LAND TENURE IN WEST IRIAN

NEW GUINEA RESEARCH
Map 1. West Irian
NEW GUINEA RESEARCH BULLETIN

Number 38

LAND TENURE IN WEST IRIAN

Land tenure in the Biak-Numfor area by K.W. Galis
Ekagi land tenure by J.V. de Bruyn
Mimika land tenure by J. Pouwer
Muyu land tenure by J.W. Schoorl
Marind-anim land tenure by J. Verschueren

December 1970

Published by the New Guinea Research Unit,
The Australian National University,
P.O. Box 4, Canberra, A.C.T.
and
P.O. Box 1238, Boroko, Papua-New Guinea
THE AUSTRALIAN NATIONAL UNIVERSITY

Research School of Pacific Studies

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December 1970
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Foreword

The papers published in this Bulletin were originally written in Dutch. On the initiative of Dr R.G. Crocombe, then Field Director of the Research Unit, they were translated (for which I take responsibility) and prepared for publication. The alterations made to the original manuscripts are mainly of an editorial nature; introductory notes have been added to three of the papers, and footnotes where necessary to explain the text more fully.

During the final stages of editorial work and while I was still corresponding with him, the author of the paper on Marind-anim land tenure, Father J. Verschueren M.S.C., died. He had lived and worked among the Marind from 1931 to mid-1970, combining his missionary work with anthropological study. His death is a great loss both to the mission, for which he worked long and devotedly, and to anthropology, which he enriched with data on a most fascinating culture. He had published a series of papers mainly on the Marind, and most recently he collaborated with Professor J. van Baal, whose lengthy book *Dema: Description and Analysis of Marind-anim Culture* (1966) incorporates a wealth of data and comment supplied by Verschueren. Although several queries concerning Verschueren's paper were unresolved, I decided to republish it, partly because Verschueren had written to me that the original version contained a serious error which he wanted to correct. Moreover, from references made by van Baal in *Dema* to his own correspondence with Verschueren while preparing the work, I was able to formulate tentative answers to my queries. These are added to the original text in footnotes.

The spelling of words in the vernacular has been adapted for the English reader. The authors employ three diacritical marks, '\', 'r' and 'w', which indicate respectively an open, closed and central vowel.

Four of the five authors use the same theoretical framework to analyse their data. This theory was formulated in the early 1900s by a Dutch lawyer, C. van Vollenhoven, in order to analyse indigenous legal systems in what was then the Netherlands East Indies. It proved extremely valuable and it remained in use even after Indonesia became independent in 1949. To clarify some of the concepts used by the
authors, the theory is briefly outlined in the following paragraphs, using some of van Vollenhoven's publications and ter Haar.

In analysing Indonesian land tenures van Vollenhoven distinguishes between what he calls the **beschikkingsrecht** (translated in the following five papers as 'disposal right' or 'right of disposal'), held by a community and the rights held by members of the community to use or possess land to which the community holds the disposal right. Ter Haar (1948) also uses the term 'disposal right', while the land over which a community is entitled to exercise this right is called the 'disposal area', a straightforward translation of van Vollenhoven's **beschikkingskring**. Here I use the term 'territory'. The term 'disposal right' does not indicate that a community holding the right can dispose of its land.

Van Vollenhoven (1909:19-20) distinguishes six characteristic features of the disposal right. They are, first, that the community and its members are freely allowed to use the virgin lands of their territory. Secondly, outsiders are allowed to use these lands only after they have been granted permission by the community; use without permission is an offence. Thirdly, compensation or tribute for such use must be paid by outsiders and in some cases by members of the community. Fourthly, the community always retains some control over the cultivated tracts of its territory, and fifthly, it is responsible for all events taking place on its territory, and must bear costs associated with these when a wrongdoer remains unknown. Finally, the community cannot permanently alienate its disposal right. Although in the following five papers the concept 'disposal right' is used approximately in van Vollenhoven's way, its use may differ in some respects. For example, Dr de Bruyn reports that among the Ekagi an individual need not obtain the permission

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   - 1948 (English translation of the above). *Adat Law in Indonesia*, edited with an introduction by Hoebel, E.A. and Schiller, A.A., New York. In their extensive introduction the editors discuss the place of indigenous Indonesian systems of law under the Dutch Administration, while ter Haar, drawing on van Vollenhoven's work, deals with the content of the indigenous law systems. (The term *adat*, of Arabic derivation, refers to the unwritten laws both of the Indonesian peoples and of east Asian residents in Indonesia.)
of his community to transfer the land he has been cultivating to an outsider.\(^1\)

In some areas of Indonesia a community official is charged with administering the powers of disposal vested in the community (ter Haar 1939:69, 1948:91). Van Vollenhoven and ter Haar (1939) refer to this official as 'grondvoogd', here translated as 'land trustee'. This term approximates more closely the meaning of 'grondvoogd' than the term 'land supervisor' used by ter Haar (1948), because holding the disposal right should guarantee the present and future members of the community the use of their land, and the official administering this right is thus a trustee rather than a supervisor.

Individual rights, the second category distinguished by van Vollenhoven, regulate the use the members of the community can make of their territory. Although these rights are referred to as 'individual', both van Vollenhoven (1917-21, 1933:414) and ter Haar (1939:74, 1948:95) recognize that they may be vested in sub-groups of the community holding the disposal right, or in the community itself. Ter Haar (1939:73-7, 1948:95-7) distinguishes several types of individual rights. First, the right of possession, referring mainly to the right to cultivate fields a number of times or to use a plot as a residential site. Secondly, the right of usufruct which theoretically is exhausted by a single harvest, but which may be renewed annually after each harvest; it can be held by community members and outsiders. Thirdly, the right of preference which entitles the holder to cultivate a field in the future; for example, a man may establish a right of preference to a piece of land by putting identification marks on its boundaries, and the cultivator of a field may also have a right of preference over the adjacent plots. Fourthly, the right of exclusive option which entitles the person who holds it to buy a piece of land for the price offered by another prospective buyer. Finally the right of utilisation which is held by individuals as members of a kin group holding the right of possession; this derivative character distinguishes the right of utilisation from the right of possession. Both rights primarily concern the use of tracts of land for economic or residential purposes. This list is not exhaustive, and other types of individual rights are described in the papers presented here.

Van Vollenhoven felt that most indigenous systems of law in what was then the Netherlands East Indies and in some of the neighbouring areas sufficiently resembled each other while differing from other systems of law, to be regarded as forming what he called the Indonesian 'law tribe'. This could be divided into a number of 'circle laws' which could be further divided into 'law dialects' or 'parish laws' (1921:417). Although he believed that West Irian did not belong to the region of the Indonesian law tribe (1917-21, 1933:447), the mainland of Netherlands

\(^1\) See pp.18-19.
New Guinea and the islands in Geelvink Bay were subsequently designated a separate law circle in the Indonesian law region (ter Haar 1939:257, 1948:9). This was probably done for administrative reasons.

Van Vollenhoven formulated his theory to describe communities which were often politically centralised, while the indigenous communities in West Irian tend to show a great diffusion of power and authority. Accordingly the office of land trustee either does not occur, or carries only limited rights and obligations. On the other hand, rights of individuals are highly developed, particularly among the Muyu where a communal disposal right does not occur. Schoorl therefore considers Vollenhoven's formulation is not applicable and he uses the terms 'ownership' (eigendom) and 'owner' (eigenaar) instead of 'right of possession' (bezitsrecht) and 'possessor' (bezitter).

Acknowledgment for permission to republish is gratefully made to the authors of the five papers who also supplied me with much additional information. The Board of the Instituut voor Taal-, Land- en Volkenkunde approved the republication of Dr de Bruyn's paper, earlier published in the Adatrechtbundel no.45; and van Gorcum and Comp approved the republication of part of Dr Schoorl's paper 'The anthropologist in government service' in Anthropologists in the Field, ed. D.G. Jongmans and P.C.W. Gutkind, 1967. I wish to thank also Mrs M. Ploeg, cartographer of the Department of Geography, University of Papua and New Guinea, who drew the maps and Mr M.J.E. Coode of the Department of Forests, Lae, who supplied me with the Latin names of several botanical species.

Anton Ploeg
Chapter 1

Land tenure in the Biak-Numfor area

K.W. Galis*

Introduction

The Biak-Numfor area is situated in Tjenderawasih (formerly Geelvink) Bay and consists of Biak, Numfor and some smaller neighbouring islands. In 1961 Biak had about 35,000 indigenous inhabitants and Numfor 5,000. The people speak several mutually intelligible dialects and in other respects share basically the same culture. Formerly they depended for their livelihood on trade and plunder, as Biak and Numfor are infertile and the surrounding waters do not supply much fish. They were renowned seafarers who travelled east to Papua-New Guinea and west to the Moluccas, Timor and eastern Java. Their contacts with other Indonesian groups led to their adoption of elements of these cultures into their own. For example, before European contact they were among the few Papuan peoples who practised metal forging. Foreign-made objects like gongs, porcelain pots and pieces of woven cloth became important valuables.

Under the Dutch Administration, educational development, sponsored by the missions with government subsidies, proceeded more rapidly than economic development, and the Biak and Numfor people became the best educated group in West Irian. Hence many people entered the cash economy by working for wages, especially when the Dutch Administration expanded in the 1950s. Many people worked in Biak township and in the urban centres on the mainland. The Papuan population of Biak township increased from about 1,450 in 1951 to about 4,500 in 1960 (Lagerberg

* Dr Galis worked for the Bureau of Anthropology in Netherlands New Guinea from 1951 until his retirement in 1960. This paper was originally published in 1961 as 'Het Biak-Noemfoorse grondenrecht' in Nieuw-Guinea Studiën, vol.5, 199-214 (ed.).

1 By editor.

2 'Papuan' is used throughout these papers for the indigenous inhabitants of West Irian and Papua-New Guinea (ed.).
1962:222). Of these 4,500 people more than 80 per cent came from the island itself (Groenewegen and van de Kaa 1965:32-3). In addition, many people commuted from their villages to town.

Traditionally the largest political communities were the villages. The core of the inhabitants of a village was formed by the male members of several kève, patrilineages. These were land-holding groups and they formed part of larger patrilineal groupings, called also kève on Biak, and ěr on Numfor. The kève referred to later are the smaller groups. This system is now breaking down. On both islands a woman usually resided in her husband's village after marriage. Village affairs were dealt with by a council, led by the head of the oldest kève in the village. All kève were represented on the council. Other members were war leaders and mediators in disputes; their positions were achieved rather than ascribed. It seems, however, that the institution of village councils was already declining before the establishment of Dutch rule over the islands (de Bruyn 1965:82-4).

Land tenure

This paper is not comprehensive and will stress only some aspects of the rights to land in the Biak-Numfor area. More detailed studies are needed.2

The Biak people distinguish the following categories of land. First, virgin land, kàrmgu or mbrur. On the West Irian mainland some virgin land is unowned, while on Biak all virgin land is now part of clan or village territories. In the past, many clans, kève, lived, hunted, made gardens or collected food in the interior; though they later migrated to the coast, or were sometimes chased off their lands in warfare, they retained rights to their original land. The village is the 'owner' of the virgin land. When a kève needs land the headmen of the several village kève first consult one another, and then allot a piece of kàrmgu to the kève which made the request. Kàrmgu boundaries are indicated by creeks, tall trees, large boulders and so on.

Secondly are the gardens, yáf, on which crop rotation is practised. When the soil is exhausted, the land is called yáf-dás. The former

1 Galis' paper begins here. Maps 2, 3 and 4 are based on Galis' maps in the original paper, on the 1958 maps of the Dutch Topographical Bureau, and on additional information from Galis. Map 3 does not indicate all the boundaries between the original villages, and it is not certain that the actual village boundaries on Supiori follow the watersheds as closely as appears on the map (ed.).

2 The following paragraphs make use of memoranda written by Administration officials and reports by 1949 students of the School of Civil Administration in what was then Hollandia.
cultivator of a garden under fallow retains right of preference to it, but before cultivating it again he should obtain the approval of the land trustee, the headman of the oldest and usually most important keret of the village.

Thirdly there are large deserted areas, mámiai (not mamias, as in Feuillietau de Bruyn's writings), comprising a number of yaf-das lands. If an outsider wishes to garden on mámiai, he asks permission of the man who formerly cleared the section of the mámiai he wants to use, and compensates him with a gift. When repeated gardening has made the tract infertile, it is referred to as mámires, bush.

All pieces of land have proper names. There is no word for the right of disposal held by the keret or village, but this right certainly exists. Each keret of a village has an area called sárop and the village holds the total of all these areas. Keret members are allowed to clear and cultivate part of the sárop held by their keret. However, outsiders should ask permission for this and pay a recognition fee; they are allowed to plant annual crops only. Gardens are protected by fences and also, it is believed, by magic, in that protecting ancestors are able to bring misfortune on trespassers. If permission to enter has been given beforehand and such misfortunes occur, they must be settled through payment of compensation, wábiák, which, however, does not entitle the community to abandon the land or right to it. To avoid trouble which may result in small wars or killings, individual rights at most can be surrendered.¹

By marriage a man can acquire rights to the land of his wife's keret, as can the children. However, the wife cannot acquire such rights in her husband's keret. Young people, many of whom have left Biak, nowadays have usually little interest in land matters. Only the older generation insist on the keret land rights. In practice Biak families have for a long time settled in other villages, even uninvited and without the permission of the original village keret. The latter

¹ The obligation to pay compensation is described as aru law by Feuillietau de Bruyn (1952-53:53; 1953-54:77-9, 105-6), who believed that where this law applied people would be inclined to abandon rights to land not under cultivation. Consequently it would be easy to find land for European colonisation. His view is incorrect. This is also apparent from the oldest reference to the aru law by van Raamsdonk in 'Algemene memorie van overgave betreffende de onderafdeling Sorong' (1933): 'If somebody searching for harta [ceremonial exchange] goods suddenly dies, while on the territory of some other gelet [keret], then the members of this gelet should pay harta such as cloths and gongs to the relatives of the dead man. The payments bear the names of parts of the corpse, such as head, hand and so on. Non-payment may result in hongi [retaliatory] raids'.
do not object, either from lack of interest or from fear of the power of the newcomers and of their relatives elsewhere. However, in some cases permission to settle is requested and the immigrant group receives a piece of land as a gift. For example, in Warsa on Biak there are three original clans, Wampêr, Marin and the most important, Arfusan. The village territory is divided among these three and the newcomers (see Map 2). The village Bosnabraid on Biak also comprises four kërêt, Rumbrawer, Mambrasar, Irjouw and Rumbapuk, and has therefore four distinct areas. In contrast, the two kërêt Korwa and Infaindant which comprise the village of Ababyedi on Supiori are able to make gardens anywhere in the combined village territory. Division is, however, most common. Map 3 shows village territories on north-eastern Biak and Supiori. The latter island is divided among a few original villages which were later joined by others.

