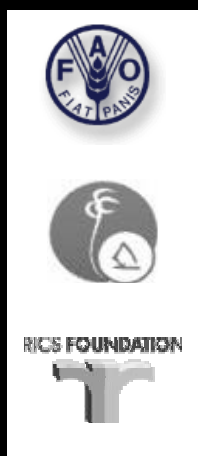


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Author:
James Weiner

Contact details:
**Visiting Fellow, Resource Management in Asia Pacific, RSPAS
Australian National University**

Phone:
+61 02 6281 7800

Fax:
+61 02 6281 7800

Email:
james.weiner@anu.edu.au

Website: **<http://www.usp.ac.fj/landmgmt/SYMPOSIUM/>**

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Adverse Possession: Some observations on the relation between land and land-based knowledge in Papua New Guinea¹

*James F. Weiner
Department of Anthropology, RSPAS
Australian National University*

Introduction

In this paper I wish to discuss dimensions of claims to landownership in interior Papua New Guinea as they emerged in two major land disputes in the petroleum development region of the Southern Highlands Province in the 1990s. My approach focusses on the continuity between material and intangible property, and the primacy of material property over its counter-invented intangible counterpart. The recent volume edited by Whimp and Busse, and particularly the chapter by Marilyn Strathern, go a long way towards emphasizing the continuities between material and intangible property in PNG. In this paper I would like to extend upon the implications of the points that Strathern made in her chapter. For it was not too long ago that Chris Ballard wrote an article about Papua New Guinea sociality entitled “‘It’s the Land, Stupid!’ ...”, in which he saw land as the central focus of property and social relations throughout Papua New Guinea. The questions I want to pose here are:

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(1) To what extent can we render arguments about the rest of what we consider property in PNG irrelevant by trying to see most if not all of these rights dependent upon rights in land? How does this affect the way we see the “intangibility” of certain intellectual property related to and dependent upon rights in land?

(2) If, as Marilyn Strathern, Chris Hann and others argue, property is best seen as an encompassed feature of social relations, how does this force us to anthropologically evaluate the legislation being developed in countries like PNG and Australia to define, codify, and presumably protect both property holding units and the nature of their rights in property, particularly land?

(3) Are we entitled to continue using the term “protection” of indigenous culture and rights when these developing legislations themselves are encouraging indigenous society to react and transform themselves in specific ways, usually western in spirit and content, in order to take advantage of the protection and legal stature afforded by such legislation?

I will address these questions with respect to rights in land, and the manner in which proof of ownership of land is being debated in two recent and important land dispute cases heard by the Papua New Guinea Land Titles Commission, the *Hides Gas Project Case*, heard by Amet J. in 1991, and the more recent *Gobe South East Gobe Land Dispute Case*, originally heard by Salika J. in Mendi in 1996 and whose judgement was subsequently overturned by the Chief Land Titles Commissioner, Jospeha Kanawi upon appeal in June 2000. Both cases involved disputes over land within petroleum development license areas (PDL1 in the Hides case, PDL3 and 4 in the Gobe Main and South East Gobe case); there were thus important issues of royalty and equity entitlement at stake in the demonstration of ownership of land.

In both cases, what was central to the determination of ownership of the disputed land was the concept of *adverse possession*. This was originally introduced

into the lexicon of PNG land law by Robert Cooter, a Professor of Law from the University of California who undertook a study of PNG's customary land law and land courts in the late 80's, and whose writings played a decisive role in the reasons for judgement adduced by the Land Titles Commissioners in these recent cases. As quoted by Amet J. in the *Hides Gas Project Case*, adverse possession is described in the following way:

A group who resides upon or improves land for a sufficient time without the permission or active opposition from others thereby owns it. A group that uses land for a sufficiently long period of time without the permission or active opposition from others, but does not reside upon or improve it thereby acquires a use right in it.²

The Hides Gas Project Land Dispute

After the initial identification by British Petroleum of the landowners for the Hides Gas Project (HGP) area landowners in 1989, findings which were subsequently endorsed by a Government team, clansmen from the Tuguba tribe and who were based in the Komo area commenced an action in 1990 in the courts claiming ownership of the HGP lands. Resource rents owing to the landowners in the region from the Gas Project were suspended as a result of this action. The payments that were due from 30 August 1990 were put into interest bearing trust accounts until the court decided the issue of landownership. The case, between the group of incumbent landowners styling themselves as the 'Hiwa' and the plaintiffs, who styled themselves as the 'Tuguba', was heard in 1991 by the Land Titles Commission. The then Justice Amet, sitting as a special Land Titles Commissioner, found in favour of the Hiwa, which was the group that had been identified as the landowners by the then licence holder BP. Subsequent LTC reviews were heard in 1992, after application by the Tuguba groups. The reviews

