

Les Cahiers du CIÉRA



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Les Cahiers du CIÉRA publient les actes de colloques, de journées d'étude et de séminaires organisés par les chercheurs du CIÉRA, ainsi que leurs projets d'ouvrages collectifs et des contributions ponctuelles. La publication des Cahiers du CIÉRA est également ouverte aux membres des Premières nations et aux Inuit, ainsi qu'à tous les chercheurs intéressés aux questions autochtones.

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La restitution du patrimoine
matériel et immatériel :
Regards croisés Canada / Mélanésie

*Numéro réalisé sous la direction de
Florence Dupré, Frédéric Laugrand
et Pierre Maranda*

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Ceinture chamanique inuit de la région de Kugaaruk (Nunavut, Canada)

Photographie de l'original conservé à l'Eskimo Museum de Churchill (Manitoba)

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Sommaire

La restitution du patrimoine matériel et immatériel : Regards croisés Canada / Mélanésie

Présentation	3
La restitution des terres ancestrales autochtones et les figures de la justice dans le droit international <i>Ghislain Otis</i>	9
Justifications and Legal Considerations for the Repatriation of First Nation Material Culture in Canada <i>Catherine Bell</i>	21
Inuit, Museum and Repatriation: One Bone at One Time <i>Peter Irniq</i>	45
De menus objets pour une grande cause : Le rapatriement des miniatures chez les Inuit <i>Frédéric Laugrand et Jarich Oosten</i>	49
Objet retrouvé, objet rendu Un cas de restitution exemplaire <i>Marie Mauzé</i>	67
The Kanaka Generation: The Visual Heritage of Melanesians in Australia <i>Clive Moore</i>	79
Cultural Research as Exchange <i>Ben Burt</i>	115

**Returning Indigenous Knowledge through Publications
Written for Pacific Islands Communities**

Jan Rensel

131

Web Sites as Vehicles for Repatriation

Alan Howard

139

Notices biographiques

147

Note à l'intention des auteurs

151

Présentation

Ce second numéro des jeunes *Cahiers du CIÉRA* aborde une question complexe et contemporaine qui touche à la fois au domaine des sciences sociales, de l'histoire de l'art, du politique et du juridique : la restitution du patrimoine culturel des populations autochtones.

Les contributions présentées font suite à un atelier de recherche qui a eu lieu en septembre 2007 à l'initiative de Pierre Maranda et Frédéric Laugrand, tous deux chercheurs au Centre interuniversitaire d'études et de recherches autochtones (CIÉRA) de la Faculté des sciences sociales de l'Université Laval. Intitulé *La restitution du patrimoine matériel et immatériel. Regards croisés Canada / Mélanésie*, cet atelier a permis à des acteurs de différents horizons – autochtones et non-autochtones, universitaires et muséologues, historiens d'art, juristes et anthropologues, mélanesianistes et américanistes – d'échanger leurs points de vue et leurs expériences sur le sujet. La publication de toutes les contributions n'a malheureusement pas été possible, mais cette sélection de neuf textes francophones et anglophones permet toutefois au lecteur de saisir la complexité de la problématique, ses différentes facettes et les multiples enjeux posés par l'acte de restitution. Le numéro ne prétend évidemment pas couvrir l'ensemble de la thématique, ni apporter des solutions pratiques. Il soulève plutôt de nouvelles questions exigeant de poursuivre la réflexion sous un angle comparatif, interdisciplinaire et en partenariat avec les communautés concernées.

La première partie des *Cahiers* est consacrée à un ensemble de réflexions portant sur les enjeux juridiques et culturels des demandes de restitution. Le regard porté par les auteurs demeure fortement marqué par leur terrain d'étude. Le thème du flou juridique entourant les revendications et les possibilités de restitution est ainsi essentiellement traité en regard des lois canadiennes : ouvrant le numéro, le texte de Ghislain Otis aborde la tension entre justice commutative et justice restitutive dans le cadre de la restitution de terres spoliées aux autochtones par le gouvernement canadien. Le juriste y définit un certain nombre de notions

juridiques fondamentales liées au concept de restitution avant de revenir sur quelques aspects de l'évolution récente du droit international. Cette perspective est en partie reprise par Catherine Bell soulignant, à partir de l'exemple des revendications entourant la restitution d'un masque « Echo » nuxalk, l'inadéquation et la complexité des lois canadiennes eu égard à la notion de propriété. L'auteure rappelle la nécessité d'une plus grande coopération entre populations autochtones, musées et gouvernements, objectif cependant difficile à atteindre compte tenu de l'environnement juridique complexe et d'un manque de concertation.

Explorant d'autres enjeux empiriques et théoriques, les deux textes suivants proposent une réflexion sur le sens culturel de la restitution. La brève contribution de Peter Irniq, ancien Commissaire du Nunavut et ardent défenseur des enjeux culturels inuit, pose une question à la fois centrale et lourde en conséquence. À l'instar d'autres populations originaires de régions colonisées, les Inuit s'accordent mal du fait que des objets funéraires ramassés par plusieurs générations d'explorateurs et de voyageurs soient aujourd'hui stockés dans des musées occidentaux se souciant très peu de leur accessibilité. Comme bien d'autres peuples autochtones, ils revendentiquent la restitution de nombreux objets. En rapport avec ces demandes, Frédéric Laugrand et Jarich Oosten proposent un cadre analytique lié à la dimension immatérielle de ces objets. À l'aide du concept d'« agencéité » introduit par l'océaniste A. Gell, ils montrent combien la miniature inuit, objet à première vue ludique et/ou anodin, est un lieu de médiation, de connexion et de transformation lié à la reconnaissance des différentes échelles ontologiques.

Les demandes de restitution se chargent alors d'une nouvelle dimension : il ne s'agit plus seulement de retrouver l'objet afin d'en faire un usage précis, mais de reprendre contact avec lui pour éprouver l'importance de sa signification culturelle, matérielle et immatérielle. Dans cette perspective et en dépit de l'indétermination législative, l'anthropologie devrait davantage tenter d'imaginer des moyens pour rendre aux populations avec lesquelles elle collabore un peu de ce qu'elles lui apportent depuis des décennies. Tout objet demeure en effet au centre de réseaux de significations exigeant un véritable travail de concertation et de médiation, au risque de multiplier les frustrations et les conflits.

La seconde partie du numéro est précisément consacrée à la question de la restitution dans la pensée et la pratique anthropologique. Les articles de Marie Mauzé et de Clive Moore traitent plus particulièrement du rôle de l’anthropologue dans la restitution du patrimoine matériel et historique. Marie Mauzé questionne le rôle du chercheur dans la restitution à partir du cas d’une coiffure de la « Potlatch Collection » (collection réunissant des objets du potlatch de 1921 confisqués par les autorités canadiennes) acquise jadis par le célèbre écrivain surréaliste français André Breton. Elle montre avec talent comment l’anthropologue peut jouer le rôle de médiateur et comment les communautés kwakwaka’wakw d’Alert Bay, qui ont pu récupérer un objet cérémoniel, ne lui confèrent plus le même rôle ni la même efficience, mais expriment une profonde gratitude envers les agents de la restitution.

À l’aide d’un corpus de plusieurs photographies en provenance de Mélanésie et d’Australie que nous n’avons malheureusement pas pu toutes éditer dans ce numéro, l’article de Clive Moore pose la question de savoir si l’histoire visuelle de la génération kanaka et de leurs descendants australiens peut contribuer à la compréhension de la région et de l’histoire pacifique. Cette interrogation sur la capacité de l’image et de la démarche ethnographique à faire avancer la compréhension des populations autochtones est relayée par les trois derniers textes du numéro consacrés à une réflexion sur les modalités de restitution d’un patrimoine immatériel à la nature incertaine : celui des données ethnographiques. À partir de sa longue expérience de recherche aux îles Salomon, Ben Burt s’interroge ainsi sur l’équité du contre-don que l’anthropologue peut offrir à la population qui l’accueille et l’instruit. Il souligne avec raison le décalage qui existe entre les attentes de l’anthropologue et celles de ses hôtes, la situation pouvant rapidement aboutir à l’impasse et au quiproquo – d’où l’intérêt d’un travail en partenariat et d’une innovation sur le plan méthodologique. Jan Rensel et Alan Howard poursuivent la réflexion en proposant des modalités de retour à ces données sous forme d’écriture collaborative avec des membres de la communauté (J. Rensel), de constitution de fonds d’archives accessibles par la population, ou encore de sites internet entièrement consacrés à la conservation et à la mise à disposition des données recueillies (A. Howard). De nouveaux enjeux et de nouvelles questions émergent alors : à partir de leurs expériences avec les habitants et les exilés de l’île de Rotuma, J. Rensel évoque le problème du financement du retour des données

pour les jeunes chercheurs, tandis qu’A. Howard se demande comment répondre aux préoccupations des nouvelles générations inquiètes de la pérennité de ces fonds d’archives, de leur autonomie et de leur récupération éventuelle par des instances politiques peu démocratiques.

Grâce aux pistes qu’ils proposent, l’ensemble de ces textes consacrés aux problématiques de restitution dans deux grandes régions d’influence britannique rappelle donc à quel point le retour du patrimoine prend une dimension politique, juridique, culturelle et éthique fort complexe. Il s’agira d’élargir encore les discussions. Depuis 1970, l’UNESCO se préoccupe de la question des biens culturels, mais ses directives et ses bases de données visent principalement la restitution des biens volés ou acquis et exportés frauduleusement (cf. la *Convention concernant les mesures à prendre pour interdire et empêcher l’importation, l’exportation et le transfert de propriétés illicites des biens culturels*). Cette législation laisse dans l’ombre une bonne partie de la question du patrimoine matériel et immatériel. Quant au Canada, la *Loi sur l’exportation et l’importation des biens culturels* porte presque exclusivement sur le patrimoine matériel, ne faisant qu’une seule et brève mention du patrimoine immatériel, sans le définir autrement que par « traditions orales ». Sur le plan des initiatives, le Canada a opéré quelques restitutions (quatre-vingt trois objets précolombiens ont été restitués au Pérou et à la Colombie en avril 2000), mais le sujet demeure brûlant – d’autant plus qu’une vingtaine de musées internationaux ont signé une *Déclaration sur l’importance et la valeur des musées universels*, faisant valoir l’irrecevabilité des demandes de restitution selon un principe d’universalité. L’anthropologie a ici un véritable champ à investir, puisque de nombreuses populations autochtones contesteront encore longtemps cette universalité décrétée unilatéralement. Pour trouver une issue, il sera nécessaire de tenir compte de différents points de vue, des contingences historiques et des particularités culturelles.

Pour finir cette brève introduction, nous tenons à remercier tous les participants à l’atelier dont plusieurs n’ont malheureusement pas pu remettre leur texte à temps. Nous remercions par ailleurs chaleureusement les auteurs de ce numéro pour leur contribution à une réflexion qui exigera encore bien des travaux pour aboutir à des pistes et des solutions pratiques.

Nous remercions également le comité organisateur de l'atelier composé de Christine Jourdan, Sandra Révolon et Véronique Bernard-Laliberté, sans oublier les partenaires financiers sans lesquels la tenue de cet atelier et la publication de ce second numéro des *Cahiers du CIÉRA* n'auraient pas eu lieu : le Conseil de recherches en sciences humaines du Canada (CRSH), le Centre de recherche et de documentation de l'Océanie (CREDO), le département d'anthropologie de l'Université Laval, le British Museum, l'École des hautes études en sciences sociales, Bibliothèque et archives Canada, le département d'anthropologie de l'Université d'Hawaï, la Faculté de théologie, d'éthique et de philosophie de l'Université de Sherbrooke et le Musée de la civilisation du Québec.

Le Comité de rédaction

La restitution des terres ancestrales autochtones et les figures de la justice dans le droit international

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Les demandes de restitution des terres ancestrales autochtones donnent lieu à un contentieux lourd au Canada et ailleurs dans le monde, notamment en raison de la place centrale qu’occupent ces terres dans le patrimoine culturel autochtone. La dimension patrimoniale de ces terres est d’abord *générale* en raison de l’investissement culturel et identitaire de la terre des ancêtres¹. Cette dimension est aussi souvent *spécifique* puisque certains espaces fonciers très précis peuvent être des composantes essentielles du patrimoine religieux et culturel autochtone : sites sacrés, lieux d’inhumation, de guérison ou d’initiation².

Dans la première partie de ce bref article, je définis certaines notions juridiques de base se rapportant au concept de restitution, avant d’exposer sommairement les figures de la justice que mobilise la revendication de restitution des terres ancestrales. Je résume ensuite, dans la seconde partie, certains aspects de l’évolution récente du droit international relativement à la question de la restitution des terres ancestrales autochtones.

La restitution : définitions juridiques et figures de la justice

Au plan juridique, la restitution, dans son acception première, est une forme de réparation qui consiste à rendre à un individu ou un groupe un bien à l’égard duquel il a établi un droit de propriété, de possession ou de jouissance et dont il a

été privé de manière illicite. Il s'agit donc de rétablir l'individu ou le groupe dans la jouissance effective de ses droits afférents à la chose dont il avait été injustement privé.

Par extension, la notion de restitution peut aussi couvrir le fait de remettre une chose « que l'on doit rendre mais qu'on ne détenait pas injustement »³. Il s'agit dans ce cas de l'action de rendre un bien à l'expiration d'un prêt, la terre au terme d'un bail ou d'un déplacement dont la raison d'être a cessé d'exister. Dans ce cas de figure, la restitution n'est pas la sanction d'une dépossession illicite.

Il convient également de rappeler la distinction fondamentale entre la *restitution en nature* qui consiste à rétablir quelqu'un dans la possession et la jouissance de la chose même dont il a été dépossédé, et la *restitution par équivalent* qui intervient lorsqu'il n'est pas possible ou convenable de rendre à un individu ou un groupe la chose même dont il a été dépossédé et consiste dès lors à lui remettre une chose de valeur équivalente. S'agissant des terres ancestrales des peuples autochtones, la restitution en nature apparaît comme la mesure la plus respectueuse de la valeur culturelle irréductible et irremplaçable de ces terres pour les contemporains.

La restitution en nature est une réparation qui correspond à un modèle de *justice commutative*, c'est-à-dire une justice centrée exclusivement sur la victime et qui vise à établir une symétrie parfaite entre le tort spécifiquement subi et le redressement de celle-ci et qui consiste dès lors à remettre la victime dans la situation juridique et matérielle dans laquelle elle se trouvait avant le fait à l'origine de la dépossession. L'impossibilité matérielle de restituer un bien en raison de la destruction physique de ce dernier ou d'une dégradation le privant de toute utilité fera bien sûr obstacle à une demande de restitution en nature. Dans une perspective commutative pure, seule l'impossibilité matérielle de restituer devrait empêcher la restitution en nature.

Toutefois, d'autres considérations pourront relativiser ou contrer la logique commutative alors même que la restitution en nature reste physiquement possible. En effet, les philosophes, les théoriciens du droit et les juges savent que l'impératif de justice est polyvalent et comporte un volet distributif qui s'inscrit dans un

rapport de tension avec la dimension commutative. La *justice distributive* s'intéresse aux conditions d'un juste partage des ressources (matérielles ou immatérielles) entre les hommes, compte tenu des circonstances, du mérite et des besoins de chacun. La préoccupation à la base de la justice distributive est d'éviter de réparer une injustice, souvent historique, en créant une nouvelle injustice dans le temps présent⁴.

On trouve une illustration éloquente de la tension entre justice commutative et justice distributive dans la célèbre affaire de la communauté de Richterveld en Afrique du Sud. L'alinéa 25 (7) de la Constitution de 1996, la constitution post-apartheid, dispose qu'une personne ou un groupe qui a été dépossédé d'un droit foncier par l'effet d'une loi ou d'une pratique raciste postérieure au 19 juin 1913, a droit à la restitution des terres. Dans l'affaire *Richterveld*, la Cour suprême d'Afrique du Sud a décidé qu'une communauté autochtone pouvait se prévaloir de cette disposition constitutionnelle lorsqu'elle avait été dépossédée de ses terres ancestrales en raison des doctrines racistes du droit colonial pré-apartheid (*Terra nullius*) lorsque ces doctrines avaient été perpétuées dans les lois et les pratiques du régime d'apartheid. Dans cette affaire, la dépossession était survenue dans les années 1920.

Or, les terres à l'égard desquelles on a reconnu le titre historique de la communauté de Richterveld recèlent le plus riche gisement de diamant en Afrique du Sud. Au moment de la demande de restitution des terres, les revenus provenant de l'exploitation de cette ressource par une société d'État étaient notamment investis dans des programmes visant à remédier aux injustices subies par les victimes de l'apartheid.

La restitution pure et simple de ces terres à la seule communauté de Richterveld aurait donc pour effet d'accorder à un tout petit groupe ethnique le contrôle d'une richesse immense jusqu'alors mise en valeur au profit de l'ensemble des héritiers de l'apartheid. La demande de restitution pose donc le problème des conditions d'une véritable justice post-apartheid en Afrique du Sud. Plusieurs voix se sont élevées en Afrique du Sud pour critiquer, au nom de la justice distributive, le concept de restitution dans ce contexte⁵.

En fait, la question de la restitution des terres ancestrales des peuples autochtones constitue un cas d'école classique pour ceux qui s'intéressent aux problèmes de réparation contemporaine des injustices historiques. Les autochtones ayant été les possesseurs exclusifs de l'ensemble du territoire avant l'arrivée des colons et ayant été très largement dépossédés dans les faits de ces terres par les colons, une réponse purement commutative à la question de la restitution voudrait dire qu' « en toute logique, la réparation de l'injustice commise à l'égard de ceux-ci (...) devrait mener à leur restituer l'ensemble du territoire »⁶.

La restitution soulève des questions politiques très sensibles liées au partage de la richesse dans les sociétés postcoloniales de sorte que la revendication d'un droit strict à la restitution en nature se heurte à une forte résistance des États. Comme le souligne un auteur, « *restitution in indigenous cases gives rise to conflicts with interests of third parties. The balancing between indigenous need to restitution and non-indigenous rights and recent history in the same lands drives states to close their ears to voices for restitution* »⁷.

On voit bien que le droit international, qui est largement le fruit de l'action des États, pourra difficilement faire de la restitution intégrale des terres ancestrales un impératif irréductible et universel. Plus l'étendue des terres revendiquées sera considérable et plus ces terres auront, depuis la dépossession, fait l'objet de mobilisations diverses et lourdes en faveur de tiers de bonne foi ou de la collectivité majoritaire, plus la dimension distributive du problème prendra de l'importance.

La restitution des terres ancestrales autochtones dans le droit international

Deux types de traités internationaux peuvent fonder une revendication autochtone de restitution de terres traditionnelles. Les traités *autochtonistes*, telles les Conventions 107 et 169 de l'Organisation internationale du travail (OIT), reconnaissent des droits particuliers aux peuples autochtones, y compris des droits sur leurs terres traditionnelles. Les traités *généralistes* sont des textes relatifs aux droits de l'Homme qui consacrent notamment le droit de tout individu à l'égalité et au respect de sa propriété ainsi que les droits des personnes appartenant à une minorité ethno-culturelle⁸. Même s'ils n'en sont pas les bénéficiaires exclusifs, les

autochtones peuvent d'emblée se prévaloir de cette protection internationale des droits de l'Homme pour préserver leur relation avec leurs terres ancestrales. Ils n'ont d'ailleurs pas hésité à le faire.

La restitution des terres en cas de dépossession licite

L'article 16 de la Convention 169 de l'OIT traite explicitement de la restitution au terme d'une *dépossession licite*, c'est-à-dire lorsque l'État est autorisé, à titre exceptionnel, à déplacer une collectivité autochtone. Dans ce cas, la *restitution en nature* des terres est une obligation de moyen, c'est-à-dire que l'État doit déployer tous les moyens raisonnables pour restituer les terres dès que la situation exceptionnelle ayant justifié le déplacement cesse d'exister. Il doit, lorsque cette restitution n'est pas possible, octroyer des terres qui équivaudront le plus possible aux terres perdues à moins que les autochtones n'optent plutôt pour une compensation. Cette restitution par équivalence est le minimum auquel le peuple autochtone aura droit.

La restitution en cas de dépossession illicite

i - *Le principe général de la restituo in integrum en droit international*

Il existe une règle fondamentale du droit international coutumier selon laquelle la violation par un État de ses engagements internationaux emporte l'obligation de réparation adéquate (Usine de Chrozow 1928). Cette obligation exige la prise de mesures appropriées afin de remettre la situation dans l'état antérieur à la violation des droits de la victime (*Affaire Avena et al, Mexique c. États-Unis*, CIJ 2004). En cas de privation du droit de propriété, la *restituo in integrum* oblige l'État à restituer le bien, ou lorsque cette mesure est soit impossible ou inappropriée, à assurer une restitution par équivalence ou une compensation. La restitution exige donc la preuve de trois éléments : (1) l'existence d'un droit sur le bien, (2) une mesure privative de ce droit imputable à l'État et (3) le caractère illicite de cette privation.

Si la restitution en nature se présente *a priori* comme la forme privilégiée de réparation, elle ne donne pas lieu à une obligation de résultat dès lors qu'elle se heurte à une impossibilité pratique ou à des obstacles liés à la justice ou l'équité.

On voit que s'impose alors un délicat exercice de mise en balance de l'impératif de réparation et de justice distributive.

ii - *La restitution des terres autochtones en vertu des instruments internationaux*

L'article 28 de la *Déclaration des Nations unies sur les droits des peuples autochtones*, adoptée récemment par l'Assemblée générale⁹, consacre le droit des autochtones à la restitution en nature ou par équivalent en cas de dépossession, d'exploitation ou de dégradation de leurs terres traditionnelles :

1. Les peuples autochtones ont droit à la réparation, y compris sous la forme d'une restitution ou, lorsque cela n'est pas possible, d'une indemnisation juste, correcte et équitable pour les terres, territoires et ressources qu'ils possédaient traditionnellement ou occupaient ou utilisaient et qui ont été confisqués, occupés, exploités et dégradés sans leur consentement libre, préalable et éclairé.
2. Sauf si les peuples concernés en décident librement autrement, l'indemnisation se fait sous forme de terres, de territoires et de ressources équivalents par leur qualité, leur étendue et leur régime juridique, ou d'une indemnité pécuniaire ou autre forme appropriée de réparation.

Bien qu'elle puisse à certains égards n'être qu'un rappel de normes établies et qu'elle soit par ailleurs susceptible de servir d'éton pour une évolution future du droit international, cette déclaration n'a pas en elle-même de valeur juridiquement contraignante pour les États.

Les instruments qui sont sources d'obligations juridiques formelles, à savoir les traités internationaux, ne contiennent pour leur part aucune disposition expresse traitant de la restitution des terres autochtones en cas de dépossession illicite. Cependant, s'agissant de la Convention 169 de l'OIT, l'effet combiné de la reconnaissance expresse des droits des autochtones sur les terres qu'ils occupent traditionnellement (article 14 (1)), et de l'obligation corrélatrice des États de garantir la protection effective de leurs droits de propriété et de possession (article 14 (2)) – ainsi qu'une procédure adéquate pour le règlement des revendications

territoriales (article 14 (3)) – est d’obliger les États à garantir des mesures de redressement justes et convenables. De telles mesures devraient comprendre la restitution en nature ou par équivalence des terres dont les autochtones auraient été injustement privés lorsque cette forme de réparation est possible tout en respectant les exigences minimales de la justice¹⁰.

Quant aux textes généralistes relatifs aux droits de l’Homme, ils ne prévoient pas non plus expressément la possibilité d’une restitution en nature ou par équivalent à titre de réparation en présence d’une dépossession illicite. Les grands instruments qui donnent à la victime la possibilité de s’adresser à un tribunal international, accordent cependant aux juges internationaux compétents le pouvoir d’octroyer la réparation que le tribunal estime convenable et juste.

Ainsi, la Cour européenne des droits de l’Homme, en application des pouvoirs de réparation que lui confère la Convention européenne des droits de l’Homme, a consacré le principe de la *restituo in integrum* en cas de privation de propriété. Elle n’a cependant pas fait de la restitution en nature la seule forme adéquate de réparation puisqu’elle a admis la possibilité d’une réparation pécuniaire, donc par équivalent¹¹.

Pour sa part, la Cour interaméricaine des droits de l’Homme chargée d’appliquer la *Convention américaine des droits de l’Homme*, a, dans une jurisprudence très récente, élaboré un ensemble de règles relatives à la restitution des terres ancestrales des peuples autochtones¹². Après avoir très audacieusement étendu aux terres ancestrales des peuples autochtones la protection du droit de propriété consacré à l’article 21 dans la Convention américaine (*Mayagna (Sumo) Awas Tigni Community c. Nicaragua*, 31 août 2001) – transformant ainsi un droit individuel en droit collectif – la Cour a utilisé son pouvoir de réparation que lui confère l’article 23 de la Convention pour imposer aux États des obligations spécifiques en matière de restitution des terres.

Ainsi, dans l’affaire *Moiwana Village c. Suriname* (15 juin 2005), la Cour a ordonné à l’État de restituer à la communauté autochtone les terres traditionnelles dont elle avait été illégalement dépossédée par une opération sanglante de l’armée en 1986 au cours de laquelle plusieurs membres de la communauté avaient trouvé

la mort. Il est à noter que dans cette affaire, les terres en litige n'avaient pas été cédées à des tiers ou autrement réaffectées par l'État, ce qui minimisait le poids des considérations liées à la justice distributive.

Dans deux autres affaires subséquentes, toutefois, la Cour a dû examiner des cas où les terres dont avaient été spoliés les autochtones en contravention de la Convention américaine se trouvaient depuis des générations entre les mains de propriétaires non autochtones et exploitées de manière productive par ces derniers (*Sawhoyamaxa Indigenous Community c. Paraguay*, 26 mars 2006 ; *Indigenous Community of Yakya Axa c. Paraguay*, 17 juin 2005).

La Cour a alors été amenée à préciser la portée exacte du principe de restitution lorsque s'impose un arbitrage entre l'impératif de justice pour les autochtones et d'équité à l'égard des tiers ou de la population en général. La haute juridiction interaméricaine pose les principes suivants :

1. L'État doit *a priori* restituer les terres ancestrales dès lors que la communauté a conservé un lien significatif avec celles-ci (*Sawhoyamaxa*, par. 127-130).
2. Le fait que les terres soient devenues la propriété de tiers de bonne foi ne constitue pas en soi dans tous les cas un obstacle absolu à la restitution en nature (*Sawhoyamaxa*, par. 138).
3. L'État ne pourra alors refuser la restitution que s'il démontre qu'il existe des motifs objectifs permettant de justifier la non-restitution en nature. Il faudra que la non-restitution serve à réaliser de manière proportionnée un objectif légitime dans une société démocratique. La Cour insiste sur le devoir de l'État de prendre en compte l'importance des terres pour la culture et l'identité des autochtones (*Sawhoyamaxa*, par. 138 ; *Yakya Axa*, par. 144-149).
4. Lorsque la non-restitution en nature des terres est justifiée par un objectif impérieux et constitue une mesure proportionnée, l'État a alors l'obligation de procurer aux autochtones des terres de qualité équivalente en quantité

suffisante, lesquelles terres seront sélectionnées avec l'accord des autochtones exprimé conformément à leur propre mode de gouvernance (*Yakya Axa*, par. 149, 217, *Sawhoyamaxa*, par. 135).

La Cour ne précise pas les circonstances où la non-restitution en nature sera objectivement justifiable dans une société démocratique mais il apparaît que les considérations liées à la justice distributive seront pertinentes. Il faudra dès lors à notre avis jauger notamment :

1. La possibilité pour l'État d'acquérir de gré à gré les terres des particuliers et le coût d'acquisition des terres.
2. L'importance des terres en question pour les non-autochtones.
3. La faisabilité économique et politique d'une expropriation à grande échelle.
4. La nécessité de préserver l'équité et la paix intercommunautaire.

On voit donc qu'au regard des normes internationales, la revendication autochtone de restitution des terres ancestrales reçoit un traitement nuancé et complexe qui procède d'un dialogue instable entre les exigences souvent divergentes de la justice postcoloniale. Si le droit à la restitution en nature est reconnu en principe, il peut faire l'objet de restrictions et de limitations lorsque la justice et l'intérêt général le justifient. Le droit à la restitution par équivalence reçoit toutefois une protection beaucoup plus solide, ainsi que le droit à la compensation pécuniaire.

Références

ANAYA, S. J., 2004, *Indigenous Peoples in International Law*, Oxford : Oxford University Press.

BARRY, M., 2004, « Now Another Thing Must Happen: Richterveld and the Dilemmas of Land Reform in Post-Apartheid South Africa », *South Africa Journal of Human Rights*, 355 (20).

CORNU, G., 2005, *Vocabulaire juridique*, Paris : PUF.

DEAS, E.-I., 2001, *Les peuples autochtones et leur relation à la terre*, Conseil économique et social, Nations Unies, E/CN.4/Sub. 2/2001/21.

GRAMMOND, S., 2003, *Aménager la coexistence*, Bruxelles : Yvon Blais/Bruylant.

HENNEBEL, L., 2007, *La Convention américaine des droits de l'homme, mécanismes de protection et étendue des droits et libertés*, Bruxelles : Bruylant.

LEE ROSS, M., 2004, *First Nations Sacred Sites in Canada's Courts*, Vancouver : UBC Press.

OTIS G., 1999, « Revendications foncières, autochtonité et liberté de religion au Canada », *Cahiers de droit*, 40 : 741-772.

SUDRE, F., 2006, *Droit européen et international des droits de l'homme*, Paris : PUF.

WALDRON, J., 2002, « Redressing Historic Injustices », *University of Toronto Law Journal*, 135 (52).