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Map 2. Subdivisions of Warsa village Territory, Biak

On Numfor also important changes are taking place in the traditional land tenure system. The younger generation, as on Biak, have less

1 The data on which the analysis of Numfor land tenure is based were collected by the author during a stay on the island in June 1953.
Map 3. Village boundaries on Supiori and north-eastern Biak
interest in tenure, and migrations have forced changes in the customary law. Originally Numfor was divided clearly among four clans, èr, Angradifu, Rummansra, Rumbepon, and Rumbepur. Later most Angradifu and Rummansra people, and some from Rumbepon and Rumbepur, left the island. This process began a long time ago but was accelerated when the Biak people started to leave their island.¹ Now the number of Biak people living on Numfor is ten times the number of Numfor people. The earlier occupation by force of the island was followed by a peaceful penetration and this process is still continuing. An example is the establishment, after mutual consultation and consent, of the Biak village Saribi on Numfor land in 1940. Again, owing to the earlier evacuation of the villages Yènmanu, Pièfuri and parts of Kornasoren on Numfor by order of the Allied Command, the Biak village Baruki which still exists was compulsorily established in 1944.

On Biak there are village boundaries within the territory of the same clans, and furthermore, village territories are subdivided among the constituent clans and lineages. In coastal villages these subdivisions include a section of the beach and the sea, bosen rasowan. The Numfor people have no village boundaries on the territory of the same èr, and the Biak villages on Numfor no longer have a system of internal division of land belonging to the kèrèt; the village territory is said to be a homogeneous entity for all the villagers.² However, individual rights occur frequently because the migrants have not settled on Numfor in groups formed along traditional lines. Many of these irregular groups have split up further owing, for example, to quarrels. Sometimes the migrants are divided into three groups, Manwor, Sopen and Sambèr, on the basis of their district of origin.

Boundaries on the Numfor coast where they begin are known, but further inland their course is less certain, although while crossing the island some inland boundaries could be ascertained. Yet people know precisely to which villages particular garden sites and sago gardens belong. Map 4 shows the present boundaries of the Numfor settlements. Yènmanu and Pièfuri, which has now been moved, had formerly the same territory. This was the case also with Sauribru and Manggari, with the three hamlets Wamaer, Noribo and Kansa, and with the Numfor villages on the west and south coasts, Warido, Kansai, Ambèrimasi, Serbin, Nambèr and Rawarsidori.

¹ These migrations of Biak people to Numfor and Numfor people to the West Irian mainland near Dore Bay were part of a much larger body of migrations of Biak and Numfor people, mainly to the west. They started long before the beginning of Dutch administration of the islands early this century (ed.).

² One exception is the Biak village Kameri belonging to Wanma and Sambèr villagers. The Sambèr villagers possess only a small part and may make temporary gardens on the Wanma part if given permission.
Map 4. Village boundaries on Numfor
The Numfor strip of land is interrupted by the territory of the Biak village Yembeba which extends on both sides of the village. Rawarsidori regards the Saribi villagers as 'guests' and they must ask permission before making gardens. Baruki, another guest village, is densely populated and is situated between very small Numfor villages holding large areas of land. At present Baruki villagers live off the land, coconut palms and so on belonging to the Numfor people. There is constant friction, especially in the case of Baruki, because the village boundaries are not clearly defined and no arrangements have been made for the transfer of fruit and other trees.

These examples concern recent cases of sometimes forced hospitality. However, during my stay on the island old Numfor people sometimes argued earnestly that all Biak people were merely guests, who did not have rights to the land and should at last start payments. However, the 'guests by conquest' maintained that they had paid for the land. Since selling of land is not known in these communities, these claims concern at the most 'compensation' for permission to hunt, to collect, and to fell trees.

According to my informants, the Biak encroachment started about one century ago, at the time of their grandfathers and great-grandfathers. Elsewhere, for example, in Yenmanu, Piéfuri, Kornasorèn and in the Bru Bay, this happened about seventy-five years ago. The gateway seems to have been Andei on the north coast, where Biak men lived married to Numfor women (see Map 4). These men were then 'visited' by Biak kinsmen. The Numfor people moved away from this area to Ambèrimasai and also to Nambèr. Hence the first strip of land which the Biak people acquired is situated on the north coast between Cape Srun and Warpeni (or Fanindi) Creek. This coastal region is called Akak (or Akaki) and it is mentioned in many songs. Later land was 'purchased' elsewhere. For example, about seventy-five years ago the father of Anton Marjèn bought land at Dafì from the Angradifu clan for ten kain tjęlopen, one piece of amber and one turtle shell. Kameri is now situated on land for which the Numfor people received seven large canoes, an earthenware Chinese pot, martavaan, one piece of amber, and later on twenty household goods, papus.

Similar conflicts over land ownership have occurred in other parts of West Irian and Papua-New Guinea. Read reports (1952:443) that in the Goroka sub-district tribes or clans still claim as theirs land which has been occupied for many years by their enemies. The claims refer both to 'no man's land' and to land actually occupied:

1 This Bahasa Indonesian term refers to a piece of blue cotton cloth imported from more westerly parts of Indonesia. It was highly valued (ed.).
A title based on conquest is, of course, not recognised, for the principal aim of a defeated group was to reassert their supremacy, and there are some who regret the passing of hostilities because it has left them with a permanent stigma of defeat.

A similar situation occurred in Manokwari on the mainland, where the Dutch Administration finally discussed and settled land matters with the original owners, the Arfak (Méjach), instead of with the Numfor squatters.

The protests of the Numfor people over land distribution are ignored, partly because young people have no interest in land disputes. As well, the Biak islanders came many years ago and the Numfor people are now only 9 per cent of the total population, while the amount of land at their disposal is still disproportionately large. It is clear that there are also differences of opinion about the village boundaries mentioned earlier. Thus it was alleged by the people of the Numfor village Nambèr that the boundary with Yèmbéba ran between Cape Ariauswapor and Manggansina. At Yèmbéba itself some villagers named Ariauswapor as the boundary, at least in the past; other people believed that the boundary ran further north at Cape Indaban dara and as a marker, a number of dadap (Erythrina submbrans) trees had been planted on the coast (this is customary elsewhere also). The Yèmbéba land was said to have been 'bought' by Sambèr people from the Numfor owners. Regarding the Biak villages along the north coast I was informed on several occasions that originally 'they did not have mutual boundaries'. Later, when the number of inhabitants increased, boundaries were marked out here and there. Again, according to some informants there is no boundary between Andei and Syoribo, because Syoribo had been founded by Andei people; they said there was only a boundary between Andei-Syoribo and Manggari-Sauribru. Sometimes Rarsibo was also mentioned as the boundary between Andei and Yèmberuwo.

On Biak and Numfor all decisions over land of a particular kérèt are taken by the headman of that kérèt. In the Biak language the headman is therefore sometimes referred to by the words snòn (mansèrèn)-benai-sup meaning 'man (master) possessing land'. In many cases, however, a number of fellow kérèt members are consulted before decisions are taken. In many villages the headman of the kérèt which is the oldest and/or the most important acts as land trustee on behalf of all the other kérèt of the village. For example, the headman of the kérèt Wabù in Miokri village on Supiori acts as trustee for all the village kérèt. The trustee is therefore sometimes called mansèrèn ménu, 'master of the village'. His Numfor counterpart is called sinàn bêkwar, 'the old grandfather' or 'ancestor'. Sometimes the village headman appointed by the Dutch Administration also had authority to act with regard to village land. This might well have been the case, because first, a village sometimes consists of one kérèt only, or one kérèt regards the other ones as 'guests' only; secondly, the Administration appointee
might have been also the headman of the most important kërët or he might have been gifted with outstanding physical or mental abilities. In the Biak villages on Numfor (where village territories are not subdivided among the kërët), land matters are mostly settled through the village headman as mediator.

Such land matters mainly concern trespassing of village or kërët boundaries, was or yawer, and decisions to grant permission to strangers to make gardens, hunt, fish or collect nuts or sago on village or kërët territory. Usually permission is granted for one planting and harvest and has to be requested again for later planting. Crops planted are mainly taro, sweet potato, corn, banana and pawpaw. After the harvest the village headman often receives a gift in kind. Strangers are frequently prohibited from planting such crops as coconut, sago, mango, rose apple, and betel nut. Some villages have no objection to these and in any case the land reverts to the kërët or village. The kërët or village headman has decisive powers especially in regard to the virgin lands over which his kërët or village claims rights of disposal.

P. van der Crab, writing in 1871 after a visit to Dore Bay, gives the earliest information about Numfor land rights:

Within the territory of their village people possess an absolute freedom in their authority over the land. Anyone who makes a garden will retain his right to it until the harvest is over. Usually a man does not use a piece of land for planting a second time until it has reverted to jungle. The garden produce is the property of the gardener and he is under no obligation to hand over any part of it, not even to the headmen.

(van der Aa 1879:75)

This system still applies. People do not require permission to make gardens on the territory of their village or kërët, and they do not have to make gifts to their headmen. However, whereas van der Crab refers to the territory of the village, in my opinion the land near Dore Bay belongs to the kërët. Villagers or kërët members are further free to hunt, cut down trees, collect fruit, rattan, pandanus leaves and so on. Outsiders are usually allowed to hunt or to cut down trees for the purpose of building canoes or houses, but they are obliged to pay for this, either with part of whatever has been taken, or with so-called harta këring,1 such as beads, plates, silver or shell bracelets.

We now turn from the discussion of the right of disposal vested in the village or kërët to the individual rights. When a man notices a

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1 Këring, a Bahasa Indonesian term, means 'dry' or 'ringing', and is used here to refer to a special category of ceremonial exchange goods (ed.).
tree in the jungle which he wants to keep for its fruit or timber, he
either marks the trunk as a sign of appropriation or clears its butt.
Such a tree is referred to as ai-bêrôn or ai-pêrêm (van Hasselt 1947:
16, 19). All coconut and betelnut trees, and the sago palms sporadically
found on Numfor, are individually held like those mentioned above.
There are no collective village coconut holdings.

Gardens, too, are individually owned. The yáf, yají or diyaf are
usually prepared by clan groups and then each worker is allotted a
plot. Formerly the individual could be prohibited from making a garden
alone, since he was then more likely to become the victim of headhunters
or of sorcery, in which case his own group was burdened with the task
of obtaining satisfaction. The large garden, and sometimes also separate
sections, is fenced in. There are also separate single gardens, as well
as the individual garden which is part of the large complex. The imagi-
ary boundary of the complex is called yàbèk (yàfbèk) or yawik (yàfwik)
and of the sections, ariò or aryòw. The actual fence, made of sticks
and other materials, is called ayàr. The clearing of the jungle before
preparing the garden is called om (van Hasselt 1947:36, 39, 99, 169).
Erection of supernaturally powerful prohibition signs, arwàrk (wàrk,
'to stop' or 'to prevent'), lent power to the existence of garden
boundaries and fences, since it was supposed that those who ignored
such signs were struck with disaster, disease or death by their super-
natural power, ór (van Hasselt 1947:170). In these gardens crop
rotation is also practised. When a piece of land has been used for
some time and the soil becomes poor, it is left under fallow. In the
course of time the land is overgrown with wild bush, màmires, and is
then called yàpùr (yà: garden and pur: behind, or former) in the Numfor
dialect, the same as yàf-dàs or màmiai in the Biak dialect. Former
gardens on sandy soil, or the bush regrowth on them, are called urido
(van Hasselt 1947:235). The former cultivator of a garden under fallow
retains rights of preference to it. If later on another person wants
to cultivate it, he must ask permission of the former cultivator and
compensate him with a gift for his heavy clearing work. All gardens,
and sometimes also other plots, are named, as are pastures and fields
in the Netherlands.

Myths explaining rights in land and/or location of boundaries, as
they occur for instance in the Nimboran area, are unknown to me.

It appears then that in the Biak-Numfor law area1 all land is more
or less clearly divided into territories of villages and of the kèrèt
living there. Next to the community right of disposal the following
types of rights can be distinguished: clearing rights, rights of pos-
session, usufructuary rights, rights of exclusive option and rights of
preference. The kèrèt headman and sometimes, by combination of func-
tions the village headman, acts as land trustee. The strong development

1 See Foreword, p.xi.
of individual rights of possession in this law area is remarkable and is undoubtedly the result of the advanced evolution of Biak-Numfor society in comparison with societies in other parts of West Irian.

Bibliography


Chapter 2

Ekagi land tenure

J.V. de Bruyn*

Introduction

The Ekagi people live near the Wissel Lakes at the western tip of the central highlands, mostly at altitudes above 5,000 feet (see Map 1). In the early 1960s they were estimated to number 45,000. The name Ekagi is not used by the people themselves but is given them by their eastern neighbours. Their southern neighbours call them Kapauku. Ekagi culture is not completely homogeneous. For example, Pospisil's account (1963b:128-40) of Kapauku land tenure in the Kamu Valley, west of the Wissel Lakes, differs from the account presented here of land tenure near Lake Paniai, the most northern of the three lakes.

In many respects the Ekagi resemble other peoples living in the central highlands of West Irian. Their material culture and technology are simple. They are skilled agriculturalists whose staple crop is the sweet potato, they practise pig husbandry, and supplement their animal diet by catching crayfish. They are divided into numerous political communities among which relations are often hostile. Several patrilineal or seemingly patrilineal groups form the core of the communities. The people are rugged individualists and hence the nuclear family is an important element in the social organisation. A prominent status in society is achieved primarily by manipulating riches, particularly pigs and cowrie shells, through accumulating and redistributing them. A man

* Dr de Bruyn became head of the government station near Lake Paniai shortly after it opened in 1938 and he returned to this position after World War II. During his stay no important changes in the pre-contact system of land tenure took place. At present he is director of the Department of Education of the Royal Tropical Institute in Amsterdam. This paper was first published in 1955 as 'Het grondenrecht der Ekari of Ekagi der onderafdeling Wisselmeren' in Adatrechtbundel no.45, pp.417-29, Martinus Nijhoff, 's-Gravenhage (ed.).

1 By editor.
should furthermore be eloquent and use this skill to play an influential part in public life; fighting prowess is of secondary importance.

Pospisil stresses the predominance of secular affairs in the life of the Kamu Valley Kapauku, stating that the people 'live in a wealth and profit-orientated society' (1963a:93). Nevertheless, accumulation of wealth may be not so much an end in itself as the means to achieve prominence; wealth gives a 'Kapauku economic security and comfort, offers him great prestige, and can make him a headman and a supreme judge of his group' (ibid.). Europeans first settled among the Ekagi in 1938.

Rights to land

Gardens in the central highlands are an important investment, requiring months of heavy labour. As well, useful land is scarce, for in places karst formations and the steep mountain slopes, the swampy soil and the difficulty of drainage, make gardens impossible. A prepared and planted garden represents a more important capital asset in the highlands than it does in those areas where sago grows or can be easily obtained. Drainage systems and heavy fences are also required.

The Ekagi distinguish five categories of land. First, land under cultivation, buri; secondly, formerly cultivated land, covered with secondary growth such as grasses, ferns, softwood trees, mudi; thirdly, swampy grass plains, retapa; fourthly, forest, buruwa; and fifthly, water, uuù, lakes and pools, pèku, and rivers, oné. The most important distinction is between cultivated or previously cultivated land and virgin land, because labour has been invested only in the former.

