: National Native Title Tribunal.
- Martin, D., 2004. 'Capacity of Anthropologists in Native Title Practice.' Canberra: Anthropos Consulting Services for National Native Title Tribunal.
- Narokobi, B., 1989. *Lo Bilong Yumi Yet: Law and Custom in Melanesia*. Suva: Melanesian Institute and Socio-Economic Service and the University of the South Pacific.
- Rivers, W.H.R., 1908. 'Genealogies.' In A.C. Haddon (ed.), op. cit.
- Saweo, G. and J. Saris, 1995. 'History of Nautiya clan in the Thainameo family of Nauti Village (Watut).' Unpublished typescript.
- Sheehan, C.G., 1987–89. 'Guide to sources on Murray Islands, Queensland.' Brisbane: John Oxley Library (typescript).
- Sutton, P., 2003. *Native Title in Australia: An Ethnographic Perspective*. Cambridge: Cambridge University Press.
- Welsch, R., 1979. 'Resources, Land Tenure and Ownership in the Ok Tedi Area.' Port Moresby: Department of Minerals and Energy (unpublished report).
- , 1987. 'Multinational Development and Customary Land Tenure: The Ok Tedi Project of Papua New Guinea.' *Journal of Anthropology* 6(2): 109–154.
- Wilkin, A., 1908. 'Property and Inheritance.' In A.C. Haddon (ed.), op. cit.