



State Society and Governance *in* Melanesia

FORMULATING BASIC POLICY FOR COMMUNITY RELATIONS PROGRAMS

JOHN RIVERS

The Papua New Guinea state has, since independence, pursued increasingly corporatist policies of involving landowner and indigenous groups in mining and petroleum projects through a development forum process. Community relations programs in the resource extraction industries of Papua New Guinea continue to be plagued by problems. The sources of violent conflict in Papua New Guinea societies and dissensus in landowner groups are examined here, as well as the conflict-enhancing aspects of resource extraction company 'good citizen' corporate policies. This paper contributes to an understanding of the problems on the landowner side, which are still not widely understood within the resource extraction industries, despite several decades of turbulent experience.

Many of the companies operating in the resource extraction industries of mining, gas and petroleum have adopted, by choice or necessity, 'good corporate citizen' policies. Some of these companies now pursue ethical business, environmental and community relations policies. Some have well-trained staff and adequately funded community relations departments. Although different industry sites scattered over Papua New Guinea show significant differences in their experience of social conflict, a good deal of this variation has less to do with the differences between the companies' public relations policies and their effectiveness and more to do with the

variation in the precise mix of the conflict-causing features present in indigenous society. Experience suggests that even a company with good intentions, good policies and good staff may experience serious difficulties in maintaining good community relations in Papua New Guinea. Many of these difficulties can be traced to causes that lie within the structure of Papua New Guinea communities and in the customs and social relations of Papua New Guinea's peoples.

Papua New Guinea's communities are strongly oriented towards achieving and maintaining consensus and social harmony. The drive for consensus is driven by the desire to avoid its opposite, dissensus. This paper sets out to define the dissensual aspects of Papua New Guinean societies and particularly those conflict-producing aspects that are most resistant to the mechanisms that are designed to create social harmony.

The conflict-producing mechanisms are of special significance because, as is common in the developing country context, their existence poses problems for, and raises questions about, the sovereignty of the state. Community-based dispute resolution challenges the sovereignty of the state and makes inevitable the involvement of resource extraction industries in sovereignty issues.

A survey of the recent history of industry and community relations in Papua New Guinea indicates that on the landowner side there are three main factors which are liable, separately or

The contribution of AusAID to this series is acknowledged with appreciation.

through their interaction, to cause difficulties. These factors are generational challenge, social boundaries and custom variability.

GENERATIONAL CHALLENGE

Leadership by 'big men' is common in many Papua New Guinean societies. Big man status is typically achieved rather than ascribed and, although the precise path to be followed in order to achieve big man status varies from society to society, the basic features of big man leadership are common to all. Most communities have several or many big men. Persons become big men by acquiring wealth which they then use to acquire the social capital which makes them big men. A big man is a wealthy, but generous, individual who aids others in the community and invests at least some of his capital in the enterprises of those more junior to himself. Big man status is bestowed on those who successfully use their industry, intelligence, strength and social and entrepreneurial skills to build a following and acquire an influence. New big men arise with each generation and since the achievement of big man status is the outcome of a competitive process there is often an element of challenge in the displacement of the old generation of big men by the new.

Resource extraction companies typically make their landowner agreements with community leaders who are big men. Such agreements may be made in good faith and in the best interests of the community as they are understood at the time. In the course of time the leaders who were prominent in the negotiations are replaced by a new generation of leaders. The new leaders may base their bid for leadership on a public repudiation of the agreements made by former leaders. The agreements made and signed by former leaders are not considered binding on their successors.

The effect of this generational challenge is seen most starkly in the forest industries. The following is an account of a logging operation at a village east of Lababia on the Morobe coast. An agreement was made between a logging company and a group of village landowners. The agreement was widely discussed and accepted by the villagers on the basis of the recommendations of their leaders. The leaders may have been given

gifts by the logging company. Royalty payments were made by the logging company and a portion of these were distributed to the villagers by the leaders. Most of the money was spent on consumption goods. A small portion was invested in village business development schemes. Most of these schemes have now failed.