Rights concerning garden land are strongly individualised. Rights to virgin land and water have communal features; the latter are slight, however, compared to the communal rights of other primitive systems of land tenure, because the rights of outsiders are almost as strong as those of the group members themselves. Both the tuma member in his own territory and the outsider can hunt, cut timber and place traps without the prior consent of the tuma. But to invest labour permanently in gardens the outsider must obtain the consent of the tuma whose land it is. The tuma member does not have to do so. In the mountains the virgin land is not strictly reserved for the tuma members because there is so much of it. Thus, Ekagi land rights do not so much distinguish between community, that is, tuma members, and outsiders, but rather

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1 Galis’ paper begins here (ed.).
2 In this paper referred to as 'garden land' (ed.).
3 A tuma is an exogamous patrilineal kin group, in this paper referred to also as 'clan' (ed.).
between garden land, and virgin land and water in which no labour efforts have been invested.

The Papuan right of possession is a perpetual individual right of the tiller on account of the personal labour invested in the land, for example, land held under this right does not revert to the tuma in case of the owner's death, as it would under an unlimited disposal right. This right has a greater individualistic emphasis than its Indonesian counterpart, and this has also been noted in other areas of West Irian. The land a man first clears and tills and the perennial crops and trees he plants remain his property, even if the land is then abandoned and is overgrown by secondary vegetation. The tiller who has right of possession to the land is called māri puwe (māri, land; ipuwe, to possess) and he can alienate it to fellow clan members, as is the case on Biak or even to members of other clans, as among the Ekagi. The right does not lapse in the course of time. This is found also in some other parts of Indonesia, for example, ter Haar (1939:58 and 1948:82) writes that 'In Manahasa, the title to a piece of land cleared by individual effort exists in principle in perpetuity. As a result, there is no power of recapture in the community right of disposal'. The individual rights of the Papuan in the land he has cleared approximate Western ownership, however, rather than the characteristic Indonesian right of possession. Hence the generally accepted opinion of experts on Indonesian customary law that in Papuan communities communal aspects are still so strong that rights of possession do not exist, must be strongly contradicted for central West Irian, and perhaps even for the whole of the country, with the possible exception of those areas where strong, institutionalised headmanship occurs.

The tuma territory

Every tuma has its own territory, containing buri, mudi, buruwa, retapa, pêku and òné. The concept 'territory' is sometimes referred to by the term māritò, which means literally 'the land proper'. Outside the māritò lies the mé ka māri, literally 'the land of people (outside the territory)

The boundaries of the māritò are sometimes uncertain, compared with those of the densely populated areas in Indonesia. The same uncertainty occurs in the central highlands of West Irian, especially in the case of tuma whose territories are in the sparsely populated areas between areas of denser settlement. As boundary markers the Ekagi use mountains, hills, rocks, landslides, rivers, creeks and large trees that cannot be easily cut down. The village, māri òkòrè, contains as a rule several tuma each with its own māritò. The tuma is the corporate body which administers the disposal right.

This communal right of the Ekagi embraces less than it does in Indonesia and in the coastal areas of West Irian because of the strong individual rights of the tuma member in the land cultivated by him, the
Papuan right of possession. The objects of the tuma disposal right are actually only virgin land, wild growing trees and living animals: wild pigs, ya, opossums, woda, rats, kédé, birds, bédò, and cassowaries, buda. The Ekagi are remarkable in that the tuma member has an unlimited freedom in regard to virgin land, much more than one would expect given the existence of the right of disposal. This seems to be because the Ekagi do not have institutionalised headmanship as is found in Polynesia and Indonesia. Even outsiders have considerable rights in the virgin land areas without prior consent or later payments. I do not know of an Ekagi word for this disposal right.

Garden land

1. Buri. Buri are gardens under individual tenure, even though the Ekagi often have only one fence around a number of these gardens. The Ekagi do not have communally held cleared land, only communally held virgin land, buruwa and retâpa. People can, without penalty, walk through someone else's buri, as long as they do not damage the crops. The footpaths in the mountains often pass through gardens.

The man, his wives and children, all labour in the buri, the family garden. Youths, arana, make their own buri as soon as they are capable. The unmarried daughters, api, work with their mothers. Clearing land, making fences, èda, and digging drains are the tasks of the head of the family. He may be helped by sons who do not yet have their own gardens. The sons, even those with their own gardens, must help to transport the rough hewn planks, yâra, to the garden for the èda. The wife's mother's brother, waka nama, and wife's brother, bara, who have received a substantial part of the husband's kàdé do not assist with this work either.¹ The unmarried daughters, a£i, work with their mothers. Clearing land, making fences, èda, and digging drains are the tasks of the head of the family. He may be helped by sons who do not yet have their own gardens. The sons, even those with their own gardens, must help to transport the rough hewn planks, yâra, to the garden for the èda. The wife's mother's brother, waka nama, and wife's brother, bara, who have received a substantial part of the husband's kàdé do not assist with this work either.¹ The women plant the beds, peru, and do the weeding and harvesting. A man with more than one buri sometimes hires help, usually members of other tuma. Hired labourers are paid in cowrie shells, tòta mère,² for four to five days' work, and in sweet potatoes, nota, for one day's work.

The makers of buri are the màri puwé, the possessors of the land. The Ekagi refer to their gardens as 'màri puwé ka mài', 'it is the land of the màri puwé', not as 'tuma mài', communal land of the tuma. In this patrilineal society only men are màri puwé. Ideally marriage is patrilocal, but matrilocal marriages are not uncommon. A husband who settles in his wife's village receives from his father-in-law, also

¹ The kàdé is one of the four parts into which the bride price is divided (de Bruyn 1955:533) (ed.).
² Apart from the shells imported by Europeans, the Ekagi distinguish four types of cowries varying considerably in value. A specimen of the most valuable may be worth as many as 180 cowries of the least (Pospisil 1963b:301-4) (ed.).
called bara, a part of his buri, for his wife before her marriage has invested some of her personal labour in that buri. For example, Buyani of the Pirai tuma comes from a district near Uwamani and married a Yogli woman of Enarotadi, where he settled matrilocally. His father-in-law, Yaikiwori, gave him a part of his buri. Yaikiwori remains māri puwe of the land which is disposed of in permanent usage rights for his own lifetime. If Buyani settles somewhere outside the māritō the land reverts back to Yaikiwori for his use. Otherwise, at his death Buyani becomes māri puwe. The wife's brother, bara, who has received a part of the kadē, can also give his brother-in-law part of his buri.

Thus often within the territory of a village there are buri belonging to members of tuma not of that village. These are usually affines, but sometimes complete foreigners. At Enarotadi near the government station are buri belonging to Weakebo's widows¹ and to other foreigners. Twenty members of the Enggêpilu or Uhunguni tribes² have had gardens for one year within the māritō of the Yogli at Enarotadi.

When the māri puwe departs elsewhere and leaves his garden land, it becomes the property of his father or brothers. The original tiller of the land receives it back if after returning to the territory of his tuma he makes a payment of tōta mere, not for the land but for the crops on the land.

When a māri puwe dies the buri fall to his wives, since they have cultivated the land with their husband. Grownup sons, arana, have their own buri, while the married daughters because of patrilocal marriage usually live outside the village. In the case of a matrilocal marriage like Buyani's, the daughter's husband receives part of the buri when the father dies and he thus becomes a māri puwe in the territory of his wife's tuma. The mother, together with her young sons and unmarried daughters, cultivates the buri she has inherited from her husband. Sons able to work do not inherit buri, but they receive the father's mudi. If the māri puwe has no wives and children the buri is inherited by his brother's children, also tuma members. If he has no tuma relatives, the land goes to the wife's brother, bara, or his children, bara yoka, who do not belong to his clan.

On the death of the māri puwe, the buri can go to persons who are members of another tuma and who are not even kin relatives of the deceased. For instance, Kitaribi of the Do tuma lives in Enarotadi and has gardens on the land of the māri puwe, Mappibéga, of Yogli. They are not relatives and Kitaribi has not been adopted. He will care for

¹ Weakebo was the most prominent man in the Yaba area south of Lake Paniai and east of Lake Tigi (ed.).
² This ethnic group lives south of the Carstensz area, approximately 100 miles (160 kilometers) east of Lake Paniai. It was contacted by the 1935 Colijn expedition which climbed one of the Carstensz peaks (ed.).
Mappibégà's funeral, however, and claims he will receive Mappibégà's buri and mudí. By placing a special mark in Mappibégà's buri before he dies, Kitaribi will indicate which buri are his. This case appears to be exceptional, and others doubt whether Kitaribi will inherit these buri, for though Mappibégà has no children, he has other relatives in the same tuma, and normally they would inherit.

Individually cultivated land, unlike uncultivated land, can be transferred either to fellow tuma members or to outsiders. The tiller of the land is largely free to transfer the land to outsiders who are not his kin or affinal relatives. The communal right of the tuma which is manifested in the disposal right gives way to the individual rights of the Papuan holder. Under Indonesian land tenure systems, this alienation of land to outsiders is known variously as menjual lepas, adol plas, runtumurun, pati bogor, menjual djadja (ter Haar 1939:88; 1948:105-6).

As far as is known from brief research, in other areas of West Irian transfer of land to outsiders is not possible under the Papuan land tenure systems. However, the Ekagi do permit the transfer of garden land to members of other tuma and it is remarkable that in the case of alienation to a member of another tuma, fellow tuma members do not have rights of exclusive option. The first person to pay the cowrie shells, whether a tuma member or not, has first right. Moreover, theoretically the individual cultivator of the land does not need the consent of the tuma or the other māri puwé, either before or after transferring land to someone within or outside the tuma. In practice, however, other māri puwé and the tonawi, the most important members of the tuma, are often consulted. An outsider asks the māri puwé of the buri he wishes to buy. He does not ask the tuma or the tonawi. The price in these circumstances is paid in 'cash', in tota mère, and the payment of cowrie shells makes the transfer valid. The new māri puwé who is not a member of the tuma, does not have the same freedom of action as the original māri puwé. Should he leave the village the land reverts to the original possessor who repurchases it with cowrie shells. The new māri puwé is also not free to transfer the buri in his turn to others, whether fellow tuma members or not. For example, if the widows of Weakebo return to the Yaba area, their buri at Enarotadi revert to the māri puwé Mappibédô to whom they paid the tota mère.

At such a transfer, katé tai burida, payments are made not only for the standing crops but also for the land. A normal family garden brings five cowrie shells for the land and one shell for each sweet potato bed, nota perú. The whole garden, including the eda, costs approximately twenty large or thirty smaller cowrie shells. A buyer pays for the

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1 In this context, this right would imply that tuma members have the power to shoulder aside outsiders as purchasers (ter Haar, 1939:75-6; 1948:96-7) (ed.).
land in these instances because payment is for cultivated land, the concrete result of someone's personal labour. Such a transaction is clearly a sale of land and not a lease or mortgage.

In addition the Ekagi lease *buri* land for the duration of one or more harvests to fellow *tuma* members and to outsiders. This is a right of use. The lessee pays with cowrie shells, not with part of the harvest. The Ekagi do not seem to practise share cropping. There is always enough land to make one's own garden and, moreover, the Ekagi prefer the cowrie shells obtained from the sale of land and leasing to the sweet potatoes share cropping would provide. These they can grow themselves on their own land.

When gardens are made and the harvests are at different times, the *māri puwē* may share his early harvest with the *māri puwē* who cannot yet harvest. When the latter's crop is ripe, he gives a share to the first. This is called 'exchange of sweet potatoes', *nota akapāga*.

2. *Mudi*. This is garden under fallow, and overgrown with grasses, ferns and often with tall trees. The *èda* have usually completely disappeared. Rights to *mudi* are held by individuals and are permanent. A similar situation occurs on Biak island. Much of what has been said of the *buri* applies also to the *mudi*. When the *buri* is left to become *mudi*, the fence, *èda*, is usually removed for the new garden. Either a ditch, *dudi*, is dug, or hardwood trees are used to indicate the boundaries of the garden which will eventually be overgrown by secondary vegetation. The Papuan right of possession remains as long as there are signs of former cultivation, such as wild growing sweet potatoes or boundary marks. Even after several decades *mudi* is distinguishable from virgin land. In 1944 at the upper Rouffaer River I was able easily to recognise from a distance the camping places of the 1926 Stirling expedition, despite the growth of tall trees.

The *mudi* of a deceased person can be used if the deceased's father or sons give permission. People can never use another's *buri*, but sometimes they try to use a *mudi* which has been abandoned for many years and to which the individual rights are not clear. They claim in this case that the *mudi* is virgin land for which no consent from a *māri puwē* or *tuma* is required. These claims and any other land disputes can lead to fights with sticks, *kopa a kå wāri*, if they concern fellow *tuma* members, or to war, *yāpē*, if they concern outsiders. Women, *yāromo*, pigs, *ekina*, and land, *māri*, are the main causes of *yāpē*. Land disputes within the

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1 This is an arrangement whereby one person cultivates the land belonging to another and gives to the owner a share of the harvest (ed.).
2 See p.3.
3 This American expedition visited the Nogollo and Delo Rivers in the Nassau Range (ed.).
tuma are settled by those concerned because the Ekagi lack both a strong institutionalised headmanship and land trusteeship. Usually the mari puwe and tonawi act as intermediaries in reaching a settlement.

Sons inherit mudi from their fathers. As related above, individual rights to garden land, buri and mudi, created through the personal labour of the cultivator, remain in perpetuity.

Virgin lands

These categories of land differ fundamentally from buri and mudi in that no personal labour has been invested in them. The tuma has an unalienable disposal right to virgin land but no individual has rights. This right is first to the virgin forests, buruwa. The tuma exercises its right as a body corporate and should not be regarded as merely a grouping of genealogically related individuals. In comparison with what we know about the disposal right in other areas of West Irian, which is very little, and about Indonesian disposal rights, Ekagi disposal right is restricted in scope. It does not put many obligations on the group members, nor does it deny rights to outsiders. The Ekagi do not differentiate between fellow tuma members and outsiders with regard to usage rights in virgin land and water. Members of other tuma are allowed also to hunt, catch crayfish, cut timber, collect bark, place traps, bogemainai, and collect wild fruit in the buruwa without permission from the tuma. Population density is apparently low enough in the central highlands to permit this. Fruit trees planted in the forest like the pandanus, kora, are the personal property of the person who planted the tree, and only he is entitled to the fruits.

Tuma members and outsiders are distinguished in their rights of cultivation, that is, in making a garden in the buruwa and retapa and so gaining an individual and permanent right to a piece of land. A member does not need permission from his tuma. Outsiders have only limited rights and need permission to start a garden on virgin land. They do not pay for the land they want to cultivate, for if cowrie shells were accepted, the land would be permanently alienated. As the Ekagi put it, the buyer would 'walk off with it'.