XANTHAKI, A., 2007, *Indigenous Rights and United Nations Standards, Self-Determination, Culture and Land*, Cambridge: Cambridge University Press.

MOTS-CLÉS

Terres ancestrales – réparation – justice commutative – justice distributive – restitution en nature – restitution par équivalent – droit international – droits de l'Homme – droit de propriété – droit à l'égalité

¹ Deas, 2001.

² Voir notamment Lee Ross, 2004 et Otis 1999 : 741-772.

³ Cornu 2005 : 810.

⁴ Waldron, 2002.

⁵ Voir par exemple Barry 2004.

⁶ Grammond 2003 : 9.

⁷ Voir Xanthaki 2007 : 266.

⁸ Pour une étude générale des droits des peuples autochtones au regard des différents instruments internationaux, voir Anaya 2004. Pour un ouvrage récent consacré aux textes onusiens, voir Xanthaki 2007.

⁹ Résolution adoptée par l'Assemblée générale, 13 septembre 2007, A/RES/61/295. La Déclaration a été adoptée par une majorité de 144 États, 4 votes contre (Australie, Canada, États-Unis et Nouvelle Zélande) et 11 abstentions (Azerbaïjan, Bangladesh, Bhoutan, Burundi, Colombie, Géorgie, Kenya, Nigeria, Fédération Russe, Samoa et Ukraine).

¹⁰ Voir également Anaya 2004 : 106-107.

¹¹ Sudre 2006 : 677.

¹² Pour une étude générale du système interaméricain de protection des droits de l'Homme, voir Hennebel 2007.

Justifications and Legal Considerations for Repatriation of First Nation Material Culture in Canada

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The topic of repatriation of cultural items creates some discomfort as it may generate polarized perspectives and bring into focus issues of intercultural understanding, ethics, law, politics, knowledge, power, values, and economics. Questions such as “Who owns culture? Whose property? Whose laws, practices, concepts and values should prevail?” imply that universal answers to such questions can be determined. However, these are questions of ongoing debate and complexity that cannot be answered in the abstract without reference to a particular item, people, or institution. This is especially so in Canada when we consider Aboriginal material culture owned or controlled under Canadian law by the Crown, or purchased with public funds, and in the possession of government-funded museums or other public institutions, such as universities.

This essay reproduces, with permission and some modifications, a paper on repatriation of First Nation material culture in Canada presented at an international conference on repatriation held in Nuuk, Greenland in February 2007 (Bell 2008). However, the section on Echo has been added and other revisions have been made¹. This paper also forms part of a much larger research program conducted in collaboration with First Nations partners in British Columbia and Alberta and an interdisciplinary team of scholars in law, anthropology, archaeology, and linguistics². More detailed discussion of law reform, case studies emerging from First Nation partner communities, and strategies for change within and outside Western legal frameworks in a wider range of cultural heritage matters are

contained in two volumes currently in press and from which some excerpts in this paper are drawn (Bell and Napoleon 2008, Bell and Paterson 2008)³. The Aboriginal peoples of Canada are defined in s. 35 (1) of Canada's Constitution Act, 1982 as "the Inuit, Indian and Métis peoples". Many Indian nations self-identify as "First Nations". The focus of our research has been on issues faced by our First Nation partners. However, the legal and policy environment discussed below is also applicable to other First Nation, Inuit, and Métis peoples in Canada.

The story of Echo

There is a story I often share when discussing matters of repatriation. It reveals not only challenges in reconciling differing concepts of property, legal orders, policy considerations, and relationships, but also how the existing legal environment is uncertain in matters of law reform. It is a well-known story among many engaged in repatriation efforts in Canada about a mask, approximately one hundred and forty years old, known as the Echo Mask⁴: "The mask represents Echo, a supernatural being resident on earth, and the transformation of the supernatural to the natural world. It is capable of transforming multiple mythical identities (...) and carries with it a web of rights and responsibilities including societal status, spirit powers, names, songs, legends, and dances" (Bell 2006: 69). Rights to dance the mask and to other prerogatives associated with it have individual and collective dimensions. Under Nuxalk Law, a case can be made that the mask is both a societal privilege (i.e., members of the society can dance the mask to bring out its supernatural powers) and a family privilege with the mask and associated prerogatives held in trust by a family member, traditionally "the eldest male heir or chief, who would inherit custodial rights in the name of his entire family" (Kramer 2006: 91). "The keeper of the mask must care for it and bring it out to be danced for the potlatch. It can not be sold by an individual outside the community and is to stay in the community to use in potlatch ceremonies" (Bell 2006: 70). As Echo had and continues to have a significant role in Nuxalk spiritual and ceremonial life, entitlement and responsibilities also have broader community dimensions.

Until the 1950s, Canadian law prohibited the potlatch ceremony and other ceremonial structures in which First Nation materials, such as the Echo mask, were used. These legal attacks on First Nation culture along with other influences, such

as Christian control and conversion, the residential school system, and dismantling of First Nation institutions, were part of an official policy of assimilation and contributed to the proliferation of trade in First Nation cultural items. So too did the efforts of social scientists and other collectors, largely but not always in good faith, to gather and preserve as much as they could out of fear that First Nation cultures in Canada might vanish (see e.g., Cole 1995: 295-7). Disease and economic duress also wreaked havoc on many First Nation communities, generating in some instances confusion or abeyance in the legal and social institutions whose revival is now being sought. As a consequence of these and other circumstances, such as donation and creation of cultural items intended for trade and sale, museums, government agencies, and other institutions in Canada may have items in their collections obtained legitimately not only under Canadian laws and those of affected First Nations, but also under questionable legal or ethical circumstances (Bell “Restructuring” 2008: 21). As elaborated below, this is acknowledged as ethical grounds for entering into repatriation negotiations by many major institutions in Canada.

Throughout this time period, the Echo mask was danced, transferred, and protected through Nuxalk legal and ceremonial processes. However, “in the late nineteen eighties, an art dealer befriended an elderly woman in possession of the Echo Mask. Over the course of several visits to the community, she agreed to sell the mask for \$35,000. In 1995, the dealer applied for an export permit under the CPEI [*Cultural Property Import and Export Act*, 1985] to sell the mask outside of Canada for US\$ 250,000. After identifying the item as one subject to export control, the permit officer refused the permit based on the recommendation of an expert examiner” (Bell and Paterson “International Movement” 2008: 79. See also Kramer 2006: x-xii).

Exports of Canadian material culture are controlled by the *Cultural Property Import and Export Act*, 1985 (CPEI). One of the primary objectives of the CPEI is to keep within Canada through a system of notification, tax benefits, repatriation loans and grants, and delay of export permits any object of “outstanding significance by reason of its close association with Canadian history or national life, its aesthetic qualities, or its value in the study of arts and science” and “of such a degree of national importance that its loss to Canada would significantly diminish

the national heritage” (CPEI s.11 (1) (a) – (b)). Cultural property that is at least fifty years old and was made by someone who is no longer living may be placed on an export control list, but one has to go to the list itself to identify what items are subject to export control (CPEI s.8 (3); Canadian Cultural Property Export Control List). This currently includes among other things archaeological material of any value and non-archaeological Aboriginal objects of a fair market value of more than three thousand Canadian dollars.

In this case the dealer appealed the permit to the Cultural Property Export Review Board ('the Board'), which has the power to delay for six months, but not prohibit, an export permit (CPEI s.29 (5) (a)). It is hoped that, with the aid of tax incentives for donations to Canadian institutions and with repatriation funding, an institution or institutions so notified (mostly museums and art galleries established primarily for the purpose of exhibiting, collecting, and preserving cultural material) will negotiate with the sellers to purchase the cultural items and prevent their export. However, there is no legal obligation or federal policy to notify originating First Nation communities and few meet the criteria for notification. Further, there is no obligation under the Act for First Nations to be consulted on what goes on the control list or to be represented in decision making and no mechanism under the CPEI to challenge Board decisions without recourse to the courts. The Museum of Archaeology and Ethnology at Simon Fraser University received notice of the pending export. Luckily for the Nuxalk, the chair of the University's archaeology department learned of the export permit application and notified the Nuxalk Band Council.

With a coalition of supporters, including the Royal British Columbia Museum (RBCM), the First Peoples' Cultural Foundation, Simon Fraser University, the University of British Columbia, the University of Victoria, and employees within the Moveable Cultural Property Division of the Department of Canadian Heritage administering aspects of the *CPEI*, the Nuxalk were able to access repatriation funding and begin negotiations with the dealer of the Echo Mask. However, as initial requests to see the mask and title documents were refused, litigation was commenced to seek a declaration that Echo could not be sold, traded, or given away to a non-member, to obtain an injunction preventing the sale and export of

the mask, and to bring about Echo's return. After a year of negotiations, the dealer agreed to sell the Echo Mask back to the Nuxalk for \$200,000 CAN.

The CPEI itself places no conditions on funding, but as a matter of policy the department usually requires payment of up to one half the purchase price by the organization applying for the grant, but this can be reduced or waived depending on the size and resources of the organization. The Nuxalk had to raise thirty per cent of the purchase price, a portion of which was ultimately donated by the art dealer. Conditions often but not always found in negotiated repatriations between First Nations and museums and government agencies, particularly those negotiated outside the framework of modern treaty and land claim negotiations, were included in the grant such as the requirements that the mask be kept in a secure, public facility under museum-like conditions. At the time of writing, the mask was still on display in a secure and environmentally controlled case at a bank in the town of Bella Coola since there was no location on the reserve that met the funding criteria.

This is a story of success and frustration. It highlights the positive relationships that have been developed and imaginative solutions that have been created through collaborations between First Nations, museums, and government agencies. At the same time it provides an example of inequity in Canadian law, the need to review our legal regime in light of these concerns and emerging laws on Aboriginal constitutional rights, and the challenge of communicating across cultures and reconciling vastly different legal orders. It also brings to mind the potential for dealer manipulation and the limits of Western legal understanding of "property," in particular the tendency to divide property into categories such as tangible, intangible, communal, individual, intellectual, and material may not be appropriate in many contexts. "Like the Echo Mask, Aboriginal property does not always fit neatly into these categories. Echo is an object but also has associated intellectual property (songs, dances, responsibilities) and is connected to the land (it carries with it territorial rights, ancestral connection, and testimony in relation to a particular piece of land)" (Bell 2006: 73). The terms "culture," "property," and "ownership" are also Western legal constructs that in some circumstances may be incomprehensible, inappropriate, or inadequate to describe a relationship between a particular First Nation and a cultural item claimed (Bell and Napoleon, "Introduction": 6). Nevertheless it is impossible to avoid using such classifications

and terminology if the goal is to address existing law and institutional policy with a view to affirmation or change.

For these reasons, when speaking about repatriation of intangible First Nation cultural heritage and law reform in Canada, it is important to look beyond the Western intellectual property law regime. Consideration of the limitations and possibilities of this regime is important for First Nation cultural sustainability and revitalization and forms an important part of the larger research program mentioned above in the introduction to this paper. However, in this paper intangible heritage is addressed only in the context of repatriation of what Western law would conceptualize as “material culture” and cultural knowledge inseparable from material manifestations of that knowledge.

Rationales, relationships, and reform

The historical treatment of Aboriginal peoples in Canada, increased public and political sympathy, contemporary museum ethics, and evolving jurisprudence on Aboriginal constitutional rights call into question normative and legal justifications relied upon in the past to support museum and Crown title to some items claimed. Normative rationales for repatriation vary and are rarely offered in isolation. Repatriation claims are linked to a wide range of concerns that include adherence to laws of source communities, respect for human rights and religious practices, preservation of cultural identity, physical well-being, concerns about use of images depicted on items or associated information, and the belief that items sought are a fundamental means to transmit and retain vital cultural knowledge. There are varying degrees of societal and cultural change brought about by legislated discrimination, residential schools, economic duress, and other external and internal pressures. These factors, combined with the passing of knowledgeable elders, have fostered a sense of urgency in some communities to recover, obtain copies, or improve access to items and oral material considered vital to knowledge transfer. In this way, repatriation is inextricably linked to concerns about continuity, revival, and preservation of languages, values, and practices that are considered integral to a community’s cultural identity and survival. For this reason, although often given priority, repatriation efforts by First Nations in Canada extend beyond seeking return of ceremonial items (see e.g., case studies in Bell and Napoleon eds. 2008).

An issue raised in the story of Echo is respect for First Nation laws and processes that exist at the time an item is separated from the community. Within an environment of economic, political, and cultural duress, items not intended for commercial sale have been sold in breach of First Nations laws and protocols that may, or may not, have been in abeyance at the time an item was separated from the community. For some First Nations, seeking recognition of laws in repatriation and other contexts is as fundamental as, for example, respect for religious freedom when items at issue were or are used for spiritual purposes. This point is demonstrated by repatriation claims to medicine bundles by the Blackfoot, who have specific performance-based laws concerning control, use, treatment, and transfer of medicine bundles. These bundles contain numerous ceremonial items associated with visions, songs, dances, and other cultural knowledge necessary for performance of ceremonies and transmission of knowledge within Blackfoot societies (see e.g., Bell, Statt and Mookakin 2008:205-08 and 228-33).

Of concern to many First Nations is loss of traditional cultural knowledge and strengthening and renewal of that knowledge. This loss can occur as a result of separation from material culture and inability to disseminate attendant knowledge. Thus the value of some forms of material culture may be measured not by necessity for contemporary use, but by the educational and cultural knowledge it represents (see e.g., Bell and McCuaig 2008: 341-2 and Bell “Restructuring” 2008: 22). In some instances, laws of the affected First Nation may be more concerned with control over display and use of images depicted on items than with recovery of the items themselves (see e.g., Overstall 2008). Repatriation is also viewed by some as an important strategy in language preservation and revitalization as access to objects can foster language use as elders and other knowledge keepers recall and share associated information using words and concepts that have fallen out of regular use (see e.g., Bell “Recovering” 2008: 43 and Bell “Restructuring” 2008: 23). Where this is the primary motivation for repatriation, First Nations may be more open to loans, replicas, virtual representations, co-operative management strategies, or “negotiating other means for gaining access to and controlling information (sometimes referred to in museum discourse as “information repatriation”)” (Bell “Restructuring” 2008: 23).

For some First Nations, repatriation is also part of a broader struggle for recognition of injustices suffered and for restoration of human rights, including the right of political and cultural self-determination. For example, one of the best-known and earliest examples of repatriation is the return of potlatch items to the U'mista Cultural Centre in Alert Bay, British Columbia (see Bell, Raven and McCuaig 2008: 46-87; Cranmer Webster 1995 and 1988). Potlatch celebrations and practices associated with ceremonies such as the Blackfoot Sundance and Cree and Saulteaux Thirst Dance were banned under federal Indian legislation from 1884 until 1951 (An Act Further to Amend the Indian Act, 1880). Following a large potlatch held at Village Island in 1921, forty-five people were charged with offences, including making speeches, dancing, arranging articles to be given away, and carrying gifts to recipients. Regalia were seized not only from those charged with offences, but also from individuals threatened with criminal charges if their regalia were not surrendered (Cranmer Webster 1995: 138).

Efforts to recover this material began in the 1960s. In 1975 the Museum of Man (now the Canadian Museum of Civilization) agreed to repatriate items from the Village Island potlatch on condition that a museum be built to house them. However the Royal Ontario Museum (ROM) sought solutions that fell short of return, asserted its claim to ownership was “as strong as anyone else’s,” and sought compensation for expenses such as “curatorial care, conservation, [and] insurance”(Cranmer Webster 1988: 43). It was not until 1988, after the intervention of the Minister of Indian Affairs, that items from the ROM were returned. After years of negotiations, in July 2000 the National Museum of the American Indian [(NMAI)] agreed to repatriate another sixteen pieces. Most recently potlatch items have also been returned on long-term loan by the University of British Columbia Museum of Anthropology (MOA) and the British Museum (Bell, Raven and McCuaig 2008: 69-70). Although many affected families attest to the importance of returning these items for healing, and items not too fragile may be used by entitled families or individuals for ceremonial purposes, this was not the primary motivation for seeking their return (Bell, Raven and McCuaig 2008: 70-71). As Gloria Cranmer Webster, founder and former Director of the U'mista Cultural Centre explains:

Most demands for potlatch items are based on the argument that treasures are vital to the spiritual health of the communities. That was not the basis in our case. We did not need our masks returned so we could use them... Our goal in having our treasures come back was to rectify a terrible injustice that is part of our history... Our concept of ownership differs from that of other people in that while an object may leave our communities, its history and the right to own it remain with the person who inherited it (Cranmer Webster 1995: 140-1).

Assertions of rights and ownership characterizing earlier Canadian repatriation disputes do not prevail now. Today most major museums and government agencies in Canada are sympathetic to the above normative rationales for repatriation and seek to resolve claims based on contemporary ethics and collaboration. Influential in restructuring relationships have been the Report of the Canadian Museum's Association and Assembly of First Nations Task Force on Museums and First Peoples (the "Task Force") (AFN/CMA 1992), a desire to maintain positive relationships with Aboriginal communities represented in collections, and inclusion of repatriation and cultural heritage matters in modern treaty and land claims processes. Policy development has also been influenced by the content of, and experience with, the Native American Graves Protection and Repatriation Act (NAGPRA 2001). This law, which came into force in the United States in 1990, was studied by the Canadian Task Force and has influenced some museum, university, and government agency policies in areas such as definitions of cultural patrimony eligible for repatriation claims, identification of affiliated groups, disposition in situations of competing claims, and the nature of evidence necessary to prove claims. However, also aware of problems that arose in the early years of implementing NAGPRA, the Task Force "[w]hile not ruling out the possibility of legislation in the future recommended a case-by-case collaborative approach to resolving repatriation based on moral and ethical criteria..." (AFN/CMA 1992: 5).

Against this backdrop, Canadian museums and federal and provincial governments have demonstrated increased willingness to repatriate and relinquish control over a wide range of items through specific Aboriginal repatriation policies, general deaccessioning policies, and land claim and treaty negotiations. Unlike the United States, Canada does not have a national repatriation law but some provinces have legislated in this area. For example, Alberta's *First Nations Sacred*

Ceremonial Objects Repatriation Act (2000) facilitates return of “sacred ceremonial objects” by the Glenbow Institute and the Royal Alberta Museum to First Nations in Alberta, and in British Columbia the *Museum Act* (2003) has been amended to address the interplay of repatriation with treaty negotiations in that province and statutory and common law obligations of museums. The willingness of governments and museums to relinquish control through these processes reflects fundamental changes in how museums regard their relationship to Aboriginal peoples.

Yet compelling justifications to exercise caution in face of repatriation claims continue to exist. For example, museums holding government and other collections have statutory mandates that oblige them to preserve, educate, and promote public access to their collections (including access by increasing numbers of off-reserve Aboriginal peoples).

[T]he broader Canadian public [also] relies upon preservation and protection of [Aboriginal material culture] to understand its national and regional history and the role of Aboriginal peoples in the formation of current economic, political, social and other institutions (Bell and Paterson 1999: 192).

Return of items may also operate to the detriment of originating communities, as important associated knowledge could be lost if sufficient funds and facilities are not available for physical preservation. Consequently, lack of financial and human resources may act as a barrier to return. Further complicating the situation is (1) differing views and priorities among First Nations regarding repatriation and (2) inclusion in many collections of items created for the purpose of sale or donation. Many First Nations also respect the role museums have played and continue to play in research, education, preservation, and facilitating understanding of different cultures. Need and preparedness (financial, spiritual, and otherwise) varies according to the community and item, with many items remaining in collections for diverse reasons by agreement. In such circumstances Canadian museums have continued holding and caring collaboratively with communities affected in relation to items in transition.

It is beyond the scope of this paper to delve into museum policy development and all of the rationales for and against repatriation. Rather, the intent here is to introduce the complexity of the policy and legal environment for negotiating repatriation in Canada and raise some questions about the need for and desirability of Canadian law reform.

Why talk about law and law reform?

Given improved relations between museums, other custodians of material culture, and First Nations, some question the need for and desirability of discussing legal rights and law reform. In Canada, repatriation is currently negotiated on a case-by-case basis in accordance with the institutional policies of the custodial institution. A benefit of the current policy is its ability to accommodate diversity in areas such as community preparedness, access requirements and restrictions, levels of interest in repatriation, and First Nations laws and protocols to name a few. Some fear that considerations of law and legislative intervention will reduce this flexibility and generate either/or thinking. However, may assume that law is not currently playing a significant role in current negotiations and that legislation must be mandatory in its application to the exclusion of other processes. Neither is necessarily or always true.

Although it is true that emphasis on legal rights can create adversarial relationships and discourage thinking about a wider range of solutions based on identifying mutual interests, it is equally true that, regardless of attempts to avoid assertion of legal positions, law is used to assess best and worst alternatives to negotiated agreements, liabilities, and parameters for negotiation. Indeed the role of law is sometimes stated explicitly in repatriation policy. For example, the Repatriation Guidelines of MOA recognize that “First Nations are governed by their own legal traditions and policies” but at the same time note “MOA’s negotiation position is guided by Canadian law and international agreements signed by Canada, and by the governing body of UBC” (Museum of Anthropology (MOA) 2007: para. 3). Reliance on museum policy and good will also raises issues of power and equality of participation. Even where sincere attempts are made to give equal consideration to different cultural understandings by museum, government, and other personnel, final discretionary authority remains with custodial institutions, or in some cases, government officials. The only recourse if

negotiations break down is expensive litigation before Canadian courts. Regardless of good intentions, retention of this power, absent recourse to a more interculturally legitimate process, may perpetuate colonial relationships of dependency.

Other problems may potentially arise if repatriation negotiations remain guided by policy alone. These include increased time and costs associated with absence of uniform procedure from one institution to the next, insufficient funding and research support for parties to negotiations, varying levels of commitment to repatriate, conscious and unconscious bias in favour of documentary evidence, disagreement between and among First Nation claimants, differing perspectives on appropriate conservation and preservation (including the need for museum-like facilities), reliance on personal relationships with staff and within First Nation communities, and the limited scope of material some institutions are willing to repatriate outside the realm of federal and provincial treaty and land claim negotiation processes. In situations where these and other problems are overcome through collaborative negotiation, further barriers may be created by laws or concerns about potential museum liability. Potential liability may influence positions on standards of proof, on public notification, on response to competing claims, on use, preservation, and other conditions placed on return, and on proposal of solutions that fall short of return.

Those who emphasize the benefit of policy frameworks based on moral and ethical considerations may also assume that reliance on legal rights will operate to the detriment of First Nation claimants. However, Canadian law affecting ownership and control of Aboriginal cultural heritage is becoming increasingly complex and uncertain. Canadian law affecting repatriation claims is informed by various streams including common law of property, emerging law on Aboriginal constitutional rights, laws concerning museum obligations, limitation of actions legislation, provincial heritage conservation legislation, federal import/export and parks legislation, and issues of jurisdiction. Further, much of the legislation that affects issues of ownership and control is largely dated, fails through express language to address existing and potential Aboriginal rights and other interests, and may not reflect changes in policy and practices of institutions charged with implementing it. This is not surprising as such legislation was enacted largely before Aboriginal rights were recognized in Canada's constitution.

These and other concerns suggest some changes to Canadian law may be necessary, albeit not necessarily through repatriation legislation *per se*. For example, legislation addressing common law obligations of museums and public ownership or beneficial interests may be necessary to facilitate unconditional repatriations, particularly of a large number of items, outside public treaty and land claim negotiation processes, as was the case when the Glenbow Alberta Institute transferred 251 cultural items without condition to the Blackfoot in Alberta (Bell, *et. al.* “Survey” 2008: 369-70; Bell, Statt and Mookakin 2008: 238). Regardless of the approach taken, mandatory and uniform repatriation legislation is not likely to be welcome in Canada. For many Aboriginal peoples, matters of cultural heritage are considered an area of inherent jurisdiction. Given this, and the diversity of cultures, priorities, and relationships with museums and other custodial institutions, any effective repatriation legislation, if considered, must be designed to facilitate the negotiation process and act as a safety net for those Aboriginal claimants who choose to invoke it.

In Canada, we already have several examples of what we call “opting in” legislation in the First Nations context. Elsewhere I have considered in greater detail legal arguments and the potential benefits and detriments of law reform in a range of areas implicating repatriation negotiation (e.g., Bell and Paterson 1999; Bell 2008). Here, I will introduce key features of the legal environment and give examples of two areas of law reform: dispute resolution and museum liability. I conclude with a case study demonstrating the context, strengths, and weaknesses of *Alberta’s Sacred Ceremonial Objects Repatriation Act* 2000.

The legal environment

Developments in Canadian Aboriginal rights law and the growing international and interdisciplinary moral primacy of human rights have expanded the boundaries for determining entitlement to Aboriginal material culture. At one time, legal analysis was confined to the common law of property and the impact of legislation on that law. However, inclusion of Aboriginal rights law in the analysis suggests that the journey of the item be considered within a particular cultural context. For example, under common law, a person cannot transfer greater rights to property than she or he has. A key legal issue may be the capacity of an individual to transfer title. If the object was, and continues to be, “integral to the culture” of a

claimant First Nation, the laws of that Nation may be the appropriate source to determine rights, obligations, and authority to transfer (*R. v. Van der Peet* 1996). Analyzed in this way, the superior claim to ownership may lie with the claimant First Nation.

The requirement to consider Aboriginal and treaty rights arises from section 35 (1) of Canada's *Constitution Act, 1982*, which recognizes and affirms "the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada." In *Kitkatla Band v. British Columbia* (2002), at para. 78, the Supreme Court of Canada also acknowledged that "[h]eritage properties and sites" may in some cases form "a key part of the collective identity of a people" and that "some component of cultural heritage" might be so tied to identity as to affect issues of jurisdiction. If it can be established that an aspect of cultural heritage is integral to Aboriginal identity, this supports the finding of an Aboriginal right.

There are numerous arguments that support the existence of Aboriginal rights to certain forms of cultural material, which I have elaborated in other publications listed in the references below and summarized here. Although there is no Canadian case law directly on point, when we examine various streams of Aboriginal and treaty rights jurisprudence, the following specific arguments in favour of First Nation ownership and control of material culture emerge. They include but are not limited to the following arguments derived from Supreme Court of Canada rulings in *R. v. Van der Peet* (1996), *R v. Sappier* (2007), and *Delgamuukw v. British Columbia* (1997):

1. Rights to cultural property may form part of a broader claim to Aboriginal title.
2. Rights may also exist if an object is an integral part of an activity, custom, practice, or tradition that was historically, and continues to be, integral to the distinctive cultural identity of a First Nation. Given the disruption of Aboriginal communities and the difficulties of proof associated with oral cultures, it is not necessary to prove an unbroken chain of continuity.

3. Rights may also be sourced in pre-contact indigenous customs integral to the distinctive culture of the claimant group. Like Canadian law, First Nations laws have evolved and been affected by the existence of other legal systems. A court will take this into consideration.

4. Rights may also be sourced in express and implied terms of treaty.

5. The treaty relationship, existence of Aboriginal rights to cultural property, and assumption of federal and provincial jurisdiction over Aboriginal cultural property may also give rise to a fiduciary responsibility of protection and consultation.

These rights are not absolute. This is because legislation that meets certain judicial criteria may terminate Aboriginal rights, or limit how they can be exercised. In the 1990s, the Supreme Court of Canada held in *R. v. Sparrow* (1995) that Aboriginal rights continue to exist and are protected by the *Constitution Act, 1982*, so long as these rights have not been terminated by clear and plain legislation or other valid acts of State prior to 1982. There is no Canadian legislation that clearly and plainly terminates potential Aboriginal rights to material culture based on any of the above arguments. In Canada, jurisdiction to pass laws is divided between the federal and provincial governments. Provincial governments may not terminate Aboriginal rights. Provincial legislation may, however, regulate and limit the exercise of Aboriginal rights (e.g., by addressing excavation and preservation of archaeological property discovered on provincial or private land). Laws that interfere or potentially interfere with an Aboriginal right can be enacted and implemented so long as there is a valid legislative objective and the provincial Crown's fiduciary obligations are met. This duty includes consulting with affected First Nations concerning potential and actual interference with potential and existing Aboriginal rights with a view to seriously addressing their concerns.

Aboriginal rights and interests are also implicated by federal legislation designed to protect Canada's cultural heritage, such as the CPEI discussed above. Viewed through the Aboriginal rights lens, there are potential problems with this legislation, including the absence of a mandatory mechanism to notify First Nation communities if an item intended for export has originated from their community

and lack of First Nation representation at various levels of the decision-making process. The act is also subject to dealer manipulation resulting in First Nations and Canadian institutions having to buy back material at significantly inflated prices. The lack of direct consideration of First Nation interests in the legal framework is not surprising, as the legislation had been enacted before Aboriginal rights were recognized in our Constitution.

Further complicating the legal environment is consideration of museums and archives law. Together with the common law of negligence and fiduciary obligation, these considerations may place legal restraints on the ability to repatriate even in negotiations where parties seek to negotiate outside a rights framework. Legal obligations of museums are found in legislation, common law, incorporating documents, and internal policies. For example, public museums and those holding Crown property have public mandates charging them with preserving the material within their collections for a broader Canadian public. The public mandate of museums requires that they balance interests of the public against those of claimant First Nations. Although many Canadian museums interpret public mandates to include repatriation of significant cultural items to Aboriginal peoples, such mandates may also affect the scope and/or quantity of items considered for repatriation, particularly outside treaty and land claim processes (see Bell “Restructuring” 2008: 38-41). Their legal obligations may also include the duty to exercise the care a reasonably prudent person would in dealing with her own property (Gerstenblith 2004: 293). In short it is not clear how obligations to the broader Canadian public are to be interpreted in light of the special interests and rights of Aboriginal peoples.