These events took place some seven years ago. Now, because of virtual clear felling, high rainfall and unstable soils, the bay on which the village is situated has become silted up, the coral is dead and the fish have gone. Villagers have to leave their canoes some one hundred meters out from the old beach and wade to shore through waist-deep mud. The village drinking water is heavily silted and gardening on the slopes has become difficult. A new generation of leaders has arisen who angrily repudiate the agreements of the past. The logging company has, however, long since moved on and in any case it may have honoured its side of the agreement. The new leaders travel to town to seek funds and expertise for conservation schemes from the non-government organisations who oblige with pamphlets and lots of advice.

If the industry concerned had been mining rather than logging the outcome would be different. A mine site may contain an investment in plant and machinery of many hundreds of millions of kina and this investment usually remains physically in place for three or more decades. A new generation of leaders, using the threat of litigation and repudiating the agreements of the previous generation, may seek renegotiation with a mining company with much greater chances of success.

Generational challenge is a phenomenon that occurs in most Papua New Guinea societies. Its effect may be modulated, as in some parts of island Papua New Guinea, by the existence of inherited forms of chiefly authority. But even where chiefly authority does exist in a strong form, an element of generational challenge is always present.

SOCIAL BOUNDARIES

Papua New Guinea is made up of more than seven hundred cultural groups and languages. Papua New Guineans traditionally lived in small bands of hunter-gatherers and village



communities of horticulturalists, each group living in a particular relationship with its territory. Sometimes this relationship with a territory has been very stable over a long time. Mostly, however, it has been disturbed by a recursive pattern of conflict, conquest and flight. Most groups today have these experiences in their recent history.

Traditional land tenure claims are based on conquest and/or occupation. Actual ownership may be disputed by competing groups. Even where ownership is not disputed, however, the land tenure boundaries may be precisely defined, fuzzy, indeterminate, ambiguous or confused.

Where an area is densely settled and there is a long established pattern of horticulture and some pressure on the carrying capacity of the land, boundaries between land owning groups may be very precisely defined. Often the boundaries are associated with a clear system of markers such as a clump of bamboo, a pandanus palm or a large rock—some convenient feature of the landscape which is not easily moved in the night or otherwise tampered with. Precise land tenure boundaries of this sort are found in both the highlands and islands of Papua New Guinea. Good examples of this level of definition and precision in land tenure boundaries can be found in the Asaro valley in the Eastern Highlands. In cases of this sort the boundary is a line.

The fuzzy land tenure boundary is also relatively common in Papua New Guinea. Fuzzy boundaries often coexist with sharp line boundaries. A typical example is to be found in those highlands valleys where the land tenure boundaries on the valley floor, with its prime horticultural land, are well defined, while the boundaries along the tops of the enclosing ridges are not. The intensively used horticultural land on the valley floor is subject to population pressure whereas the land on the tops is used extensively as a hunting and forest food reserve. The altitude, slope and soils of the land on the tops will not usually support intensive horticultural use. Landowners living in two adjacent valleys may both claim the land to the ridge line but in practice the strip of land running along the tops is often recognised as a kind of 'no man's land'. Hunters from both sides will hunt the hill tops without regard for the precise line of the boundary. So long as land use continues in this

way and the economic value of the land remains unchanged the 'fuzzy' boundary situation will probably continue. In many cases where a landowning group makes extensive use of large tracts of land there is not much interest in defining edge-boundary lines. Land use and the ownership that follows from this use is more often than not conceptualised in terms of centres of interest, the residential, subsistence and cultural focal points, rather than boundary lines. Many land tenure boundaries in Papua New Guinea have this zonal character.