The Enggêpilu of the 1935 Colijn expedition, who lived for twelve to eighteen months at Enarotadi, did not have to pay for the forest land made available to them by the Yogli. This was a temporary usage right of members of another tuma over the land. When they returned to their tribal area they were paid by Holobega, Domobui, Danêbui and Wikarêbui in cowrie shells, axes, paroba, and beads, paradu. However, this payment was for the produce of the garden and for the êda, and not for rights to the land. It is interesting that payment was made by Holobega, who is not a Yogli but a Zonggonao of Kugapa who has had gardens for some years on the territory of the Yogli. As mentioned above, the Ekagi do not have the right of exclusive option.¹

¹ See p.18.
The Ekagi do not have the institution of land trustee. Negotiations over virgin land concern the community, that is the tuma, and are decided jointly by the mari puwé and the tonawi, the most important elders of the clan. Since their interests are most concerned the mari puwé have a major say, especially those mari puwé whose buri are closest to the land to be newly cultivated. The main negotiators with the Engge-pilu above were the relatives of the deceased Idaantayoka, whose buri was closest to the land applied for.

Among the Ekagi the usage rights of a tuma member in virgin land do not extend to a share of the hunt, as is known to exist among many primitive peoples. The hunter may give some away but is not obliged to do so. A hunter often sells part of the kill to his father and brothers who can postpone payment, but others must pay immediately in cowrie shells. Other rights such as the right to cut timber, to collect forest products, gather firewood, to permit pigs to graze and root, come from the above usage rights of the fellow tuma members and outsiders. A member of another tuma may clear land only after he has been granted permission by the community.

Among the Ekagi preferential rights do not seem to occur. These rights exist among the Biak people, where a man may place a mark called orwarik or skakop (bair) on the tree he wants to use later to make a canoe. An Ekagi man cannot reserve part of the forest for himself in this way. As individual rights to virgin land and water are not permitted (these being objects in which no one has invested labour), there are no preferential rights. Unlike garden land, virgin land and water are unalienable.

The second category of virgin land is retapa, swampy, alluvial lands often found near the three Wissel Lakes. The swampy soil is unsuitable for agriculture, though the Ekagi often make otherwise poor land productive through good drainage. This land is more important for the opossums which are caught by trapping, bogemainai, or by burning off in the dry season. What has been said about the buruwa applies also to the retapa.

Virgin land comprises, thirdly, lakes, pools, and rivers. People are free to catch crayfish wherever they like, though villages have their favoured spots. There are no fish in the Wissel Lakes, with the exception of one unimportant species, biné. Since the patrol post was established at Enarotadi, the women of Yaba and the Tigi Lake often go out to catch crayfish in Lake Paniai. Previously the women of Edéretali used to catch crayfish on the Yawe and Paniai Lakes. No permission is required and no payment made. Canoes are hired from the people living along the lake and one supplies one's own oars. The cost of hiring a canoe for two days is five or six débapo or oraipodé (lyphraea moneta, both imported cowrie species) or one mérépo (a less valuable variety). Outsiders are free to shoot and catch ducks on tuma territory.

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1 See p. 11.
Conclusion

The Papuan right of possession is to buri and mudi, garden land. The right is held by the tiller of the land and is perpetual. Land under Papuan right of possession can be transferred to members of other tuma without the consent of the tuma. Transfer is also possible under Indonesian right of possession, but only after the consent of the community has been given. The Ekagi is less restricted in his control of the land he cultivates or has cultivated than is generally the case in Indonesia.

The Papuan right of disposal is held by the tuma to virgin land, buruwa and retàpa. Clan members and outsiders are not distinguished with regard to fishing, hunting, cutting of timber, collecting and grazing rights within clan territory but they are in regard to cultivation rights. Among the Ekagi the scope of the Papuan right of disposal is much narrower than that of the Indonesian right of disposal. Hence, its six well-known characteristics as formulated by van Vollenhoven,\(^1\) are not applicable to the Ekagi right of disposal. First, the Ekagi can transfer, especially sell, garden land to members of other groups. Alienation of virgin land is forbidden. Secondly, the Ekagi do not have the right of exclusive option. Thirdly, the tuma or tonawi do not have to give permission for alienation of garden land. Fourthly, when the Papuan possessor of the land dies, or leaves the community, his buri or mudi does not become object of the disposal right of the tuma. Fifthly, as is the case with the Indonesian right of disposal, the tuma can for public purposes such as feasts, set apart certain parts of the virgin areas of its territory. However, in contrast to land held under Indonesian right of disposal, buri cannot be used for such purposes and mudi only temporarily. Finally, land under Papuan right of possession cannot be redistributed.

Tuma members have the right to clear parts of the territory of their tuma without having to ask permission. Members of other tuma need permission. Neither rights of preference nor of exclusive option are known among the Ekagi.

Specific rights of usage entitle an outsider temporarily to cultivate land, both virgin and garden, which belongs to a tuma other than his own. The tuma member has such a right of course, and acquires in addition the Papuan right of possession if the land is virgin. The general rights of usage enable both tuma members and outsiders, on account of the disposal right, to hunt, fish, cut, collect, gather and graze on virgin land and water within the territory of the tuma.

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\(^1\) See Foreword, p.x.
Bibliography


Chapter 3

Mimika land tenure

J. Pouwer*

Mimika territory stretches from Etna Bay in the northwest to the Otokwa River in the southeast and to the Charles Louis and Carstensz Mountains in the north (see Map 1). It contains the sub-district of Mimika and part of the sub-district Kaimana. The Mimika plains are swampy and are intersected by mountain rivers. They extend in a south-east direction where they form the territory of the Asmat, who are related to the Mimika. Mountains rise abruptly from the edge of the plains. There are no Mimika settlements on raised ground. The Mimika culture is strongly homogeneous and in the whole area only one language is spoken, divided into six or seven dialects.

The people lived in a large number of semi-permanent, dispersed settlements before the government, the Roman Catholic mission and trade stores were established in the late 1920s. These settlements were situated upstream along the main rivers, particularly along the tributaries and preferably at strategic points and near sago areas and gardens. From the settlements the people regularly made trips to the sago areas and further afield to the fishing grounds downstream and at the mouth of the river. These trips took the form of a wandering circuit, from the upper course of the river to the sea. Consequently there was regular movement along the river. There were, and are still, two circuits. One is followed by the inland-oriented people who make only incidental stops at the coast. These stops, however, are usually for long periods of time. The second circuit is followed by the coastal-oriented people who make regular, but short, stops at the sea. The

* The author carried out field research among the Mimika in 1951-54, as an Administration anthropologist. He is at present Professor of Anthropology, Victoria University, Wellington. The present paper was written in 1957 as 'Overzicht grondrechten in Mimika', primarily for use by Administration personnel. Hence it is not exhaustive and sometimes overgeneralises. It uses material earlier written up in Pouwer (1953) and Pouwer (1955) (ed.).

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territorial moves used to correspond with a cycle of large and small feasts, which were inseparable from, and stimulated, the food supply.\textsuperscript{1} This cycle of feasts and travelling has been interfered with by the consolidation of semi-permanent settlements into villages intended by the Administration to be permanent. These have been built on the beach ridges except in the area east of Atuka, where in many places beach ridges do not exist. However, here there is also a strong tendency to settle on the coast. The villages, built in accordance with government rules, are regarded by the people as short-term resting places rather than as dwelling places because the limited food supply forces constant moving. Family houses have replaced the traditional group houses which were divided into separate quarters for each family. The traditional type of house, the furniture, the means of transport and all other material culture, were adapted to a semi-nomadic existence. Recurring floods, wars, feasts, and economic as well as political factors often led to moves or to a temporary concentration in the semi-permanent settlements. Often internal differences caused groups living together to separate again. Daily life was pursued preferably in the intimacy of small settlements.

The Mimika people are semi-nomads, but only within their territory. Their emotional ties to their own land are exceptionally strong. The village territory is seen as the familiar background against which daily life takes place. Outside this territory the Mimika fear other people as well as spirits and supernatural manifestations.

\textbf{Socio-political structure}

The nuclear family was traditionally a strong, functional unit. It had its own quarters in the group house and its own fire place. There were no men's houses, only separate sleeping quarters, etò-kamè, for bachelors, but these began to disappear in the Mimika area before foreigners, both European and Asian, arrived. Beyond the nuclear family are bilateral and matrilineal groups. The kinship terminology is of the Hawaiian type, which means among other things that maternal and paternal cousins are identified with sisters and brothers. Ties between these members of the same generation are very strong, a factor of great importance with regard to land tenure. Relations with maternal kin are more important than those with paternal kin. The matrilineal offspring of a woman down to the generation of grandchildren are indicated by terms having the name of this woman as stem ("stem-unit"). This method of matrilineal grouping is related to a matrilocal mode of residence comprising three generations. Matrilineally related persons belonging to the same generation but to different stem-units form a functional set called peraekò.

\textsuperscript{1} Cf. p. 46.
There is no superordinate, exogamous matrilineal clan above these two types of matrilineal grouping. There is, however, a grouping, neither strictly unilineal nor strictly exogamous, which is strongly tied to a territory, and known as taparu. This word is derived from taparé, 'block of land'. Small taparu are usually exogamous but the larger ones are not. When a person moves, his or her children will be included in the taparu of the new residence. Belonging to a particular taparu depends more on the domicile of one's parents and on other social, political and economic factors than on a strict following of rules of descent. A clear conception of traceable or untraceable descent from the mother's side does not exist. Taparu tended to be matrilineal but present changes make their future uncertain.

The taparu established along a river or a part of a river form a tribe. In east Mimika sometimes more than one tribe lives along one river in which case the area is divided between two or more villages. Each tribe has a name, often the same as the name of the river. Almost all tribes consist of two taparu or groups of taparu, and association between two tribes is also very common. In many contemporary villages the dual division has been territorially realised. Some tribes now live together in one village, called a collective village. All these units are small. Among a population of 8,000 people there are 160 taparu and 50 tribes. There is no local name for the 50 combined tribes.

Sister exchange is the customary marriage arrangement. Matri-uxori-local marriage is preferred, but bilocal, neolocal and patri-virilocal marriages are not uncommon.

A single traditional authority does not exist. Each taparu, if not too small, has one or more taparu elders. This position is not hereditary and carries very few prerogatives. Since 1954 the Administration has installed village councils on the advice of a regional advisory committee, then consisting of non-indigenes. These councils appear to develop favourably as organs of co-administration. The village headman appointed by the Administration is in charge. In addition to the taparu elders, representatives of the younger generation are members of the council, while the village teacher acts in an advisory capacity on it.

The term for disposer and possessor of real property, amako, has a richly variegated meaning, which provides some insight into the background necessary for understanding land tenure. Amako means as well the exclusive rightful claimant with regard to a certain sacred or non-sacred matter or action. During ceremonies there are many functionaries who are entitled to perform certain rituals, and these rights are passed on from father to son and from mother to daughter. There are, for example, sago and fish functionaries, who have sacred and profane powers over these foods by performing certain rituals and who supervise the proper use of cooked sago and fish. Tobacco seedlings must be obtained from the tobacco functionary to ensure an abundant harvest. Coconut
functionaries are considered to promote the growth of coconut. Each
disease has its own specialist, amakò, a function inherited by a son
from his father or by children from one of their parents. There are
sun, wind, rain and flood functionaries. All these officials can apply
their power for evil as well as for good. The term amakò is etymologic-
ally related to amakò which used nominally means both 'culture heroes'
and 'paradise-like ever present in the beginning'.

Right of disposal

The complex system of amakò includes also the taperamakò, literally
'the land amakò'. This term indicates first, a named culture hero,
according to myth the first to settle in a certain area; secondly, a
group of people who consider themselves to be descendants of this hero
and who base their disposal right to their territory on his original
presence; thirdly, one or more elders of that group, when they indicate
to outsiders, or defend, the disposal right of the group. As well, in
the past these elders were usually the war leaders, we ayku ('big men'),
and they performed rituals during some ceremonies. The concept of land
trusteeship has thus not yet crystallised from these different meanings.
A land trustee, in the sense defined in Indonesian adat law, is not
found in Mimika. In contrast to the descendants of the culture here,
taperamakò, are the guests or visitors, as well as co-residents,
kamuru-we, who collectively or individually are allowed to use land
belonging to their hosts. Each tribe, now each village, has its own
territory, usually embracing a complete river (or in east Mimika part
of a river), or a large tributary including the smaller tributaries,
and in all cases the adjoining land areas.

That their right of disposal is unalienable is indicated by the term
amakò which implies that only the people descended from the taperamakò
who first settled in the area can claim disposal rights over it. The
right of disposal, however, can weaken and disappear due to the depart-
ure or to the lengthy absences of the group concerned. A strong
emotional tie to the land, and sometimes hunting and gathering rights,
are retained for a long time after departure.

The territory of each tribe is therefore a comparatively small piece
of land on either side of the waterways. Further inland from this strip,
away from the river, is no man's land. The area between the upper
reaches of the river and the mountains was also previously no man's
land. This results from the traditional semi-nomadic way of life, in
which canoes were preferred for transport and walks inland were made
only if essential. The boundaries of the territory are much more
sharply defined with regard to the waterways than with regard to the
land, owing to this customary mode of transport.

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1 See Foreword, p.xi.
The right of disposal is strongest in those areas most easily accessible for subsistence farming. Areas have been added to the territory, due to European settlement, which did not previously belong to it. These are the mountain slopes with copal tree forests where the people rarely went in the past. The copal forests are undivided village areas. The right of disposal over these is sometimes disputed among villages which are located along the tributaries of one river, rising in the mountains. As soon as no man's land becomes economically important, say for iron wood or mineral exploration, one or more villages claim the disposal rights over this area on whatever traditional grounds they consider might support their case.

The territory of the tribe or collective village was and is still divided into areas belonging to taparu, but the tribe or village holds the disposal right to the total area. The disposal right of the taparu is subordinate to that of the village. This is clear if a piece of land is occupied illegally by people of a neighbouring village, for not only the victimised taparu, but the whole village protests. Now that the small settlements have been concentrated into villages, the entire village makes use of the sago forests and fishing grounds in its vicinity without dispute, and without needing to ask permission of the elders of that taparu which holds the right of disposal. Nor does this taparu ask payment.

The disposal right of the taparu is clearest in east Mimika where the taparu, or their combinations, still live in separate wards and where their territories can be clearly distinguished. Nevertheless, in Tipuka, east Mimika, the taparu disposal rights are being superseded by disposal rights vested in the village halves, due to the mutual granting of many usage rights. In Yaraya, central Mimika, the taparu disposal rights have already been replaced by rights held by the village halves, while in Ayndua, west Mimika, an undivided village territory is preferred. As well, the disposal rights of taparu to the sago and fishing areas are disappearing because the village holds communal rights to these areas. The copal forests are held in common by the village and are not divided among the taparu.

The pattern of the disposal right is far from static as a result of historical as well as structural factors. The disposal right of the village is firmly maintained against outsiders. Enclaves belonging to another village seldom occur.

Internally the disposal right is weaker. Land disputes are resolved either conclusively or temporarily by the taparu concerned. There is no land trustee or a body of elders who represent the village in land disputes. If newly acquired sago land that has not been part of the village territory is divided, as occurred in the village of Poraoka, the taparu elders try to come to a mutual agreement.

Land can be transferred to an outsider without the permission of the taparu elders, but there are few areas within the territory which belong
to other taparu. That this is rare is perhaps because usually the off-
spring of someone who has obtained land which does not belong to the
territory of his taparu, join the taparu which made the land available.
The land does not become part of the territory of the newcomers' original
taparu.