Moving forward: issues in Canadian law reform

There are numerous ways in which legislation can assist negotiation (see Bell “Restructuring” 2008: 55-64). I offer two examples here: dispute resolution and museum or government liability arising from disposal of collections. Although major Canadian institutions holding First Nation material recognize the importance of addressing past inequities, treating First Nation parties to negotiation with respect, appreciating the complexities created by different cultural understandings, and considering evidence based on kinship, oral tradition, and other sources, the current regime nevertheless continues to place final decision-making with external

governments and legal norms. A principle for conflict resolution currently respected by many Canadian institutions and government agencies is that competing claims within a community or between Aboriginal communities are best resolved within and between those communities. This both respects matters of internal governance and avoids potential liability from returning items, albeit in good faith, to the wrong entity. There are more difficult questions: whether litigation should be the only recourse if efforts to resolve conflict between claimants fail, given the potential for this situation to indefinitely block a repatriation claim ; how to create an effective and interculturally legitimate process for resolving impasses in negotiations ; and whether resort to such processes should be mandatory before repatriation claims can be taken to Canadian courts. As effective dispute resolution needs to be anchored in the values of those it is intended to serve, and given the diversity of First Nation cultures in Canada, issues of cultural legitimacy might best be addressed by representation of claimant communities and institutions directly affected, as well as an agreed-upon neutral arbitrator (as is often the model adopted in Canadian labour disputes). However, a wide range of possibilities can be considered (see e.g., Bell 2008 “Restructuring: 58-61).

Issues of potential liability and the desire for a clear and transparent process are addressed in Alberta’s *First Nations Sacred Ceremonial Objects Repatriation Act*. Although enacted in aid of specific repatriation negotiations between the Blackfoot people of Alberta and the Glenbow Institute for return of medicine bundles and other ceremonial items, it also applies to the Royal Alberta Museum and all First Nations in Alberta. Section 1(e) defines sacred ceremonial objects as objects, the title to which is vested in the Crown and is “vital to the practice of the First Nation’s sacred ceremonial traditions”. Although not the product of rights-based negotiation, this definition is consistent with judicial definitions of Aboriginal rights at the time of enactment as it sources the right of repatriation in customs, practises, and traditions integral to a distinctive Aboriginal culture. Prior to the enactment of Alberta’s legislation, returning medicine bundles and other sacred ceremonial items could expose the Glenbow Institute and the Alberta government to legal liability as provincial law provided that objects in the Glenbow collection are held by the provincial Crown and Glenbow on behalf of the citizens of Alberta. Ministerial approval was difficult to obtain for a number of reasons including

uncertain legal status of band councils and potential conflicts that could be generated by returns.

As the Glenbow Institute and the Royal Alberta Museum were making increasingly extensive loans of ceremonial items that technically ‘belonged’ to the province or were held in trust for the people of the province, the government felt that a consistent and transparent process to guide such decisions was required. Failure to do this could be interpreted as a breach of trust, particularly given the number of items in issue. The new legislation facilitates return by relieving the Glenbow Institute and the province of any legal liability arising from a repatriation done in good faith pursuant to the act. As a result, title to 251 cultural items previously on loan to the Blackfoot has been transferred by the Glenbow Institute to Blackfoot communities.

This legislation is helpful but can also be criticized on several levels, including the assumption of validity of Crown ownership, its failure to include private institutions that receive provincial funding, the emphasis on sacred ceremonial property to the exclusion of other forms of cultural property, and its failure to facilitate claims by First Nations located in other provinces. Although enacted with good intentions, discretion placed in the Minister to deny claims and retention of power by non-indigenous governments over the fate of indigenous cultural items continues to generate power imbalance and runs contrary to aspirations for self-determination of many First Nations. The legislation can only be fully understood as one that is based on trust and a compromise enabling items vital to the continuity of Blackfoot ceremonies to be returned home. Further, the Blackfoot people see this as only one step in a broader repatriation effort.

Conclusion

The issue of repatriation raises many challenging questions. Museums and government agencies continue to play an important role in preserving cultural heritage and educating non-indigenous and indigenous peoples about indigenous life. For this reason, First Nations in Canada seek to work collaboratively with them and are reluctant to engage in initiatives that could undermine existing positive relationships. At the same time, the legal environment within which negotiations occur is becoming more complex with the evolution of Aboriginal

rights law and the uncertainty of museum liability in the face of repatriation claims, particularly those that affect material that is not of a sacred or ceremonial nature and large-scale repatriations outside the treaty negotiation process. Key issues in law reform are whether legislation is necessary to facilitate negotiation and, if so, how government or governments should act. Whatever answer is given to these questions, Canadian law calls for more extensive consultation with Aboriginal governments and communities of interest and their active participation from the point of inception to implementation of laws that impact, or have a potential impact, on existing or potential Aboriginal constitutional rights. What fundamental principles should guide law reform initiatives? The Canadian Royal Commission on Aboriginal People (RCAP) offers four fundamental principles for forging new relationships between First Nations and the Crown. These are mutual recognition, mutual respect, sharing, and mutual responsibility (RCAP 1996). As RCAP's principles aim to assist the process of decolonization, and as repatriation is largely concerned with this process, these principles may be helpful in shaping regulatory frameworks for repatriation. Regardless of the principles adopted, reform is meaningless without significant financial commitment from Canadian governments.

References

Legislation and Jurisprudence

An Act Further to Amend the Indian Act, 1880. S.C. 1884, c.27. (47 Vict.), s. 3.

An Act Respecting Indians, S.C. 1951, c. 29, s. 123(2).

Canadian Cultural Property Export Control List, C.R.C., c. 448 [Control List].

Constitution Act, 1867 (U.K.), 30 & 31 Vict., c. 3, reprinted in R.S.C. 1985, App. II, No. 5.

Cultural Property Export and Import Act, R.S.C. 1985, c. C-51.

First Nations Sacred Ceremonial Objects Repatriation Act, R.S.A. 2000, c. F-14.

Museum Act, S.B.C. 2003, c. 12.

Native American Graves Protection and Repatriation Act, 25 U.S.C. §§ 3001-3013 (West Supp. 2001).

Delgamuukw v. British Columbia, 1997, 3 S.C.R. 1010.

Kitkatla Band v. British Columbia, 2002, 2 S.C.R. 146.

R. v. Sappier, R v Gray, 2007, 1 C.N.L.R. (S.C.C.) 368.

R. v. Sparrow, 1995, 1 S.C.R. 5.

R. v. Van der Peet, 1996 2 S.C.R. 507.

Secondary Literature

Assembly of First Nations/Canadian Museums Association (AFN/CMA), 1992, *Turning the Page: Forging New Partnerships Between Museums and First Peoples*, Ottawa: Task Force Report on Museums and First Peoples.

BELL, C., 2006, “Aboriginal Cultural Property and Canadian Law Reform in Kelly Bannister”, *Heritage and Intellectual Property Rights: Opportunities and Challenges for Indigenous Communities (The Polaris Report Series, R06-1)*, Victoria: University of Victoria, pp. 69-81.

_____, 2008a, “That Was Then This is Now: Canadian Law and Policy on First Nation Material Culture”, in M. Gabrielle and J. Dahl (eds), *Utimut: Past Heritage-Future Partnerships. Discussions on Repatriation in the 21st Century*, Copenhagen: IWGIA and the Greenland National Museum and Archives.

_____, 2008b, “Restructuring the Relationship: Repatriation and Canadian Law Reform”, in C. Bell and R. Paterson (eds), *First Nations’ Cultural Heritage and Law: Laws, Policy and Reform*, Vancouver: UBC Press, pp. 15-77.

_____, “Repatriation of Cultural Material to First Nations in Canada: Legal and Ethical Justifications”, in J. Nafziger and A. Nicgorski (eds), Leiden: Brill/Nijhoff Press, forthcoming 2008/2009.

BELL, C. and H. McCUAIG, 2008, "Protection and Repatriation of Ktunaxa/Kinbasket Cultural Resources: Perspectives of Community Members", in C. Bell and V. Napoleon (eds), *First Nations' Cultural Heritage and Law: Case Studies, Voices and Perspectives*, Vancouver: UBC Press, pp. 312-64.

BELL, C. and V. NAPOLEON, 2008, "Introduction, Methodology, and Thematic Overview", in C. Bell and V. Napoleon (eds), *First Nations' Cultural Heritage and Law: Case Studies, Voices and Perspectives*, Vancouver: UBC Press.

BELL, C. and V. NAPOLEON (eds), 2008, *First Nations' Cultural Heritage and Law: Case Studies, Voices and Perspectives*, Vancouver: UBC Press.

BELL, C. and R. PATERSON, 1999, "Aboriginal Rights to Cultural Property in Canada", *International Journal of Cultural Property*, 8 (1): 167-211. Second publication and updated as Bell, C. and R. Paterson, 2003, "Aboriginal Rights to Repatriation of Cultural Property", in A. Walkem and H. Bruce (eds), *Box of Treasures or Empty Box: Twenty Years of Section 35*, Penticton: Theytus Books Ltd.

BELL, C. and R. PATERSON (eds), 2008, *Protection and Repatriation of First Nations Cultural Heritage: Laws, Policy and Reform*, Vancouver: UBC Press.

BELL, C., H. RAVEN and H. McCUAIG (In consultation with the U'mista Cultural Society and 'Namgis Nation), 2008, "Recovering From Colonization: Perspectives of Community Members on Protection and Repatriation of Kwakwaka'wakw Cultural Heritage", in C. Bell and V. Napoleon (eds), *First Nations' Cultural Heritage and Law: Case Studies, Voices and Perspectives*, Vancouver: UBC Press, pp. 33-91.

BELL, C., G. STATT and Mookakin Cultural Society, 2008, "Repatriation and Heritage Protection: Reflections on the Kainai Experience", in C. Bell and V. Napoleon (eds), *First Nations' Cultural Heritage and Law: Case Studies, Voices and Perspectives*, Vancouver: UBC Press, pp. 203-57.

BELL, C., G. STATT, M. SOLOWAN, A. JEFFS and E. SNYDER, 2008, "First Nation Cultural Heritage: A Selected Survey of Issues and Initiatives", in C. Bell and V. Napoleon (eds), *First Nations' Cultural Heritage and Law: Case Studies, Voices and Perspectives*, Vancouver: UBC Press, pp. 367-416.

COLE, D., 1995, *Captured Heritage: The Scramble for Northwest Coast Artifacts*, Vancouver: UBC Press.

CRANMER WEBSTER, G., 1988, "The "R" Word", *Muse*, VI (3): 43-44.

_____, 1995, "The Potlatch Collection Repatriation", *Special Issue: Material Culture in Flux: Law and Policy of Repatriation of Cultural Property, U.B.C.L. Review*: 137-141.

GERSTENBLITH, P., 2004, *Art, Culture, Heritage and the Law: Cases and Materials*, Durham: Carolina Academic Press.

KRAMER, J., 2006, *Switchbacks Art, Ownership and Nuxalk National Identity*, Vancouver: UBC Press.

Moveable Cultural Property Division, 2000, *Cultural Property Export and Import Act: Designation of Institutions and Public Authorities Information and Procedures*, Ottawa: Canadian Heritage: 6-12.

OVERSTALL, R., 2008, "The Law is Opened: The Role of Tangible and Intangible Property in Gitanyow", in C. Bell and V. Napoleon (eds), *First Nations' Cultural Heritage and Law: Case Studies, Voices and Perspectives*, Vancouver: UBC Press, pp. 92-113.

PHALEN, M., 1982, *Museums and the Law*, Nashville: American Association for State Law and Local History.

Royal Commission on Aboriginal Peoples, 1996, *Report of the Royal Commission on Aboriginal Peoples: Looking Forward Looking Back*, Ottawa: Supply and Services Canada: 674-97.

Online Sources

First Nation Cultural Heritage in Canada (2006, November), URL: <http://www.law.ualberta.ca/research/aboriginalculturalheritage/index.html>

Museum of Anthropology, University of British Columbia (2007, May), Repatriation Guidelines, URL: <http://www.moa.ubc.ca/collections/index.php>

MOTS-CLÉS

Restitution – système législatif – masque « Echo » – collaboration – propriété – lois canadiennes – Potlach – réparation

1 “That Was Then This is Now: Canadian Law and Policy on First Nation Material Culture” presented in Nuuk Greenland and forthcoming in G. Mille and J. Dahl (eds.), 2008, *Utimut: Past Heritage-Future Partnerships. Discussions on Repatriation in the 21st Century*, Copenhagen: IWGIA & the Greenland National Museum and Archives. Portions are also drawn and modified with permission from earlier conference presentations published in conference proceedings or forthcoming in edited collections that elaborate in greater detail and with more examples concepts of property, dispute resolution, and potential museum and government liability. See Bell, C., “Repatriation of Cultural Material to First Nations in Canada: Legal and Ethical Justifications” in J. Nafziger and A. Nicgorski (eds.), forthcoming 2008/2009, Leiden: Brill/Nijhoff Press, and Bell, C., 2007, “Aboriginal Cultural Property and Canadian Law Reform” in K. Bannister and A. Johnston (eds.), *Culture, Heritage and Intellectual Property Rights: Opportunities and Challenges for Communities* (POLIS Ecological Governance Series), Victoria: University of Victoria, pp. 69-81. All of this work forms part of a much broader research program and detailed consideration of repatriation law and policy by the author found in C. Bell, “Restructuring the Relationship: Repatriation and Canadian Law Reform” [Restructuring], and with R. K. Paterson, 2008, “International Movement of First Nations Cultural Heritage in Canadian Law” [International Movement], in C. Bell and R. K. Paterson (eds.), *Protection and Repatriation of First Nations Cultural Heritage: Laws, Policy and Reform*, Vancouver: UBC Press: 15-77 and 78-108 (citation to this volume is to the author’s page proofs as it was not in press at the time of writing this article).

2 The Protection and Repatriation of First Nations Cultural Heritage Project was funded by the Social Sciences and Humanities Research Council of Canada and resulted in the publication of the two volumes mentioned in notes 1 and 3. Our partners are the Hul’qumi’num Treaty Group (HTG), U’mista Cultural Center and ‘Namgis Nation, Ktunaxa Kinbasket Tribal Council (KKTC); the Mookakin Cultural Society (Mookakin) of the Kainai Nation (Blood Tribe); the Old Man River Cultural Centre (in discussion with the Knut-sum-atak Society) of the Piikani Nation (Peigan); the Gitanyow Hereditary Chiefs and Ganeda (Frog Clan), House of Luuxhon (Luuxhon).

3 References for case studies are given to more detailed versions located on our website: <http://www.law.ualberta.ca/research/aboriginalculturalheritage/casestudies.htm>. Shorter versions of the case studies appear in Bell, C. and N. Napoleon (eds.), 2008, *First Nations’ Cultural Heritage and Law: Case Studies, Voices and Perspectives*, Vancouver: UBC Press.

4 This account of the Echo Mask story is an abbreviated form taken from some of my other publications including C. Bell and R. K. Paterson, “International Movement” and Bell, “Restructuring” above note 1. The former contains much more discussion on limitations of the legislation, dealer manipulation, and responses to these limitations. Information on the Echo Mask and Nuxalk law was drawn primarily from court documents filed in an action by the Nuxalk Nation (also known as the Bella Coola Band of Indians) and Chief Snuxaltwa (also known as Archie Pootlas) against Howard Roloff and Ate-Goo-Goosh Holdings Ltd. seeking a declaration upholding Nuxalk customary law prohibiting alienation of the mask outside the community, an order restoring possession to the Nuxalk, and an injunction preventing sale and export by Mr. Roloff. The matter was eventually settled out of court. Although Mr. Roloff was acting in compliance with Canadian law, the litigation challenged the legitimacy of that law in its application to the Nuxalk Nation. See Statement of Claim, Affidavit of Hereditary and Council Chief Archie Pootlas (Snuxaltwa), Affidavit of Elder and Hereditary Chief Andy Siwallace (Wits’lks, Icwapatsut, Suncwakas), and Affidavit of Jeffery Snow (7 Nispuxals) filed in Reg. No. 962676, British Columbia Supreme Court, Judicial District of Victoria. The Echo Mask story has also been updated and elaborated using J. Kramer’s recent publication *Switchbacks Art, Ownership and Nuxalk National Identity*, 2006, Vancouver: UBC Press at ix-xiii, 87-96. See also S. Tanner Kaplash & Associates, Inc., *Protecting First Nations Culture*, 2003, Alert Bay: U’mista Cultural Society at 12. This brochure outlines in detail how the CPEI works and its implications for First Nations.

Inuit, Museum and Repatriation: One Bone at One Time

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Note du Comité de rédaction

Leader inuit reconnu, écrivain très productif et ardent défenseur des intérêts et des traditions des Inuit, Peter Irniq est né en 1947 dans la région de Naujaat. Il a vécu dans de nombreuses communautés du Nunavut (Canada) et a entamé une importante carrière politique. Après une scolarité à Chesterfield Inlet (Nunavut), Yellowknife (Territoires du Nord-Ouest), Churchill (Manitoba) puis Ottawa (Ontario), il a travaillé comme membre de l'Assemblée législative du gouvernement des Territoires du Nord-Ouest de 1975 à 1979 puis de 1987 à 1991. Il a occupé le poste de directeur exécutif de l'Institut culturel inuit Avataq, puis la fonction de directeur des communications de la société Nunavut Tunngavik Inc. Il a ensuite travaillé comme membre de la Commission d'établissement du Nunavut de 1994 à 1997, directeur adjoint pour Patrimoine et culture au ministère de l'Éducation, de la Culture et de l'Emploi en 1997 et 1998, et sous-ministre responsable de la culture, des langues, des aînés et de la jeunesse (1998-1999). Entre 2000 et 2005, il a finalement occupé la prestigieuse fonction de Commissaire du Nunavut.

Peter Irniq dispose d'une expérience considérable comme consultant. Engagé auprès de l'Institut arctique de l'Amérique du Nord, Historica Canada, le Comité des prix du Duc d'Édimbourg, le ministère des Parcs ainsi que le musée des beaux-

arts de l'Ontario, il a également travaillé avec le gouvernement du Nunavut comme conseiller sur la question des connaissances traditionnelles des Inuit. Parmi ses nombreuses publications, son article de 2006 intitulé « Reclaiming our past » a reçu un écho important (*News North*, 10 septembre 2006). Le texte suivant prolonge son analyse et propose un certain nombre de pistes de réflexion concernant la restitution du patrimoine inuit.

In June 1991, 63 stolen skeletal remains were repatriated from Copenhagen, Denmark, to Naujaat – Repulse Bay, my hometown.

Let me explain. In the fall of 1988, I found out that the Fifth Thule Expedition, headed by Terkel Mathiassen¹, excavated several thousand-year-old graves, at the Naujaat (Repulse Bay traditional village site), some from Southampton Island and others from the Igulik area during their 1922/1924 expedition. From Naujaat alone, they took over 20 skeletal remains. I was a member of the Northwest Territories Legislative Assembly at the time, and my constituency was Naujaat, Aivilik (“where there are walruses”). During the winter session of the Territorial Legislative Assembly, I made a members statement in the House, stating that the removal of these remains had been “outright robbery,” that they did not belong to the Pandum Institute in Copenhagen, and that they should be returned to Naujaat where they belonged and where they could rest in peace.

Not only did the Fifth Thule Expedition “steal” skeletal remains, but they also removed over 3,000 to 4,000 pieces of artifacts from Naujaat. Medical trainees in Denmark used the skeletal remains to study the “Eskimo.” When the study of the “Eskimo” was completed, the remains were displayed at a Danish museum for some time, and then stored in the basement of the Pandum Institute. It was there that our team located the remains.

As a result of this excavation, in February 1930, the Northwest Territories Council enacted the *Eskimo Ruins Ordinance* whereby permits are required for the purpose of excavating archaeological sites or removing artifacts from the Northwest Territories.

Titus Alloloo, Minister of Culture at the time, was very supportive. He understood and agreed with me that the skeletal remains did not belong to some far-off country but belonged at home in Nunavut. After much negotiation and the cooperation of all parties concerned, a decision was made by the Danish National Museum to repatriate the skeletal remains. In June 1991, the Danish National Museum released the remains to our delegation: Titus Alloloo, Chuck Arnold, Prince of Wales Museum, John Ningark, MLA for Nattlik, and Ludy Palluq, MLA for the High Arctic.

After the ceremony was over, I commented to a Danish official: "Now, we'll repatriate the rest of those artifacts that the Fifth Thule Expedition took and return them to Nunavut." He responded by saying: "If you do that, our museum will be empty." I said in turn: "Well, it's because you took all our artifacts Nunavut is empty."

The team arranged to have the bones returned to Naujaat. Members of the three communities, Naujaat, Coral Harbour, and Igulik agreed to have the remains located in one place: Naujaat. On September 18, 1991 Abraham Tagornak conducted the ceremony; he said he was not going to bless the bones, as his ancestors had already done so, thousands of years ago. He blessed the ground where the bones were now going to lie.

Now that the Nunavut government has identified Clyde River as a location for a cultural centre, work must be done to repatriate artifacts and remains from southern Canada, as well as from other countries, including the United States, the United Kingdom, and Denmark.

Would this be something that would interest our renowned filmmaker Zach Kunuk of Isuma Film Productions? Would he be interested in doing a documentary on the stolen skeletal remains and artifacts? Titus Alloloo and I would be more than willing to assist in this important repatriation of Inuit artifacts and thereby understand more of our own history. At the very least the Clyde River Cultural Centre and other cultural centres throughout Nunavut should be able to host artifact tours and presentations with the assistance of the many museums and educational centres that hold our traditional property.

This activity would be of great interest to Inuit of the circumpolar world as well as the specific countries involved; let's think about this!

MOTS-CLÉS

Restitution – miniature – objet funéraire – Inuit

¹ Note du Comité de rédaction : voici ce que dit à ce propos T. Mathiassen dans son rapport de 1945 : « For Mathiassen and Jacob Olsen this sojourn at Darkness Lake was dreary and insecure. Food was often scarce; but the worst of it was that relations with the Eskimos had gradually become less friendly. Their store of tea and tobacco was now gone, and they could pay with nothing but promises which were to be fulfilled when they again reached Danish Island. What is more, however, they had ignorantly broken some of the Eskimos' taboo rules. They had excavated ancient ruins, hammered stone samples out of the rocks, smashed caribou skulls with a hammer in order to eat the brain, etc., and when some of the Eskimos became sick, the shamans worked it out that the two strangers were the cause of it. Nivietsianâq, the wife of Angutimarlak, was their evil genius. In her younger days she had been among the whalers and had since suffered from a disease, apparently syphilis. One night on the journey down, when she had a headache, she urged her husband to kill the two strangers, as otherwise the pains in her head would not subside. Jacob chanced to hear her say so, however, and was able to prevent it » (Mathiassen 1945 : 57). Référence bibliographique : MATHIASSEN, T., 1945. *Report on the Expedition*, Copenhague : Gyldendalske Boghandel.

De menus objets pour une grande cause : Le rapatriement des miniatures chez les Inuit

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Introduction¹

À l'instar de bien d'autres peuples autochtones, les Inuit se montrent de plus en plus exigeants face à la restitution de leur patrimoine matériel et immatériel. Dans ce même numéro, la contribution de Peter Irniq en témoigne, il s'agit plus que jamais d'obtenir la restitution de nombreux objets funéraires ramassés jadis par plusieurs générations d'archéologues et d'ethnologues. Dans cet article, nous voudrions examiner plus en détail les motifs culturels qui peuvent en partie expliquer la relative inflexibilité des Inuit en la matière. Nous ne traiterons pas du processus de restitution ou des questions juridiques qu'il pose pour nous intéresser à ce qui se situe en amont de ces démarches. Nous traiterons par conséquent de la part immatérielle des objets funéraires et des miniatures inuit, de leur agencéité pour reprendre une notion introduite jadis par A. Gell. Nous avançons l'idée selon laquelle les objets funéraires et les miniatures demeurent depuis toujours des objets sensibles en raison de leur ambiguïté intrinsèque et de leur pouvoir de

transformation, mais aussi parce qu'ils facilitent des connexions. Leur production reste donc entièrement subordonnée à leur intentionnalité et cette caractéristique explique leur omniprésence dans le contexte des restitutions patrimoniales.

Mais qu'est-ce qu'une miniature ? Comment la définir dans une perspective anthropologique ?

De façon générale, une miniature est une représentation d'un objet ou d'un être vivant à échelle réduite. Dans les traditions modernes, une véritable fascination existe envers les miniatures. Les enfants comme les adultes s'y intéressent. Dans *La Pensée sauvage*, à propos des œuvres de Clouet, Claude Lévi-Strauss (1990 [1962] : 37-38) a fort bien cerné la spécificité des miniatures.

Or, la question se pose, de savoir si le modèle réduit, qui est aussi le « chef-d'œuvre » du compagnon, n'offre pas, toujours et partout, le type même de l'œuvre d'art. Car il semble bien que tout modèle réduit ait vocation esthétique – et d'où tirerait-il cette vertu constante sinon de ses dimensions mêmes ? – ; inversement, l'immense majorité des œuvres d'art sont aussi des modèles réduits. [...]

Quelle vertu s'attache donc à la réduction, que celle-ci soit d'échelle, ou qu'elle affecte les propriétés ? Elle résulte, semble-t-il, d'une sorte de renversement du procès de la connaissance : pour connaître l'objet réel dans sa totalité, nous avons toujours tendance à opérer depuis ses parties. La résistance qu'il nous oppose est surmontée en la divisant. La réduction d'échelle renverse cette situation : plus petite, la totalité de l'objet paraît moins redoutable ; du fait d'être quantitativement diminuée, elle nous semble qualitativement simplifiée. Plus exactement, cette transposition quantitative accroît et diversifie notre pouvoir sur un homologue de la chose ; à travers lui, celle-ci peut-être saisie, soupesée dans la main, appréhendée d'un seul coup d'œil. La poupée de l'enfant n'est plus un adversaire, un rival ou même un interlocuteur ; en elle et par elle, la personne se change en sujet. À l'inverse de ce qui se passe quand nous cherchons à connaître une chose ou un être en taille réelle, dans le modèle réduit *la connaissance du tout précède celle des parties*. Et même si c'est là une illusion, la raison du procédé est de créer ou d'entretenir cette illusion, qui gratifie l'intelligence et la sensibilité d'un plaisir qui, sur cette seule base, peut déjà être appelé esthétique.

Lévi-Strauss explique que dans la miniature, le tout l'emporte sur les parties. Le but de la miniature est de créer une image identique mais à une autre échelle. Dans le cas d'un bateau dans une bouteille, on ne se demande pas si le bateau est fabriqué en plastique ou avec des allumettes, ce qui importe c'est que l'image du bateau soit belle et bien reproduite. Autrement dit, on ne demande pas aux parties de pouvoir fonctionner, on leur demande de contribuer à façonner l'image globale, l'image de l'ensemble mais à une échelle réduite. La miniature fait donc appel à l'imaginaire et à l'illusoire. Elle invite à jouer, à faire comme si. Or, comme l'a bien montré Huizinga (1949) dans son *Homo Ludens*, jouer est une affaire sérieuse. Ici, nous voudrions entrer un peu plus dans cet univers des miniatures inuit et comprendre pour quelles raisons ces objets ne sont pas anodins.

En effectuant un bref détour par l'Alaska, nous verrons d'abord combien la question des miniatures occupe une place cruciale dans ces traditions qui éclairent indirectement celles de l'Arctique canadien, via la chasse et le chamanisme. Nous rappellerons ensuite que les Inuit de l'Est canadien fabriquent des miniatures depuis des milliers d'années et que ces objets continuent d'exercer une grande attraction aujourd'hui. Nous terminerons par une section consacrée aux objets funéraires, pour conclure en revenant sur l'importance des miniatures.

La fabrique des miniatures en Alaska

L'ethnographe Froelich G. Rainey rapporte d'intéressants détails sur la fabrique des miniatures dans le contexte de la chasse à la baleine dans la communauté de Tigara, au nord de l'Alaska. Les miniatures apparaissent d'entrée dans le contexte rituel. Rainey (1947 : 248) décrit notamment les *qologogoloqs*, ces masques, petits bateaux et autres figurines d'animaux ou d'humains que l'on plaçait jadis dans les maisons cérémonielles :

Les *qologogoloqs* étaient suspendus à des lanières au plafond du *qalegi*. Le matin où on les suspendait, tous les hommes qui souhaitaient faire bonne chasse nettoyaient chacun à leur tour les figurines avec de l'urine. [...]

À *Qagmakoqqalegi* le plus important ensemble de *qologogoloq* comprenait une baleine en bois, deux petits umiaqs avec leurs équipages, leur équipement de chasse et un oiseau. Toutes ces figurines sacrées étaient suspendues en groupe au-dessus de la lampe.

Les *pogoks* désignent une autre sorte de figurines miniatures :

Pogok est le nom que l'on donne aux nombreuses figurines sculptées que l'on fabriquait chaque année au moment du « rituel » ; on les brûlait ensuite dans un endroit spécialement conçu pour cela à la fin de la cérémonie. Ces figurines étaient généralement fabriquées en bois et représentaient des phoques, des ours polaires, des caribous, des baleines, des morses, des oiseaux ou des animaux mythiques, ou encore d'autres figures humaines, par exemple des chamanes en train de faire leurs performances (Rainey 1947 : 269, notre traduction).