² Quoted from Cooter (1988); on p. 9 of Amet, J. (1991).

were heard by LTC tribunals and affirmed the then Justice Amet's decision. In July 1993 a compromise agreement was made between the two disputing parties. Without going into other details of the compromise agreement, the agreement affirmed the landownership of the HGP lands rested with those clans which the then Justice Amet had decided were the landowners, that is, the group identifying themselves as the 'Hiwa'. It is, however, necessary to mention that the major *quid pro quo* offered by the 'Hiwa' to the 'Tuguba' in the July Compromise Agreement was an agreement to divide the royalties from the Hides Gas Project 50/50 between the 'Hiwa' and the 'Tuguba'.

An appeal which had originally been lodged in the national Court by the Tuguba, was dropped. This all then cleared the way for the payment of the outstanding monies to those people who had been identified by the LTC as the HGP area landowners and whom had been reaffirmed as the landowners by the compromise agreement of 1993. These payments were made in November/December 1993.

In the *Hides* Case, the Tuguba tribe of the Komo region, north of Mt. Bosavi "who... claimed that they are the true and rightful owners by custom" (Amet. J 1991: 4):

The central thrust of the case for the... Tuguba Tribe clans placing very strong reliance upon their Genealogy was that they were the original discoverers of the land in dispute and although they are not actually physically residing on the land, nevertheless the boundaries of mountains, rivers, streams, other landmarks and ancestral grave sites all named by and after Tuguba Tribal ancestors point conclusively to the fact that the Tuguba's were the first inhabitants of the land and thereby are the true owners by custom (ibid.).

Amet J. accepted the importance of names, knowledge of names, and the connection between names of ancestors and names of places.³ The Huli are also famous for the depth of their genealogies—the Tuguba tribe was able to name ancestors going back 16 generations—an estimate of between 6-700 years. The Hiwas, whose

³ Cf. J. Weiner, *The Empty Place* (Indiana University Press, 1991), for a similar relationship between place and personal names among the Foi of the Southern Highlands Province, neighbours of the Huli.

occupation of the disputed land was much more recent, nevertheless also were able to demonstrate a similar depth of genealogical history. “They however assert a superior claim to ownership by the fact of their physical occupation and control over the use of the land at the present time” (ibid.: p. 7), Amet J. opined. He suggested that:

If that oral history traces the origin of a particular tribe or a people back thousands of years or hundreds of years without taking into account many other factors since that time to the time of the dispute it would make other factors since that time to the time of the dispute meaningless... (ibid.: page 6).

We can begin by drawing out the following issues implicated in Amet J.’s judgement:

1) From the perspective of customary land ownership and land dispute courts and commissions, there is a clear tendency to distinguish between actual physical occupation and control of land from the proprietorship of intangible *knowledge* associated with ownership and residence on the land (such as knowledge of place names, associated stories, songs and so forth). Thus, sheer continuity of knowledge divorced from its use in an actual system of material transformation did not attract protection from the Land Titles Commission as custom *per se*, a point that certainly relates to some of the issues raised in the Hindmarsh Island Bridge Affair in South Australia in 1995, which involved a sacred site claim by the local indigenous Ngarrindjeri people (to which I will return).

What do I mean by the relation between a system of knowledge and a system of material transformation? This is answered by looking at an important practice in Foi and related groups such as were alluded to in the Hides case: namely, the use of place names in the naming of people. People are often named after the place where they were born, especially if there is a prominent or unusual natural feature associated with it. The principle then is that a region’s place names will become distributed among the

personal names of its inhabitants, so that an inspection of *the distribution of such names becomes in principle as important as genealogy in determining depth of habitation and intimacy of association with a region of places.*⁴ Mrs. Kanawi in her judgement on the *Gobe* case (which I will discuss shortly) on p. 41 thus concludes: “Where there are competing claims of ownership... a party showing evidence of land features and descriptions that resembles the likely conditions of the present form of the land [sic] and the group who by evidence confirms that, their clansmen names are given reference to the land marks... and that clan and family is related to the traditional characteristics of the land marks claimed should be awarded ownership rights to the land”. In other words, the traces of a community’s appropriation of the physical landscape becomes the foundation for the intangible expressions of such appropriation—stories, names, myths, songs—which will subsequently attract protection *qua* tradition in its own right.