An indeterminate land boundary is similar to a fuzzy land boundary. Customary land tenure and ownership is established by use and occupation. But in some cases, especially where settlement densities are very low, actual occupation of the claimed land may only occur at rare intervals. Hence geographically widely separated landowning groups may make overlapping claims. Examples of this kind are found in the less settled parts of Gulf, Western and Sepik Provinces as well as elsewhere. An example known to the writer from Gulf Province, a forest group, comprising some thirty people, may lay claim to a distant piece of land because the grandfather of one member of the group once hunted there many years ago and described and named a particular landmark feature, a large rock. No living member of the group may have since visited the site. Another forest group living many kilometres distant and on the other side of the rocky landmark may make a claim which overlaps and extends to a bend in the river. This claim is also based on a long ago hunting trip made by one of their grandfathers. The bend in the river may also have been named by the grandfather and not visited since by any living member of the group. In this case the land tenure boundary is indeterminate, not because the claims lack traditional validity, but because each claim is made without knowledge or recognition of the other. Should land ownership become an issue, as for example when a gas pipeline is projected to pass over the land, the situation may be further complicated by a distant genealogical connection between the two groups. Under traditional circumstances such overlapping claims would probably not lead to conflict because of the low settlement density and the abundance of land available for extensive land

4 use. Should conflict arise then matters would traditionally have been settled by fighting and flight. Today these small groups are expected to reach mediated solutions, but this implies a level of structure and a politics which transcends the group, something which has no basis in their own history. Any attempt to introduce line boundaries into this situation is likely to lead to unresolvable conflicts and state law, if resorted to, delivers decisions and not usually mediations and conciliations.

Ambiguity in respect of land tenure boundaries may arise where an occupant and tenant of some land has dual group allegiances. His initial occupancy of a parcel of land may have been based on his membership of and allegiance to one landowning clan line. Later he may decide to shift his allegiances to another clan line in which he also has some rights. The original clan line may continue to reckon the land as standing within their boundaries. However after a period of time has elapsed the other clan line may begin to count the land as within their boundaries. In some cases there may be confusion over the exact position of land boundary markers due to forgetfulness or misreporting. In other cases the confusion may be deliberately created as, for example, when the city born son of a now deceased village emigrant returns to the village and is shown land that his relatives assure him belongs to his father but in fact belongs to somebody else. For both ambiguity and confusion dispute resolution procedures exist at the village level. Occasionally unresolved disputes may lead to violent conflict but in many cases these 'on the ground' matters can be satisfactorily resolved within the landowner groups using traditional processes of mediation and conciliation. But problems related to fuzziness and indeterminacy may not be resolvable by non-violent traditional methods.

It is clear that land tenure boundaries cannot always be defined as (invisible) lines on the ground. Even when clarity is achieved with respect to land tenure boundaries, land in Papua New Guinea cannot be separated from its ownership. But the definitive determination of the corporeal ownership of land is in many cases difficult and sometimes impossible.

The basic difficulty may be stated quite simply. Land ownership is acquired through use

and inheritance. Transmission of inherited rights is most frequently through the male and sometimes through the female line. Land ownership rights are never, however, absolute. Primary rights may come from the patriline and secondary rights through a matriline. Rights may be modified by long term residence. Within any given community and for any given piece of land there is a multiplicity of 'owners', persons possessing a range of rights in the land. Given the fact that in Papua New Guinea ostensibly strict descent rules are frequently modified to allow for the inclusion of cognatic and bilateral kin, and even non-kin, within the group, the question of the ownership of a particular parcel of land cannot be determined by the simple application of descent or other kin type rules. And, since the kin extensions of a community are theoretically limitless, any sudden increase in the value of a parcel of land will lead inevitably to the awakening of hitherto dormant interests. It is sometimes overlooked that the secondary rights of distant owners are still ownership rights and therefore not so much lesser, but thinner. The right is still the same size, as it were, as the right of the resident occupant, it is simply exercised in a thinner way. The entitlements which are attached to the rights may vary in thickness and thinness but there is a sense in which all rights have equal status. (In Papua New Guinea land rights derive from the conqueror and are attached to the occupier, the person rather than the land. Thin rights derive from the relationship between a person and the land occupier rather than from a relationship with the land.) Accordingly the question of who owns a particular parcel of land will always produce a fuzzy answer.