Les *qologogoloqs* étaient donc suspendus de manière permanente dans les maisons alors que les *pogoks* étaient brûlés après usage. Rainey indique que la distinction entre ces deux catégories n'apparaît pas toujours très claire mais il montre bien l'usage de miniatures dans plusieurs rites de chasse. Un autre exemple à retenir nous renvoie à la séquence finale du rituel *aula titcigut* (le jour d'appel ou le jour de la mort) lorsqu'il fallait tuer les *pogoks* et les *qologogoloqs* après l'appel de chaque nom. Pendant que les vieillards récitaient les histoires propres à chacune des figurines, les hommes devaient les uns après les autres harponner chacune des figurines suspendues avec des armes reproduites pour cette opération. Tout cela se faisait avec l'accompagnement du tambour. Et, à chaque fois qu'un *umelik* (un capitaine d'*umiaq*) harponnait une figurine à la forme de baleine, il devait chanter son chant de chasse, le même qu'il chanterait lorsqu'il harponnerait une vraie baleine. Le jour suivant, toutes les figurines étaient brûlées. Ensuite, chacune des femmes présentes versait un peu d'eau de son chaudron sur les cendres. C'est ainsi, disait-on, que les *pogoks* pouvaient être libérés, « autorisés à prendre la mer ». Les *qologogoloqs*, les figurines exposées de façon permanente, étaient quant à elles démantelées de toutes leurs parties mobiles puis suspendues à l'intérieur des *galegis*, les maisons cérémonielles (Rainey 1947 : 252).

La tuerie des *pogoks* et des *qologogoloqs* précède la véritable chasse et ces actes semblent déterminants pour son succès².

Comme on le voit dans le cas des *pogoks*, les images peuvent prendre vie et leurs âmes ou leurs esprits sont alors relâchés. Les images jouent donc le rôle de médiateurs des relations entre les chasseurs et leurs proies. Le succès de la chasse

dépendait directement aussi de la manipulation des miniatures, véritables images des futures chasses.

Dans l'Arctique canadien, l'ethnographie montre que les miniatures jouent probablement un rôle semblable qu'en Alaska, elles organisent les relations entre les humains, les animaux et les esprits.

Les miniatures dans l'Arctique canadien : une présence ancienne

De nombreuses miniatures ont été trouvées dans des sites archéologiques du Nord canadien. À Brooman Point, l'archéologue Robert McGhee (1996) a analysé toute une série de figurines miniatures qui représentent des humains et des animaux, en particulier des ours et des oiseaux. Fabriquées en ivoire, en andouiller et en bois, ces petites figurines restent remarquablement bien préservées. Selon McGhee, elles dateraient des Inuit qu'on nomme les Dorsétiens ou Paléo-Eskimos passés par Brooman Point il y a environ 1 000 ans (voir aussi Brandson 1994 : 50-53).

Selon McGhee, plusieurs espèces semblent souvent représentées comme le bœuf musqué, le caribou, le phoque, le modèle le plus redondant étant celui de l'ours. Ces figurines comportent de petits trous, ce qui laisse entendre qu'elles servaient de pendentifs, de boutons ou d'amulettes.

Si les tombes s'avèrent des lieux particulièrement riches en objets miniatures, on les retrouve aussi en grand nombre parmi les *aarnguat* (ou amulettes), les objets décoratifs et les jouets. Il faut souligner enfin qu'au XX^e siècle, la production de miniatures a joué un rôle important dans le développement de l'art inuit.

Les historiens de l'art ont montré combien les premiers voyageurs et explorateurs se sont rapidement mis à rapporter des miniatures des régions polaires. Robert Bell à la fin du XIX^e siècle, le capitaine George Comer, le Commandant A.P. Low, le révérend E.J. Peck au début du XX^e siècle, Christian Leden en 1912, et bien d'autres ont recueilli de nombreux objets funéraires parmi lesquels figurent beaucoup de miniatures (voir Blodgett 1988, Thomson 1992, et Von Finckenstein 1999, 2000, 2004). Les Inuit échangeaient ces pièces contre des biens et ce, autant avec les baleiniers qu'avec les missionnaires, des officiers de la RCMP, des

docteurs, des infirmières, ou des touristes qui visitaient leurs pays. L'anthropologue Franz Boas (1901 : 113) présente plusieurs exemples de ces miniatures avec le commentaire suivant : « Les Aivilik et les Kinipetu fabriquent de nombreuses sculptures en ivoire et en pierre à savon » (voir également Low 1911 : 176). Dans la présentation de son exposition au Musée canadien des civilisations³, la conservatrice Maria Von Finckenstein insiste à juste titre sur ces échanges entre Blancs et Inuit. Très vite cependant, on se rend compte que les motivations divergent. Pour les collectionneurs, ces figurines miniatures représentent une curiosité de l'art inuit. Pour les Inuit, ces objets disposent d'indéniables pouvoirs. Au sud de la terre de Baffin, le capitaine Hall (1865 : 523) rapporte une anecdote significative. Ayant reçu un don d'une femme inuit qui vient de survivre plus d'une semaine sans nourriture et demeure encore affamée, il note : « Je lui ai donné tout le peu que j'avais de pemmican. Elle a insisté pour que je prenne quelque chose en retour, me remettant dans les mains 12 petites figurines représentant des canards miniatures ainsi que d'autres oiseaux sculptés en ivoire de morse. J'ai gardé ces objets en souvenir de ce moment ». Dans cet échange, les miniatures offertes visaient probablement à garantir une abondance de gibier pour le capitaine Hall qui n'était pas prêt d'arriver chez lui.

De nos jours, l'usage des miniatures s'est diversifié. Les Inuit les utilisent fréquemment comme cadeaux lors des fêtes et des anniversaires. De petites *kamiit* (des bottes), des *uluit* (couteaux de femmes), des broches ou encore des boucles d'oreille ou des pendentifs circulent en grand nombre. Une partie de ces objets semble évidemment destinée au marché extérieur, c'est le cas des sculptures notamment (elles aussi des modèles miniaturisés en quelque sorte), mais les Inuit s'offrent encore beaucoup des miniatures, comme si la toute petite taille de ces objets demeurait toujours un aspect très attractif.

Les miniatures dans le contexte rituel

Les objets miniatures demeurent encore très présents dans de nombreux contextes rituels. Faute d'espace, nous ne reviendrons pas ici sur tous les contextes dans lesquels ils apparaissent, mais quelques éléments fondamentaux doivent être rappelés.

Symboliquement, l'âme-*tarniq* est elle-même décrite comme une image miniaturisée du corps qui l'abrite, qu'il s'agisse d'un humain ou d'un animal. *Tarniq* demeure donc une miniature par excellence. À partir des témoignages qu'il recueille à Iglulik, Rasmussen (1929 : 58-59) explique comment, dans le cas des humains, cette âme est leur image miniaturisée tandis que dans le cas des caribous, elle prend la forme d'un caribou miniature. De telles conceptions se retrouvent ailleurs, en particulier chez les Inuit Netsilik voisins (Rasmussen 1931 : 217). Rasmussen précise qu'aucun humain ne pourrait vivre s'il advenait que cette image miniaturisée quitte le corps qui la contenait, auquel cas un chamane devait intervenir pour la réincorporer.

Mais la miniature apparaît de manière récurrente dans bien d'autres contextes. Nombre d'ethnographes ont démontré son importance dans le monde des jouets qui sont la plupart du temps de fidèles reproductions de modèles réels (voir Hawkes (1916 : 113), Bilby (1923 : 144), Birket-Smith (1929 : 289), Balikci (1970 : 105)). Ces objets servaient à l'instruction des enfants. Tandis que les filles apprenaient la couture en confectionnant de petites poupées (Jenness 1922 : 170 ; Strickler and Anaoyok 1988 : 12 ; Dufour 1988 : 59), les garçons apprenaient à manier le traîneau à chiens avec un traîneau miniature.

En cas de besoin, ces objets fidèlement reproduits pouvaient remplacer de réels objets. D. Jenness (1946 : 58) rapporte que chez les Inuit du Cuivre, il arrivait fréquemment que des adultes utilisent les petites lampes-jouets fabriquées par les enfants comme des substituts. Lorsqu'une personne mourait et qu'on souhaitait récupérer sa précieuse lampe, il était autorisé de le faire à condition de la remplacer par une lampe miniature. On considérait, précise Jenness, que le défunt pouvait agrandir cette miniature à loisir et en faire bon usage. Cette utilisation des jouets comme objets funéraires est très révélatrice du pouvoir de transformation des miniatures (Laugrand et Oosten 2003).

Les pratiques chamaniques constituent un autre domaine où les miniatures semblent très présentes. Dans le domaine des amulettes ou des ceintures chamaniques, par exemple, on retrouve une grande quantité de miniatures. Offerts par les membres du groupe au chamane, ces petits objets de toutes sortes servaient d'éléments médiateurs qui permettaient à l'officiant d'agir et de guérir ceux et celles

qui avaient sollicité son intervention. Parmi ces miniatures, les *qalugijujait*, ces petits couteaux en ivoire ou en os étaient considérés très puissants (voir photographie). Rasmussen (1932 : 36), tout comme les aînés inuit d'aujourd'hui, souligne le pouvoir de ces objets qui servaient à éliminer les mauvais esprits. Felix Pisuk, un aîné de Rankin Inlet, a expliqué que ces couteaux paraissent de simples jouets, mais qu'ils sont en réalité les armes puissantes des esprits auxiliaires des chamanes (*tuurngait*). Pour les fabriquer, on ramassait des ossements ou des objets ayant appartenu à des défunt (Oosten et Laugrand 2002 : 28). De nos jours, de multiples récits font intervenir des miniatures. Le cas de Tungilik qui fit le récit détaillé de sa pratique du chamanisme à des étudiants du Nunavut Arctic College nous paraît significatif :

Lorsque les gens ont découvert que j'étais un *angakkuaq* [un chamane], on me fabriqua une ceinture avec de la peau blanche de caribou. Ensuite, on m'offrit de petits objets car ce sont ces objets que les *tuurngait* [les esprits auxiliaires chamaniques] veulent avoir. J'ai attaché ces objets à ma ceinture avec une cordelette (Oosten et Laugrand 1999 : 90-91).

Le rôle des miniatures apparaît enfin dans les mythes où de nombreux récits expliquent comment ces objets peuvent prendre vie. Dans une variante du mythe de la femme de la mer, une petite semelle de botte se transforme ainsi un jour en grand bateau et les phalanges sectionnées de la femme de la mer deviennent des animaux marins qui servent aujourd'hui de gibiers aux chasseurs inuit (Rasmussen 1929 : 64-66).

Les miniatures permettent donc des changements d'échelle. Ceux-ci sont redondants dans les mythes. Géants ou êtres infiniment petits apparaissent dans de nombreux récits, que l'on pense à la figure de Naarsuk ou de Sila, l'*inua* du ciel qui contrôle le temps et qu'on décrit comme un nourrisson géant (Saladin d'Anglure 2006 : 90-91). Pensons également à ces *inugarulligait* (les nains) qui semblent tout petits mais qui peuvent grossir à vue d'œil pour atteindre la taille de leur adversaire.

On le constate, les miniatures doivent être pensées comme des objets pouvant se transformer. Bien que de petite taille, ces objets peuvent grandir et grossir et ces deux extrêmes renvoient directement à l'univers des non-humains.

Nombre d'offrandes étaient jadis des objets miniatures, qu'il s'agisse de petites *kamiit* qu'on plaçait sous une pierre (Rasmussen 1929 : 183; 1932 : 37), de morceaux de lanières en peau de phoque qu'on offrait à Tikkertserktok (Laugrand et Oosten 2005 ; Laugrand, Oosten et Trudel 2006) ou des reproductions d'outils. Rasmussen (1931 : 242) décrit la pratique du *kiversautit*, cette offrande que l'on faisait à Nuliajuk pour ouvrir la période de chasse au phoque :

La peau d'un lemming est remplie d'un grand nombre de figurines miniatures qui représentent des phoques, des harpons, des têtes de harpons, etc. Le tout est plongé dans l'*atuarutit*, cette étroite crevasse qui se forme toujours entre la glace hivernale et le rivage [...]. *Kiversautit* signifie les choses qui sont autorisées à couler au fond de l'eau ; ces objets réjouissent Nuliajuk qui devient alors disposée à récompenser les hommes en leur permettant de faire de bonnes chasses (Rasmussen 1931 : 242).

Selon Rasmussen (1929 : 195), les Inuit de la région d'Iglulik effectuaient des dons semblables lorsqu'ils commençaient la chasse au caribou. Pour ouvrir cette chasse, ils devaient au préalable déposer un morceau de peau sous une pierre en guise d'offrande à Tugtut Igfianut, la mère du caribou. Les Inuit voisins, les Netsilingmiut, eux, déposaient de petits morceaux de viande sous des pierres, ou ils les jetaient en l'air juste après le décès de l'animal. Ces offrandes ne s'adressaient pas aux esprits mais aux défunt que l'on tenait responsables des bonnes prises. Cette pratique portait le nom du *tunigiarniq* et elle évoque bien sûr cet autre rituel que les Inuit pratiquaient au moment de la naissance et qui consistait, pour la mère, à mettre son enfant en contact avec des morceaux de viande qu'elle offrait ensuite aux défunt ancêtres (Rasmussen 1931 : 242). Une métonymie semblable apparaît dans ces rites de conversion (*siqqitiq*) au cours desquels les Inuit avaient sans les mâcher de petits morceaux de viande en provenance de parties de l'animal (souvent les entrailles) prohibées à la consommation, en particulier pour les femmes et les chamanes (Oosten et Laugrand 1999 ; Laugrand 2002). Dans ce contexte, la miniature exprime métaphoriquement ce que les petits morceaux de gibier expriment métonymiquement, comme si la miniature précédait donc le tout. Cette idée rend intelligible une observation de Hawkes (1916 : 90-91) qui rapporte que les Inuit du Labrador avaient l'habitude de fabriquer des modèles miniaturisés de leurs lampes et de leurs récipients. On considérait en effet que tant que ces modèles réduits n'étaient pas brisés, les objets réels correspondants ne pourraient pas non

plus se briser. On retrouve donc bien ici la conception selon laquelle le destin d'un objet dépend étroitement de la miniature qui le représente, de la même manière que le destin d'un être humain dépend de l'image miniaturisée, soit de l'âme-*tarniq* qu'il contient.

Avec la christianisation, les miniatures ont continué de circuler et d'autres modèles ont fait leur apparition. Pensons, par exemple, au succès remarquable qu'à connu un petit crucifix que les Inuit ne voulaient absolument pas vendre aux membres de la 5^{ème} Expédition de Thulé, considérant l'objet comme une puissante amulette (Mathiassen 1928 : 235). D'autres miniatures ont connu un succès semblable. Il en va ainsi des médailles ou des images distribuées par les missionnaires oblats comme cette image de Guy de Fontgalland utilisée par le Père Bazin à Iglulik en 1932 et dont on disait qu'elle guérissait les malades par simple application (Laugrand 2002 : 339).

La miniature comme objet funéraire par excellence

L'usage d'objets miniatures dans le cadre des pratiques funéraires est une pratique que l'on retrouve à l'échelle de tout l'Arctique de l'Est canadien. Le missionnaire anglican J. Bilby (1923 : 232) en donne plusieurs exemples pour la Terre de Baffin. En 1912-1913, le voyageur C. Leden (1912 : 198), qui a pourtant collecté un grand nombre des objets qu'il décrit, observe à son tour : « La coutume des Inuit est d'enterrer le mort avec tous les objets qui lui ont appartenu. Ce qu'on ne dépose pas dans la tombe est tout simplement laissé sur place. S'emparer de ces objets ou en faire usage est une faute terrible ».

Aujourd'hui, l'artiste inuit Minnie Freeman (1996 : 15) voit dans la tradition de fabriquer des objets miniatures pour les défunts l'une des origines même de l'art contemporain des Inuit : « De nombreux objets d'art étaient fabriqués pour servir d'abord dans des contextes funéraires ». Avant d'aller plus loin, examinons donc plus en détail ces pratiques qui se perpétuent, comme l'indique par exemple cette recommandation de Simon Tookoome (2000 : 35), un aîné originaire de Qamanittuaq (Baker Lake), qui conseillait récemment encore à ses contemporains de déposer des objets ou de petits morceaux de viande sur la tombe de leurs défunt.

Dans les sources ethnographiques, Rasmussen (1929 : 199) décrit ces pratiques :

Leurs propres instruments mis à part, divers objets miniatures sont fabriqués pour les hommes, comme un kayak, un traîneau, un harpon, un arc et des flèches ou une tasse, tous ces petits objets étant ensuite placés au pied du corps du défunt. Pour les femmes, une petite lampe, une fourchette à viande, un récipient, une tasse et de réelles aiguilles ainsi qu'un dé à coudre sont fabriqués et déposés au pied du corps [...]. On dit que ce geste est nécessaire de sorte que les défunts puissent posséder quelque chose. C'est avec ces objets miniatures que l'âme rejoindra aussi Takanaluk...

Rasmussen souligne que le défunt doit posséder des objets pour quitter le monde des vivants et rejoindre les lieux post-mortem. Les miniatures qu'on lui remet peuvent être vues comme des images réduites à l'échelle des humains, mais également comme des images à taille normale à l'échelle de l'âme-*tarniq* dont on a vu précédemment qu'elle était elle-même une miniature. Les distinctions de genre semblent marquées puisque hommes et femmes ne partent pas avec les mêmes objets, que les Inuit du Cuivre nomment des *ingelrutit*, les choses avec lesquelles l'âme peut voyager. D. Jenness (1922 : 176) relate :

Souvent, la famille gardera du défunt les objets qui ont le plus de valeur et se contentera de ne placer que des représentations miniatures de ces objets près de sa tombe. Cela se fait notamment pour les bottes conçues à l'épreuve de l'eau, mais on le fait aussi pour l'arc et les flèches. Lorsqu'il a besoin de ces objets, le défunt est en mesure d'agrandir les miniatures, il n'est donc pas nécessaire de lui laisser les vrais objets.

Le remplacement d'un objet constitue une opération cruciale, comme si un défunt devait toujours apparaître comme un tout indissociable composé d'un corps et de ses objets, réels ou miniaturisés. Aucune partie de cet ensemble ne doit être prélevée au risque de briser ce tout et de placer le défunt dans une situation délicate. En cas de décès, la conservation des articles de valeur ou les plus utiles ayant appartenu au défunt ne pose pas problème tant que ces derniers sont substitués par des miniatures ou des jouets. Rasmussen cite de nombreux exemples de pareilles substitutions (Rasmussen 1927 : 134). Ces imitations miniaturisées des vrais objets portent le nom de *ilijät* (« ce qui est à une longue distance ») et on les recouvrait habituellement de petites pierres (Rasmussen 1932 : 46).

D. Jenness (1922 : 81) rapporte que les Inuit du Cuivre plaçaient parfois des objets miniatures près du cadavre d'un ours qu'on avait abattu. Selon Milukkattak, on pouvait y déposer un arc et des flèches miniatures dans le cas d'un ours mâle. Boas (1888 : 501) relate d'autres pratiques au cours desquelles on offre des objets à un ours tué. On les suspendait pendant trois jours avec sa langue, afin dit-on, que son âme puisse voyager plus rapidement dans le monde et informer les autres ours du respect que les hommes leur vouent. Au bout de trois jours, les objets étaient récupérés et le tueur de l'ours les redistribuait à la volée aux garçons qui devaient les prendre et les rapporter à leurs propriétaires. Une fois tué, l'ours devient donc un instant propriétaire des miniatures qu'on lui offre, lesquelles sont ensuite redistribuées aux garçons, le tueur de l'ours jouant ici le rôle de médiateur. Un contraste alors se dégage. Tandis qu'après leur mort les humains deviennent des donneurs de viande sur lesquels les chasseurs peuvent compter, les ours eux, deviennent des donneurs d'objets.

Les miniatures et les objets funéraires ne font donc pas que connecter les vivants aux défunt, ils permettent de transformer les défunt, humains ou animaux en des êtres sociaux qui deviennent des partenaires pour les vivants, leur apportant de la nourriture ou des objets en abondance en échange de ces offrandes en forme de miniatures.

Conclusion

Pour les Inuit, les miniatures disposent d'un énorme pouvoir de transformation et nous n'avons ici donné que quelques exemples. Ces petits objets ont beau ressembler à des jouets ou à des objets décoratifs, leur pouvoir demeure intact et toujours activable. En tant que jouets, ces objets servent à transformer les êtres, ils transforment ainsi les enfants en adultes. De la même manière, les objets de décoration n'en restent pas moins de puissantes amulettes si nécessaire. Les amulettes demeurent potentiellement aussi de véritables armes que l'on peut utiliser pour se protéger.

Les miniatures peuvent donc prendre ou donner vie, elles la génèrent. Enfin, en tant qu'images du monde, les miniatures rappellent toujours qu'elles sont à l'origine des choses. Tout être vivant ne doit-il pas son existence à celle d'une miniature ? Dans ce contexte, l'âme-*tarniq* demeure une sorte de modèle mais

également un niveau dans lequel, par de multiples jeux d'échelle, les miniatures acquièrent d'autres dimensions. Dans leur diversité, les miniatures évoquent par conséquent le jeu de l'illusion. Elles transforment le réel en images et, inversement, il faut peu de chose pour que ces images agissent sur le réel.

De nos jours, si les Inuit ont profondément intégré le christianisme et si beaucoup rejettent l'usage des amulettes, le modèle de la miniature reste encore très populaire. Nombre de miniatures finissent dans les cimetières tandis que d'autres circulent, leur production n'étant pas seulement orientée vers le marché extérieur.

En définitive, tout porte à croire que ces objets, mieux que d'autres, connectent différents niveaux et disposent d'un pouvoir de transformation qui se déploie métonymiquement ou métaphoriquement. Ces objets permettent de chevaucher les frontières et les échelles, la vie et la mort, ils agissent comme des médiateurs dont le pouvoir peut être activé selon les contextes et les besoins.

Le pouvoir des miniatures ne doit cependant pas être abordé dans des termes essentialistes mais plutôt dans une perspective relationnelle. Les miniatures ne contiennent en soi pas de pouvoir. Elles ne sont pas des objets magiques. Leur pouvoir résulte de relations. Les miniatures n'acquièrent leur pouvoir que lorsqu'elles sont produites, acquises, transmises dans certains contextes et avec certaines intentions (un don que l'on fait à un chamane ou à un guérisseur pour obtenir son aide, un don au défunt, etc.). À la différence d'autres objets, les miniatures cumulent donc plusieurs avantages. Elles permettent de connecter en même temps qu'elles représentent, elles interviennent au début de la vie, accompagnent les rites de première fois et interviennent de nouveau au moment du décès. En somme, le pouvoir de transformation de ces objets réduits s'observe à tous les niveaux mais plus particulièrement lors de deux passages décisifs, lorsqu'il s'agit de faire du jeune *inuk* un adulte et lorsqu'il faut transformer le défunt en un ancêtre au service du groupe.

Aussi, la miniature est moins l'image du véritable objet que son modèle original, et c'est probablement cette qualité qui en fait un objet puissant, ambigu et particulièrement sensible.

Les objets incarnent enfin des relations. Lorsque les *qallunaat* et en particulier les scientifiques ont donc commencé à ramasser des objets funéraires sur les tombes des Inuit et à s'emparer de nombreuses miniatures, les Inuit ressentirent un profond malaise. Ces actes affectaient leurs propres relations avec les défunt. La requête que Peter Irniq vient ici de réitérer dans le sens d'un rapatriement des objets funéraires dans leurs familles et communautés prend tout son sens dans cette conception profondément ancrée chez les Inuit d'un grand respect à vouer aux défunt et aux objets qui permettent aux vivants, et par conséquent à leurs descendants, de pouvoir communiquer avec eux. Maintenant que les Inuit disposent d'une parole pour se faire entendre, il faut s'attendre à ce que leurs requêtes pour le rapatriement des objets funéraires continuent à se multiplier.

Références

- BALICKSI, A., 1970, *The Netsilik Eskimo*, Garden City, New York : Natural History Press for the American Museum of Natural History.
- BILBY, J. W., 1923, *Among Unknown Eskimo: An Account of Twelve Years Intimate Relations with the Primitive Eskimo of Ice-Bound Baffin Land, with a Description of their Ways of Living, Hunting Customs and Beliefs*, Philadelphie : J. B. Lippincott.
- BIRKET-SMITH, K., 1929, *The Caribou Eskimos: Material and Social Life and Their Cultural Position. Report of the Fifth Thule Expedition, 1921-24*, Vol. V (1), Copenhague.
- BLODGETT, J., 1988, « The Historic Period in Canadian Eskimo Art », *Inuit Art: An Anthology* : 21-29, Winnipeg : Watson & Dyer.
- BOAS, F., 1888, *The Central Eskimo*, réimpression de 1964, Lincoln : University of Nebraska Press.
- BOAS, F., 1901, « The Eskimo of Baffin Land and Hudson Bay », notes rassemblées par le Capt. George Comer, Capt. James S. Mutch, et le Rév. E. J. Peck, *Bulletin of the American Museum of Natural History*, Vol. XV (1) : 1-370.

- BRANDSON, L., 1994, *Carved from the Land. The Eskimo Museum collection*, Altona : Friesen printers.
- HALL, C. F., 1865, *Life with the Esquimaux*, Vol. I et II, Londres : Sampson, Low Son et Marston.
- HAWKES, E.W., 1916, *The Labrador Eskimo*, Canada Department of Mines, Geological Survey Memoir 91, Anthropological Series 14, Ottawa : Government Printing Bureau.
- HUIZINGA, J., 1949, *Homo Ludens. A study of the play-element in culture*, Londres : Routledge & Kegan Paul.
- JENESS, D., 1922, *The Life of the Copper Eskimos. Report of the Canadian Arctic Expedition, 1913-18*, Vol. XII (A), Ottawa : F. A. Acland.
- _____, 1946, *Material Culture of the Copper Eskimo. Report of the Canadian Arctic Expedition, 1913-18*, Vol. XVI, Ottawa : Edmund Cloutier.
- LAUGRAND, F., 2002, *Mourir et renaître. La réception du christianisme par les Inuit de l'Arctique canadien, 1890-1940*, Québec : PUL, et Leyde : CNWS.
- LAUGRAND, F. et J. OOSTEN, 2003, « Le pouvoir de transformation des miniatures », *Miniatures inuit*, Catalogue de l'exposition *La miniature au cœur de l'art inuit : 25-45*, Montélimar : Imprimerie Bayle.
- _____, 2005, « Connecting and Protecting: Lines and Belts in the Canadian Arctic », *Anthropological Papers of the University of Alaska*, Vol. IV (1)º: 133-147.
- LAUGRAND, F., J. OOSTEN et F. TRUDEL, 2006, *Apostle to the Inuit. The Journals and the Ethnographical Notes of E.J. Peck, The Baffin Years, 1894-1905*, Toronto : University of Toronto Press.
- LEDEN, C., 1912, *Across the Keewatin Icefields*, Winnipeg : Watson and Wyer Publishing Ltd.
- LÉVI-STRAUSS, C., 1962, *La Pensée sauvage*. Parisº: Plon.

LOW, A. P., 1906, *The Cruise of the Neptune, 1903-04: Report on the Dominion Government Expedition to Hudson Bay and the Arctic Islands on Board the D.G.S. Neptune*, Ottawa : Government Printing Bureau.

MATHIASSEN, T., 1928, *Material Culture of the Iglulik Eskimos. Report of the Fifth Thule Expedition, 1921–24*, Vol. VI (1), Copenhague : Nordisk.

McGHEE, R., 1996, *Ancient People of the Arctic*, Vancouver : UBC Press.

NELSON, E. W., 1899, « The Eskimo about Bering Strait », *Eighteenth Annual Report of the Bureau of American Ethnology, 1896-97*, Washington : Government Printing Office.

OOSTEN, J. et F. LAUGRAND (Dir.), 1999, *The Transition to Christianity. Inuit Perspectives on the XXth Century*, Vol. I, Iqaluit : Language and Culture Program, Nortext/Nunavut Arctic College.

_____, 2002, *Inuit Qaujimajatuqangit: Shamanism and Reintegrating Wrongdoers. Inuit Perspectives on the XXth Century*, Vol. IV, Iqaluit : Nunavut Arctic College/Nortext.

RASMUSSEN, K., 1929, *Intellectual Culture of the Iglulik Eskimos. Report of the Fifth Thule Expedition 1921-1924*, Vol. VII (1), Copenhague : Gyldendalske Boghandel.

_____, 1931, *The Netsilik Eskimos: Social Life and Spiritual Culture. Report of the Fifth Thule Expedition 1921-24*, Vol. VIII (1-2), Kobenhavn : Gyldendalske Boghandel, Nordisk Forlag.

_____, 1932, *Intellectual Culture of the Copper Eskimos. Report of the Fifth Thule Expedition 1921-1924*, Vol. VII (1), Copenhague : Gyldendalske Boghandel, Nordisk Forlag.

SALADIN d'ANGLURE, B., 2006, *Être et renaître inuit. Homme, femme ou chamane*, Paris : Gallimard.

SALADIN d'ANGLURE, B. (Dir.), 2001, *Cosmology and Shamanism. Interviewing Inuit Elders*, Vol. IV, Iqaluit : Language and Culture Program, Nortext/Nunavut Arctic College.

SIMON, K., 2007, *A way of making life beautiful*, film DVD.

STRICKLER, E. et A. ALOOKEE, 1988, *Inuit Dolls: Reminders of a Heritage*, Toronto : Canadian Stage and Arts Publications Ltd.

THOMSON, J. S., 1992, « A Tiny Arctic World », *Inuit Art Quarterly*, Vol. VII (4) : 14-23.

TOOKOOME, S., 2000, *The Shaman's Nephew. A Life in the far North*, Toronto : Stoddart Kids.

VON FINCKENSTEIN, M., 1999a, *Celebrating Inuit Art: 1948–1970*, Hull, Quebec : Canadian Museum of Civilization, et Toronto : Key Porter Books.