Once we accept that the foundation of such intangible property is the real-world time scale of human work, movement, and rhythmic interaction with the environment, we recognize that there is a time factor with regard to the appropriateness of the relationship between occupation of land and knowledge of associated lore that confirms ownership of it. Had the Tuguba clans been in possession of their land, the knowledge of genealogies and place names would have supported their occupation of it. What is left unarticulated is the point at which and the extent to which the Hiwa clans begin to amass such knowledge of place on their own during the course of their own occupation and which, over time, would then provide a competing but no less in-depth accompaniment and support to occupation of land as such. In other words, what is the specific length of time that occupation must last before such knowledge is on par with that of the “original owners”? How long does it take for “tradition” or “custom” to

⁴This is also brought out in the example cited on p. 121 of the *Gobe South East Gobe Land Dispute Case*.

attain the status of that which accords what we westerners would recognize as proprietorship?

The Gobe South East Gobe Land Titles Commission Hearing

Kanawi in the *Gobe* case (p. 100) maintained the opposite: she admits that clans associated with land “from time immemorial” are preferred as land owners over those whose recency of association “seems” to be contemporary and “outside custom”. This is a dimension by which claims to country are currently judged under the Australian *Native Title Act (1993)*. In anticipation of the clash of different customary idioms of attachment that will be put forth and which will collide in the PNG Gas Project, notably in the Torres Strait, it should be flagged in these notes that appeals to habitation “from time immemorial” are highly politically charged ones in Australia, and ones that have been given great prominence by the media in that country.

The Gobe land dispute took place within the petroleum license areas PDL3 and PDL4. The area in general was uninhabited at the time of the discovery of crude oil reserves there, and was in fact largely a no-man’s-land between the territory of the eastern lower Foi, the Sau-speaking groups of Samberigi, and the Polopa. The clans in question disputed the ownership not only of the PDL land as a whole but the sites of the project infrastructure such as the airstrip, and the Mt. Kiki repeater station.⁵

In general, Mrs. Kanawi made judgements that were the reverse of those of Amet J. in the *Gobe South East Gobe Land Dispute Case*. First of all, she opposed Amet J.’s decision that the interpretation of tradition must take account of its own transformation under the stimulus of economic development necessary to an emerging nation state: On p. 64, Kanawi states quite unambiguously that “...one cannot retract [sic] from... customary obligations for the sake of some monetary benefits derived from

⁵ See Marco 2000 for a summary of the events leading up to the first Gobe Land Titles Commission hearing in 1993.

the land at this time”. This raises the dilemma discussed above with respect to the time factor: What part of the current petroleum-related “practice” of making claims of ownership to land is outside of custom? How can any part of landowner response to petroleum-generated problems and challenges be “outside” custom? Only if custom is seen as analogous with western “law” can this be deemed a sensible question.

Kanawi elaborated this point further on. In her final pronouncement (p. 157), she decides that “... the Commission makes a ruling that, the land adjudication is deemed to have been the boundary of the relevant Petroleum Development License area. This is quite an irregular practice and should not be encouraged”. However, her decision belies this. Land boundaries will inevitably be decided in future disputes with reference to PDL and other mineral and commercial exploitation and exploration license area borders. This sensibly and practically places the current epoch of mineral and commercial exploitation of PNG resources squarely within the framework of evolving contemporary tradition in PNG, however paradoxical that might sound.

Contract and Custom

The issue that I wish to focus on is the effect of the contractual practices with respect to property that are embedded in legislation that defines things such as land and group and the relation between them. The effect of this legislation on the practices and things it is purportedly set up to protect and enable is only now being seriously addressed from a social science perspective⁶, though it received more robust treatment in the middle of the century in the context of British experience with colonial codification of African custom and land law. Thus for example, is a private contract, entered into privately, without the knowledge of the community at large, “binding on the parties by custom” (Kanawi p. 97), as opposed to a public transfer of rights or

⁶ See for example, Martin and Mantziaris, *Native Title Corporations: A Legal and Anthropological Analysis*. Sydney: Federation Press (2000).

property, accompanied by, for example, an exchange of ceremonial wealth, witnessed by the public at large, and pronounced upon by men of status in a formal way? For people such as the Foi and Huli, the public acknowledgement of land boundaries is an important aspect of the determination of customary ownership. How much of this public acknowledgement of community and individual rights will be eroded, as "customary practice", as more and more dealings between individuals in village settings become a matter of private contract?