The land belonging to a taparu sometimes forms one contiguous area,
elsewhere it is dispersed. There is no general rule. Land and fishing
grounds without heirs return to the village or taparu.

Right of possession

Disposal rights are subject to the rights of possession of the com-
munity and of individuals. The rights of possession and of disposal
are closely related; amakò is the term used for both the disposer and
possessor. In view of the background of this term it is understandable
that rights of possession in land, fishing grounds and gardens can be
transferred only to fellow villagers. In some areas adjoining land
exists with and without rights of possession. Furthermore, it is often
difficult to distinguish collective and individual possession of land.

1. Sago lands. It is very common for groups within the taparu to
exercise collective possession to the sago lands. However, each taparu
member and/or fellow villager has the right to harvest sago where these
lands are abundant and extensive. This right often applies also to
lands which are difficult to reach or far away. Each group which
exercises collective possession comprises brothers and sisters, and
cousins who are each other's peraekò, and their married or unmarried
children. The latter do not have to ask anyone's permission to enter
the lands, but are obliged on the grounds of the parent-child relation-
ship, classificatory as well as biological, to give priority to their
seniors when choosing sago trees to be cut down.

The seniors, however, are the 'managers'; usually the two eldest
real or classificatory brothers, especially the first, are most pro-
minent. In addition to age, personality and family support are
important. A brother younger than the eldest surviving brother can act
as the principal manager of the group. When the principal manager dies
or becomes old, he is normally succeeded by a younger brother or one of
his cousins. This position within the next generation can be occupied
by a son as well as a son of a brother or sister. Much depends on
circumstances, though sons and son of brothers are preferred. The
principal manager is the chief speaker when defending rights to land.
In consultation with other members of his group, he can allow outsiders
to use the lands. When he harvests sago with the other members he has
the right to choose his tree first.

After two or three generations when a group has become too large, a
division has to be made. No information is available on how this takes
place. When individuals or a family settle elsewhere the parents retain
their collective rights, but the children lose theirs if they do not return.

A woman can never act as the principal manager of a group which possesses sago lands. Yet her position is influential due to the preference for matri-uxorilocal marriage and to the customary sexual division of labour.

2. Creek fishing. Tidal creeks can be closed off by a weir. Rights to fishing in these can be either collective or individual. Usually a few people share the right, for example, two sisters, or a brother and sister, or a woman with her mother, sister or daughter. Where possession is individual, there is also recognition of rights of usage by others. The women, who have little authority in the sago lands, exercise control here. The wife, and sometimes the husband, acts as manager or possessor of the fishing creeks. She does most of the fishing work. The inheritance of management is like that of the sago lands, in this case from mother to daughter, from elder sister to younger. Where rights of possession are individual, inheritance is matrilineal.

Taparu have no right of possession to fishing creeks according to their location, because these creeks occupy only a small strip of the coast and their course is erratic.

3. Gardens. The staple foods in this environment are, of course, sago and fish. Thus few subsistence crops are grown. As the traditional gardens are usually situated along the upper course of the rivers, the inhabitants of these areas have more gardens than the coastal people. However, under European influence the latter have established beach gardens. Middle-aged and elderly persons spend more time gardening than the younger people, and less in sago harvesting and fishing.

A garden is usually held by a married couple though unmarried persons sometimes make gardens alone. A husband and wife together establish, plant, and maintain their gardens, sometimes assisted by close cognatic or affinal relatives as well. They dispose jointly of the harvests and each must have the other's consent before giving any away. They share any cash earnings.

Good and accessible gardens are possible only in a few areas and taparu members can use any of the total village gardening land and not just the land of the taparu to which they belong. Sometimes gardens are situated well apart. When garden complexes are found the arrangement of gardens within the complex usually depends on real or fictive kinship ties rather than on taparu affiliation. Sometimes, however, the two groups comprising a village will each have a garden complex.

The inheritance of gardens is not governed by strict rules, but often depends on circumstance. The gardens of a married person are usually inherited by the surviving spouse. The adult children have the first rights following the death of a widow or widower. If there are several gardens, they are divided among the children; if only one,
it is possessed jointly by them. The brothers and sisters of the deceased may also claim rights to the gardens. Disputes over inheritance are common. The heirs may neglect the gardens because they do not want to work any longer on them; these are swiddens which receive little attention.

4. **Trees.** The following types of tree are considered as individual possessions: planted sago palms, sago palms kept free from undergrowth, coconut palms, breadfruit trees, trees from which canoes are made and the finer varieties of the pandanus tree, trees used to breed sago grubs and teredo worms, and copal trees. In the past aren palms whose juice was used for palm wine were also individually owned. A promising iron wood tree can also be given a personal sign of identification. Trees are marked in the forest and reserved for personal use because they are of easy access, of good quality or their productivity can be increased with special care. Tapping of copal is the task of the men and thus only men can possess copal trees. Tapping of copal trees regardless of possible ownership also occurs. A tree intended for a canoe is always the property of a man, while a pandanus tree is owned by a woman. Ownership of these passes to the sons and daughters respectively. Otherwise sons do not inherit trees exclusively from their fathers, or daughters only from their mothers.

A man, a woman, or both husband and wife can be the possessors of a planted or tended sago palm. Sago is planted only in areas where there are few sago trees, as in the villages west of Uta, to ensure a sago supply in times of need. Otherwise, to meet daily demands people harvest sago in friendly villages which have large sago forests. Married or single individuals, or a couple together, can possess a felled tree for breeding sago grubs or teredo worms.

Either a man or a woman, but not a married couple, can hold coconut palms. Each spouse can manage his or her coconut trees and in the event of dispute can forbid each other the use of the trees. The coconut palms of a man and wife form an entity in relation to inheritance. When one dies all coconut palms go to the surviving spouse, unless the deceased has made other arrangements. Sons and daughters can both inherit from either parent. Where the inheritance consists of only a few trees, these will go to the sons. It is remarkable that in a few villages school children possess one or two coconut palms. They can collect the nuts without asking permission. The parents give them the trees to prevent theft while most adults of the village are away harvesting food or for other reasons. The school children stay home without adequate supervision. The unstable food situation, resulting from the change from a semi-nomadic to a more sedentary way of life, is the main cause for this modern form of possession.

**Use of rights of possession**

Every fellow villager is allowed to fish in the main river and the sea at each side of the river mouth. He can erect his temporary hut on
the common beach. In some areas each half of the village has its own camping sites at the beach. Tributaries which cannot be closed usually belong to the territory of a taparù or village half. The use of this fishing water is thus primarily reserved for members of these groups. In general, where fellow villagers are concerned this exclusive right is not rigidly imposed. Inhabitants of other villages passing through are allowed to fish with spear and hook in the main river and the larger tributaries.

Cutting firewood, hunting game and collecting forest products, shell fish, teredo worms and sago grubs, are activities preferably restricted to one's own territory. However, a strictly individual possession is the trap for pigs, constructed from a felled and split sago palm and a hedge. Individuals possess bird traps and also the places where bush fowls' eggs are usually found, if these have been marked in some way. If the territory of another village is entered while hunting, a part of the game has to be handed over to any one of the inhabitants of that village met during the hunt. This obligation is due to the existence of the village disposal right.

The use of sago lands and creeks is often extended to the kin and fictive kin of the possessor. Furthermore, persons marrying into the group obtain rights of usage for the duration of the marriage. Usage rights are granted reciprocally, though gifts of food and labour can be returned instead of usage rights. This reciprocity is maintained especially in regard to affines. Since the kinship system is strongly classificatory and includes relationships based initially on adoption, friendship, identity of names, assistance and a common place of origin, the communal use of sago lands and fishing creeks occurs frequently. This tendency is further strengthened by small taparù being induced to settle together in villages. The number of inter-taparù marriages and thus the mutual use of land on the basis of the principles of reciprocity has increased considerably. Collective possession is therefore rather complex. Those who possess sago land or a fishing creek collectively are restricted in exercising their rights by a network of relationships of different strengths. Between the status of possessor and that of user are various degrees which cannot at all or only with difficulty be formulated in the rules of adat law.\(^1\) It is the dynamic of this pattern that decides what, at a given moment, is to be regarded as collective possession of particular sago lands and fishing creeks.

Relatives are also able to use individually held trees, but the circle of users in this case is more limited.

A village can grant another village the right to harvest sago in a certain area within its territory and to fish and hunt while passing through. Those villages west of Uta which had the right of disposal

\(^1\) See Foreword, p.xn.
to few sago lands, obtained in this way the right to harvest sago and also to hunt and fish, on the territories of other villages, including Ipiri, Amarpya and Mupuruka. This usage right depends on the mutual relationships among villages, and these in their turn are influenced by various factors.

Some tribes are no longer close to their own territory because they have settled with others in collective villages. Those tribes nearer their own lands have granted the tribes from further away rights of usage to their territory. Some people would prefer to return to their own land but they are forced to accept this situation.

Lastly, some villages grant other villages the right to collect copal within their territory. Gifts such as cooked food, tobacco and canoes, are exchanged in return for the right. However, unless it is essential areas belonging to other villages are avoided even if a large detour has to be made. Within the village territory also, areas to which others have title or usage rights are avoided as much as possible.

Land disputes

In land disputes each group or person having an interest is his own judge. A land trustee is lacking. Disputes between villages generally occur only where territories adjoin and this is by no means everywhere the case. Disputes often arise over felling of sago palms, damage to sago sprouts, and unauthorised use of fishing creeks or occupation of garden land. Such disputes can easily lead to various counter measures, e.g. refusal of an inter-village marriage which had already been arranged.

Within the village unlawful use of fishing creeks, cutting down of tended sago palms, and stealing of garden produce, can cause serious quarrels. Especially in former times quarrels led to brawls in which many relatives and exchange partners were soon involved.

Conclusion

Firstly, since Mimika land tenure forms part of a flexible and dynamic social organisation in which power and authority are diffused, the formulation of customary rules of land tenure is hardly possible. Land 'laws' must be considered in the particular setting of each case. Secondly, the non-unilineal and sometimes bilateral inheritance of individual rights to land and fishing grounds is in accordance with the non-unilineal and bilateral character of the social organisation.

Bibliography


Chapter 4

Muyu land tenure

J.W. Schoorl

Introduction

The Muyu tribe inhabits the hilly country along the border of Papua-New Guinea between the central highlands and the plains of the south coast (see Map 1). At the end of June 1955 the Administration counted 12,223 Muyu in West Irian, while a small number resided in Papua. The first contacts between the Muyu and the West date from some military explorations between 1907-15. More intensive contacts came about through bird of paradise hunting expeditions carried out from Merauke between 1914-26. Chinese and Indonesian hunters travelled far into the area and the Muyu assisted them in return for Western goods, especially axes and knives. Many Muyu, mainly younger men, went along with the hunters to the Merauke subdivision. In this way a conception of Western culture, as it existed in the Merauke subdivision, was introduced into Muyu society.

In 1933 the Order of the Sacred Heart opened a mission post at Ninati in the centre of the Muyu area. The Administration followed in 1935. Soon the mission attempted to concentrate the population into villages with a minimum of 100-150 inhabitants, mainly in order to facilitate teaching (schools being regarded as an important medium of missionary work), and to obtain the Administration subsidy given to schools having at least fifteen pupils. The Administration also encouraged the development of large villages. Western education was accepted promptly. There was no resistance to schools because of the religious beliefs they inculcated. The Muyu knew of the schools in the Merauke subdivision and thought they would enable them 'to progress', to acquire Western

* The author carried out field research among the Muyu in 1954. In 1955-56 he was head of the Administration in the Muyu area. He is at present Professor of Sociology of Non-Western Societies in the Free University, Amsterdam (ed.).

1 This section is derived from Schoorl (1967:170-3) (ed.).
material welfare. However, although they desired education, they were unwilling to form and settle permanently in large villages. Their resistance was not due to a lack of kinship relations because most of the inhabitants of a large village would be related in some way, but rather to the strongly individual way of life (with highly developed individual rights to land) and to various economic conditions, especially those concerned with pig breeding. Village headmen and their assistants, both appointed by the Administration, had little authority.

Originally patrilineages were the most important territorial group; forty-two lineages investigated in 1954 had from two to sixty-one members. Although the dwellings of the individual families belonging to the lineage might be scattered, they were always situated on the territory regarded as the lineage's. The importance of this territorial element is indicated by the Muyu term for lineage, nuwàmbíp, 'our dwellings'; the territory belonging to the lineage is called nuwàmbípíkim, 'the place of our dwellings'. The lineage is attached to its territory by traditional and religious bonds. On this territory there is a sacred spot called kètpòn, which is taboo, ìmop, and hence avoided if possible. There is a story or myth attached to each kètpòn, and most myths are the exclusive property of the lineage on whose territory the kètpòn is located. Some myths are more widely known. In a few cases, as a result of residential changes or splitting up of lineages, a kètpòn belongs jointly to two or more lineages. However, land tenure is not communal within the lineage, but individual.

The Muyu depends on his garden for an important part of his diet. The principal crops are bananas and tubers. Fish is not abundant. Pigs are bred in order to obtain cowrie money, not to provide meat for home consumption. Women play an important position in economic life by the part they play in gardening and above all in the care of pigs. The cowrie shell, ìt, may be regarded as money among the Muyu for it serves as a medium of exchange, and as a standard and store of value. Trading expeditions range 25 to 31 miles (40 to 50 kilometers) from the place of residence, while pig feasts which serve also as markets are held to enable the acquisition of cowries.

There are four prominent features of the Muyu culture distinguishing it from some other primitive cultures. First, the individual is extremely independent in relation to the group to which he belongs. Secondly, the Muyu is very mobile and is often away on trips to keep up friendly relationships and particularly to trade. Thirdly, the society is characterised by an atmosphere of fear, distrust and circumspection, owing partly to the emphasis on obtaining personal justice and revenge, to the function of sorcery in explaining sickness and death, and to the method, by ordeal, of discovering guilt. Fourthly, the main interest of the Muyu is the acquisition of property in the form of ìt and other valuables.
Rights to real property

All rights to land and water are individual. The lineage as a whole does not exercise rights to the land which is considered its territory. Thus there is no lineage functionary who has special duties or responsibilities in land matters.

1. Land. The Muyu word for land is `ambipkim`. The entire Muyu area is divided into large and small plots of land which have individual owners. The owner is called `ambipkim djarimâ", 'the master of the land'. Although rights to land may be held jointly, for example in cases of custody, this is a temporary arrangement and a division into individual rights always takes place.

Land transactions occur when individuals migrate, from fear of sorcery or of other personal danger in their home area. The owner effects the transaction without any interference from the other members of his lineage. Even a real brother cannot regard this as his concern because 'it is not his property'. Usually, land which is sold is planted already with sago palms. The sago garden constitutes the most important object of land transactions. In Kawangtet a transaction was to take place between one person from Metemko and another from the Minip lineage. The following were mentioned as possible prices: for a piece of land containing many sago palms, twelve ðt and one wàm; for a piece of land containing few sago palms, six ðt, one wàm and one roll of tobacco. In Yibi village four transactions took place in which the prices varied between two and five ðt, plus in all cases a roll of tobacco. One piece of land which did not contain any sago palms was sold for use as gardens. The price was two ðt, one ërîp, one roll of tobacco and one bush knife.