_____, 1999b, « A Few Things in the Way of Curios: Historic Ivories at the Canadian Museum of Civilization », *Inuit Art Quarterly* XIV (4) : 28-32.

_____, 2004, « Playthings from the Kivalliq », *Inuit Art Quarterly*, XIX (3).

MOTS-CLÉS

Inuit – miniature – objet – rapatriement – art – chamanisme



Ceinture chamanique composée de nombreux *qalugijujait*. Original conservé à l'Eskimo Museum, Churchill (Manitoba)

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² Dans son excellent film intitulé *A way of making life beautiful* (2007) et réalisé dans le cadre de ses études doctorales, Katrin Simon cite un commentaire de David Boy Scout, un aîné originaire de la région de Chevak, qui permet de comprendre la position de ces objets, à cheval entre chamanisme et art. Ce point a déjà abordé par Himmelheber et Fienup-Riordan: « L'art nous vient des chamanes de jadis. Les chamanes essayaient d'agir sur le futur en rendant la nourriture disponible aux humains, comme du poisson ou d'autres animaux. Ils fabriquaient des figurines de ces animaux qui représentaient en fait leurs esprits. Ensuite, le chamane plaçait ces objets dans la maison des hommes et ils dansaient autour afin d'honorer les esprits animaux. C'était cela l'art de jadis » (Simon 2007, notre traduction).

³ http://www.civilization.ca/tresors/art_inuit/inarte.html. Site internet consulté le 30 juillet 2007.

Objet retrouvé, objet rendu Un cas de restitution exemplaire



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La restitution d'une coiffure cérémonielle (*yaxwiwe'*), le 21 septembre 2003, au U'mista Cultural Centre (Colombie-Britannique, Canada), a été un événement marquant pour les membres de la communauté kwakwaka'wakw d'Alert Bay. Ce village situé sur l'île Cormorant, au nord de l'île de Vancouver, s'enorgueillit de la présence, sur son territoire, d'un musée inauguré en novembre 1980 pour y accueillir une partie d'une collection d'objets unique en son genre en raison de son histoire et des conditions particulières de sa constitution. En effet, cette collection dite « Potlatch Collection » qui a été réunie au printemps 1922, comprend environ quatre cent cinquante pièces cérémonielles confisquées aux Kwakwaka'wakw par le gouvernement canadien à la suite de l'organisation illégale d'un potlatch en décembre 1921, le potlatch étant interdit par loi anti-potlatch de 1884. Durant les années qui ont suivi la promulgation de cette loi, les Kwakwaka'wakw ont bravé l'interdiction sans être véritablement inquiétés, mais la révision de la loi anti-potlatch, en 1918, a favorisé un renforcement de la répression. Constatant la vitalité croissante des activités cérémonielles, l'administration a entrepris de « tuer » le potlatch en condamnant les contrevenants au versement d'une amende ou à une peine de prison. À la suite d'une enquête diligentée par William Halliday, l'agent des Affaires indiennes en poste à Alert Bay, quatre-vingts chefs et nobles kwakwaka'wakw ayant participé au potlatch de 1921 sont soupçonnés d'infraction à la loi, une cinquantaine d'entre eux sont inculpés pour avoir prononcé des

discours, chanté, dansé, distribué des cadeaux. Lors du procès, la défense plaide coupable et tente d'obtenir la clémence des juges en arguant que les Kwakwaka'wakw sont prêts à cesser toute activité rituelle « délictueuse ». À l'instigation de l'agent des Affaires indiennes, mais surtout de Donald Angermann, le policier qui avait procédé aux arrestations, le tribunal accepte de suivre la défense à la condition que les Kwakwaka'wakw, pour prouver leur bonne foi, abandonnent de leur plein gré tous leurs objets cérémoniels. Ce sera le prix à payer pour leur liberté. Le jugement se solde par neuf acquittements, la condamnation à deux mois de prison avec sursis des inculpés qui se sont engagés à se défaire de leurs biens cérémoniels et la condamnation à deux mois de prison ferme pour les vingt-six qui refusent la décision du tribunal (Cole et Chaikin 1999, Mauzé 2004). La Potlatch Collection comprend des pièces provenant de neuf communautés et appartenant à des membres qui, par solidarité avec leurs chefs, ont décidé de livrer leurs biens cérémoniels à l'agent des Affaires indiennes.

Au moment de la confiscation, les objets sont rassemblés et exposés dans la salle paroissiale attenante à l'église anglicane d'Alert Bay. Les pièces sont également photographiées et un inventaire établi par l'agent des Affaires indiennes. À l'automne 1922, la Potlatch Collection est envoyée au musée national d'Ottawa pour y être cataloguée et évaluée sous la responsabilité de l'ethnologue et linguiste Edward Sapir, alors directeur du département d'anthropologie du musée. Les Kwakwaka'wakw seront dédommagés à hauteur de quelques dollars pour un masque, et de quelques cents pour un sifflet. Il demeure que certains propriétaires des artefacts confisqués refusent la compensation proposée, qui leur paraît insultante. La collection sera ensuite répartie entre le musée d'Ottawa qui en a conservé environ les deux tiers et le Royal Ontario Museum dont les collections ethnographiques de la côte nord-ouest sont jugées assez pauvres. C'est ainsi que la Potlatch Collection est devenue propriété du gouvernement fédéral par l'entremise du Département des Affaires indiennes.

Cependant, quelques pièces vont connaître un sort différent de celui prévu par l'administration. En septembre 1922, l'agent des Affaires indiennes William Halliday, contrairement aux directives du Département des Affaires indiennes, vend à bon prix une trentaine de pièces au collectionneur George Heye (1874-

1957), fondateur du Museum of the American Indian à New York. En 1926, Heye entreprend une nouvelle campagne de collecte et, à cette occasion, fait l'acquisition de quelques objets faisant également partie de la Potlatch Collection, ceux détournés dans des circonstances pour le moins troublantes par le fameux Donald Angermann, le policier qui avait procédé à l'arrestation des chefs kwakwaka'wakw au début de l'année 1922. La coiffure cérémonielle achetée à Paris en 1965 par André Breton fait partie du nombre¹. Elle sera restituée par sa fille Aube Elléouet au U'mista Cultural Centre. À histoire singulière, mode de restitution exceptionnel.

Les modalités de restitution de la Potlatch Collection

L'histoire de la restitution de la Potlatch Collection aux Kwakwaka'wakw de Colombie-Britannique est exemplaire, à la fois sur le plan politique et éthique. D'une part, la décision du musée d'Ottawa s'inscrit dans le cadre d'une attitude plutôt favorable vis-à-vis des autochtones qui prévalait à cette époque dans les sphères gouvernementales et culturelles ; d'autre part, cette initiative vise à réparer les dommages occasionnés sur la vie sociale et cérémonielle des peuples autochtones de Colombie-Britannique par la confiscation, dans des conditions dramatiques, de la Potlatch Collection. Sans entrer dans les détails de l'histoire du rapatriement de la collection, rappelons que les premières démarches entreprises par les représentants des différentes communautés kwakwaka'wakw, notamment par le chef James Sewid, ont débuté à la fin des années 1950, soit presque trois décennies avant que les débats sur la question de la restitution du patrimoine culturel des Premières nations au Canada aient véritablement été engagés au plan national². À la fin des années 1960, le musée national du Canada (aujourd'hui musée des civilisations), détenteur de la plus grande partie de la collection, est acquis à l'idée de sa restitution à condition que celle-ci soit abritée dans un musée local. Après de longues négociations, les Kwakwaka'wakw obtiennent en 1974-1975 que les objets de la Potlatch Collection, alors propriété du ministère des Affaires indiennes, leur soient rendus, mais à la condition que les pièces confisquées ne retournent pas dans les familles anciennement détentrices pour en éviter la dispersion. Il a été décidé que les artefacts, considérés désormais comme faisant partie du patrimoine culturel des Kwakwaka'wakw seraient accueillis dans un musée local répondant aux normes muséographiques en vigueur au Canada. Les Kwakwaka'wakw acceptent la proposition du musée national d'Ottawa, mais le

choix du site pour la construction du musée entraîne de profonds désaccords au sein des communautés concernées, si bien que deux musées sont construits : l'un, le Kwagiulth Museum and Cultural Centre, à Cape Mudge, est inauguré en juin 1979, et le U'mista Cultural Centre, à Alert Bay, est ouvert en novembre 1980. Dans le prolongement de la décision prise par le musée d'Ottawa, le Royal Ontario Museum entreprend à son tour de rendre en 1988 aux deux musées kwakwaka'wakw les quelque cent quarante pièces de la Potlatch Collection qu'il détenait encore. En outre, dans le cadre de la loi NAGPRA³, le National Museum of the American Indian a restitué neuf pièces en 1993 – dont deux de la collection Angermann – et dix-sept autres en 2002⁴. Bien évidemment, quelques objets se trouvent encore dans des collections privées ou dans des musées (Mauzé 1999, 2004a, 2008).

Le Louvre ou le U'mista Cultural Centre

De l'atelier d'André Breton où elle a été quasiment ignorée pendant près de 40 ans (Breton est mort en 1966), la coiffure cérémonielle kwakwaka'wakw aurait dû aller au Louvre et être exposée avec la centaine de « chefs d'œuvre incontestables » choisis par Jacques Kerchache, commissaire de l'exposition permanente des « arts premiers » au Pavillon des Sessions du Louvre, inaugurée en avril 2000. La coiffure n'est pas allée au Louvre, elle a rejoint une partie de la Potlatch Collection au U'mista Cultural Centre où elle a pris statut d'objet patrimonial symbolisant la vitalité d'une culture autochtone (Mauzé 2004a, 2008).

Kerchache avait porté son choix sur cette pièce en raison de son solide pedigree. Il pensait que cette pièce venait de la Heye Foundation et qu'elle était donc associée à une époque précise de l'histoire de la sensibilité artistique des surréalistes vis-à-vis des « arts sauvages ». On sait que Breton et ses amis – artistes et intellectuels, avaient réuni des collections d'objets de la côte nord-ouest remarquables lors de l'exil new-yorkais des années 1940 (Lévi-Strauss 1990, Mauzé 2004b, 2006). Kerchache avait exposé cette pièce, alors identifiée comme « masque haïda » dans sa propre galerie de la rue de Seine à Paris, en 1964 et 1965. C'est lors de l'exposition de mai-juin 1965 *Art primitif. Amérique du Nord* que Breton avait acheté la coiffure. Le fait qu'elle ait appartenu au poète surréaliste justifiait aux yeux de Kerchache sa présence aux côtés des huit autres objets

provenant d'Alaska et de la côte nord-ouest dignes de représenter l'Amérique du Nord au sein de cette noble institution qu'est le Louvre (Mauzé 2008)⁵.

Une anthropologue et son terrain

En tant que spécialiste des sociétés de la côte nord-ouest et plus particulièrement des Premières nations kwakwaka'wakw, j'ai été sollicitée en décembre 1998 par Kerchache pour examiner la coiffure car je devais en établir la notice pour le catalogue à paraître pour l'inauguration de l'exposition au Louvre. À cette occasion, j'ai découvert, en me fondant sur le numéro d'inventaire que j'avais pris soin de relever, l'origine problématique de la pièce. En effet, le numéro inscrit sur sa face interne signalait, par ses caractéristiques propres, son appartenance aux collections du Museum of the American Indian fondé par le collectionneur George Heye en 1916 et la date de son entrée dans ce musée. Après avoir consulté mes propres archives de la Potlatch Collection – j'avais commencé mes recherches de terrain à Cape Mudge quelques mois après l'inauguration du musée – qui comprenaient notamment plusieurs inventaires, j'ai avancé l'hypothèse que la dite coiffure appartenait vraisemblablement à la Potlatch Collection. Mon hypothèse a été confirmée par Ann Drumheller, conservateur au National Museum of the American Indian, à qui j'avais fait parvenir le numéro d'inventaire de la coiffure⁶. En outre, la coiffure apparaissait au moins sur deux photographies prises par Halliday, l'agent des Affaires indiennes au moment de la confiscation. Ainsi, le numéro d'inventaire et un ensemble de photographies d'archives ont révélé la véritable identité de la pièce.

Ayant une bonne connaissance du dossier de la Potlatch Collection et des efforts constants entrepris par les deux musées locaux pour obtenir à terme sinon la totalité des objets de la collection, du moins le plus grand nombre possible, j'ai conseillé à la Commission d'acquisition de la Mission de préfiguration du musée des arts et des civilisations (futur musée du Quai Branly), à l'appui d'un dossier sur l'histoire de la confiscation et du rapatriement que j'avais constitué, de ne pas acquérir la pièce auprès de la succession Breton car elle était susceptible d'être réclamée, ce qui empêchait son acquisition par la France (Mauzé 2004a : 116).

En 2003, quelques semaines avant la vente des collections André Breton qui a eu lieu en avril, j'ai rappelé à Maître Cyrille Cohen, commissaire de la vente Breton, l'histoire de vie de la coiffure et les conditions dramatiques de la confiscation des objets cérémoniels aux Kwakwaka'wakw, plaident en faveur de sa restitution.

Il me semble que le moment est particulièrement bienvenu pour reconsidérer définitivement le statut de la coiffure cérémonielle kwakwaka'wakw qui est l'une des quatre pièces de la « Potlatch Collection » demeurant entre les mains de collectionneurs privés. Ma longue familiarité avec l'histoire de la « Potlatch Collection » et ma connaissance intime de la société qui en fut dépositaire me font un devoir moral d'attirer votre attention sur l'existence d'un objet qui, pour n'être pas mis sur le marché à l'occasion de la vente André Breton d'avril prochain, devrait réintégrer le patrimoine historique et culturel des Kwakwaka'wakw[...]. Il me reste à exprimer fortement le vœu que Madame Aube Elléouët acceptera de rendre un hommage symboliquement très important à la culture des Kwakwaka'wakw en offrant à l'un de leurs deux musées locaux un objet qu'ils ont pu croire à jamais perdu et qui, grâce à vous, pourra devenir un objet retrouvé.

À cette lettre, Aube Breton-Elléouët a répondu qu'elle « serai[t] fière ainsi que [s]a fille Oona de rendre ce masque (la coiffure) aux [Indiens] à qui il a été volé »⁷. C'est à ce moment-là que j'ai prévenu les présidents du Kwagiulth Museum (Don Assu) et celui du U'mista Cultural Centre (Bill Cranmer) pour les informer qu'un objet avait été trouvé dans une collection particulière en France et que la descendante de son « propriétaire » Aube Elléouët Breton (avec sa fille Oona) avait décidé de restituer cet objet aux Kwakwaka'wakw. Il est bien évident que la démarche de l'anthropologue serait restée lettre morte sans la générosité d'une personne étrangère à ce contexte mais sensible, comme l'aurait été son père, à la condition politique faite aux Amérindiens.

La coiffure a été officiellement déposée au U'mista Cultural Centre le 21 septembre 2003. La restitution de la coiffure par Aube Breton Elléouët et sa fille Oona est certainement un événement unique dans l'histoire des relations entre Premières nations, musées tribaux et personnes privées. Aube Breton a rappelé à Jack Knox, journaliste au *Victoria Times Colonist* que « (...) étant donné les efforts

entrepris par les autochtones pour retrouver leur identité, la restitution est plus importante que la vente [de la collection] de mon père. »

Une fête pour une restitution

La cérémonie de restitution s'est déroulée dans la Big House d'Alert Bay. Après un banquet de bienvenue, des discours, des danses, des chants et une distribution de cadeaux en ont ponctué les différents moments. Parce qu'elle a été restituée par une personne individuelle et non par une institution, la coiffure a été traitée différemment par rapport aux quelque quatre cents autres objets déjà rendus par le musée des civilisations, le Royal Ontario Museum et le National Museum of the American Indian. Aube Elléouët Breton a été honorée du nom d'Uma, ou « femme noble », en reconnaissance de la générosité de son geste ; elle a été ensuite invitée à danser la *Ladies' Dance*, prérogative dont bénéficient les femmes de haut rang⁸.

Placée dans une caisse en bois, la coiffure est introduite dans la Big House au son du tambour par Aube Elléouët-Breton et sa fille Oona, assistées de la directrice du musée Andrea Sanborn et d'un membre du Conseil d'administration du musée pour être déposée devant les trois chefs Kwakwaka'wakw qui président à la cérémonie (Bill Cranmer, Adam Dick et Don Assu). La coiffure est ensuite montrée au public par Bill Cranmer, chef nimpkish et maître de cérémonie⁹ à cette occasion, puis elle est dansée tour à tour par chacun des chefs qui se groupent en une longue procession formée par les membres de la communauté et les danseurs du T'lásala Cultural Group¹⁰. La coiffure est présentée à hauteur de poitrine par les chefs dont les mains sont gantées de blanc comme le sont celles des conservateurs des musées quand ils manipulent des objets. Elle n'est pas portée sur la tête comme dans une « vraie » cérémonie, ce qui aurait été considéré, dans le cas contraire, comme le détournement d'un privilège ancestral, étant donné que l'identité de son « vrai » propriétaire n'est pas connue. Les chefs présents puis les membres de la délégation française ont été invités à danser la danse dite « t'lásala » au cours de laquelle sont portés plusieurs éléments du costume cérémoniel dont une coiffure du type de celle restituée au U'mista Cultural Centre.



De gauche à droite, Don Assu, Bill Cranmer, Aube Elléouët Breton et Cyrille Cohen

Cliché : Pierre Amrouche.

La cérémonie de restitution a été conçue par les Anciens et les représentants du musée ; elle a permis de concilier deux registres de signification que l'on pourrait juger *a priori* antagonistes à la lumière de la situation présente. En effet, la coiffure a été réintroduite rituellement au sein d'une cérémonie inédite créée pour l'occasion, qui renvoie au contexte rituel d'origine de l'objet et qui respecte le protocole cérémoniel. La coiffure est aussi considérée comme une pièce de musée, ce qu'elle est définitivement. Au U'mista Cultural Centre, nul n'a cherché à réinstaurer dans l'objet une authenticité désormais perdue. Dans le cadre du musée local, elle a pris statut d'artefact : elle a été inventoriée, et après sa restauration, elle sera exposée dans la galerie principale de l'établissement, aux

côtés de ses compagnons d'infortune auxquels elle a faussé compagnie pendant quelque quatre-vingts années. La question se pose de savoir si la coiffure gardera le souvenir de son long séjour dans l'atelier de Breton.

Références

- ALFRED, E. M., 2003, « Return of another one of our lost treasures. Yaxwiwe », *U'mista News*, automne 2003 : 9.
- ANONYME, 2003, « Yaxwiwe' returning home », *U'mista News*, été 2003 : 6-8.
- Arts primitifs*, 2003, *André Breton, 42, rue Fontaine*, Paris : CalmelsCohen.
- _____, sans date, Paris : Éditions Jacques Kerchache.
- _____, sans date, *Amérique du Nord*, Paris : Éditions Jacques Kerchache.
- BELLET, H., 2003, « Le masque d'André Breton rendu aux Kwakwaka'wakws », *Le Monde*, dimanche 28 - lundi 29 septembre 2003 : 1.
- COLE, D. et I. CHAIKIN, 1990, *An Iron Hand upon the People. The Law against the Potlatch on the Northwest Coast*, Vancouver : Douglas & McIntyre, et Seattle : University of Washington Press.
- HILL, T. et T. NICKS, 1992, *Turning the Page: Forging New Partnerships Between Museums and First Peoples : Task Force Report on Museums and First Peoples*, Ottawa : Assembly of First Nations and the Canadian Museums Association.
- KERCHACHE, J., et V. BOULOURE (Dir.), 2000, *Sculptures. Afrique Asie Océanie Amériques*, Paris : Réunion des musées nationaux, Musée du quai Branly.
- KNOX, J., 2003, « Treasure comes home. The daughter of a French legend returns a native headdress seized under Canada's notorious potlatch law in 1922 », *Victoria Times Colonist* 22, septembre 2003 : A1, A2.
- LÉVI-STRAUSS, C. et D. ERIBON, 1990, *De près et de loin*, Paris : Éditions Odile Jacob.

MAUZÉ, M., 1999, « Un patrimoine, deux musées : la restitution de la Potlatch Collection », *Ethnologie française* XXIX (3) : 419-430.

_____, 2004a, « Quand une coiffure cérémonielle kwakwaka'wakw retrouve sa communauté d'origine : histoire d'une restitution », *Art tribal* 5 : 112-117.

_____, 2004b, « Aux invisibles frontières du songe et du réel. Lévi-Strauss et les surréalistes : la ‘découverte’ de l’art de la Côte nord-ouest », *Cahier de l’Herne* 82, in M. Izard (Dir.), *Claude Lévi-Strauss*, Paris : Éditions de l’Herne, pp. 152-161.

_____, 2006 « Des surréalistes en exil », in *Collection Robert Lebel*, Paris : CalmelsCohen, pp. 17-29.

_____, 2008 « Trois destinées, un destin », *Gradhiva* 7 : 100-119.

MOTS-CLÉS

Kwakwaka'wakw – Potlatch Collection – restitution –
André Breton – U'mista Cultural Centre

¹ Au moins trois objets ont été « prélevés » de la Potlatch Collection par Angermann dans des circonstances qui nous sont inconnues. Ces pièces ne figurent sur aucun inventaire, mais ont été photographiées par Halliday. Un ensemble de treize objets a été vendu par l’épouse d’Angermann à Heye en 1926. Elles ont été inventoriées par Heye sous le nom de « B.E. Angermann Collection » (U’mista Cultural Centre Archives, File U 96-032-30-13).

² Suite à la controverse suscitée par l’exposition intitulée *The Spirit Sings* organisée par le Glenbow Museum (Calgary, Alberta) en 1988, une conférence a été organisée en 1990 par l’Assemblée des Premières nations pour débattre des problèmes de restitution. Un rapport émanant du groupe de travail a été publié sous la direction de Tom Hill et Trudy Nicks *Turning the Page : Forging New Partnerships Between Museums and First Peoples : Task Force Report on Museums and First Peoples*, 1992, Ottawa: Assembly of First Nations and the Canadian Museums Association. Le titre est emprunté à Georges Erasmus, alors chef de l’Assemblée des Premières nations du Canada : « Nous (peuples autochtones) avons parfaitement conscience que beaucoup de gens consacrent leur temps, leur carrière et leur vie à montrer ce qu’ils croyaient être une image exacte des peuples indigènes. Nous les remercions pour cela, mais nous voulons tourner la page... ». C’est le premier texte qui traite officiellement de la question du rapatriement. Le rapport se déclare en faveur de la restitution des restes humains et d’objets acquis de manière illégale, et d’autres objets funéraires (qui ne sont pas des ossements et autres objets sacrés), ainsi qu’un certain

nombre d'autres objets considérés pour être très significatifs pour ce qui concerne le patrimoine culturel. Le rapport recommande de traiter les demandes de restitution au cas par cas et se prononce en faveur « d'un rapatriement fondé sur des critères éthiques et moraux ».

³ La loi dite NAGPRA ou *Native American Graves Protection and Repatriation Act* votée en 1990 fait obligation aux musées subventionnés par le gouvernement fédéral de restituer sous certaines conditions aux communautés qui en font la demande les ossements et les objets sacrés.

⁴ À l'occasion de son 25^{ème} anniversaire, le British Museum a accordé au U'mista Cultural Centre un prêt à long terme pour un masque à transformation de la Potlatch Collection entré dans les collections du musée en 1944.

⁵ L'histoire de vie de l'objet est racontée et analysée dans Mauzé 2008.

⁶ Correspondance de M. Mauzé et A. Drumheller des 29 et 30 décembre 1998, archives de l'auteure.

⁷ Lettre de l'auteure à Cyril Cohen, 5 février 2003, lettre d'Aube Elléouët Breton à l'auteur, 24 février 2003, archives de l'auteure.

⁸ Le terme fait référence aux qualités morales dont doit faire preuve une femme de haut rang chez les Kwakwaka'wakw. En lui donnant ce nom, ces derniers reconnaissent à Aube Elléouët-Breton la dignité d'une femme noble.

⁹ Bill Cranmer est le fils de Dan Cranmer, le chef qui avait organisé le potlatch de 1921 à la suite duquel les objets cérémoniels ont été confisqués. Bill Cranmer est présent en sa qualité de chef élu de la bande nimpkish, de chef héréditaire et de président du Conseil d'administration du U'mista Cultural Centre (Communication Andrea Sanborn, janvier 2007).

The Kanaka Generation: The Visual Heritage of Melanesians in Australia

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The photographic heritage

The Kanaka¹ generation refers to the initial Pacific Islander indentured labourers brought to work in Queensland, Australia between 1863 and 1904.

They came on 62,000 indenture contracts, although probably there were no more than 50,000 individuals given that many made more than one trip to Queensland. Only around 2,000 remained by the end of 1908 after deliberate attempts to exclude them through the White Australian Policy of the new Commonwealth of Australia. This paper explores a central question: Can the visual history of the Kanaka generation and their Australian South Sea Islander² descendants provide a different or just a supporting understanding of this era of Australian and Pacific history? Secondly, how do the images relate to the growing analysis of visual images of other Pacific Islanders and of indigenous peoples around the world³?

The Kanaka visual images include etchings in newspapers, journals, commemorative books⁴ (some of which are based on photographs), cartoons, and actual photographic reproductions in these publications once the technique became possible after the mid-1890s. The photographs were taken by professional and amateur photographers for a variety of purposes. Some celebrated the advance of the colonial sugar industry while others were kept in family albums or as private mementos, both for Europeans and for the Islanders themselves. Although there

were no attempts at large-scale photography such as with indigenous people in Africa, India, the Americas, New Zealand/Aotearoa, and with Australian Aborigines, hundreds of scattered photographs of the Kanaka generation were taken during the indenture years. There are also many public domain photographs of their descendants in Australia over the hundred years that have passed since the end of the Melanesian labour trade⁵. Most of the original generation who remained in Australia were single men, the last of whom died in the 1960s: a significant number of photographs of them remain. The present-day community is descended from a nucleus of Islander couples and intermarriage with Aborigines, and with European and Asian Australians who lived on the fringes of white society, mainly still in the same districts to which the first generation came⁶. Academic and popular books have reproduced many of these images, and more recently the descendants of Australian South Sea Islanders have accessed them in books on family history⁷.

Published research into this forty-year circular labour migration dates back to the 1910s, soon after government decree ended the process⁸. Until the 1960s, all of the research was through newspapers, government documents, and private documents held by libraries. Then oral testimony was added to the mix, first through the early attempts by Robert Tan and Peter Corris in the 1960s, although none of their recordings remain⁹. The next attempt to extend this oral approach was by Patricia Mercer and Clive Moore in the 1970s when we recorded an extensive collection of oral testimony from descendants of the Kanakas, some of them the children of the first generation. At the same time we collected photographs from the families and other individuals in several districts along the Queensland coast. These are deposited at James Cook University in Townsville. Thirty years ago there were few photographs of the Islanders in public collections, although the photographic heritage has been emerging since then as libraries have expanded their collections and many of them are now available in digital form.

The largest collection is held by the John Oxley Library section of the State Library of Queensland, augmented by smaller collections in municipal libraries along the Queensland coast, such as those in the Hinchinbrook, Mackay, Burdekin, and Maroochy shire libraries and the aforementioned collection at James Cook University. Hundreds of these photos are now available in digital form through Picture Queensland or Picture Australia¹⁰. In total there are around three hundred

extant photographs of the original indentured Pacific Islanders in public collections in Australia, along with perhaps another hundred of subsequent generations of Australian South Sea Islanders. Additional photographs appear in books and newspapers, which have not been systematically entered into library digital files. Thousands of Islander individuals appear in the photographs, most in regimented crowd scenes on recruiting ships, on plantations, and at mission churches, although there are also quite a few studio and outside portraits. While many other photographs are still in private hands, held by both European and Islander families, the public domain photographs are an under-utilized resource for the study of the history of Queensland's indentured Pacific Islander labourers and their descendants. So too are the hundreds of cartoons that peppered the illustrated weekly and monthly newspapers of Australia¹¹.

Only two academic studies have dealt with ASSI photographs, an indication of the neglect of this substantial and important collection. In his 2001 doctoral thesis on Islander archaeological landscapes, Lincoln Todd spent six introductory pages on photographic sources, noting the lacuna in the research, but did little to rectify it. He made no concerted effort to use photographs and makes some mistakes in his generalizations¹². Hayes suggests that there are obvious preferences in the subject matter: "plantation houses, landscapes, Melanesian huts, Islanders working in the cane fields, Islanders at leisure and studio portraits," with a large number of formal group portraits featuring the white staff and their Islander workforce in front of mills and other plantation buildings¹³. He is not correct about the prevalence of plantation houses and landscapes: far more photographs have survived of the Islanders and their quarters than of the European side of plantation life. This may have been because of deliberate attempts to capture the more exotic Melanesian lifestyles, or perhaps some plantation house photographs have been catalogued separately. And there is another prevalent category: mission scenes and Christian Islanders posed holding hymnals or Bibles.

Hayes also failed to notice important indications of power relations. For instance, in his analysis of the photograph below, thirty-nine Islanders on Hamleigh Plantation at Ingham in 1883, Hayes located the place where the image was recorded and noted the women and the preponderance of loincloth apparel, but failed to mention the crucial point – Melanesian and European overseers standing

side-by-side in the centre¹⁴. This indicates that some Melanesians had moved up the power hierarchy midway through the labour trade years, even before the time-expired or ticket-holding elite developed¹⁵. This is similar to the way ‘Passage Masters’ were incorporated into the labour trade in the islands, and argues for a much more complex analysis. The photograph is also worth studying for the range of clothing shown and the tools used in field agriculture. We do not know the time of year the photograph was taken. Such information would indicate the likely type of field work being undertaken and the climatic conditions, and whether the group was working on established fields or involved in clearing virgin forest. The size of the gang of labourers is also of interest as it may help us understand more about the development of the Butty Gang system in later use¹⁶.