To take another example: Throughout PNG, the Land Group Incorporation Act (1974) has been utilised as a means of giving corporate identity and legal recognition to customary land owning groups, particularly in mining and petroleum project areas where the delivery of benefits to landowners is of pressing importance. But Kanawi maintained however that possession of an ILG registration certificate is not tantamount to possession of customary rights in land (p. 31).⁷

Occupation and Ownership

Let me return to the issue of occupation, which is a central concern both of Kanawi (p. 16, 18, 28, 35) and Amet in these two land disputes and in general in the *Australian Native Title Act (1993)*. In *The Empty Place (1991)*, I emphasized that territoriality was conceived of as a series of paths through the forest, used for various productive purposes. The Foi think of these paths as the "property" of the people who habitually use them, and refer to them as "So and So's path". I also discussed the Foi concept of *mitina-*, which means "to show". In the context of land, a man who "shows" another a tract of land has the power to transfer use or ownership privileges to the person to whom the tract of is revealed. This was upheld by Commissioner Kanawi (page 27). This point-- that the existence, proximity and avowal of ownership of bush

⁷ See Weiner 1998 and 2000 for similar arguments with respect to the Foi, another Petroleum project area people of the Southern Highlands Province.

tracks is a defining feature of land ownership among the Foi- is acknowledged by Kanawi in the *Gobe* case, which involved Foi people (page 18).⁸ The act of “showing” is usually of an older man to a younger, typically a father showing his land to his son or sons. Kanawi (p. 51) also maintains in principle the superior knowledge of older men over younger ones in the matter of local adjudication of land ownership: “... by custom where disagreements occur between the younger man and the older man who has passed on knowledge on the land matters, the views of such elderly person [sic] is to be respected and must prevail against the younger man”. This once again invokes once again the issue of temporality that I have drawn attention to in this analysis.

Kanawi states: “In traditional Papua New Guinea, for any one to use land, such person must walk on that land or move around in that land from the village that he resides [sic]. To walk on that land or move around in that land, one must have a bush track or must show that they use the river, creek or such natural land feature to get to the land areas. By use of that track or river system... one is able to go onto the land and reside on it, occupy it or improve it.” I find this the most compelling description of the type of phenomenology of land inhabitation that I have described for the Foi, and which other anthropologists of the region such as Feld (1980) and Schieffelin (1976) have also described for the Bosavi groups. From the point of view of the single person in this region of PNG, land is not viewed as a discrete parcel of territory with clear borders. Rather, land is the culmination of the historical and temporal travel over a particular person’s bush tracks through specific areas that he (or she) has laid claim to during his or her lifetime. It is this view of land, so at odds with the western view of enclosed and em-bordered plots of property, that is truly Melanesian (or at least Papuan), and which resource companies and government ministries must come to terms with if it is to understand land-ownership and disputes over land in the Kutubu and Gobe oil projects area at all.

⁸ It was also a prominent factor in the testimony given in the Sanemahia-Yaferaga (Fasu) Land Dispute.

But “showing” must also relate to a larger body of lore surrounding the history of the land, including, if they occur, mythological origin stories. Thus, Kanawi placed weight (page 113) on the knowledge of a myth relating to a piece of land by one man and the ignorance of this story by another claimant.

These issues are also important for the determination of Native Title in Australia, but as has been shown in recent cases such as the Hindmarsh Island Bridge dispute (see Weiner, 2001), lack of knowledge of lore has to itself be contextualized. In Foi, and in many others places in PNG, knowledge of important mythological origin stories, or at least key parts of them, is restricted to specific people. Not all true clan members know them. So lack of knowledge of an origin myth associated with a place is not decisive evidence of lack of connection and/or ownership of land. It is important not to uniformly interpret absence of evidence as evidence of absence.

Marilyn Strathern speaks of rights to property as embedded in relations between persons (). Thus, the acknowledgement of ownership by neighbouring clans constitutes an important proof of ownership—that is, the *relational* basis of definition of land ownership in both the *Hides* and the *Gobe* land dispute cases (Kanawi p. 17).⁹ The point is that both current occupation and knowledge of origin stories are necessary but not sufficient conditions of claims to ownership. This occupation and this knowledge has to be legitimized by the acceptance of neighbouring land-holding groups. But what if these relations themselves are themselves contoured by the very issue of property at stake? What if the competition and rivalry over ownership is itself the form of the relationship? It is this type of situation that confronts us with the circularity of this definition of property rights.