CUSTOM VARIABILITY

It is not generally understood that custom variability, ambiguity and uncertainty is a common feature of most Papua New Guinean societies. Anthropologists have not been particularly helpful in this regard since the fieldwork and monograph writing process tends to smoothen and eliminate custom differences from their descriptions of village societies. My introduction to this topic came from fieldwork in the Gulf area, where written records were

available from two previous fieldworkers, the missionary Holmes (1924) and the Papuan Government Anthropologist, F.E. Williams (1936, 1940). Neither of these two fieldworkers seemed to be able to give a clear account of the relation between land owning groups and totem affiliation in the Orokolo area. Later, having the advantage of being the third fieldworker in the area and having access to the archives where I studied my predecessors' notes, I came to the conclusion that both Holmes and Williams had written an account that glossed over the differences and sometimes the confusions that were associated with the concepts of totem and land group in this area. In an earlier book, *Papuans of the Trans-Fly*, Williams does discuss the variation in meaning and application of identical totem and moiety names in the Morehead region of Western Province (Williams 1940). But there are often significant differences between adjacent sub-lineages in the way land, marriage, kinship and other similar important matters are reckoned and not to make the assumption of cultural homogeneity.

Sometimes important issues may turn on cultural details as illustrated by a land case from the Garaina area. The land in question was first occupied by a group who arrived some three hundred years ago. About 80 years ago a band displaced from a distant area arrived and requested shelter. The original occupants granted the new arrivals use of land close by. The groups maintained harmonious and cooperative relations for many years and inter-marriage took place. Recently a road was constructed into the valley and passing close by the newcomers' village. Several trade stores have been established and the roadside village has become a focal point of the region. The original landowners have become concerned that development is passing them by and they have become sensitive to land ownership issues. Disputes have recently broken out between the two villages, the original landowners have changed their church affiliation so as to avoid the roadside mission and the dispute over the land has been taken to court. The hearing came before a Sepik Magistrate and the newcomers made much of their case by obscuring some important genealogical matters and exploiting their recent connections with the original group through

intermarriage. Although the two groups spoke closely related dialects of the same language and were culturally very similar, the original occupants followed certain special rules in relation to land tenure. Actual ownership was deemed to have passed from one generation to the next when the old owner took the new owner, his descendant, to the land in question and covertly passed on some secret words that referred directly to the land. Proof of ownership rested on knowledge of these secret words which are, of course, never uttered in public. In the view of the original owners the public claims and genealogical manipulations of the newcomers simply did not stand up. The magistrate found in favour of the newcomers. The old owners are seeking advice on how to lodge an appeal.

STATE LAND LAW AND POLICY

The *Land Disputes Settlement Act* of 1975 has provisions for the settling of land disputes according to custom law. A three-tier process is used. It is intended that disputes should first be heard at the village level and should they fail to be resolved they are then taken before a Land Court appointed Mediator. If this fails then the matter may be referred to a Local Land Court for a hearing before a Magistrate. Because of the inherently decisionist character of state law and the court process the inevitable effect is to push the disputants towards the resolution and rectification of boundaries and to replace the former diversity of land boundary types with a modern single line edge boundary. Although the Act is predicated on the recognition of custom its application has the effect of nullifying custom.

The *Land Groups Incorporation Act* (Chapter 147) is drafted with the intention of allowing customary groups to register land and form an incorporated ownership for business and development purposes. The Act recognises the primacy of custom in the constitution of the group. The continuing importance of custom in the life of the group and the resolution of disputes is also recognised. The Act provides for the hearing of disputes by group appointed mediators who are expected to follow local custom.

However there are several features of the Act that have the effect of greatly reducing the role of

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custom as a viable basis for forming and operating such ownership groups. The first of these is the fact that, although the Act permits custom rules to decide disputes within the group, disputes between groups and between groups and individuals not members of the group are dealt with outside the Act, usually by state law rules and not by custom rules. Accordingly registration under the Act has the effect of forcing a whole range of land and group disputes outside the customary arena. The second feature of note is that the Act specifies that the customary rights and obligations of the group become, after registration, the rights and obligations of the incorporation. It is patently ridiculous to assume that the heterogeneous rights and obligations of individuals (who are old and young, married single or widowed, of the line or married in, resident or non-resident, and so on) can become the homogenous rights and obligations of an incorporated group. This is bad law, to say the least. Third, the effect of this and other parts of the Act is to give the definition of membership of the formerly customary group and now incorporated group an absolute character. The Act is intolerant of 'fuzzy' membership boundaries and the machinery of the Act was designed to eliminate them and to force the group towards a legally defined boundary.