Islander workforce, Hamleigh Plantation, Ingham, 1883 (University of Queensland Library)

While acknowledging James R. Ryan's reminder about photography in the British Empire – that photographs are “ambiguous images” with a “multiplicity of meanings”¹⁷ – even this 1883 photograph at Hamleigh plantation suggests that some of the empirical visual evidence has not been thoroughly explored by historians and ethnographers. Other examples may be added. For instance, we can spot illegal employment as house servants and underage workers in the fields, and can study the Melanesian architecture of the plantation cultural landscape. There are also photos of Melanesian artefacts – a large wooden slit drum possibly of Malaitan origin, of bows and arrows, and of Islanders wearing body decorations that combine trade beads and turtle shell with other items of European manufacture¹⁸. When recently drawn to the attention of anthropologists, both of the images reproduced below were quickly requested for use in forthcoming books.



Slit drum, Innisfail; *circa* 1902 (Clive Moore personal collection)

Hayes stresses the power of the photograph for disciplinary surveillance, as represented in the ideas of Foucault, and that the majority of the photographs were deliberately constructed to depict domination, control, and ownership by employers. This is an affirmation of the self-perceptions of those behind the camera or paying for its images, a one-sided ideological statement, as the Islanders themselves seldom saw the results. Also, his study concentrates on plantations and does not deal with Islanders who worked on farms, also an important occupation after the 1880s. It thus gives a lopsided impression of Islander life in the final decades of the nineteenth century in Queensland.

Max Quanchi, a leading analyst of Pacific photography, has presented a conference paper on eighty-three Queensland Islander portraits as a genre, using a small sample of the greater body of images. He suggested that these portraits raised several questions relating to photographs as objects and their function as individual and community biographies. Like Hayes, Quanchi acknowledged that the photographs were socially constructed and contained cultural texts. He questioned the motivations of the sitters and the photographers, and took a visual economy approach, attempting to trace the use of the images over time and the differing titles they received. Quanchi defined five motivations for taking the portraits: group portraits commissioned by plantation owners and farmers to mark their success; individual and group portraits taken by travelling photographers for later sales; a few apparently conventional ethnographic front-and-side portraits; many images apparently commissioned to record an event, a presence, or a departure; and finally photographs taken as propaganda in the political campaigns for and against the labour trade. But like Hayes he does not have enough detailed knowledge of Queensland, the sugar industry, and the Islanders to be able to question dates supplied with photographs, or to connect the timing of restrictive legislation to the content of the images¹⁹.

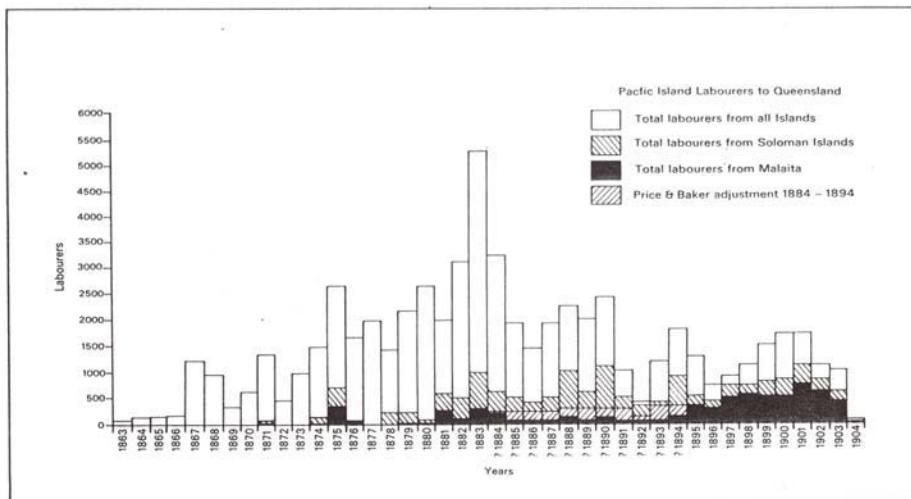
Historiography versus pictorial evidence

Much has been written and argued about Pacific Islander labour trade migrants to Australia during the nineteenth century²⁰. The second half of this paper attempts to apply thirty years knowledge of the Queensland labour trade to the visual record, using as my prism the major themes that have been covered by the extensive literature, to see which are picked up by the visual images and which are

totally missed, and for any revelations that only become clear from the images, having been missed by other research. There are obvious limitations because of the nature of the photographic technology (particularly the need for the subjects to remain still for a longer period than is necessary today), the cumbersome procedures needed to develop glass plates and the cost of and limited number of cameras available, at least until Kodak roll film became available in the 1890s. Photography was still not widespread in the 1860s when the labour trade began and the earliest Islander image located so far was not taken until 1868.

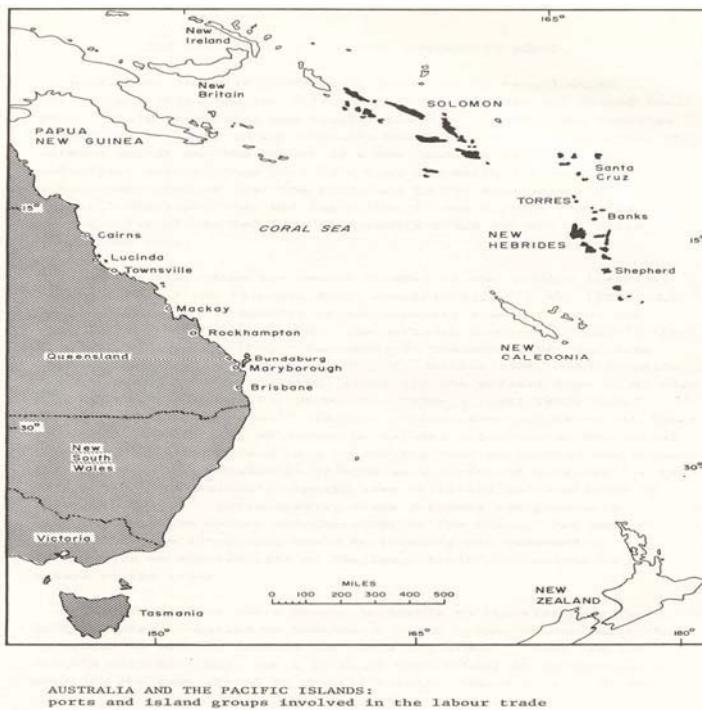


The earliest photograph of Islander men, working the primitive Alexandra Plantation mill at Mackay in 1868
(Mackay City Council Collection, photograph by Richard Daintree)



Migration of Pacific Islanders to Queensland, 1863-1905, showing total migration, and numbers from Solomon Islands and from Malaita Island. Migration of Pacific Islanders to Queensland, 1863-1905, showing total migration, and numbers from Solomon Islands and from Malaita Island (Clive Moore, *Kanaka: A History of Melanesian Mackay*, Port Moresby: Institute of Papua New Guinea Studies and University of Papua New Guinea Press, 1985, 28)

A proportion of these circular migrants also travelled to other colonies such as Fiji, Samoa, and New Caledonia. Solomon Islanders made up 18,329 of the Pacific Islander and Asian indenture contracts in colonial Queensland, which probably amounts to about 14,600 individuals²¹. The majority were from the New Hebrides (Vanuatu) – 39,931 contracts and around 32,000 individuals. Smaller but still significant numbers came from the Loyalty Islands (1,123), Island Papua New Guinea (3,119), the Gilbert (Kiribati) and Ellice (Tuvalu) Islands (191), and in the 1860s about fifty from Rotuma and Niue. A breakdown of the origins of the majority appears as an appendix to this paper, the island origins being important when trying to understand the likely proportions of labourers from the different islands in the photos²².



**"Australia and the Pacific Islands: ports and islands groups involved in the labour trade":
Non-European indentured labourers in Queensland, 1848-1904, and the Melanesian Islands
from which indentured labourers came**

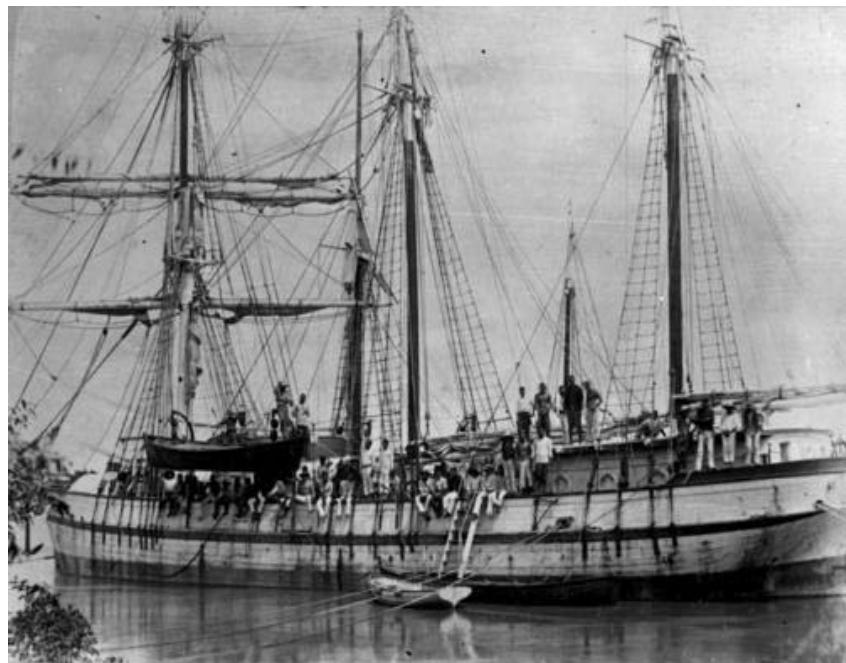
The early decades of the labour trade – a moving labour frontier that preyed on an untapped labour reserve – involved a large amount of kidnapping and deception. Historians agree that during the first ten years of recruiting at any Pacific island the predominant methods were likely to involve illegality, but over the decades Islanders became willing participants, just as they were when the internal labour trade began on the islands²³. The process became a rite of passage for young men and a small number of women, and a constant source of trade goods for their families. The motivations for enlistment and the characteristics of the work remained much the same over several generations²⁴. One of the major arguments in the historiography relates to the nature of the early recruiting process, the conditions on board the vessels and the changes over time. There were 870

voyages over forty years and many vessels travelled between the Queensland coastal towns and Island Melanesia two or three times each year. In the main they were schooners and brigantines, although in the final years steam-assisted ships joined the trade. The peak period was in the mid-1880s, and over the years bigger ships were used, even if all look small by today's standards – far too small to be carrying large numbers of Islanders. The earliest recruiting ship to be photographed was *Amy Robsart* in 1868, a 72-ton brigantine that made two trips in the labour trade in 1870, carrying 60 to 70 labourers. Conditions must have been very basic on board as the ship was quickly converted from a coastal trader²⁵. This photograph and one the same year of three Islanders feeding cane into the Alexandra Plantation mill (probably both by geologist and photographer Richard Daintree) are the earliest extant²⁶. No other photographs are known from Mackay until June 1873 when the professional photographers William Boag and John Mills arrived.

Photographs of the actual recruiting process are rare, and given the state of photographic technology at the time, this is understandable. Historians suggest that the nature of the actual recruiting process varied over time, from outright kidnapping to willing enlistment, even if on culturally uneven terms. There is a plethora of documentary evidence of illegal and cruel methods used in the early years, and the possibility that illegal practices continued occasionally up until the early 1890s. There are several depictions of the most brutal of the kidnappings, all line drawings²⁷. The only set of photographs that is probably very typical of the more usual later recruiting process is from Malekula Island in 1890. It shows the usual procedure of two whaleboats going to the shore, one staying out to cover the boat at the beach, the crew of which negotiated the terms of enlistment²⁸. By law, after 1870 a government agent had to travel with these boats, although this practice was sometimes breached through illness or slack procedures.

As the trade progressed, the vessels became more substantial and had longer histories plying back and forth to the islands. The three-masted 237 - ton schooner *May*, pictured below docked at Bundaberg, made several trips between 1890 and 1894, carrying up to 103 recruits, regularly visiting the New Hebrides and Solomon Islands. The *May* was also the first Queensland vessel to recruit in the Gilbert and Ellice Islands²⁹. There are several photographs of these Micronesian and

Polynesian recruits at Yeppoon near Rockhampton, often passed off unknowingly in books as Melanesians, when their physical appearance belies the identification³⁰.



Labour Trade ship *May* at Bundaberg in the 1890s (State Library of Queensland, John Oxley Library (SLQ JOL) 2246)

There are no views below decks, and we need to resort to sketches for an indication of the very basic and alienating conditions where the Islanders often had to spend up to two months, with restricted deck access³¹. The photographs are mostly from the shore, although someone obviously had a camera on board one ship in 1888 (possibly the government agent Douglas Rannie) when the 114-ton schooner *Madeline*, which had been in the trade since 1882, was wrecked at Tongoa Island in the New Hebrides³². There are photographs of the labourers on ships, but most of these were taken in port either on arrival or as the labourers were about to return home, as may be seen from their apparel. We know little about the crews or the relationships between Islander and European crewmembers³³.

We also lack photographic evidence of the scenes on the docks when the ships arrived in Queensland. Islander oral testimony in Australia not only emphasizes kidnapping but also the supposed slave-like sale of the indentured labourers and suggests that Islanders were chained together in the holds, on the ‘auction blocks,’ and on their way to the plantations and farms. This view is unsupported by documentary evidence³⁴. There are some horrific photographs of Australian Aborigines chained together and there is no reason why similar photos could not have been taken of the Islanders. There is one isolated piece of documentary evidence that chains were used to restrain an Islander who had absconded from a plantation, but there is no evidence that this was a widespread practice³⁵. The ‘slave block’ allegations have been explained satisfactorily as contracts changing hands on arrival in Queensland, as labour needs sometimes altered between the departure and return of vessels³⁶. The only visual evidence are etchings from *Melbourne Punch* in 1871 and *The Bulletin* in 1881, which certainly depict roped and chained Islanders, but both images were part of the campaign to end the trade and may have been more allegorical than real³⁷.

Predominantly labourers in the sugar industry, in the 1860s and 1870s Islander migrants also worked in the pastoral³⁸ and maritime industries and occasionally as domestic servants, although the latter occupation was illegal after 1878. There are no known images of Islanders in the pastoral industry, except for three portraits: one with an employer, another of the family of Kulijeri, a Malaitan man who worked in the pastoral industry around Charters Towers, and of two employees at The Hollow, a pastoral property in the west of the Pioneer Valley at Mackay³⁹. The only clear evidence from the early maritime industry are etchings from Torres Strait, although presumably further research would locate more maritime images⁴⁰. Employers also blatantly flouted the restriction on domestic service. Ample proof is found in photographs, such as those of Islander house servants and nursemaids on Hambleton Plantation near Cairns in 1891⁴¹. Legislation passed in the 1880s, but already in force by regulations under a previous act since 1878, limited employment to field work in coastal tropical agriculture, which predominantly meant the sugar industry. As the photographic evidence shows, this also included coffee and sisal hemp plantations⁴².

Within the sugar industry, photographs draw attention to the very different circumstances the Islanders faced in comparison with those on the islands, where agriculture concentrated on root crops and shifting cultivation methods. Commercial tropical crops were grown in regular rows over vast acreage⁴³. Regimentation was the norm, as were long working hours, controlled by overseers, clocks, and mill steam whistles. Lincoln Hayes amply proves that Islanders on plantations lived under surveillance by overseers and plantation owners who structured their establishments to facilitate control of their workforces⁴⁴. The cultural landscape of a sugar plantation bears little relationship with that of Melanesia. Mills, like the one depicted earlier in this paper, were dangerous, frightening places full of exposed machinery and boiling liquids that could trap the unwary. To the labourers, tramways and trains were strange contrivances and horses and carts previously unknown⁴⁵. The regimentation extended to the Islanders' living quarters. Planters, by law, had to provide their labourers with barracks or small houses, although the Islanders seem to have preferred to recreate their island-of-origin architectural styles and to live in kin units in more discrete settings. They built houses made from blady grass and cane trash, which approximated the sago palm thatch used in the islands, or constructed them from wooden slabs and bamboo⁴⁶.



Islander houses, Yeppoon Plantation, 1890s
(Capricornia Collection, Central Queensland University)

Inadvertently, the indenture process suited established gender and age roles in Melanesian society. The recruiters wanted strong young males. Women were not generally available to be recruited: the small numbers who left the island usually did so as partners of men⁴⁷. And because of beliefs related to pollution during menstruation and birth, women were always troublesome to have cooped up for months on small, crowded recruiting ships, or later on the plantations and farms. The photographs do show women working alongside men (the 1883 Hamleigh Plantation photograph above is a good example), but also seem to indicate a degree of separation, which presumably means that Europeans realized that extreme gender antagonisms existed, far beyond those in European society. The photographs also show clearly that women were expected to take their children into the fields with them⁴⁸.

At home in the islands, young male Melanesians were usually not fully functional members of their communities. They were adventurous and often keen to escape the rigidity of village life. They could advance themselves by spending several years in Queensland, return with a box of trade goods, and through distribution could exchange foreign manufactured goods for social credit within their descent groups. Recruits converted most of their earnings into trade goods and only returned with small amounts of cash. The trade goods – tobacco, iron and steel items, cloth, guns, etc. – were consumables that boosted individual and collective prestige, but did not last long when distributed amongst relatives. There are many descriptions of the types of goods that the Islanders purchased and of their wanderings around Chinatowns on the outskirts of the European retail areas of the sugar towns, but very few images of this process exist, and there are no photographs of the ubiquitous “trade box” that each possessed, full of delectable goods and the occasional false bottom to hide guns that continued to be smuggled back to the islands right to the end of the labour trade, despite being banned exports after 1878. They developed close relationships with the Kanaka storeowners who provided storage for the boxes, offered Islanders a club-like atmosphere when there was no work, and provided illegal access to alcohol⁴⁹. We also have no images of the Kanaka boarding houses where the time-expired men sometimes lived between jobs.

The circular nature of the labour trade tapped into existing patterns of residential mobility and customary mechanisms of compensatory religious sacrifices to ancestors, which made it possible for Melanesians to travel, yet remain safely within their cosmologies and religion. Mortality rates were high, particularly in the first six to twelve months of a “new chum’s” contract in the external labour trade, when they were exposed to potent new diseases, but the risk was outweighed by the benefits⁵⁰. In response to outrageously high mortality rates, the Queensland government built four segregated hospitals for Islanders at Maryborough, Mackay, Ingham, and Innisfail, which operated from 1883 to 1889. Before and afterwards, Islanders were cared for at small hospitals on plantations by private doctors or in segregated wards in public hospitals. There are only two photographs readily identifiable as of plantation hospitals, at Mackay and probably Ingham⁵¹.

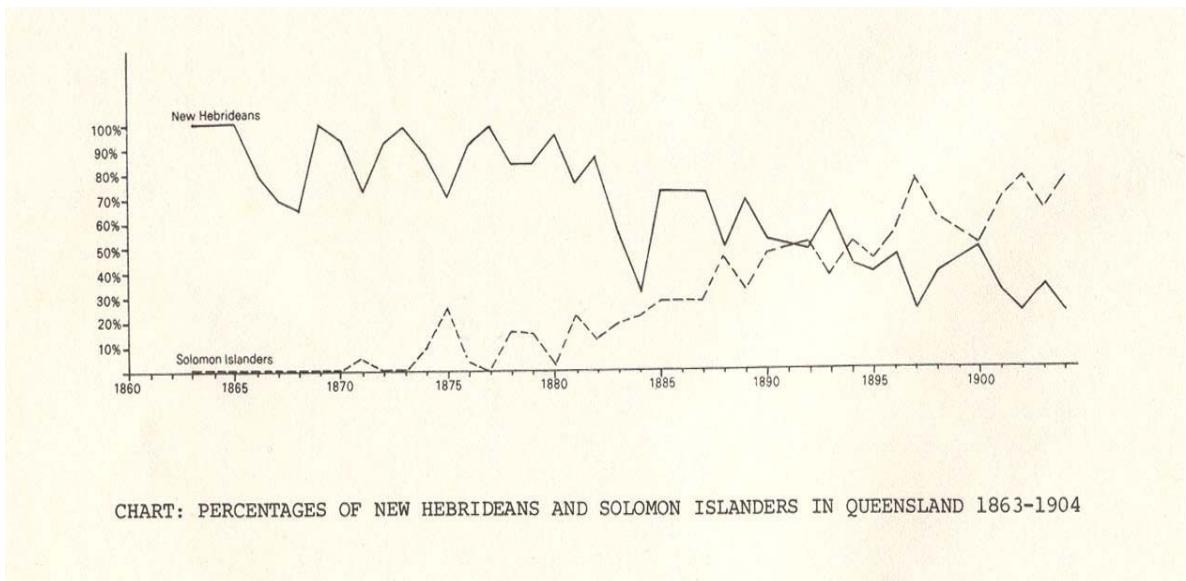
There was, however, more to life than working six and a half days a week on plantations or farms, although we have little early photographic evidence of Islanders’ leisure activities, except close to their living quarters. From the occasional photograph it is possible to get some idea of the natural landscape available to them, and several photographs show Islanders holding bows and arrows used for hunting⁵². Then, from the 1880s onwards, the Islanders began to be courted by Christian missionaries from several denominations – Anglican, Queensland Kanaka Mission, Lutheran, Presbyterian, Church of Christ, Salvation Army, and Brisbane City Mission – with thousands of conversions up until 1906. During this period, photography was well advanced and there is no lack of photographs of the missions and pious Islanders posed in their best clothes, holding bibles and hymnbooks. They attended Sunday and night schools and large annual picnics, known as “Tea Meetings”⁵³.

The Islanders’ largely circular migration to work in Queensland was always a contentious issue, with allegations of kidnapping and slavery thrown around. As the White trade union movement grew in strength and as Australia moved towards federation of its six British colonies, a White Australia Policy emerged and led in 1901 to legislation to halt the labour trade and exclude all Pacific Islanders. This legislation was ameliorated after a Queensland Royal Commission in 1906, and finally around 2,000 Islanders were allowed to remain in Australia⁵⁴. A significant number of the portrait photographs were taken in 1906, an indication of Islander

agency in creating memories for those staying and leaving. For quite some time earlier, there had been an emerging phenomenon as Islanders began paying photographic studios to have their portraits taken individually, in groups, and as families, or managed to get private owners' of cameras to record their images. From the 1890s, by which time possession of cameras was more common amongst Europeans, there are many photos with "cute" poses of Islanders, including women and children, creating an image of a prosperous group, even if dressed in their Sunday best⁵⁵. The year 1906 was also when the Islanders mounted their political campaign to ameliorate the effects of the planned mass deportation, through a series of petitions and delegations to the Prime Minister of Australia and the Governor of Queensland. The result contrasted with the 1870s photographs of men in loincloths and shows the immense transition that had taken place over forty years⁵⁶.

Conclusion

Several conclusions may be drawn. First, the Kanaka photographs can never really be sorted by island of origin for the group shots, and the year, even the decade, of many photographs is not always known. Libraries sometimes have seemingly arbitrary dates that may vary more than a decade from the actual dates. Generally, based on the pattern of recruiting (see Graph and Appendix I below), the early photographs up to the mid-1880s are more likely to be of Loyalty Islanders and New Hebrideans than Solomon Islanders, while after 1890 Solomon Islanders predominate both in the general population and in the photographs. Occasionally, it is possible to identify Solomon Islanders, such as Guadalcanal and Malaita labourers on Foulden Plantation near Mackay in 1873 or 1874⁵⁷. The earliest photographs which name individuals are probably the ones from Foulden Plantation that were taken in 1873 or 1874 by William Boag, when Grisi from Simbo Island in the Solomon Archipelago or Albassoo from Vanua Lava Island in present-day Vanuatu were photographed and had their names recorded⁵⁸. Most were not so lucky and occasionally the racism of the time is the dominant feature in naming photographs. Often they are only "Our Boys", the "Men" or at worst "Specimens Mixed"⁵⁹.



From: Dutton, T., 1980, *Queensland Canefields English of the Late Nineteenth Century*, Pacific Linguistics Series D No.29, Canberra: Department of Linguistics, Research School of Pacific Studies, Australian National University

The second conclusion is that most of the paid portraits are of time-expired and ticket-holding Islanders. Time-expired Islanders earned considerably higher wages and made up a substantial proportion of the Melanesian population: 31 to 35% from 1888 to 1892, 57 to 67 % from 1893 to 1899, 42 to 46 % from 1900 to 1901, and 31 to 39 % from 1902 to 1904. There were 835 ticket-holders in 1884, the number declining over time: 716 in 1892, 704 in 1901, and 691 in 1906. They had their own farms, ran boarding houses and small businesses, and were more likely to have married a non-Melanesian. Expressed as a proportion of the overall Melanesian population from 1885 to 1906, in any one year ticket-holders constituted between seven and eleven percent of the Melanesian population of Queensland. These two legislative categories formed ageing elite, who became colonial settlers and bridged the gap between the ‘new chum’ recruits and the rest of the colonial population. Overwhelmingly, today’s Australian South Sea Islanders are descended from time-expired and ticket-holding Melanesian immigrants⁶⁰.

Third, there is a missing element that is downplayed by concentrating on plantations – the number of Islanders, particularly in the 1890s and 1900s, who worked on small farms. Usually the ‘new chums’ worked on plantations, and time-expired and ticket-holders worked for the small farmers, some of the Islander individuals and families continuing to live on these farms for the rest of their lives. Their relationships with the European farmers were altogether different from those the “new chums” had with their overseers and planters. Islanders working for farmers shared the same food and there was less separation, compared with the plantations, a factor that had implications for power relations. However, camera equipment was expensive and farmers were less likely to have had their own than were plantation owners or managers. One could also argue that they had less need for the disciplinary surveillance that Hayes suggests was a necessary part of the plantation environment⁶¹.

Fourth, photographs from the twentieth century are of these time-expired and ticket-holding Islander individuals and their families. This point illustrates the complexity of the different groups of Islanders, and the need to be careful with generalizations about the photographic records. One of these families was that of Kwailiu and Orrani from the Fataleka language area, Malaita Island. Kwailiu died in March 1906, which dates the family photograph below to not long before.



The forebears of the Fatowna Family: Back row: Cecily, Joy, Lucy, and Harry; Front row: Eva, Orrani, and Kwailiu, Mackay 1906 (JCU PIPC)

Another intriguing development occurred when the Islanders began to take their own photographs. The only son of Kwailiu and Orrani, Harry Fatowna, was born in 1897 while his parents worked at Palms Plantation near Mackay. After Kwailiu's death, Orrani re-married, to another kinsmen, Luke Logomier, who had been in Queensland since 1884 and was an Anglican lay preacher⁶². The new relationship was recorded in a photograph taken not long after 1906. Harry married Grace Kwasi in 1918, the daughter of James Kwasi from Gela Island and Lissie Nego from Buka Island, Solomon Islands. They had fifteen children, ten surviving, and lived for most of their lives on Eulberti farm, the Christensen brothers' property. After becoming a lay preacher like his stepfather, Harry led the Islanders

away from Anglicanism to Seventh Day Adventism in the mid-1920s. He also began to take and develop his own photographs in his leaf house at Eulberti farm, where the Fatowna family lived for several decades, midway between Bucasia and Eimeo outside Mackay. The photographic circle was complete when Harry Fatowna began taking photographs of his family and friends, but his choice of subjects and his motivation seem to have been very similar to those of European family snapshots taken in the 1930s⁶³.

Fifth, the hundreds of individual photographs viewed as an entire collection depict the creation of a colonial sugar industry along European lines, but the Melanesian presence was also great enough to create a Melanesian cultural landscape. The Islander physical presence was much lighter than the bricks, cement, and galvanized iron of the mills, sheds, and houses on the plantations and farms. Their houses were made of materials that have decayed and left evidence only of their hearths and of trees planted to screen them and provide fruit. Their graves are mostly unmarked on the plantations and farms on which they worked, or in the pagan areas of municipal cemeteries. The photographic evidence augments oral testimony and allows us to gain another window into Islander lives in the nineteenth century. The images that remain are not of slaves starved into submission, and some of the 1880s, 1890s, and 1900s Islanders look very bourgeois in three-piece suits. While no one can take pride in the exploitative Queensland labour trade, the photographic images show a people who had a degree of agency over their lives, despite living in often trying circumstances. Photographers probably deliberately avoided the more odious aspects of the labour trade, and there were no crusaders who deliberately recorded the sad, racist, and violent aspects that undoubtedly occurred. But not all of the photographs are deliberate propaganda and somewhere in-between lies the truth. These immigrant Melanesians gaze back at us, often with great pride and determination about the new lives they made in Australia⁶⁴.

A final point relates to the question asked at the beginning: how do the images relate to the growing analysis of visual images of other Pacific Islanders and of indigenous peoples around the world? Within the areas of Melanesia from which the Kanaka generation came, the earliest photographs are by the missionaries William Lawes and George Brown in the 1870s around east New Guinea and

adjacent islands, and by the professional photographer John W. Lindt along the southeast coast of New Guinea in the mid-1880s. In the Solomon Islands, the naturalist Charles Woodford took the first known photographs between 1886 and 1888. The first substantial collection from Melanesia was not made until 1906, by the Tasmanian W.T. Beattie⁶⁵. The Queensland photographs begin slightly earlier, but are quite different as they show Pacific Islanders transported away from their islands to colonial industrial environments. They also allow us to study adaptation to colonial life over forty years, particularly by the long-staying Islanders who became Australian immigrants. In the late nineteenth and early twentieth centuries the Queensland Islanders were probably more ‘sophisticated’ in their adaptation to European ways than were any others in Melanesia. Certainly the equivalent immigrant labourer communities in Fiji and Samoa were much more marginalized. The Polynesian and southern Melanesian pastors working as missionaries in northern Melanesia were probably the closest equivalent in terms of their adoption of European styles of dress⁶⁶.