Mrs. Kanawi did agree with Amet J. in suggesting that genealogical connection, in the absence of current and real evidence of occupation and use, was not by itself sufficient to

⁹ See also *Veakabu-Vanapa* (PNGLR 234).

assert exclusive ownership: "...a group seeking to rely on the genealogy [sic] of the clan must positively relate the claims to the active occupation of the land by the ancestor or great grand father or grand father or the father so as to give weight to the other intervening factors on ownership such as earmarks of ownership..." (p. 28; see also p. 35).

But on p. 115, she seems to put forward another proposition concerning the relationship between the land-owning group and its genealogy. Criticizing the Special Commissioner Gibbs Salika's original judgement in the conflict between Isaweri Makof clan and Isoweri Bubuku Gohus, and in the conflict between Moloko Tipurupeke clan and Sowolo Haporopakes, she avers that "although the learned Commissioner may have assumed on the basis of evidence that both clans are related, that does not mean that they both own the same portions of land together as one clan".

In this respect Kanawi's interpretation of the necessity to demonstrate continuous occupation is congruent with the current requirements of the amended *Native Title Act (1993)* in Australia. Also congruent between PNG and Aboriginal Australian interpretation of customary land stewardship is the acknowledged discrepancy between accounts of ancestral or originary occupation and current residence, use and habitation. Both Papua New Guinea customary land law and the Australian *Native Title Act* converge on acceptance of adverse possession: that the assumption that failure to maintain an "interest" in land is tantamount to relinquishment of customary ownership (or "native title") to it.¹⁰

Furthermore, there is a discrepancy between the judgement rendered by Kanawi in the *Gobe South East Gobe Land Dispute* case and that given by Amet J. in the *Hides Gas Project Case*, with respect to the relative weighting of ancestral genealogies and myths versus current ownership. In fact, the Huli land system and that of the Foi/Samberigi are quite different in this respect. The respondents in *Gobe South East Gobe*, with their shallow genealogies, large amounts of uninhabited country, and their history of constant warfare and migration, put more

¹⁰ See the comments on R.J. Giddings on the land dispute between Eastern Highlands Kamate clan *et. al.* (1978), quoted in Cooter 1989: 72.

weight on recency of occupation in contrast to the Huli respondents in *Hides Gas Project Case*. If this were all that were at stake, it would demonstrate that local custom is to be considered paramount in determinations of land ownership in any given case, even when customs conflict as between different regions of PNG.

The problem, however, is that this mitigates against the implicit universalism that seems to underlie the push for international recognition of all kinds of property rights. Kanawi on p. 39 undermines the ability of a nation-wide regime of land-owning custom to work against the accepted PNG principle that local custom must prevail in any given local judgement: She says: "... where ancestral [sic] stories are given to support claims of ownership, the test to apply are [sic], whether the story resembles the community behaviour of the people who now live from the generation of that ancestor and whether the party relying on that ancestral story can positively relate their ties and their association to the land features and the use of the land marks in their normal traditional usage practices [sic]". Now this sounds reasonable and in fact it is at the core of the Australian procedure in assessing Native Title claims.

But the problem remains: Either this is solely an *anthropological* assessment of the Foi-Samberigi culture of land-holding, or it is a nation-wide principle applicable across cultures throughout PNG. If it is not a common principle, then the origin of the judgement has to be clearly made—it is Kanawi's assessment of the Foi-Samberigi system only and cannot serve as a precedent in future land disputes in other regions of PNG.

In addition, Kanawi made an additional, different and not altogether consistent judgement at pages 131-133 as well. There she acknowledges current occupation as overriding either genealogy alone, knowledge of ancestral myths, or acknowledgement of neighbouring land owners. In fact, she supports the decision of Amet J. in the *Hides Gas Project Land Case*. Commenting on the Kirawi case, she says, "... the question is not really of earmarks of ownership... nor does the rule of those whose claims are the furthest removed

from those who vacated it becomes, as years go pass [sic] of diminishing importance, nor does the rule of maintenance of interest in land... applies [sic]" (p.132-133). She goes on to reiterate her support for the concept of adverse possession here too: "... adverse possession relates to a group that resides upon or occupies and improves land for a sufficient period of time without active opposition from others thereby establishe[s] a legitimate claim to ownership..." (p. 133).¹¹

Thus, the conclusion is that there can be no national regime of land legislation that can maintain justiciability across cultures in PNG. By implication, the attempt to legislate an internationally acceptable regime of property rights protection in general will be difficult in PNG.