The net effect of government policy and laws is to force the creation of line boundaries for land titles and line boundaries for corporate group membership where neither previously existed. In this sense government policy is dispute enhancing rather than dispute reducing in its overall effects.

SOME IMPLICATIONS FOR COMMUNITY RELATIONS DEPARTMENTS

During the 1980s many companies, government departments and publicly owned corporations went through the management exercise of defining their organisational goals, purposes and functioning. The end result of these exercises for most organisations was the formulation of a 'mission statement'. These multi-purpose statements were intended to do a number of things within and to the organisation. Firstly, they were supposed to engender and inspire a purposive managerial culture and to disseminate this throughout the organisation and its

employees. Secondly, they were supposed to form the practical philosophy behind the daily activities of all employees, irrespective of the level of their appointment and duties. In short the 'mission statements' were intended to state or restate the basic purposes of the organisation and to bring these purposes to the forefront of the consciousness of line managers and employees. Accordingly, it was hoped that the resultant creation of an organisational 'focus' would provide the basis for planning and policy decisions, bringing about the integration of the organisation and moulding its functioning towards the fulfilment of these goals and eliminating counter-productive planning and contradictory work practices. Although it is now a commonplace for organisations to have 'mission statements', often of great banality, I would like to suggest that some pernicious consequences may follow these apparently harmless exercises.

The adoption of goals in the form of a mission statement by an organisation is usually accompanied by managerial policy exercises which are intended to reshape the structure of the organisation and make it better able to realise the goals defined in the 'mission statement'. The formulation of policy is the mechanism by which the company's activities are brought into line with its 'mission'. Accordingly, the task of a line department becomes one of deciding how best to realise the company 'mission' within its own sector of operations and in terms of its more localised goals and objectives. This may sometimes lead to unfortunate results.

Consider the example of a company in the resource extraction industry in Papua New Guinea. The company may have, as part of its mission statement, the goal of being a 'good corporate citizen'. This goal, when passed on to a community relations department, may mean that the department accordingly adopts the policy of dealing fairly and decently the landowner groups with land interests in the area of the company's operations. Accordingly, and in execution of this policy, the personnel of the community relations department are charged with determining the relevant facts, that is, who are the land owners? What are the land ownership boundaries? But what if these questions are impossible to answer? What if the



facts of land ownership are such as to confound any attempt on the part of the company to realise its policy of 'good corporate citizenship'? The pursuit of policy goals, determined without reference to the underlying facts and which presuppose the existence of unambiguous answers to apparently factual questions, may be profoundly counterproductive. The attempt to find answers to the questions which the policy demands may lead to policy outcomes that are precisely the reverse of what is intended. For example, at the Panguna mine where a community relations policy was pursued, the type and character of the relevant 'facts' gathered and used in the fulfilment of this policy seriously distorted the outcomes and played an important role in the events which led to the mine closure.

RESOURCE INDUSTRIES AND SOVEREIGNTY ISSUES

The disputes at the root of the Panguna mine problems had their basis in differences between landowner groups. These disputes escalated to the point where the mine was closed and the sovereignty of the state was challenged.

The sovereignty of the state was established in the colonial period by an external authority. During this period the sovereignty of the state was imposed upon the village. With the coming of independence, sovereignty was simply transferred from the colonial power to its successor, the Independent State of Papua New Guinea and its administration. The sovereignty of the state over the local community was not the end result of a long period of evolution, with a gradual cession of local rights by communities and their absorption into the state, as in the classic European nation state.

The sovereignty of the state is widely contested in Papua New Guinea. Local communities, with a solidarity defined through land ownership, frequently confront the state with assertive sovereignty claims. The response of the state has been, in many cases, to avoid confrontations and to meet local group compensation demands for real and imagined wrongs. Landowner groups successfully pursue compensation claims against the state that would have no chance of succeeding against neighbouring communities. Underlying compensation claims is

the reality of divided sovereignty. The sovereignty of the local community was never voluntarily ceded to the state and is today contested with greater vigour than ever before.