This paper is primarily a study of the visual history of indenture. Future research could productively compare the visual history of the Melanesian indenture process in Queensland with Asian indenture in Hawaii, Fiji, and New Caledonia, and also with the Indian indentured diasporas in Southeast Asia and Africa. The colonial empires were spreading through Asia, Africa, and the Pacific at the same time that photography was invented and then developed from an expensive cumbersome technique into one that was widely available. The visual heritage of the confluence of colonialism, indenture, and photography remains largely unexplored.

Major Groups of Pacific Island Indentured Labourers in Queensland, 1863-1906

(From: Price, C. A. and E. Baker, "Origins of Pacific Island Labourers in Queensland, 1863-1904: A Research Note", *Journal of Pacific History*, Vol. 11, no. 1/2, 1976, 106-121)

Papua New Guineans in Queensland, 1879-1906

Province & Major Islands	Number of Contracts	Percentage
Milne Bay	671	21.5
Woodlarks	33	1.05
D'Entrecastaux	109	3.4
Louisiades	529	16.9
New Britain	812	26.0
New Britain	765	24.5
Duke of Yorks	47	1.5
New Ireland	1,325	42.4
Feni	37	1.1
Tanga	368	11.7
Lihir	649	20.8
Tabar	28	0.8
Nuguria	3	0.09
New Ireland	240	7.6
North Solomons	311	9.9
Nissan	215	6.8
Buka	58	18.6
Bougainville	38	1.2
TOTAL	3,119	100

Solomon Islanders in Queensland, 1871-1906*

Province & Major Islands	Number of Contracts	Percentage
Western	146	0.8
Shortland	12	0.06
Rannonga	15	0.08
Vella Lavella	85	0.4
Simbo	34	0.1
Choiseul	58	0.3
Isabel	208	1.1
Central	2,550	14.5
Gela	2,069	
Savo	481	
Guadalcanal	4,188	23.2
Malaita	9,192	52.9
Malaita	9,186	
Ngdi	6	
Makira	1,038	5.7
Santa Ana	74	
Santa Catalina	1	
Ugi	9	
Ulawa	147	
Rennell & Bellona	65	0.3
Bellona	65	0.3
Temotu	573	3.1
Santa Cruz	429	2.3
Lord Howe	112	0.6
Tikopia	32	0.1
TOTAL :	18,018	100

* From within the modern Solomon Islands

New Hebrideans (Ni-Vanuatu) in Queensland, 1863-1906

Provinces & Major Islands	Number of Contracts	Percentage
Torba	6,786	16.9
(Banks)	(5,678)	(14.2)
Mere-Lava	438	1.09
Merig	5	0.01
Gaua	2,537	6.3
Vanua-Lava	819	2.05
Mota	241	0.6
Valua	1,036	2.5
Ureparapara	602	1.5
(Torres)	(1,108)	(2.7)
Toga	510	1.2
Loh	172	0.43
Tegua	183	0.4
Metoma	20	0.95
Hiw	223	
Sanma	4,181	0.1
Espiritu Santo	2,806	7.02
Malo	1,375	3.4
Penama	6,193	15.5
Pentecost	1,960	4.9
Maewo	575	1.4
Ambae	3,658	9.1
Malampa	7,248	18.1
Lopevi	47	0.1
Paama	803	2.01
Ambrym	3,464	8.6
Malekula	2,934	7.3
Shefa	9,723	24.3
Efate	5,084	12.7
Eradaka	4	0.01
Moso	9	0.02
Pele	15	0.03

Emau	288	0.72
Nguna	607	1.5
Mataso	5	0.01
Makura	121	0.3
Emae	692	1.7
Buninga	21	0.05
Tongariki	148	0.37
Tonga	934	2.3
Evoso	1	0.002
Epi	5,084	12.7
Lamenu	32	0.08
Tafea	5,800	14.5
Anatom	157	0.3
Tana	4,244	10.6
Futuna	221	0.5
Aniwa	4	0.01
Erromango	1,174	2.9
TOTAL	39,931	100

Loyalty Islanders (now New Caledonia) in Queensland, 1863-1906

Islands	Number of Contracts	Percentages
Mare	385	34.2
Tika	9	0.8
Lifu	715	63.6
Uvea	14	1.2
TOTAL	1,123	100

References

- ANDREW, C. and R. KENNEDY, 1995, *A Community History of the Homebush Mission Hall 1892-1996*, Mackay: C. Andrew.
- ANDREW, C. and P. COOK (Eds.), 2000, *Fields of Sorrow: Oral History of the Mackay South Sea Islanders (Kanakas) and their Descendents*, Mackay: C. Andrew.
- ASSIUC Rockhampton and District Branch, 1997, *Resource Book: Introducing South Sea Islander Culture into Child Care Centres/Family Day Care*, Rockhampton.
- BANDLER, F., 1977, *Wacvie*, Adelaide: Rigby.
- _____, 1984, *Welou, My Brother*, Sydney: Wild and Woolley and Aboriginal Artists Agency.
- _____, 1989, *Turning the Tide: A Personal History of the Federal Council for the Advancement of Aborigines and Torres Strait Islanders*, Canberra: Aboriginal Studies Press.
- BANDLER, F. and L. FOX, 1980, *Marani in Australia*, Adelaide: Rigby.
- DOYLE, J. G. F. and T. KETCHELL, 2000, *3 among many: a collection of life stories from Mackay's Aboriginal, Torres Strait and Australian South Sea Islander elders*, Mackay: Info Pub.
- EDMUND, M., 1992, *No Regrets*, Brisbane: University of Queensland Press.
- _____, 1996, *Hello, Johnny!*, Rockhampton: Central Queensland University Press.
- FATNOWNA, N., 1989, *Fragments of a Lost Heritage*, R. Keesing (ed.), Sydney: Angus and Robertson.
- FATNOWNA, T., 2002, *Faith of Our Fathers: A Journey of Three Fatnownas 1866-1999*, C. Fatnowna (ed.), Mackay: Info Pub.
- ITHONG, J., 1994, *History and the South Sea Islanders on the Tweed*,

Coolangatta: Johnny Ithong.

_____, 1995, *Memoirs of My 80 Years of Work in the Areas of Tweed-Brisbane*, Coolangatta: Johnny Ithong.

LOWAH, T., 1988, *Eded Mer (My Life)*, Kuranda: Rams Skull Press.

MANAWAY, J., T. MANAWAY, C. MCCARTHY and S. TATOW (eds.), 1996, *Viti Family, Descendants of Charlie Viti*, Mackay: Viti Book Committee.

MORRIS, L. and L. YOW-YEH (eds.), 1992, *The Yow-Yeh Family: the Australian Generations, 1878-1992*, Rockhampton.

PANOCHNI, P., 2002, *The Trail of Endurance: A Journey from Paradise. South Sea Island Cultural Mapping Project*, Yeppoon: Livingstone Shire Council.

South Sea Islanders Tree Naming Project Committee, 1998, *The South Sea Islander Garden of Memories*, Mackay: Mackay City Council.

STONE, M., and S. BAGGOW, 1994, *Coming Together: A Reconciliation Project of Mackay City Council*, Mackay: Mackay City Council.

WAITE, S., 2000, *Drumming the Story: It's Our Business: Mackay & District Australian South Sea Islander Association Protocols Guide*, Mackay: Mackay & District Australian South Sea Islander Association.

WILLIE, L. (ed.), 1998, *History of Kanaka Town*, Rockhampton: Kanaka Town Committee.

WRIGHT, J. (in association with F. WIMBIS), 1996, *The Secret: A Story of Slavery in Australia*, Gin Gin: Wimbis and Wright.

MOTS-CLÉS

Génération « kanaka » – Australie – Queensland – héritage historique– histoire australienne – Pacifique – photographie – ethnographie – autochtonie

¹ “Kanaka”, actually a Polynesian word for man, which has became a descriptor for the first generation of indentured labourers. Today, the word survives in Francophone New Caledonia as “Kanak,” a nationalist term. In Australia “Kanaka” is now considered improper, although, strangely, over the last twenty years “Kanak” has entered Australian English to replace “Kanaka”, used by descendants and others.

² “South Sea Islander,” often marked on official nineteenth-century records as “SSI” to indicate the first generation or their children, now the preferred nomenclature for their descendants, termed “Australian South Sea Islanders” (ASSI).

³ Quanchi, M. (ed.), 2006, *Photography and History in the Pacific Islands*, Special Issue, *Journal of Pacific History*, Vol. 42, No. 2; Batchem, G., 2004, *Forget Me Not: Photography and Remembrance*, New York: Princeton: Architectural Press; Bell, L., 2005, “Eyeing Samoa; People, Places and Spaces in Photographs of the Late Nineteenth and Early Twentieth Centuries”, in F. Driver and L Martins (eds), *Tropical Visions in an Age of Empire*, Chicago: University of Chicago Press, pp. 156-74; Burke, P., 2001, *Eyewitnessing: The Uses of Images as Historical Evidence*, London: Reaktion; Dixon, R., 2001, *Prosthetic Gods: Travel, Representation and Colonial Governance*, St Lucia: University of Queensland Press; Driver, F. and L Martins (eds), 2005, *Tropical Visions in an Age of Empire*, Chicago: University of Chicago Press; Edwards, E. and J. Hart (eds), 2004, *Photographs Objects Histories: On the Materiality of Images*, London: Routledge; Edwards, E., C. Godson and R. B. Phillips (eds), 2004, *Sensible Objects: Colonialism, Museums and Material Culture*, London: Berg; Eggleton, D., 2006, *Into the Light: A History of New Zealand Photography*, Nelson: Craig Potton; Geismar, H. and A. Herle, 2007, *Moving Images; John Layard's Fieldwork and Photography on Malekula since 1914*, Adelaide: Crawford House; Green-Lewis, J., 1996, *Framing the Victorian: Photography and the Culture of Realism*, Ithaca: Cornell University Press; Hayes, M., 2002, “Photography and the Emergence of the Pacific Cruise: Rethinking the Representational Crisis in Colonial Photography”, in E. M. Hight and G. D. Sampson (eds), *Colonialist Photography: Imag(in)ing Race and Place*, New York: Routledge, pp. 172-187; Hayes, P. (ed.), 2006, *Visual Genders, Visual Histories*, London: Blackwell; Landau, P. S. and D.D. Kaspin (eds), 2002, *Images and Empires: Visuality in Colonial and Postcolonial Africa*, Berkeley: University of California Press; Landman, J., 2006, *The Tread of a White Man's Foot: Australian Pacific Colonialism and the Cinema 1925-1962*, Canberra: Pandanus; Langford, M., 2001, *Suspended Conversations: The Afterlife of Memory in Photographic Albums*, Montreal: McGill-Queens University Press; Lydon, J., 2005, *Eye Contact: Photographing Indigenous Australians*, Durham: Duke University Press; Mayer, C., 2006, “The Traveller and the Island Belle; Frank Burnett's Photography in the Pacific”, *Journal of Pacific Studies*, Vol. 29, No. 2: 217-42; Pinney, C. and N. Peterson (eds), 2003, *Photography's Other Histories*, Durham, Duke University Press.

⁴ The best early collection is in Garran, A. (ed.), 1974, *Picturesque Atlas of Australasia*, Sydney: Picturesque Atlas Publishing Co. 1886-1888, Sydney: Picturesque Atlas Publ. Co.,

Facsimile of Vols. I and II published Sydney: Ure Smith.

⁵ Mercer, P. M., 1995, *White Australia Defied: Pacific Islander Settlement in North Queensland*, *Studies in North Queensland History* No. 21, Townsville: Department of History and Politics, James Cook University; Moore, C. and T. Mercer, 1993, "The Forgotten Immigrants: Australia's South Sea Islanders, 1906-1993", in H. Reynolds (ed.), 1993, *Race Relations in North Queensland*, Henry Reynolds (ed.), Townsville: Department of History & Politics, James Cook University, pp. 208-42; Moore, C. (ed.), 1979, *The Forgotten People: A History of the Australian South Sea Island Community*, Sydney: Australian Broadcasting Commission; Moore, C., 1988, "Pacific Islanders after 1920", in J. Jupp (ed.), *The Australian People: An Encyclopedia of the Nation, Its People and their Origins*, Sydney: Angus and Robertson, pp. 725-27.

⁶ Corris, P., 1972, "'White Australia' in Action: The Repatriation of Pacific Islanders from Queensland", *Historical Studies*, Vol. 15, No. April: 237-50; Moore, C., 2000, "'Good-bye, Queensland, good-bye, White Australia; Good-bye Christians': Australia's South Sea Islander Community and Deportation, 1901-1908", *The New Federalist*, Vol. 4: 22-29.

⁷ Recent Islander-authored family and district histories have unearthed numerous previously unknown photos of the original immigrant and subsequent generations, an indication of the large number of Islander photographs that remain in private hands. A list of books authored by Australian South Sea Islanders appears as Appendix II.

⁸ Molesworth, B. H., 1917a, History of Kanaka Labour in Queensland, MA thesis, University of Queensland, and _____, 1917b, "Kanaka Labour in Queensland 1863-1871", *Royal Historical Society of Queensland Journal*, Vol. 1, No. 3, August: 140-154.

⁹ Robert Tan was an MA student at the University of Queensland and the first academic to visit the Queensland communities. He was followed by Peter Corris who conducted interviews in Queensland in 1967 and the Solomon Islands in 1968. Summaries of the Solomon Islands interviews appear as an appendix in Peter Corris, *Passage, Port and Plantation: A History of Solomon Islands Labour Migration, 1870-1914*, Melbourne: Melbourne University Press, 1973, 149-54.

¹⁰ <http://www.pictureqld.slq.qld.gov.au/>; <http://www.pictureaustralia.org/> A search of the Picture Queensland site, using "South Sea Islander" as the key term produced sixty-nine entries from the State Library of Queensland plus another four images from other participating libraries. Another search using "Kanaka" produced twenty-nine with a little overlap. Picture Australia carries 141 images under "South Sea Islander" and another six under "Kanaka," with quite a lot of duplication with the Picture Queensland site. It is unlikely that John Oxley Library knows exactly how many ASSI images they possess as considerable numbers are hidden under catalogue titles that do not refer to the Islanders. Many of the dates are incorrect and descriptions contain misinformation that requires correction.

¹¹ *Queensland Figaro*, 7 August 1886; 14 February 1885; *Boomerang*, 3 July 1989; *The Worker*, 17 November 1910.

¹² Lincoln Hayes, Melanesians on Queensland Plantations: Archaeological Landscapes of Power and Survival in the 19th Century, PhD thesis, James Cook University, 2000, 43-50. On page 138 Hayes asserted that group photographs usually show the Melanesians “dressed in loincloths, some with traditional armbands, nose bones and feathers.” There are very few photos that show any Pacific artefacts, and the majority of the group photographs show Islanders wearing long trousers and shirts while working in the fields.

¹³ Hayes, Melanesians on Queensland Plantations: 44.

¹⁴ Hayes, Melanesians on Queensland Plantations: 164-65.

¹⁵ Time-expired Islanders were those who had served their first three-year contract and were able to renegotiate the length of contracts and pay rates. Ticket-holders were 835 Islanders who had entered the colony before 1 September 1884 and were exempt from all further legislation after the 1884 revision of the *Pacific Islander Act*. Moore, *Kanaka*: 160-67.

¹⁶ Shlomowitz, R., 1979, “Team Work and Incentives: The Origins and Development of the Butty Gang System in Queensland's Sugar Industry, 1891-1913”, *Journal of Comparative Economics*, No. 3: 41-55.

¹⁷ Ryan, J. R., 1997, *Picturing Empire: Photography and the Visualization of the British Empire*, Chicago: University of Chicago Press: 16.

¹⁸ State Library of Queensland, John Oxley Library (SLQ JOL) 13355.

¹⁹ Quanchi, M., 2005, “Kanaka Portraits: Indentured Labour in Colonial Australia”, Pacific Arts Association Conference, Salem, Mass., July.

²⁰ I use Australia rather than Queensland, to include the few hundred Islanders brought into New South Wales in the 1840s by Ben Boyd, although overwhelmingly it was a Queensland phenomenon. Diamond, M., 1988, *The Sea Horse and the Wanderer: Ben Boyd in Australia*, Carlton (Vic.): Melbourne University Press: 111-40; Moore, C., 1992, “Revising the Revisionists: The Historiography of Immigrant Melanesians in Australia”, *Pacific Studies*, Vol. 15, No. 2: 61-86 ; Munro, D., 1995, “Revisionism and its Enemies: Debating the Queensland Labour Trade”, *Journal of Pacific History*, Vol. 30, No. 2: 240-249; Munro, D., 1995, “The Labor Trade in Melanesians to Queensland: An Historiographic Essay”, *Journal of Social History*, Vol. 28, No. 3: 609-27 ; Munro, D., 1993, “The Pacific Islands Labour Trade: Approaches, Methodologies, Debates”, *Slavery and Abolition*, Vol. 14, No. 2, August: 87-108.

²¹ If we remove the 311 from the northern islands now included in Papua New Guinea (Bougainville, Buka and Nissan) and add in 144 from Lord Howe (Tömotu Noi) and

Tikopia, the total from the present-day Solomon Islands is 18,018.

²² Price, C. and E. Baker, 1976, “Origins of Pacific Island Labourers in Queensland, 1863-1904: A Research Note”, *Journal of Pacific History*, Vol. 11, No. 1/2: 106-21.

²³ The term “Blackbirding,” derived from the African slave trade, meaning to steal humans, is often used to describe the entire Queensland labour trade. “Blackbirding” carries strong connotations of illegality. Although it is quite clear that a considerable proportion of the indentured labourers enlisted willingly even if beguiled by recruiters, many Australians (including Australian South Sea Islanders) use “Blackbirding” to describe the entire labour-recruiting process. These semantic differences partly help explain the longest running debate in the historiography of the Melanesian labour trade: were Queensland’s Kanakas willing indentured labourers or were they unwilling participants, akin to slaves kidnapped from their islands?

²⁴ Moore, C., 1985, *Kanaka: A History of Melanesian Mackay*, Port Moresby: Institute of Papua New Guinea Studies and the University of Papua New Guinea Press, pp. 23-46; Corris, P., 1973, *Passage, Port and Plantation: A History of Solomon Islands Labour Migration, 1870-1914*, Melbourne: Melbourne University Press, pp. 24-44.

²⁵ Labour trade ship *Amy Robsart* in 1868, before the vessel joined the labour trade in 1870, Roth, H. L., 1908, *The Discovery and Settlement of Port Mackay*, Halifax: F. King & Sons Ltd.: 114; *Mackay Mercury*, 28 May, 18 June, 23 July 1870 ; *British Parliamentary Papers*, Colonial: Australia, Vol. 26, Sessions 1871-3: 84.

²⁶ The earliest photograph of Islander men in Queensland, working primitive Alexandra Plantation Mill at Mackay in 1868, Mackay City Council Collection. Photograph by Richard Daintree; also see an etching of Islander men and women working a similar mill of about the same era, Garran, A. (ed.), 1886, *Picturesque Atlas of Australasia*, Sydney: Picturesque Atlas Publishing Co., Vol.: 393.

²⁷ For instance, see *Illustrated Monthly Herald*, 28 December 1872.

²⁸ Boats from a labour trade ship at Malekula, New Hebrides (Vanuatu), 1890, National Library of Australia (NLA) an11279871-v and an3072829-v.

²⁹ Munro, D., 1992, “Gilbert and Ellice Islanders on Queensland Canefields, 1894-1899”, *Journal of the Royal Historical Society of Queensland*, Vol. 14, No. 11, May: 449-65.

³⁰ Gilbert and Ellice Islands women, Yeopon Plantation, near Rockhampton, *circa* 1895, SLQ JOL 3656; Returning labourers on a ship, probably from Gilbert and Ellice Islands, James Cook University, Pacific Islander Photographic Collection (JCU PIPC); 5 May 1893, Immigration Agent to Under Colonial Secretary, GOV/A24; 7 February 1895, Immigration Agent to Principal Under Secretary, Chief Secretary’s Department, GOV/A28; 22 January 1895, Sir John B. Thurston to Governor Norman, In-letter 5030 of 1905, COL/A807, Queensland State Archives (QSA); *Mackay Mercury* 28 January 1895.

³¹ Etching of recruits quarters on a labour trade ship, Wawn, W. T., *The South Sea Islanders and the Queensland Labour Trade*, London: Swan Sonnenschein & Co., 1893, 4; Etching of Islanders below decks on a labour trade ship, Garran, A. (ed.), 1886, *Picturesque Atlas of Australasia*, Sydney: Picturesque Atlas Publishing Co., Vol.: 677.

³² Photographs showing crew and labourers from the labour trade ship *Madeline*, wrecked on Tongoa Island, 1882. Rannie was not on the *Madeline* but was probably on another ship in the vicinity. William T. Wawn, *The South Sea Islanders and the Queensland Labour Trade*, London: Swan Sonnenschein & Co., 1893, 4; Garran, A. (ed.), 1886, *Picturesque Atlas of Australasia*, Sydney: Picturesque Atlas Publishing Co., Vol. 1: 677. Rannie, D., 1912, *My Adventures Among South Sea Cannibals*, London: Seeley, Service and Company Limited, 207, 208, 215, 223; *Mackay Mercury*, 28 May 1888; Annual Report of the Department of Pacific Islander Immigration, *Votes & Proceedings*, Queensland, Vol. 3, 1889, 204.

³³ Labourers arriving on the *Fearless*, at Cairns, National Library of Australia (NLA) an24493567; Returning labourers on a ship, 1893, *Illustrated Australian News*, 1 February 1893; Labour recruits from the New Hebrides on the deck of a ship, SLQ JOL 103470; Moore, *Kanaka*: 77.

³⁴ Moore, C. (ed.), 1977, *The Forgotten People: A History of the Australian South Sea Island Community*: 32-33; Bandler, F., 1977, *Wacvie*, Adelaide: Rigby: 21; Education Queensland and AusAID, 1997, *Australian South Sea Islanders: A Curriculum Resource for Secondary Schools*, Brisbane: Education Queensland: 61; also refer to Hayes, *Pacific Islanders on Queensland Plantations*: 92-94, 183.

³⁵ In-letter 7284 of 1884, COL/A 404 QSA describes the use of leg irons on Salliallburra who absconded from Airdmillan Plantation, and was found dead on Seaforth Plantation in the Burdekin district in 1884. He had been locked in the Seaforth Plantation hospital, possibly without food or water for three days, restrained by leg irons, and was found dead, with a diagnosis of pneumonia. Saunders, K., 1975, ““Lords of the Lash”. Methods of Correction, Coercion and Restraint”, in R. Evans, K. Saunders and K. Cronin, *Exclusion, Exploitation and Extermination: Race Relations in Colonial Queensland*, Sydney: Australia and New Zealand Book Company: 196, 230, ftn 259-60.

³⁶ Moore, *Kanaka*: 154-55; *Melbourne Punch*, November 1871.

³⁷ *Melbourne Punch*, November 1871; *The Bulletin*, 30 April 1881.

³⁸ Hopkins, J. E., 1993, *An Analysis of the Place of “Foreign” Pacific Islanders in the Development of North-Eastern Australia and Eastern New Guinea, 1863-1878*, BA Hons: University of Queensland; and, _____, 2000 “Pacific Islander Involvement in the Pastoral Industry of the Gulf of Carpentaria”, *Journal of the Royal Australian Historical Society*, Vol. 88, No. 1, June: 36-53.

³⁹ Johnston Allingham of Waterview Station with his employees; and Kalijeri from Malaita and his Aboriginal wife and family at Charters Towers, JCU PIPC.

⁴⁰ Garran, *Picturesque Atlas of Australia*, Vol. 2: 398.

⁴¹ SLQ JOL 172486 and 171012.

⁴² Islanders employed on a sisal hemp plantation, NLA 24494586-v; Islanders on a coffee plantation, The Leap, near Mackay, 1890s, JCU PIPC.

⁴³ Islanders lined up hoeing cane in the Herbert River district, 1902, SLQ JOL 16956; Islanders in front of offices, Macknade Plantation, Ingham, JCU PIPC.

⁴⁴ Hayes, Pacific Islanders on Queensland Plantations, Chapters 6 to 8, pp. 194-396.

⁴⁵ Islanders outside Ormiston Plantation Mill, Cleveland, near Brisbane, SLQ JOL 20279; An early locomotive on River Plantation, Mackay, 1880, Roth, *The Discovery and Settlement of Port Mackay*: 39.

⁴⁶ Islander quarters, The Cedars Plantation, Mackay, 1883, SLQ JOL 6298; Islander barracks and kitchen, Foulden Plantation, Mackay, SLQ JOL 171998; Islander houses on a plantation, Mackay, SLQ JOL 182760; Islander bark and slab houses, SLQ JOL 64761.

⁴⁷ Saunders, K., 1980, "Melanesian Women in Queensland 1863-1907: Some Methodological Problems Involving the Relationship Between Racism and Sexism", *Pacific Studies*, Vol. 4, No. 1: 26-44.

⁴⁸ Islander women and an overseer, Cairns District, 1890, SLQ JOL 60233; Islander women hoeing cane, JCU PIPC; Women planting new cane, Bingera Plantation, Bundaberg, *circa* 1897, SLQ JOL 171280 and 142325.

⁴⁹ Islander couple at Brandon in the 1880s with their prized rifle, SLQ JOL 9925; Islanders crowded around Hugh Hossack's store, River Street, Mackay, 1890s, JCU PIPC; Moore, C., 1991, "'Me Blind Drunk': Alcohol and Melanesians in the Mackay District, Queensland, 1867-1907", in R. McLeod and D. Denoon (eds), *Health and Healing in Tropical Australia and Papua New Guinea*, Townsville: Department of History and Politics, James Cook University of North Queensland, pp. 103-22.

⁵⁰ Shlomowitz, R., 1987, "Mortality and the Pacific Labour Trade", *Journal of Pacific History*, Vol. 22, No. 1: 34-55; and, _____, 1989, "Epidemiology and the Pacific Labor Trade", *Journal of Interdisciplinary History*, Vol. 19, No. 4, Spring: 585-610.

⁵¹ Islander hospital on a plantation (place and source unclear, probably Ingham, JCU PIPC; Habana Plantation Islander hospital, Mackay, *Daily Mercury* Andrew & Cook 2000, 117; Saunders, K., 1976, "The Pacific Islander Hospitals in Colonial Queensland: The Failure of Liberal Principles", *Journal of Pacific History*, Vol. 11, No. 1: 28-50; Moore, *Kanaka: A History of Melanesian Mackay*: 235-45.

⁵² Islanders at a creek on Barrie Estate between Eton and Mackay, 1880, SLQ JOL 6298; Lagoon on Pioneer Plantation, Mackay, 1880, SLQ JOL 6298.

⁵³ Anglican Islanders at Mackay and Bundaberg in the 1900s, *SCL* September 1904, 13; September 1905, 10; Nambour Islanders with Bibles, 1906, SLQ JOL 23819; Islanders at Sunday school (SLQ JOL, in Andrew and Cook 2000: 3).

⁵⁴ Corris, ““White Australia” in Action: The Repatriation of Pacific Islanders from Queensland”; Moore, ”Good-bye, Queensland, good-bye, White Australia; Good-bye Christians”: Australia’s South Sea Islander Community and Deportation, 1901-1908”.

⁵⁵ Two Islander children, 1900s, SLQ JOL 128204; Islander girl with flowers, JCU PIPC.

⁵⁶ Islander delegation to petition Queensland’s Governor Sir Harry Chermside, Rockhampton, March 1903, JCU PIPC; John Marlow, at Homebush, Mackay, prior to his return home in 1906, JCU PIPC.

⁵⁷ Guadalcanal and Malaita labourers, Foulden Plantation, Mackay, *circa* 1873-74, Amhurst, W., Tyssen-Amherst and B. Thomson, 1901, *The Discovery of the Solomon Islands by Alvaro de Mendana 1568, translated from the original Spanish manuscripts ; edited, with introduction and notes*, Vol. 2nd series, No 7, London: Hakluyt Society.

⁵⁸ Grisi from Simbo Island, and Albassoo from Vanua-Lava Island, Foulden Plantation, *circa* 1874, SLQ JOL 172003 and 172009.

⁵⁹ Islanders at Mackay, photographed by Henry Brandon *circa* 1880, SLQ JOL 6298.

⁶⁰ Moore, *Kanaka*: 161-62, 164-67.

⁶¹ Islander with European farming family, Cleveland, near Brisbane, *circa* 1871, SLQ JOL 20251; Islanders with a European farming family, Gairloch, Herbert River (Ingham), 1888, SLQ JOL 16952.

⁶² Orrani and her new husband Luke Logomier, SLQ JOL 18059. Moore, C., 1978, “Luke Logomier”, in H. Reynolds (ed.), *Race Relations in North Queensland*, Townsville: History Department, James Cook University of North Queensland, pp. 181-194.