Individuals do not deliberately mark the borders of their plots with signs but every owner knows from memory which land belongs to him. The person from whom he obtained the land would have shown him also the borders, which are indicated by ridges, creeks or trees. Land owned by one person is usually not a large single tract, but is scattered among the land of the members of his own and sometimes of other lineages.

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1 The following section is derived from Schoorl (1957:71-6), except for the last paragraph added by Schoorl for this publication (ed.).

2 See p.39.

3 The cowrie shell, ðt, is the most desirable valuable in Muyu society. Next to it there are several other things of value: bands on which Nassa calliosa shells are attached, ñám; large, flat, white shells, wàm; narrow strips on which incisor dog teeth are attached, ërîp; stone axes, òmat; indigenous tobacco, tabukyòt; dogs' canine teeth, mindit (ed.).
For example, the deputy headman of Yibi calculated that he owned ten plots of land scattered in different areas while the headman reckoned six plots. This fragmentation of land is caused by the inheritance system and also by the individual character of the ownership right. The lands of the different lineages are also dispersed. The individual ownership of land manifests itself in several institutions closely related to land tenure.

2. Gardens. The consent of the owner must be obtained before a garden can be made on someone else's land. Once this is given, any crop except sago may be grown, including kenari and ketapang. Sago cannot be grown without permission. A sago palm produces offshoots regularly, which could result in a more or less permanent use of the land, and possibly the planter's acquisition of some rights to it. The owner does not have to be paid immediately for the use of a garden plot on his land. After the harvest he is presented with two or three string bags of food. A request to use another's land is usually made when, for example, a person has moved from his own area, or when the other's land is more conveniently located than his own. But only where the relations between the two are friendly is the request made and then it cannot be refused. Land is sometimes used without permission.

It is a serious offence to take produce from another's garden without his consent. Garden produce can be sold for dog teeth and travellers sometimes buy food in this way.

3. Sago. There are few large sago areas in the Muyu region. The sago palms grow along the small winding creeks and are regarded as individual property. Every family head produces sago from his own palms which he has inherited or planted himself. Sago cannot be taken from anyone else's palm without the owner's permission, even if the owner is a brother. Payment of one ot is often requested.

4. Hunting. In principle one may hunt big or small game only on one's own land. The owner's permission is again required if one wishes to construct pitfalls and traps for cassowaries and pigs on another person's land. This stems from the strong right of individual ownership but also from fear of assassins. People who pretend to be hunting might, in fact, be ill-intentioned. Travellers who come across a pig or some other wild animal may kill it without asking the consent of the landowner.

5. Fishing. Like land, the rivers and creeks are divided among individual owners who exercise their rights especially with regard to fishing. Fishing with poison and building dams on someone else's property are prohibited unless permission has been obtained. The owner

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1 Two Bahasa Indonesian words referring to two almond tree species, *Terminalia catappa* and *Canarium commune* respectively (ed.).
can fish with poison in his stretch of the river if the owners of river sections further downstream permit it.

6. Forest produce. All forest produce of any value is covered by the individual rights of the owner of the land on which this produce occurs. The following are among the forest products used in Muyu society: rattan; the resin obtained from the copal tree, *damar*; the bark of the *gnemon gnetum* tree, used in making string bags and other rope objects; leaves and midribs from the sago palm; cabbage palms; and hardwood for house building. The scarcity of these products in certain areas determines to what extent the individual possession rights are exercised and if the owner's approval has to be obtained before collecting them.

In Yibi where the population density is greater than in Kawangtet, and where certain products are consequently scarcer there is a stricter enforcement of rights to certain products than in Kawangtet. In Kawangtet, rattan, *damar*, the bark of the *gnemon gnetum* tree and hardwood may be collected by others without the owner's permission. However, in Yibi consent must be obtained, even to collect firewood. In both villages permission must first be obtained to collect sago fronds and cabbage palms from someone else's forest land.

Thus in principle there are comprehensive individual ownership rights to land and to everything contained in or grown on it. The scarcity of the products determines to what degree these rights are enforced. No circumstances or situations are known to exist whereby a lineage as a whole has ownership or disposal rights.

**Rights to moveable property**

It is understandable, in view of what has been mentioned above concerning real property, that there are also strong individual ownership rights to moveable property. Every person has his own possessions which are not to be used by others except with his permission. This applies even within the nuclear family. Both husband and wife possess separately pigs, tools, garden produce, and *bt* and other valuables. Usually the members of a family co-operate so that they benefit from one another's property. However, consent has to be obtained before using another's belongings. When a child takes water belonging to one of his parents without permission it is regarded as theft.

**Rights of inheritance**

Inheritance in the Muyu area comprises two main parts: first, the land together with everything belonging in or on it; and secondly, the wedding gift goods and therefore all valuables (including all claims on valuables by and against the deceased which were made before his death). Other goods are of little importance. The deceased's house remains occupied by his widow or co-resident. If neither are living it remains
vacant and is left to decay. Bows and arrows are either distributed among the sons or left also to decay.

In principle the sons inherit land from their father. The daughters either have married or will marry into another lineage. At the father's death, his land, sago gardens, fruit trees and fishing waters are divided among the sons. Sometimes an old man distributes everything during his lifetime, but more commonly he indicates before his death how his property is to be distributed. After his death the eldest son divides it, and usually he receives or rather takes a slightly larger or better share than the other sons.

If one of the sons is still young when his father dies his share is taken care of by the oldest brother. If all sons are minors, the mother manages the land, gardens and fishing waters until one of the sons has become adult and he then manages them for himself and for the others. If the mother has died also, and the sons are too young to manage the property, then the responsibility is temporarily entrusted to the father's brother, father's brother's son, or to one of the closely related male relatives of the father's lineage. Such custody over land can sometimes be extended for a period longer than is necessary. However, a distribution is finally made and the strong individual ownership rights reappear. For example, in Katanam village, following a man's death, his brother had undertaken to care for his land because the deceased's son was too young. This custody was continued even after the son became adult, probably because the father's brother was considered to be the son's social father (pater) and as such remained the manager of the land. Although in practice the responsibility had already been transferred to the son, this would happen formally at the death of the father's brother.

The deceased's garden passes to the son who has inherited the plot of land in which this garden is situated.

Although in principle the sons inherit the land, this, or part of it, can pass also to daughters. An unmarried daughter can receive a share of the inheritance, and she is looked after by one of her brothers and is regarded as a member of his family. Their co-operation in this circumstances resembles that of husband and wife. A woman can also inherit if she is a widow who has left her deceased husband's lineage to return to her own. Sometimes a father stipulates before his death that a daughter is to receive part of the inheritance. When a man dies without leaving a son the daughter inherits her father's land. However, if she is married or marries, and lives elsewhere, her father's real or classificatory brothers take possession of the inheritance. In return they usually pay off their deceased brother's debts. Unmarried or widowed women and married women living nearby can inherit their father's land. In these cases it may be looked after by one of the deceased's brothers. Clearly it has passed to the daughter because her son acquires the land when he becomes adult. It is therefore possible to
inherit land from the mother's side though one inherits normally from
the father's.

A son can usually acquire his mother's land if he has been assimilated
into her lineage. This happens if, for example, his father dies
and his mother takes him, while still a young boy, to her own lineage.
In this circumstance he may also acquire land from his mother's brother,
even if his mother does not possess any land. A similar situation may
occur if a man, because of conflict within his own lineage, takes refuge
with his mother's brother and remains living with him. The land he
would have or has inherited then passes to his father's brothers or to
their sons. However, it is also possible, mostly for practical purposes,
to inherit from both sides. For instance, sago areas which are distant
may be inherited because they can be used as camping sites during
travels. The inheritance may also include areas rich in fish or game.

When a child inherits from his mother's brother, it is mostly as his
foster child. A foster child who was 'purchased' also inherits in the
same way as a son.¹

However, in Muyu culture whether and in what way particular rules
are applied depends to a large extent on the personal relationships of
the people involved. This is a result partly of the absence of mediat-
tory institutions. An exception to the normal practice was recorded in
Kawangtet. A few generations ago the Kawangtet-Okkibitan lineage, which
traces its origin to a man born in Ketetput, acquired land with sago
gardens from the Minip lineage. At this time the former had a shortage
of sago gardens and they saw an opportunity to acquire more gardens when
two mom² who were members of the Minip lineage needed to be looked after.
They built a house for them and cared for them. When they died the
Kawangtet-Okkibitan lineage claimed the land of these mom in return for
the services they had given.

A second illustration comes from Yibi. A man from the Wonggombo-
Kimki lineage died, leaving a wife and two unmarried daughters, one
already adult. The wife was born in Mokpit village. She inherited her
husband's land which would later pass on to her daughters. The half

¹ Foster children are most often the children of a deceased brother.
However, when a woman has lost her husband and returns to her own
patrilineal relatives, her children, if young enough, usually go with
her. Later these children may stay on with their mother's brother,
especially if their father has not paid bridewealth. They then become
the foster children of their maternal uncle.

² A mom is a male member of the mother's lineage (Schoorl 1957:30)
(ed.).
brother of the deceased, born of the same mother but of a different father from another lineage, had a son who tried to obtain part of the inheritance because he was short of sago palms. He succeeded and received three small plots which were situated among other people's land holdings.

The individual character of Muyu land tenure can be both positive and negative in its effect on the development of the area. As most Muyu can make gardens only on their own land, they were reluctant to settle permanently in large villages which might be at considerable distances from their gardens. When pressed to form such villages some people spent long periods away from them. This impeded communal activities such as building roads and schools and caused absenteeism from schools. However, in conjunction with the strong desire for individual progress, the individualistic land ownership will be a positive factor in the development of commercial agriculture.

Bibliography


Chapter 5

Marind-anim land tenure

J. Verschueren*

Introduction

Of all the people in West Irian, the Marind-anim may well have received the most attention from the Administration, the Roman Catholic mission and anthropologists. The Administration first intervened in Marind affairs in the beginning of this century when the British Administration of Papua complained about the frequent headhunting raids made by the Marind into Papua. The administrative post of Merauke was established in 1902 to contain these raids and to stamp out headhunting in the area; neither aim was completely achieved until the early 1920s.

From about 1910 on the Administration was concerned with several epidemics of influenza and venereal granulome among the Marind. Their numbers decreased sharply, due partly to a pre-existent high degree of sterility among Marind women, and van Baal (1966:32-7) estimates that in about 1950 the Marind population of roughly 7,000 was slightly less than half the population of 1900. At present the population is increasing. The spread of venereal disease was facilitated by sexual customs allowing a certain degree of promiscuity, both of a homosexual and a heterosexual nature. To confine the disease the Administration attempted to restrict the number of sexual partners of each individual. The Roman Catholic mission supported this policy on medical and also on religious and ethical grounds. The celebration of many ceremonies often closely related to headhunting raids and leading to sexual licence was also forbidden. While this prohibition was not entirely effective, ritual life, which had been extremely rich, declined markedly.

Although no well-trained anthropologist studied the Marind while their culture was still intact, much is known about them, particularly

* See Foreword, p.ix. This paper was originally published in 1958 as 'Rechten op grond bij de Marind-anim (Zuid-Nieuw-Guinea)' in Nieuw-Guinea Studiën, vol.2, pp.244-65 (ed.).

1 By editor. It is based largely on van Baal (1966).
through van Baal's lengthy and fascinating reanalysis of the available data. He comments (1966:955) that 'the most intriguing feature of Marind culture is the strict consistency of its structure, a consistency which is consciously pursued', and he contrasts Marind culture in this respect with other cultures of south-east West Irian and south-west Papua. This consistency is evident in the elaborate clan mythology, and in the several extensive cults followed by geographically separate groups of Marind.

The Marind reacted to the interference of Administration and mission officials in their affairs by withdrawing. They showed little interest in economic development. Nor did they resort to cargo cults. Some rituals were performed in secret, but the general decline in ritual life and the discontinuation of headhunting led to cultural disintegration, for which the new cultural institutions being established did not compensate. This situation was worsened by the occurrence of the serious epidemics. Consequently van Baal, who was in charge of the Administration post at Merauke in the late 1930s, reflected (1966:958): 'I have seen something of their glory and more of their misery.' Recently a revival of ritual seems to have occurred. The following paper analyses the land tenure in pre-contact days.

Physical setting

In every primitive country the form of land tenure will be largely determined by the objects and subjects of the rights; that is, the land itself and the people with rights to it, here referred to as the physical and social setting.

The territory of the Marind-anim forms an enormous triangle around the Bian River in West Irian (see Map 1). The wide base of the triangle rests on the coast and stretches from a point about 30 kilometres (20 miles) east of Merauke, where the sandy coastal area disappears and mudbanks make the coast uninhabitable, to the Muli or Marianne Strait in the west. The west side of the triangle stretches from the mouth of the Muli, across the upper reaches of the Bulaka River to the upper reaches of the Bian. The border of the territory here coincides with the rain forest border and bends immediately in a south-easterly direction where, across the upper reaches of the Kumbe River, it proceeds south and extends east only when it has reached the lower parts of the Maro River.

Border areas of the Marind territory are thinly populated because of traditional headhunting expeditions, but the borders are known and usually follow small rivers or footpaths in the plains or through the

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1 Verschueren's paper begins here (ed.)
forests. Where the neighbours were completely exterminated (as along the lower reaches of the Maro River where the Manggat have almost disappeared), parts of their territories were annexed. Sago and other useful plants were transplanted or areas added without taking the exact boundaries into consideration. In the upper Bian area this situation was reversed and other tribes from the forest areas of the Kau River, a tributary of the Digul, settled there.

The neighbours of the Marind are: the Yap-anim along the Muli River to the west, the Maklew-anim along the upper Bulaka, the Digul-anim in the extreme north along the upper Bian River, the Boadjji-anim north of the Kumbe River, the Yei-anim along the upper reaches of the Maro River, the Aroba-anim in the middle section of the Maro River, the Manggat-anim on the lower reaches of the Maro River and the Kanum-anim in the extreme east on the coast. All these neighbouring tribes are comparatively small and insignificant. All are concerned primarily with a primitive agriculture, except the Boadjji. While it appears that they adopted much of the Marind into their respective cultures, it is also true that they have strongly influenced the Marind. The upper Bian area, for instance, has been influenced by the Boadjji, while in the coastal area it is likely that the important Sosom ritual was adopted from the Kanum people. Present evidence indicates that the land tenure of the neighbouring peoples closely resembles that of the Marind.

Marind territory is a low, flat area that only starts to rise 50 kilometres (30 miles) inland. The coastal area consists of sand banks running parallel to the coast, between which are low-lying areas of grey-blue sea loam. Sometimes up to ten sand banks are found, one behind the other, whereas elsewhere the sea has eroded the sand banks as far as the mainland proper. However, generally this original mainland is clearly noticeable, since it appears as a step behind the sand banks.

1 Sosom is one of the most important Marind dema, 'beings who lived in the mythical era' (van Baal 1966:179). He is the central figure in a cult which gives rise to annual rituals held first in the easterly parts of Marind country; the celebrations move westward and then return to the east. Early reports mention that the cult was adopted by the Marind from their easterly neighbours (as Verschueren suggests above), but op't Land (1959) argues that these claims are ill-founded, and adds that the cult is an integral part of Marind culture. Van Baal (1966: 268, 489) who had earlier (1934) argued for the non-Marind origin of the cult, accepts op't Land's views and makes clear that Verschueren, in his letters to him, held a similar opinion.