LEGAL PLURALISM AND CONFLICT OF LAWS

Customary law retains a place of major significance in contemporary Papua New Guinea. Variability of custom and consequential variability of customary law raise difficult problems in the areas of interest to the resource extraction industries. Customary law has not played a significant role in the European nation state for about one thousand years. In the British case customary law was replaced by a set of judge's interpretation rules. No such system has evolved in Papua New Guinea as yet. Insofar as Papua New Guinea state law recognises customary law through the recognition of customary land ownership and customary compensation claims, then uncertainties arise in the application of laws. These uncertainties have three causes.

- In the state law there is no clearly agreed body of interpretation rules for dealing with custom.
- Different customs among adjacent groups produce conflicts of customary law.
- Customary law is undergoing rapid changes both in response to changes within social groups and as groups attempt to extract resources from the state and/or respond to development incursions.

THE LIMITATIONS OF THE STATE

The independent state of Papua New Guinea was founded in 1975 with the primary goal of economic and social development for the nation. As such it has pursued and continues to pursue what it sees as national goals. In the pursuit of this aim the state frequently places national goals ahead of regional, provincial and parochial interests. To pursue national development the state requires substantial revenues. In Papua New Guinea these are raised primarily through aid flows and taxes on the resource extraction industries. Most of the government revenue is not generated by taxing the citizen. Government fiscal policy deals largely with external factors

rather than the internal domestic economy of Papua New Guinea. The state, with its developmentalist goals, raises money in one constituency and spends it in another.

The development program of Papua New Guinea is now widely perceived to be a failure (although to some extent expectations at independence were unrealistically high) and this has fuelled the assertiveness of regional and parochial claims for increased autonomy. Nevertheless the state continues to exercise important and necessary functions, especially in relation to foreign affairs, trade, education, and so on, and it continues to have a considerable need for revenue. The most convenient sources of revenue are the resource extraction industries. However the resource extraction industries are typically located not in the modernising cities, but in the remote rural regions where central government and the state are least effective. Hence the regions, with their own developmental goals, are antagonistic to the revenue-raising interests of the state and central government.

THE LIMITATIONS OF THE REGIONS

In the conduct of their business, resource extraction industries must enter into relationships with a region, which may be as small as a village and as large as a province. In the case of mining the relationship might extend over three or four decades, whereas in the case of forestry the relationship might exist for only a few months. The time factor is important in looking at the type and character of relationships necessary for the success of the project. Resource extraction industries may wish to define and limit their engagement with the region to the local community of landowners. This, however, is only possible in very short-term relationships. Given the wide cultural variations within the regions and the consequential variations in custom and customary law, the restriction of benefits by a company to a willing, compliant and narrowly defined group of landowners typically leads over time to social turbulence, conflict and the creative assertion of claims under customary and state law. The point here is that resource extraction industries operating in Papua New Guinea, in seeking a coexistence with their region and its landowners, share in the general

boundary problems of their host societies and insofar as the companies distribute money and create development they become part of local politics, inextricably involved in customary law, dispute mediation and resolution, judgemental acts and the problems of equity and justice.

There is no definable limit to the regional claims that may be made on an industry and over time the ambit of the claims will widen and their size will increase. Although the focus of the claims will be the company or industry, in many cases the basis of the claims lies in the competitive struggle between groups to include themselves within the payment catchment boundary and to exclude others. Therefore the core problem in the long term relationship between companies and regions may lie more in the management of relations between groups than in the various groups' separate relationships with the company. And to the extent that the regions are antagonistic towards the state and central government, and that central government has largely failed to bring development to the regions and has withdrawn from this role, then companies are increasingly being asked to take on the role of the state and exercise a *de facto* sovereignty, to settle rival claimants' claims, to arbitrate and adjudicate, to provide infrastructure, to instil entrepreneurialism, to provide business opportunities, to provide social welfare, education, health and other social services, to be the vehicle of development.

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AUTHOR NOTE

John Rivers teaches development studies in the Communication for Development Programme at the University of Technology, Lae, Papua New Guinea.