Conclusions

By way of a conclusion, I'd like to identify the main issues that I think emerge from these two recent PNG Land Titles Commission cases, without necessarily following them through with any kind of analytic sufficiency as yet. First, there is the now well-discussed objectification and entification of custom/knowledge, especially when such knowledge is so intimately linked to possession of land (see also Ernst 2002): For example, on p. 115, Mrs. Kanawi remarks on the case of Sei Doyo, a Foi man who took part in the *Gobe* dispute, and who admitted to multiple clan and indeed ethnic affiliations (see for example p. 123, 125) during the course of the original Commissioner Gibbs Salika hearing in Mendi. In her judgement on appeal, Kanawi used the phrase, "whether Sei Doyo is willing and is prepared to share common custom with the Kaporopake people of Kirawi village" (ibid.).

¹¹ This was the issue in the land dispute between the clans Hogeteru, Kamate, Kema, and Hipu' Henagaru in the Local Land Court at Lufa, Eastern Highlands Province, 19 Jan. 1978. See Cooter 1989: 70 ff. The concept at stake is "adverse possession", which was one of the central concepts employed in both the *Hides Gas Project Case* and the current *Gobe South East Gobe* case. However, in other less benign colonial experiences, "adverse possession" has been a tool used by the British to justify their possession of land expropriated from conquered, indigenous peoples. Although it is evidently crucial to local landowners establishing claims in Papua New Guinea today, it is one of the real obstacles to Aboriginal native title claimants demonstrating their traditional ownership of land.

The issue here, particularly germane to the Gobe situation, and to the determination of the relationship between “Foi” and “Samberigi” (or “Sau”). It is common between ethnic groups between which there has been a great deal of exchange of population, either caused by inter-marriage, migration or warfare, for the same clan to be represented under different names in both populations, which otherwise might strike the external observer as distinct because the groups in question speak different languages, occupy different regions, and otherwise identify themselves as distinct “peoples” or “ethnic” groups. This porousness of ethnic, linguistic and clan identities, or the common phenomenon in PNG whereby different regions are enchaind by their sharing of myths and ceremonies that have travelled over great distances, pose even more critical problems for the determination of ownership of intangible property.

Second, I’d like to counter my avowedly anthropological emphasis on the primacy of cultural differentiation as an important dimension of contemporary indigenous political striving, with the legal perspective of Robert Cooter. Cooter, in his survey of local land courts in the 1970s and 1980s in PNG (1989), predicted that for PNG national land law would have to emerge, as did English Common Law itself, from the accumulated precedents set by local land courts all over the country. He stressed the cultural continuity between customary law and the Common Law that becomes its more formal expression. In this respect we must point out that very few land disputes in Papua New Guinea have been heard at the level of the national Land Title Commissions, and that the development of a national customary law is very much a distant possibility in Papua New Guinea. There has hardly been time, either in PNG or in Australia since the passage of the *Native Title Act (1993)* to accumulate enough precedent to allow people to see the outlines of a national PNG or a pan-indigenous Australian custom of land holding. Further, there is no way of predicting whether a sufficient commitment to project of “nationhood” will spur the acceptance of the effort to achieve such a codification of national customary law. In the meanwhile, local

landholding groups will continue to make claims based on their understanding of their local custom.

Finally, in both PNG and Australia, as a result of the encompassment of such customary practices as determining and adjudicating custodial rights in land by a legal edifice, we are witnessing the analytical and practical separation of *the concrete facts of habitation, residence, use of, and assertion of control of land* from the *discursive practices that define and legitimize them in public communal life*. In the Hindmarsh Island case, and in many Native Title claims now active in Australia, Aboriginal Australians are confronting the facts that most of their knowledge of country is not based exclusively on their “dwelling” in it, but on some more complex historico-discursive recreation of such knowledge. “Relations to country” in both PNG and Australia are more and more becoming substantively a matter of what is archived, written down, and transcribed in various official hearings and courts, rather than in a more conventional anthropological catalogue of practices that take place on the land. More and more anthropologists are being forced to make “ethnographic” cases for such a discursively constituted claim to country. One way of countering this separation that is being thrust upon anthropology in this domain is by demanding that such land courts hear evidence, as much as possible, on the land in question. This will make it more difficult to detach the material conditions of dwelling on country from its discursive dimensions. In PNG and Australia, focussing on relations to land, and on the cultural dimensions of *landedness* in general as the focal existential form of life in these areas takes the pressure away from having to countenance the problems of “intangible” property.

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