Though Verschueren has altered his opinion on the origin of the Sosom cult, I doubt if he would have also changed his general remark on the Marind tendency to incorporate alien elements. In any case, van Baal's earlier remark (see p.43) on the exceptional coherence of Marind culture indicates that the Marind make any such elements into meaningful parts of their own culture (ed.).
banks. It is here that the large plains, mamui, start and the geological formation of this soil is quite different from that of the coastal area accretion. The Marind call the edge of the mainland dé-har.

Further inland the meandering rivers branch in all directions. Like the main rivers, the tributaries also have wide flood-plains which in the upper regions sometimes turn into vast swamps. The water level in these rivers varies from 3 to 5 metres (10 to 15 feet), depending on the season. In the wet season the vast flood-plains are ideally suitable for fish to spawn, but as they completely dry up in the dry season, large numbers of fish go downstream to the bigger rivers. The flood-plains are a haven for water birds, and in the dry season when there is an abundant growth of grass, kangaroos, pigs and nowadays also deer which have been driven from the burned-off plains also live there. The flood-plains of the small rivers are ideal for growing sago palms, while along the coast the muddy troughs between the sand dunes are used for this purpose. The sago palm which grows wild in other parts of West Irian has to be cultivated in the Marind territory. The people distinguish fourteen different species, all of which are smooth (without thorns).

Gardening was not important to the Marind. They did not practise slash and burn cultivation. Gardens were made traditionally by digging the muddy terrain behind the coast and the swampy river flats in the interior into pairs of beds, one of which was straight and the other curved.1 Both the coastal sand dunes and the higher spits of ground inland were traditionally places for growing coconut palms which grow well along the coast, and for settlements. Thus old coconut plantings now indicate previous settlements.

In the wet season people lived on the coastal sand dunes because the mosquitoes were too numerous in the muddy hinterland. With the start of the dry season the mosquitoes disappeared and as blowing sand made the coastal area unpleasant, the whole village moved for a couple of months to the hinterland, close to the edge of the mainland proper. In the interior people were confined to the dry land spits in the wet season but as soon as the water disappeared from the flood-plains the villagers moved there.

Material for house building was abundant. Houses were always built on the ground and had walls of sago palm leaf stalks. The frame consisted of hardwood which would not rot in the ground. The roof was made of leaves of the sago palm except in parts of the interior where

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1 Verschueren uses the term 'dyke' but, since dykes are not normally cultivated, I have substituted 'bed' instead. Van Baal (1966:19) confirms that the beds were shaped like dykes: 'the long and narrow beds are called yavun (canoe) by the Marind, because during the rainy season they resemble floating canoes' (ed.).
eucalypt bark was used. In the interior rattan was used as binding material, whereas on the coast the roots of a creeper were used.

About 40 kilometres (24 miles) inland the high terrain is covered with bamboo trees for nearly 20 kilometres (12 miles). The young bamboo shoots were an important vegetable at the beginning of the wet season, and the bamboo itself was used in many ways, for example, in making large bows and bow strings.

In so far as the land was useful to its inhabitants, it helped to determine the rights associated with it. Its natural qualities and its products made it desirable as a whole, including the uncultivated tracts.

**Social setting**

Not only the nature of the land and its products, but also the character and social structure of the Marind determined their interest in the land and hence the form of the land rights. Unlike their neighbours, the Marind were not primarily agriculturalists even though some parts of their land are suitable for agriculture. Except for the planting of some banana trees, all agricultural activities in the past were to produce the spectacular displays during feasts. When feasts occurred great quantities of garden produce, particularly wati, were collected to be divided among participants. The desire for display rather than for food was decisive in stimulating agriculture, and thus when traditional ceremonies were discouraged and mostly discontinued, the Marind abandoned the laborious way in which they had made their gardens (by constructing beds of various lengths on low-lying ground). The present generations look with admiration at the numerous mound-like structures which were built by their fathers in the excitement of preparing for feasts.

The staple diet of the Marind is sago and coconut. These foods, prepared thoroughly and tastily between hot stones, are supplemented throughout the year by meat or fish. The men consider the months of the dry season which they spend hunting in the hinterland the best of the year. Only during the wet season do they live in their houses on the outer dunes, contenting themselves with the yields of the sea. In the interior hunting takes place primarily in the middle of the wet season when game gathers on the higher spits of land which can be

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1 *Wati* (*Piper methysticum*) is a narcotic prepared by chewing small pieces of the main stalk or root of the plant and spitting the bitter extract into a coconut bowl. It is then drunk. Unlike kava, which is made of the same plant, wati is strongly soporific, probably because it is highly concentrated and a relatively large quantity is taken in one drink. Mainly it is the men who drink it, often daily. However, the consumption has decreased since the discontinuation of many rituals where wati was offered to the male guests (van Baal 1966:20-1) (ed.).
closed off with fences or by hunters. However, conditions are also good at the height of the dry season when the grass in the dry swamps can be burned off. Often many pigs and kangaroos are caught. When the water recedes at the beginning of the dry season, the mouths of the smaller rivers are blocked with weirs of bamboo and foliage. This provides fish for months. Vegetables are not often used because meat and fish are available throughout the year. In the interior where fish and meat are difficult to obtain the new bamboo shoots used to provide a welcome change in the diet at the beginning of the wet season.

The Marind did, and does, prefer to travel in the wet season. In the dry season the heat and the hardened soil make walking in bare feet difficult. But when more than half the land is flooded and canoe travel along the coast is possible, the Marind travel long distances in their dugout canoes. These are made of special trees (only found far inland) by the people in the interior. Drums and paddles, as well as fences and house posts, also require special timbers. Some soils are used for colouring. There is also a special white-coloured soil which is regarded as a particular delicacy when dried. The numerous termite hills in the plains provide bricks used in preparing food. Wide pieces of eucalypt bark serve as roofing for temporary dwellings and usually also as sitting mats. Both pandanus leaves and rushes from the swamps are woven into mats, while various tree barks serve as binding material, and are also used to make bags, baskets, and the round landing nets used by the women.

The Marind are strongly community orientated, a factor which influences their material culture. Hunts, fishing parties, the building of houses or settlements were all community ventures. Gardens were made communally even though they were individually held. It is therefore important to examine Marind social structure in so far as it influences land tenure.

The Marind are divided into two, roughly equal moieties. These are exogamous, as is evident from tribal rituals, myths, marriage relationships and territorial divisions. Each moiety comprises two phratries. Each of the four phratries is divided into several exogamous patrilineal clans and each clan is divided into numerous sub-clans.

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1 See, however, p.48.
2 Verschueren in his original paper, written while in the bush away from source material, had said that the moieties are divided into three clans, each further divided into sub-clans. He indicated to me (14 September 1969) that this was not the case. Instead, three of the total six clans appear to be phratries, while the other three are clans belonging to the fourth phratry. Later in this paper Verschueren often uses the term 'clan' and boan, a Marind word meaning phratry, clan and sub-clan, and it is not always clear whether or in what cases he would have preferred the term 'phratry'. See the following notes also on this (ed.).
In 1953 a South Pacific Commission team which closely examined the area's social structure found that among the coastal Marind the ideal pattern of dual division as expressed in moiety exogamy was followed in 64 per cent of the recorded marriages, and clan exogamy was followed in 99 per cent (1958:68-9, 100-2).1

According to the elders, the importance of dual division has diminished during the last decade, due to the increasing difficulty of maintaining it in the face of the abandonment of rituals and population decrease (from venereal granuloma and influenza). The elders' view is confirmed by territorial division. The coastal Marind did not live in single clans but in various clans together. These settlements were called villages. In the interior a number of these villages had a common name and as such constituted one unit. Closer examination shows that a village was only a complete territorial group when it included members of all four phratries.2 The collective name in the interior

1 Van Baal (1966:80-5) points out that it is impossible to infer the existence of moiety exogamy from the fact that in 64 per cent of the recorded marriages people had married a member of the other moiety. On the contrary, this pattern indicates phratry exogamy, by which each person has to find a marriage partner from any phratry other than his own. Since only one of the phratries belongs to his own moiety, and two belong to the other moiety, and the phratries are about equal in size, there is a 2:3 or 67 per cent probability that his partner belongs to the other moiety.

However, van Baal accepts that moiety exogamy exists among the inland Marind. He further mentions (ibid.) that Verschueren wrote him that the Commission team had only wanted to argue that 'according to all informants, moiety exogamy had prevailed in the old days. Everywhere practical difficulties were cited as the main arguments for ignoring the role of moiety exogamy'. Verschueren also wrote, and van Baal agreed, that moiety dualism was based on Marind mythology.

2 In his original paper Verschueren uses the term 'clan'. I changed the term because first there are fifteen or sixteen clans (van Baal 1966: Annex IV) and a requirement that each village should contain representatives of all clans would be very difficult to satisfy. Secondly, Verschueren's original clan organisation comes closer to the phratry organisation mentioned above than to the clan organisation as set out by van Baal. Finally, the change very probably accords with van Baal's interpretation which makes use of Verschueren's data. I am not completely sure about this, because van Baal's and Verschueren's terminologies concerning local groups differ. Van Baal (1966:40, 63) mentions that what he calls 'territorial groups' should include representatives of all four phratries. These groups sometimes live in what he calls a 'village', often in two or more. These territorial groups probably are identical with Verschueren's 'villages'; van Baal refers to villages as clusters of hamlets, while Verschueren considers they may
gives the explanation. Although the Rahuk lived in Kowa and Bobor, it was only when both settlements were put together that they contained members of all the phratries. The Bobor people represented one moiety and the Kowa people the other moiety of the tribe. According to the same territorial grouping it appears that villages on the coast, previously regarded as independent, in fact belonged together. In other villages the territorial division into wards was clearly dual division, as in Urumb and the Eromka area. Even the local division of land amongst the various local clans often revealed dual division. ¹

Regarding the settlement pattern, complete villages were divided into wards, usually separated by a fence. The ward was the property of a certain clan, which often had several men's houses, ṭiv, and women's houses, sav-aha, within the fence. The men's house, although the property of the local clan, often also housed men from other clans. ² As with many other tribes, the social structure of the Marind shows a consanguineal pattern interwoven by affinal ties. This explains why men, not of the boan but linked through marriage, could live in a men's house of this boan. Husband and wife generally come from the same locality, but residence after marriage is not always patrilocal. Probably this explains why in the interior, where there was a smaller proportion of complete villages, co-residence of men from different boan was not so common. Inside a men's house there were no subdivisions and each individual stayed where he liked although each had his own private corner.

Headmen did exist although they were not noticed by earlier authors. They had a special name and a special function and were, in the first instance, the heads of men's houses. In regard to land tenure they were the guardians of the boan lands and administered the disposal rights of their community.

² (continued)

consist of separate settlements. For example, van Baal refers to Nawari and Buti as two villages belonging to the same territorial group which possibly includes a third village, while Verschueren regards Buti and Nawari as parts of one village. Verschueren seems also to have changed his views set out in the rest of the paragraph (ed.).

¹ In his correspondence with van Baal, Verschueren states that he was mistaken in observing a territorial bipartition along moiety lines among the Rahuk. Furthermore, he admits that the bipartition observed in Urumb and in Eromka may merely be chance. Van Baal agrees with this and adds (ibid.) that although it would have been most satisfying if the order of settlement had been in harmony with the moiety division, the evidence unfortunately is against it (ed.).

² It may be that Verschueren here refers to phratries rather than clans. If so, his views would be in line with those of van Baal (1966:49-56) (ed.).
Types of land rights

The Marind had well-defined borders with their neighbours but the people were not conscious of this. One cannot speak of disposal rights vested in a grouping comprising the Marind as a whole because disposal rights are a type of sovereignty right which presuppose a sovereign power, either in the form of a community of individuals that belong together, or in the form of a person or body representing that community. However, separate groups of Marind did form such communities and hence possessed disposal rights.

The Marind were divided into villages or territorial groups, containing local segments of the four phratries. *Prima facie* it appears that the territorial division was based on these villages. Numerous consequences of these village rights were evident in the communal hunts, communal fishing expeditions and the settlement of various clans in the one area. However, the only valid division concerning titles to land was the *boan* division. The whole of the Marind territory was carefully divided into *boan* lands. The territorial grouping at the village level was only a result of the fact that all clans in a certain area owned their adjoining lands as a united whole.

Before discussing Marind land rights, it is important to define what is meant by these rights.2 The basis of primitive land tenure should be regarded as a disposal right of a group, not of an individual. This right concerns a public affair of the group, namely the manner in which it deals with its land. These disposal rights correspond with the rights of individuals which here for convenience sake are called usage rights. Disposal rights are vested in public bodies and offices, while usage rights are vested in private bodies and individuals. They will be discussed in turn.

Marind disposal right

Which distinctive group exercises these rights and how does it exercise them? Many authors have understandably chosen the village as the group which exercised disposal rights, as with common residence, many individual rights were shared by everyone in the one village. However, it was not the village but the *boan* which had the disposal of these rights. For not only did the village have well defined borders, but

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1 Verschueren's changes in his formulation of Marind social structure make his discussion of land rights ambiguous, particularly the references to the role of the *boan* as a land-holding group. See also p.52, n.3 (ed.).
2 This section draws on Boendermaker (1953) and personal communications from him.
each boan within the village also had its own land which was so carefully marked that it was well known to which boan even particular trees and small swampy spots indicated by sticks belonged. Furthermore, the headman, pakas-anem, was a boan representative who managed the various rights of his own group. The usage right was limited to fellow boan members.

Since the Marind preferred, and still do, hunting to gardening, land rights were clearer with regard to hunting and fishing. Because of the strong community life of the Marind, it was the custom that all clans from the local community, and often foreigners, went hunting and fishing together. Groups from other boan had to be invited to join the hunting or fishing party by the pakas-anem of the group holding the rights to the hunting or fishing grounds. Otherwise they did not dare join in. Even today it is a general rule that only boan members are allowed to light the fire in the hunting field to which their boan holds the rights. Also, only the pakas-anim of the other boan groups and the members of the boan which held the land, had the right to catch game there. Participants from other boan were the beaters. At the end of a big hunt prescribed pieces of the catch had to be given to the members of the title-holding boan. The same rules applied to big communal fishing parties in creeks and swamps. Only the boan members were entitled to throw the poison in the water and all members of other boan had to wait until the boan members had already caught fish.

For private use, people often had a right to gather forest products, or to hunt or fish as individuals within the territory of another boan. This right does not detract from the exclusive disposal rights of the boan. The pakas-anem could forbid members of other boan entrance to tracts belonging to his own boan by placing a taboo sign. This forbade them also from hunting individually, this right being retained for boan members only.

From the above, it is evident that the actual authorities of the land were not the complete villages but the boan, and that therefore the right of disposal of all lands belonged to the boan. However, this authority was not vested in the sub-boan even though all the lands in use, particularly the sago and coconut gardens, unless individually owned were in the hands of the sub-boan, and a clear distinction was made between the productive lands of different sub-boan belonging to the same boan. For example, the Warinauze had their own sago gardens, which were not necessarily available to all Gebze; and the coconut gardens of the Zohe were distinguished from those of the other Mahuze.

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1 'Anem' is the singular form of 'man' and 'anim' the plural, in the Marind dialects (ed.).

2 A sub-clan belonging to Gebze clan (van Baal 1966: Annex IVa) (ed.).
and the sago gardens of the Basik-Basik from those of the other Balagaize. This had nothing to do with the disposal right as such; it was one of the results of it and could be called the right to capital formation. Subsumed in the disposal right of the boan was the right of each member of that boan to have his own garden within the territory of the boan. In the beginning a sago garden would be individual property, but as sago grows very slowly and forms a stool (suckers) of its own accord, several generations would become involved. Thus, unless the deceased had made special arrangements (which was usually not the case), the inheritance rules entailed that a sago garden which was originally private property eventually became a garden in which virtually the whole sub-boan was interested. Normally the garden could not pass outside the sub-boan as the inheritance rules of the Marind are strictly patrilineal. The only exception was when a sub-boan died out, in which case the garden was inherited by the entire boan.

It is important not to differentiate between used and unused land, as the land in use presupposes an individual use of the general right. The land should be considered as a whole whether it is occupied or not. But in the case of occupied land it appears again and again that it was the boan which exercised the sovereignty rights, and not the sub-boan or the village community. For example, it appeared that the Basik-Basik, a sub-boan of the Balagaize phratry, possessed no rights to land anywhere, even in cases where the group of the Basik-Basik were said to be separate from the Balagaize, e.g. in the Gawir area.

1 Since, in Verschueren's revised conceptualisation, the Zohe and the Basik-Basik are clans belonging to the Mahuze and Balagaize phratries respectively, the two examples are inapplicable to the phenomenon under discussion. See also below, n.3 (ed.)

2 While generally the terms 'occupation' and 'to occupy' refer to the creation of rights to an object to which rights had not been established previously, in this paper the term merely refers to the acquisition of rights, whether or not earlier rights existed (ed.).

3 In his letter to me (14 September 1969) Verschueren stressed that the clans are the primary land-holding groups and that the phratries do not have an important role in this respect. As examples he mentioned that the Keize and Ndikend clans, which form part of the Aramemb phratry, are land-holding groups in their own right and not as parts of the inclusive phratry. However, the example above concerning the allocation of land rights of the Basik-Basik, a clan, and the Balagaize, a phratry, seems to contradict Verschueren's conclusion since in this case the phratry is the primary land-holding group.

To resolve this difficulty, it seems best to base the analysis on Verschueren's observations rather than on the inferences he drew from these. Since, from the quoted examples it appears that the Balagaize, a phratry, and the Gebze, Keize and Ndikend, all clans, are primary
How did the boan exercise its rights? Boendermaker (1953) writes that 'when there are no rulers, the community right or the disposal right is exercised by the sum total of the individuals'. In the case of the Marind the pakas-anem had the function of exercising what Boendermaker calls 'the sovereignty rights' of his boan, although he may have been actually more of a ritual leader. The pakas-anem took the initiative in the big hunting and fishing expeditions, and could invite other boan to take part. In the case of a dispute he could disregard some of the local boan and refuse them participation in group activities for a time. Within the boan he supervised the unhindered exercise of the usage rights of the Individual. Although he did not have to be notified of occupation of land by boan members, all elders agree that he settled any disputes which arose from such occupation of land. The term samb-anem, 'great' or 'powerful man', was the general name for the pakas-anem.

When boan rights were infringed by outsiders, it was the pakas-anem who defended the rights of his boan, and if necessary called the members of his men's house to arms. Sacred forests, wells, trees and other objects were protected by the pakas-anim, a sanction which is the greater because the pakas-anim were the ritual leaders.

Usage rights of the Marind

The consequences of the right of disposal have been mentioned, that is, the right of individual members and to some extent of outsiders to use land and its produce. With regard to the boan members, the group rights resulted in an automatic right of all individuals to hunt, fish, gather the produce of forest and plain, cut or mark trees and shrubs, make gardens and build houses and so on, on unoccupied locations within boan territory. Such occupation of land has to be seen at two levels, as occupation by humans or by dema. Hunting, cutting timber and even walking were forbidden in sacred forests. The sacred Imo forest at Wowi was never to be entered, not even to collect a wounded animal which had fled there. All these places were regarded as being occupied

3 (continued)

land-holding groups, we may conclude that either phratry or clan can have this function. Van Baal (1966:60) suggests this also, 'so long as a fully detailed investigation has not been carried out, we must reckon with the possibility of a more variegated state of affairs than the one depicted in Verschueren's article'. Accordingly the terms boan and sub-boan, as used in this paper, do not have a single referent. Boan may stand for 'phratry' or 'clan', or maybe even 'sub-clan', sub-boan for 'clan' or 'sub-clan' (ed.).

1 See Geurtjens (1933) for a definition of the term samb-anem. 'Samb' is often incorrectly translated as 'old' (ed.).
by a *dema*, the term used for (among other things) the ancestors of the various *boan*. This, of course, points to an occupation of the land by the *boan*. Moreover, names of tracts of land were exclusively related to certain *boan-dema* or to myths concerning them. Before the conclusion of the *yamu*, a death ceremony, no drums could be beaten or dances organised within the area which people believed the spirit of the deceased still occupied.

Everybody could hunt freely in *boan* territory, either individually or in groups.\(^1\) However, the *pakas-anem* had to be notified in the latter case and it was normally he who took the initiative for group hunts. This right to hunt did not apply to land already occupied by others; one could not hunt in someone else's sago garden, even if it belonged to a *boan* member.

The situation was similar for fishing. Communal fishing was arranged by the *pakas-anim* and every *boan* member was entitled to participate. Fishing by means of weirs, which was done inland in the smaller rivers, was governed by special rules. These weirs belonged primarily to a family or a group of individuals rather than to a single individual. Any two or more *boan* members had collectively the right to construct a weir in the river section belonging to their *boan*. The small rivers usually belonged to a number of *boan*, some upstream others downstream. A certain distance had to be kept between weirs, a regulation which was administered by the *pakas-anem*. As the construction of a fishing weir was time-consuming, the occupation of a part of the river was not restricted to one dry season but was a permanent right that became inheritable. Weirs were usually built each dry season, but even if a group failed to build a weir, no one else was entitled to erect a new weir on that spot. The group that had the right to the weir decided where partners could place their traps. Even outsiders whether fellow *boan* members or not could be invited to place their own traps.

The elders maintain that formerly the beach was also divided among the village wards each associated with its own *boan*. However, people now fish anywhere in front of the village as the system of wards\(^2\) has been superseded by one of family dwellings.

Tree cutting and collecting forest products followed the general rule. It was not necessary to take away immediately the forest products or to cut down the tree which one wanted. A special mark, *tep*, which was different for each *boan*, was used to indicate the desired object. The *tep* functioned as a visiting card, since a man used the *tep* belonging to his own and to his wife's *boan*, and mentioned also the number of his children. A tree marked in this manner was taken into possession even though it might be many years before it could be usefully felled. The tree was included in the inheritance.

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\(^1\) Hunting here includes trapping and snaring (ed.).

\(^2\) See p.49.
A garden could be made on any unoccupied piece of land within boan territory. Occupied land was land used as a garden or land that still showed traces of having been used, even if no crops had been planted on it for years. It also included land occupied by dema, which could not be used by humans. Gardens still in use were inherited by the male children. Others, although no longer in use, remained fallow for perhaps a generation before someone else dared to make a garden there. The more permanent gardens, like the sago areas, were subject to the same rules and as a result old sago gardens were almost always the property of a whole local sub-boan.

The erection of houses by individuals or by small groups is new. Traditionally each boan had its own land on the outer dune ridge. From this originated the wards. Traditionally the villages were subdivided into mahai, in and es, the front, centre and back respectively. However, in is merely the dividing line between front and back.¹ Although people usually still live in the traditional settlements, the subdivisions within the village have disappeared. At most the original block may be settled by its original occupants, as, for example, the original Keize block, which is mainly settled by Keize people.

The following discussion concerns the usage rights of members of other boan; some have already been mentioned.² Members of other boan shared with the inhabitants of a complete village the right to hunt or fish individually on the territories of this village. In case of communal hunting or fishing they had to be invited by the pakas-anem of the title-holding group. To cut useful trees or to make gardens they needed the permission of the pakas-anem. Permission was easily obtained within the local community to cut a useful tree, but not to mark a tree for future use.

A member of another boan who obtained permission from the group to make a garden within its territory could plant whatever he liked. At his death the crops were inherited by his male descendants as a matter of course. However, they were not allowed to make additional plantings; in other words the rights received by members of other boan to make a garden were personal and could not be inherited. Yet the following situation could occur. The Wamal people have had a sago area in Buti since time immemorial, for sago plants produce suckers. However, these people were strictly forbidden to plant more sago.

¹ Two sentences which have here been omitted reflect Verschueren's original views on the clan division and on the bipartition of the villages on moiety lines. Van Baal (1966:217-21) relates the mahai-es division to the west-east, which is associated with sunset and sunrise and hence with death and birth (ed.).

² See pp.51 and 53-4.
Gamo-mean, prayers addressed to certain dema, were believed to ensure fertility of the crops. The peculiarity was that they are effective only if addressed to the dema ancestor of the boan on whose territory these crops were planted, and uttered by a member of this boan. Hence, if a man had a garden outside the territory of his own boan, he had to look for the proper ritual speaker, gamo-anem, to make the crops grow. The same situation occurred in regard to the wagum-mean, curses through which garden crops were safeguarded against thieves. The wagum-mean were tied strictly to certain dema, and through them to certain boan.

The member of another boan with whom a man had most contact was, of course, his wife. Although she never lost her foreign status and often returned to her own boan if her husband died, she usually lived with her husband's boan. This did not imply that she obtained special rights within the boan. She harvested her husband's sago, and if given permission, collected produce from his gardens and coconuts from his palms. She often assisted him in making a garden but she did not obtain any rights. If her husband agreed, she made her own vegetable garden near his. The harvest was hers and if she died the crops passed to her children or otherwise to members of her own boan. But this was not remarkable, given the rights of members of other boan. After marriage a woman could continue to harvest sago in her father's garden if she had his permission. She could not have her own sago gardens as they were always owned by the men.

In making a garden the Marind, like other groups, received help from members of their own and of other boan. The system of mutual assistance and payment for it was widespread among the Marind. Helpers, apanapne-anim, took part in all events of daily life and there were stock payments, the essential part of which was always wati. However, some of the helpers also had sexual intercourse with the wife of the possessor of the garden. This custom has been incorrectly seen by many as compensation for the helpers. According to Marind beliefs, this act was a necessary fertility rite and hence it took place only after the garden had been completed and planted. Only members of the husband's moiety were allowed to participate; consequently relatives of the wife were not. All helpers were compensated for their work by payment of wati.

The present situation

The above presents Marind-anim land tenure at the time the Dutch arrived. To trace the changes brought about by more than fifty years of acculturation is not easy. Thus the following observations may not always be correct, as certain features may only have occurred in particular circumstances and are therefore not valid as generalisations.

1 See p.46.
1. **Disposal rights.** Difficulties were caused in the administration of the disposal rights by the neglect of the office of the *pakas-anim*. Although naturally no action was taken against the existence of the *pakas-anim*, the discontinuation of headhunting, and especially the harsh 1923 measures taken by the Administration on the instigation of the mission, have not only eroded their status, but as they were primarily leaders in rituals, in a certain measure made it a dangerous one. But the *pakas-anim* have not disappeared altogether. In the late 1940s the Imo cult which more than the other cults escaped the notice of Administration officials, spread over a large part of south-east West Irian and *pakas-anim* were appointed in all villages which supported the cult. These were usually the original *pakas-anim* of the groups, a fact I noticed in the Kumbe and upper Biak River areas. The well-known Sander in Boha, Galap in Keisa, Warumai in Kowa and several others had previously been the *pakas-anim*, while Wager, who was one of the men invited to attend the Imo congress in Sangase in 1950, had been a *pakas-anem* and a village headman. These old *pakas-anim*, or at least those in the interior, retained their customary function as boan leaders in territory matters. Some became village headmen, and there are strong indications that these have assumed the function of land trustee for the whole village. In reply to questions, the village headman was always mentioned as the organiser of public hunting and fishing expeditions. In villages where the village headman was not a *pakas-anem*, as in Muting, Wayaw, Saror, Wendu and Wamal, such initiative was immediately placed in the hands of the old people.

This is possibly the reason why certain confusion and vagueness about the correct subject of land titles has arisen, especially in the coastal area and more particularly on the eastern side. When this is discussed with the younger generation who often no longer know about the sub-boan, one gains the impression that the inhabitants of separate villages consider themselves the joint authorities over the land. However, in Buti the special rights of the older people are acknowledged. If these are questioned, they refer, as far as unoccupied land is concerned, quite clearly to the old boan rights. Moreover, the fact that in many areas all local members of particular boan have died, does not make the matter any clearer.

In general the original boan division was retained more clearly in the interior than on the coast. In the interior people can immediately say which boan owns a certain area, and old hunting and fishing rights are still quite strongly maintained.

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1 These are probably the campaigns against venereal granulome held in the early 1920s. Feasts and dances were prohibited and people were told to live in one-family houses (van Baal 1966:25-6) (ed.).

2 See p.43.

3 A village in the eastern part of Marind territory, near Merauke (ed.).
2. **Usage rights.** Especially in the eastern coastal area, there is now no communal hunting and fishing. Why is this so? Everywhere along the coast where foreigners settled in or near the villages, community life suffered; **boan** relations especially, which derived their relevance from the existence of the men's houses, from ceremonies, marriage ties and above all religious practices, lost much of their old importance. In the coastal areas the family acts more and more as the operational group. The strong ties with local barter traders divide the community into small and competitive interest groups unrelated to the original **boan** divisions. Headmen, unless they are customary headmen, are not recognised in their own community, especially where land right matters are concerned. This creates a vacuum and people do not know what to do. Thus individualism is stimulated.

Individual hunting and fishing still takes place in all parts of village territory while inhabitants of other villages still leave their bows behind at the village boundary.

In the interior the situation still closely resembles the traditional system. Hunting and fishing expeditions are still organised by the **title-holding boan** unless, as mentioned above, the traditional headman is also the village headman.

The greatest cause of difficulty on the coast is the title to sago gardens. This is particularly so in the eastern area where a number of villages are short of sago land. Here a mistake was made in the rules of inheritance by according rights to sago gardens to the male descendants, and in a few cases also to the female descendants, of local women married to outsiders. The inheritors interpreted these rights as permanent rights of usage and soon the gardens were considered their inalienable and inheritable property, which would have been impossible under traditional law. As this concerns individual cases only, no definite conclusion can be drawn.

One can therefore probably say that as a result of acculturation the rules underlying Marind land tenure have become less clearcut. Usage rights of individuals have also become vague in some places. On the coast there is a general tendency to regard the old **boan** lands more in a village context, and disposal rights have not been given to the appointed headmen.

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