⁶³ Harry and Matthew Fatnowna in front of the family houses at Eulberti, 1930s; Fatnowna and Motto Cricket Team, Eulberti, 1940s; Chris Fatnowna, Cliff Querro, and Henry Viti, Norman Fatnowna (back) and Christie Fatnowna and Cliff Querro in front of the family houses at Eulberti, 1930s, JCU PIPC; Fatnowna, N., 1989, *Fragments of a Lost Heritage*, R. Keesing (ed.), Sydney: Angus and Robertson; Moore, C., 1981, “Fatnowna, John Kwailiu Abelfai (1866 ?-1906)”, *Australian Dictionary of Biography*, Vol. 8 (1901-1939), Melbourne: Melbourne University Press, pp. 473-474; and, _____, 1996, “Fatnowna, Harry Norman (1897 ?-1967)”, *Australian Dictionary of Biography*, Vol. 14 (1940-1980), Melbourne: Melbourne University Press: 146.

⁶⁴ Brisbane Islander *circa* 1888, SLQ JOL 50886; Bundaberg Islander *circa* 1880s, SLQ JOL 1569.

⁶⁵ Brown began his extensive photographic collection of 900 glass plates after he was stationed in the Duke of York Islands, off New Britain. Beattie travelled through Melanesia on the Melanesian Mission's *Southern Cross* in 1906. Gardner, H. B., 2006a, *Gathering for God: George Brown in Oceania*, Dunedin: University of Otago Press; _____, 2006b, "Photography and Christian Mission: George Brown's images of the New Britain mission, 1875-1880", *Journal of Pacific History*, Vol. 41, No. 2: 175-90; Lindt, J. W., 1887, *Picturesque New Guinea: With an Historical Introduction and Supplementary Chapters on the Manners and Customs of the Papuans; Accompanied with Fifty Full-page Autotype Illustrations from Negatives of Portraits from Life and Groups and Landscapes from Nature*, London: Longmans, Green; Woodford, C. M., 1890, *A Naturalist Among the Headhunters: Being and Account of Three Visits to the Solomon Islands in the Years 1886, 1887 and 1888*, London: G. Philip; Beattie, J. W., 1909, *Catalogue of a Series of Photographs Illustrating the Scenery and Peoples of the Islands in the South and Western Pacific*, Hobart: J.W. Beattie. This source is now available on Project Canterbury at <http://anglicanhistory.org/oceania/>

⁶⁶ Halapua, W., 2001, *Living on the Fringe: Melanesians of Fiji*, Suva: Institute of Pacific Studies, University of the South Pacific; Meleisea, M., 1980, *O Tama Uli: Melanesians in Samoa*, Suva: Institute of Pacific Studies, University of the South Pacific; Munro, D. and A. Thornley (eds), 1996, *The Covenant Makers: Islander Missionaries in the Pacific*, Suva: Pacific Theological College, and the Institute of Pacific Studies, University of the South Pacific.

Cultural Research as Exchange

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What values are exchanged in relationships between foreign researchers and the local people they study in a country like the Solomon Islands and on an island like Malaita? Are these exchanges equitable? Are the values even comparable? Or are the relationships too full of contradictions to be satisfactorily mediated by the exchanges that Melanesians like to practise and anthropologists to describe?

Western research in the Pacific began as an intellectual arm of the European colonial project, seeking conceptual mastery of the realms and peoples whose political, economic, and cultural domination served the greater ambitions of empire. Researchers worked to further the knowledge of their home societies, supported in the field by the power and prestige of the colonial authorities. Some took the opportunity to develop personal bonds of friendship and mutual support with local people, within the constraints of the race-based colonial class system, but their own contribution to the relationship was often based on fees and wages for goods and services.

Cultural researchers have usually hoped to make such relationships more equitable, both to ensure co-operation from those they study and to fulfil the humanistic values of their academic discipline. Many have acknowledged enduring ties of friendship and obligation to individuals and communities, and put their skills and resources to the service of local people. Malaita has been a good example. From the 1890s to the 1920s, Walter Ivens ministered as an Anglican

priest to the people of Sa'a and Lau, whose culture he documented in sympathetic ethnographies (1927, 1930). In the 1940s the anthropologist Ian Hogbin advocated local participation in the colonial administration through academic publications on To'abaita (1944). As the British disengaged from imperial colonialism after the Second World War, anthropologists of the 1960s became openly critical of colonial and neocolonial hegemony and took it upon themselves to repay their privileges as First World researchers through services to their Third World hosts. Roger Keesing in particular, castigated both colonial and independent governments for their treatment of the Kwaio and obtained funding for their Cultural Centre, which educated young people in both local and colonial skills as well as archiving cultural and historical knowledge for future generations. David Akin, who came to Kwaio in 1979 to manage the Cultural Centre, has maintained this commitment to Kwaio cultural development, succeeding Keesing as their principal researcher from the 1980s. Meanwhile Pierre Maranda, researching in Lau since the 1960s, supported a locally controlled tourism project that arose from a widespread desire for economic incentives to maintain local culture (Michaud et al. 1994).

Such initiatives may be seen as reactions against the colonial domination, exploitation, and denigration of Malaitans, and the feigned detachment of academic research, by individuals who for their own reasons had developed valued personal relationships with local people. They represent what Malaitans would regard as exchange (*rokisia*) or return (*du'ua*) for the hospitality and knowledge that have enabled them to fulfil their personal and professional ambitions. This is certainly a positive development from the colonial legacy, which still colours relationships between Europeans and Malaitans, but how equitable and appropriate can such exchanges be? Relationships between people of such contrasting cultural backgrounds, degrees of wealth, and antagonistic histories inevitably entail exchanges of incommensurate values, neither party fully appreciating or being willing to meet the other's expectations. How can foreign requests for local knowledge and hospitality be measured against local expectations of foreign wealth and power? There is probably no answer to this perennial contradiction of anthropological research, but more equitable exchanges might be achieved by changes in the character of the research itself. For all our best endeavours, how often have foreign researchers produced documentary work of value to their local hosts? Even when we follow lines of enquiry suggested by them, do we actually

allow them to set the agenda of our research and publication projects? Could we do more to meet their expectations through the way we conduct our research?

My own experience as an anthropologist with the Kwara'ae people of Malaita provides an illustration of these issues and of one particular attempt to resolve them. When I first applied to the Solomon Islands government for a research permit and received a letter from the local MP giving the name (though not the address) of the chief I would stay with in East Kwara'ae in 1979, I had little idea what such an agreement involved. It was many years before I learned that the local chiefs had actually requested an overseas researcher, and that I had arrived in answer to their prayers. When I arrived, my hosts soon made it clear that they had expectations that I should further their longstanding aspirations to re-establish their culture or tradition (*kastom*, or *fala fala* in the Kwara'ae language). They were continuing a movement, dating back to the anticolonial Maasina Rul movement in the 1940s and '50s, to have their own legal values recognized by the government under clan and community leaders as chiefs. Since the 1960s they had been co-ordinating such leaders throughout Kwara'ae to codify laws and genealogies, and by the time I arrived in 1979 the research by both Roger Keesing and Pierre Maranda had made them aware of the work of anthropologists in documenting such information. Although gratified to find I had a contribution to make in return for my own ambition to do anthropological research in an exotic tribal community, I had even less understanding of what they actually expected of me than they had of anthropology.

That was the beginning of a set of relationships that have now continued for almost thirty years, during which we seem to have worked out a kind of mutually agreeable mode of exchange between researcher and researched. This process has involved misunderstandings, false hopes, and disappointments on both sides. It was soon obvious to me that I would be unable to meet many of the expectations voiced by some of the elders who were most supportive of my research. I would not be able to ask the Queen for funds to support the chiefs' campaign for self-government or invest in economic development, nor could I do much to promote prosperity and political autonomy in less specific ways. I did not have the experience and credentials of Roger Keesing, whose high-profile research had gained sponsorship for the Kwaio Cultural Centre and inspired plans for a similar project for Kwara'ae.

I could write about their culture, which was their basic requirement, but soon realized that we had different understandings of what this meant. Writing and publishing have become my way of repaying for the cultural and historical knowledge I ask from them for my own purposes, but only after long unspoken negotiations in which I tried to demonstrate what I could and could not do for them, and learn what might or might not be useful.

The first problem, of course, was to understand what I was writing about, including what Kwara'ae people were trying to explain to me. Why were they so keen to relate the arrival of their first ancestors from overseas, the laws they had brought, the Biblical antecedents of their culture, and the history of how successive generations had spread out over their land? The social and political values they were seeking to legitimate seem obvious, in retrospect, as assertions of political and cultural autonomy in united opposition to government control. However, this was only after I had made some progress in a continuing program of informal re-education in anthropology, entailed in researching and writing my articles and books. The discipline of anthropology is designed to facilitate understanding of unfamiliar societies in terms that somehow represent their cultural realities. Although this entails questioning one's own cultural realities, answers are too often provided by the comparative theoretical perspectives of anthropology itself. Inherited anthropological concepts like "descent" and "reciprocity" and "mana" and "tabu" had to be questioned as I compared them with what Kwara'ae people actually seemed to be saying and doing. The process was fascinating and rewarding, intellectually and professionally, enabling me to gain a sufficiently coherent understanding of the culture to make sense of it to others who have not gone through this particular learning experience. However, there was the question of who these "others" were and what they had to do with the people under study.

For researchers who wish to continue research, to make of it a profession that provides at least an income and at most international academic prestige, the first "others" we have to consider are usually our colleagues in the metropolitan institutions that manage our profession. We may then go on to deal with an interdisciplinary community of publishers, policy-makers, administrators, and educators who will mediate our research findings for various purposes with still other people. By informing public policy, from metropolitan powers and

international institutions to the country's national and local authorities, our research may eventually affect the lives of those it describes, perhaps for the better. Was this the kind of benefit the Kwara'ae expected from having their culture written down? Perhaps it was, from their own perspective. They wanted their local culture to be understood and acknowledged by powerful authorities in the Solomon Islands and beyond, according to their view of the wider world as a source of wealth, capable of a benevolent response to their desire for 'development.' This optimism dates back to the 19th century labour trade, but it co-exists with an understandable suspicion of colonial exploitation. The history of the Malaitans has produced a deeply ambivalent attitude to the foreigners from whom they seek assistance, and this complicates their relationships with cultural researchers.

In developing my own relationships, I had to learn first of all the value that the Kwara'ae place on the kind of information I was trying to record. Knowledge, even of basic social values, let alone of specific relationships and practices, is privileged and passed on as a gift that requires something in return. Parents teach their children in private how to behave, to avoid benefiting others, and they pass down crucial family heritage to a chosen child. To share such knowledge with others, people expect payment. Accordingly, elders who helped me by providing information for my research expected some help in return, if only small luxuries such as tobacco or imported food, or the money to buy them. Although most were willing to share their own personal and family culture in support of a broader community enterprise, it was appropriate that I recognize this support with a material token of acknowledgment. It was also suspected that I had a material interest in this information, confirmed for many by the prices for books on cultural matters they themselves could seldom afford. I have been accused by the less knowledgeable of becoming a millionaire by selling books about their culture, and by those who know better of earning my salary by research. Such accusations are probably impossible to refute to those whose main motivation is jealousy of the researcher and his local supporters, or general anticolonial resentment. But even those who support foreign researchers writing about their culture are likely to question their motives if they seem to produce only publications that local people can neither use nor fully understand.

Many Kwara'ae have the basic education necessary to read their Bibles and prayer books, to write letters to absent relatives or officials, to take minutes of meetings, and to list genealogies and laws, but very few can sift useful information from an academic account of their culture. Those who cannot do so may be reassured by the expectation that others will understand more of the written record, which has proven power to change their lives. Even elders who never learned to read may hope that local laws and land claims will gain authority by being codified in similar terms to the Biblical and legal texts that give sanction to the institutions of church and state. But how long will academic publications satisfy those who recognize the potential of documentation for reconstituting cultural knowledge, and for legitimating and communicating it to empower their local communities, if these publications are unintelligible to them? Kwara'ae complain of the loss of knowledge with the death of their elders and hope that research will preserve such knowledge for succeeding generations. Although all publications of local culture affirm a set of values held by the wider colonial and global world and accepted by Malaitans in terms of their own understanding of the written word, academic works may do little more for them if they find them incomprehensible.

So what were Kwara'ae chiefs asking for when they invited me to write down their traditions and customs? The two main themes of their own writings were the "law" (*taki*), which should govern relationships within their own communities under their own leaders, and the genealogical histories, which should validate inherited claims to land. Both are crucial in resolving the disputes that continually threaten the peace instituted by uncomprehending government and church authorities, but by the same token they are particularly problematic to write about. The need for written codification of such tradition arises from the economic and political developments that have undermined its basic rationale. Kwara'ae seek to regulate and formalize a social system that formerly operated on the basis of claims legitimated by shared legal values but negotiated under the ultimate sanction of violence between the parties. The chiefs have sought to resolve the inherent contradictions of such a system by codifying history and culture to have it sanctioned instead by state authority, mediated by their own local community leaders.

This is more complicated than they seem to imagine. They have written down laws, initially as traditional “Ten Commandments”, and even proposed set restitution payments in local and state moneys. However, standard laws and penalties on the model of colonial criminal law actually contravene other local legal principles, which take into account the history of the dispute, the relationship between the parties, and the ultimate goal of restoring goodwill between them. Likewise, for genealogies and associated land claims to be binding upon rival clans, negotiations are needed between them over disparate, often contradictory, histories. This has been attempted in Kwara’ae since the 1970s by publicly funded programs to discuss and demarcate lands in certain districts in order to have land claims agreed and registered by the government (Totoria and Maenu'u 1979; Rukia 1992). However, such registration also contravenes the essential flexibility of local land tenure in balancing potentially contradictory values, for the sake of a simpler system of more exclusive rights that might facilitate economic development.

Both law and land claims in Kwara'ae belong to the value system of an egalitarian society of independent local clans, which is at odds with some powerful ambitions of contemporary society. It would be expecting rather a lot for a foreign anthropologist with limited and intermittent experience of the community to take on the inherently difficult and contentious task of codifying such values in their multiple social contexts and reconciling them with changing social realities, particularly when such work is associated with movements for local autonomy that sometimes threaten to subvert the Solomon Islands state and hence the researcher's admission to the country. How should a researcher respond to the obligations his work creates towards people if they make such difficult demands?

I had published several academic papers, pamphlets, and my Ph.D. (1994) before I really began to consider how to write something specifically for Kwara'ae readers. Those who had received my publications seemed to appreciate them, but even those who could read them with ease would have found much that was incomprehensible or irrelevant and little that addressed their needs for practical documentation. My first illustrated booklet (1981), with photographs of several important chiefs was welcomed but compromised by accusations that it contributed to the death of the most senior pagan priest, whose ancestral ghosts were offended that his image on the cover might be defiled by contact with women. This incident,

explained by some as induced by the hostility of opponents whose protests had drawn the attentions of the ghosts, and completely denied by others, illustrates the complexity of debates around cultural research in Malaita. The political tensions show that the value of anthropological research can be as much symbolic as substantive. Either way, my work seemed inadequate to meet the obligation of a privileged First World researcher to a Third World people who were imparting information of a value to them that I was only beginning to appreciate.

Two Kwara'ae friends in particular enabled me to recognize and respond to this obligation. Adriel Rofate'e, Paramount Chief in the Kwara'ae chiefs' organization, was a father to me as my first host and main instructor in Kwara'ae culture. As a compiler of laws and genealogies who hoped to establish local culture under the authority of the chiefs, I know he was disappointed by my failure to take forward the work of codifying and publishing this knowledge. It was my brother Michael Kwa'ioloa who enabled me to publish material of service to Kwara'ae people themselves. It was he who brought me to East Kwara'ae, as secretary to the local Area Council that approved my research permit, as well as introducing me to his relatives in conservative communities beyond Rofate'e's immediate influence. He became a research partner whose commitment extended to regular correspondence over long intervals between my brief visits to the Solomon Islands. Between us we have written his autobiography, a booklet on Kwara'ae land tenure, a study of forest resources, his fathers' clan history and autobiography, and his own experience of the Malaita-Guadalcanal conflict, each of which contribute in different ways to make the documentation of Kwara'ae culture and history accessible and useful to local people.

The Tradition of Land in Kwara'ae (Kwa'ioloa and Burt 1992) was the project closest to the aspirations of Rofate'e and the senior chiefs. Its purpose was to codify the rules and values of Kwara'ae land claims to be observed in the settlement of disputes, in a form that could be used by the chiefs and the courts. Rofate'e was the main source of information, which I assembled and Kwa'ioloa turned into a Kwara'ae text, checked and approved by a group of consultants. The problem, as I saw it, was to clarify the rules governing the land tenure system while taking account of the range of circumstances that affected their implementation. I tried to emphasize certain underlying principles such as precedent, seniority, and

reciprocity, which might be at variance with each other in particular situations. Hence a claim to the management of land, based on seniority of descent in a line of firstborn men, may be qualified by competing claims to use land based on descent through women and enhanced by their due as supportive neighbours. If the booklet has been of service in the settlement of land disputes when used in court, this has probably been in reducing the exclusiveness of 'ownership' claims based on descent in the male line, and thus countering attempts to individualize land tenure for the sake of capitalist development. This at least was my intention.

A similar concern underlay the oral history of Michael Kwa'ioloa's father Samuel Alasa'a, recorded on cassette for his sons in the 1980s, which we published as *A Solomon Islands Chronicle* (Burt and Kwa'ioloa 2001). Much of this history recounts events that established his ancestors in their various lands, through detailed genealogies in a number of lines, including claims to their land of residence through several female ancestors. Kwa'ioloa and his family, as custodians of this history, had an obvious interest in seeing it legitimated by publication, but they also took a risk, commonly avoided by land disputants, of revealing confidential details of their clan history to public scrutiny. One contribution of this book to Kwara'ae in general was intended to be a lesson in how history could be written to engage people in an open discussion of issues that should be resolved through consensus, rather than under the threat of force as in precolonial times, or by manipulation of the courts, as is said to be the case at present.

The other purpose of *A Solomon Islands Chronicle* was to communicate local history in local terms by writing down an oral account and reconciling it with both colonial history and historical methodology. Beyond the genealogies of several major clans over more than twenty generations (clarified by diagrams for those who find it hard to follow long lists of one man begetting another), Alasa'a described events of recent generations that were also documented in the colonial record. A comparison between the two attests not only to the accuracy of Alasa'a's memory over sixty to eighty years, but also to the very different knowledge and perspectives of local and colonial participants in the same events. By publishing the oral accounts and facsimiles of colonial documents side by side, Kwara'ae as well as English-speaking readers are encouraged to reflect on how history is

constituted from the knowledge and perspectives of different, often competing, parties, and how they might write it for themselves.

Alasa'a's *Chronicle* forms a prelude to his son Michael Kwa'ioloa's previously published autobiography *Living Tradition* (Kwa'ioloa and Burt 1997). Kwa'ioloa refers to his father throughout, as the source of the knowledge and values of tradition that they have lived through and kept alive. He speaks from the experience of education and active participation in the culture of the emerging Solomon Islands state, the Christian church, and the commercial economy of the Solomon Islands' capital Honiara. He describes contradictions between local and global values through the personal tensions, crises, and opportunities that shaped his life, from infancy in the 1950s to maturity in the 80s. Kwa'ioloa's intention in recording this story for me to edit into a book was to pass these experiences on to his children's generation, but they should also resonate with his contemporaries, as an unusually articulate account of typical experiences of growing up in the Solomon Islands in the second half of the 20th century. As the most accessible of our books, due to Kwa'ioloa's lively and candid narrative, it seems to have been the one most widely read overseas. We may hope that it has promoted understanding of contemporary life in the Solomons that will inform knowledge, attitudes, and policies to the country's benefit. A similar purpose may be served by Kwa'ioloa's personal account of the recent Malaita – Guadalcanal conflict, expressing a local perspective on its causes that is seldom heard by the national and international agencies that have so much influence over the situation (Kwa'ioloa and Burt 2007). Taking the narrative even further, we hope in due course to publish another volume of autobiography focusing on contemporary issues of urbanization and politics.

With the *Chronicle*, we also published *Our Forest of Kwara'ae* (Kwa'ioloa and Burt 2001) as an account in local terms of important local knowledge. This project was conceived in response to growing Western concern to restore indigenous ecological knowledge, but it was supported enthusiastically by Michael Kwa'ioloa and his Kwara'ae research team, and by the various chiefs' groups and individuals who were concerned over the loss of such knowledge in younger generations. The book documents some of their knowledge of the forest resources upon which their livelihood depends. My task was to classify this knowledge in a form that could be reduced to writing; that is, in a regular and predictable order

from which information could be readily retrieved by readers. My model was the books of flora and fauna so familiar to the British, from which I had learned the “natural history” of my own country, and which are now more salient in British culture than the local knowledge once inherited in rural communities. The problem was that Kwara’ae ecological knowledge had only been structured by the mainly practical contexts in which it was applied to people’s lives. Writing it down was indeed an exercise in reduction. The exercise was justified by the erosion of the original context of the knowledge and the development of a written culture that threatened to marginalize it. The challenge was to write this knowledge in terms that reflected as far as possible the categories that structure and inform its Kwara’ae cultural context, rather than the Western scientific categories used by so many studies of indigenous ecological knowledge. So instead of Linnean genera and species, or even English plant names, we have “trees that become big”, “trees that do not become very big”, “rees that are only small”, “things like palm”, “vines”, “weeds”, and so on, and for uses of the forest we have “gardening”, “wild (plant) foods”, “wild protein” (food), “building houses”, and so on. Plant descriptions reflect Kwara’ae perceptions and their uses distinguish, for instance, between “fuels” that burn in different ways and between “house posts” and “house building”.

Despite the high value the Kwara’ae put on such written documentation, they will soon realize its limitations for codifying even verbal information on a subject like forest resources, let alone for describing the lived experiences through which their cultural knowledge is created and communicated in society. Their concern to preserve and restore such knowledge, the main purpose of the book, might be fulfilled more effectively by the kind of education programs run by the Kwaio Cultural Centre, giving younger generations the opportunity to learn local knowledge in the context of the practical life skills to which it was applied. Yet even the conservative Kwaio are inexorably moving towards a culture where knowledge is written, mainly by foreigners employing their own language and categories. Whether deliberately or not, missionaries and teachers employ writing in terms that discredit and supersede local cultures. Malaitans have long sought to control this knowledge technology for their own purposes to codify their laws and genealogies, but as yet they do not have the skills to write the kind of books that anthropologists can produce with their help. The exercise of transforming an oral

culture into a literate one is too important to be left to colonial educators training people in Western science, literature, religion, history, and culture (as the Kwaio recognized in the indigenous literacy program of their Cultural Centre). It has the potential to put people back in control of their own cultural heritage as it changes under Western cultural hegemony, if they can find a way to document their own culture in their own language for their own purposes.

So far, local people in Kwara'ae, Malaita and the Solomon Islands as a whole have seldom taken charge of this process. Even the enthusiastic support that my partner Michael Kwa'ioloa and many others have given to our research and publication projects has followed my initiatives and agendas rather than theirs. This may be seen as my necessary role as the anthropologist benefiting from training, research funding, and institutional support, but the Kwara'ae will ultimately need to govern their cultural research by themselves. This is implied in the sense of ownership of their local culture that so many people display, both in supporting foreign researchers to document it for their benefit, and in opposing them with accusations of theft and exploitation for profit. Some with higher education may say they neither want nor need foreign researchers because they can do their own research. The fact is that the local people who are both willing and able to do such research are few, and even education does not make it easy without the kind of collegiality and financial support enjoyed by foreign researchers.

Perhaps what is needed is a more equitable exchange relationship that goes beyond the familiar roles of foreign researchers and local research assistants to engage local people in setting the research agenda. The procedures established for the Solomon Islands already ensure that research involves consultation with local community organizations of chiefs or local councils, but more could be done to focus the attention of the foreign researchers on subjects of local concern. A model is provided by the Vanuatu Cultural Centre (Bolton 2007), which promotes training of local "fieldworkers" in research methods and writing by foreign researchers through formal partnerships. The Centre's own annual training and consultation workshops give these fieldworkers the capacity to contribute to and benefit from such relationships on equal terms. For the foreign researchers, the partnerships should provide more than simply the co-operation of a local partner or community, by revealing local cultural priorities, ideologies, and ontologies that may be as

significant for academic purposes as they are for local ones. A focus on these local categories should help all parties in better understanding and representing the cultural realities of the society through the medium of writing, otherwise so heavily influenced by the colonial culture from which it derives.

There have been many fruitful partnerships between the Solomon Islands and foreign researchers, resulting in joint publications (e.g., Richards and Roga 2005) but only a few manage to produce accounts of local knowledge in terms of local categories and concerns (e.g., Hvding 1995/2005). This requires a reconsideration of research methodology to focus on indigenous ontologies, mediated by partnerships between foreign researchers and their local collaborators which are responsive to the priorities of local communities. The process of research and its results should be intellectually rewarding to both parties. It would help shift international and academic understandings of the Solomon Islands culture towards those of its local communities, as they have developed under the transforming effects of colonialism. More importantly, it would support Solomon Islanders in recovering local traditions in terms that are true to their own values and aspirations.

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References

- AKIN, D., 2006, *The Kwaio Arts Project : Past Successes and Present Challenges*, paper presented at conference on *Art and History in the Solomon Islands: Collections, Owners, and Narratives*, September 2006, London: British Museum.
- BOLTON, L., 2007, “Resourcing Change: Fieldworkers, the Women's Cultural Project and the Vanuatu Cultural Centre”, in N. Stanley (ed.), *The Future of Indigenous Museums: Perspectives from the Southwest Pacific*, London: Bergahn Books, pp. 23-37.

BURT, B., 1981, *Solomon Islanders: The Kwara'ae*, London: British Museum Press.

_____, 1994, *Tradition and Christianity: The Colonial Transformation of a Solomon Islands Society*, New York: Harwood Academic Publishers.

_____, (in press), *Body Ornaments of Malaita, Solomon Islands*, British Museum Press and University of Hawai'i Press.

BURT, B. and M. KWA'IOLOA (eds.), 2001, *A Solomon Islands Chronicle, as told by Samuel Alasa'a*, London: British Museum Press.

KWA'IOLOA M. and B.BURT, 1992, *Falafala ana Ano 'i Kwara'ae / The Tradition of Land in Kwara'ae*, Institute of Pacific Studies and Honiara Centre, University of the South Pacific.

_____, 1997, *Living Tradition: A Changing Life in Solomon Islands*, London: British Museum Press, and Honolulu: University of Hawaii Press.

_____, 2001, *Na Masu'u kia 'i Kwara'aeTualaka 'i Solomon Islands fa'inia logo na rū ne'e bulao saena fanoa kia kī: Our Forest of Kwara'a: Our life in Solomon Islands and the things which grow in our home*, London: British Museum Press.

_____, 2007, ““The Chiefs' Country”: A Malaitan view of the Conflict in Solomon Islands”, *Oceania* 77: 111-127.

HOGBIN, I., 1944, “Native councils and native courts in the Solomon Islands”, *Oceania* 14: 257-283.

HVIDING, E., 1995/2005, *Kiladi Oro Vivineidi ria Tingitonga pa Idere oro pa Goana pa Marovo: Reef and Rainforest: An Environmental Encyclopaedia of Marovo Lagoon, Solomon Islands*, UNESCO – LINKS.

IVENS, W. G., 1927, *Melanessians of the South-east Solomon Islands*, London: Kegan Paul.

_____, 1930, *The Island Builders of the Pacific*, London: Seeley Service.

MICHAUD, J., P. MARANDA, L. LAFRENIERE and G. COTE, 1994.
“Ethnological Tourism in the Solomon Islands: An experience in applied anthropology”, *Anthropologica*, Vol. 36.

RICHARDS, R. and K. ROGA, 2005, *Not Quite Extinct: Melanesian bark cloth (“tapa”) from western Solomon Islands*, Wellington: Parameta Press.

RUKIA, A., 1992, *Kwara'ae Land Mapping: A report of the workshop on mapping traditional land boundaries*.

TOTORIA, D. and L. MAENU'U, 1979, “Part H: Land Registration”, *Land in Solomon Islands*, USP: Institute of Pacific Studies, and Honiara: Ministry of Lands: 203-225.

MOTS-CLÉS

Retour des données –ethnographie –équité – don – hospitalité – Mélanésie – partenariat – écriture – publication

Returning Indigenous Knowledge through Publications Written for Pacific Island Communities

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A series of sessions about repatriation of ethnographic information was organized by Sjoerd Jaarsma over the course of three annual meetings of the Association for Social Anthropology in Oceania (1998-2000). The ideas generated and explored during the sessions were ultimately published in a book, *Handle with Care: Ownership and Control of Ethnographic Materials*, the twentieth volume in the ASAO Monograph Series (Jaarsma 2002). Most of the contributor-participants focused on repatriating written information rather than material objects; and most addressed issues related to preserving, archiving, and accessing field notes and other “raw” research data, including photos and video or audiotapes. Three of the chapters, however (by David A. and Dorothy R. Counts, Keith S. and Anne Chambers, and Alan Howard), discuss writing and publishing materials for the communities who originally provided the information, which is the focus of my talk today. Some of the questions about publishing for host communities are similar to those about repatriating archived materials. Decisions must be made, preferably in collaboration with community members, about what material to repatriate/publish, and how, about what information is personal or confidential, or linked politically or socially to particular individuals, families, or groups, and therefore should be restricted, and what is appropriately and usefully made public, and about when and in what forms information should be made available.

Writing and publishing for the host communities involves additional concerns, starting with the necessity of being selective in deciding what and how much to include. Whereas a generalized, singular account used to be the norm for published ethnographies, multiple voices and inconsistent versions more accurately reflect lived experience. But, as we have found, publishers prefer shorter manuscripts for reasons of production cost and saleability – so whose voices will be left out? In an anecdote many of us may find familiar, Dorothy Counts reported being scolded by Kandoka (Papua New Guinea) villagers who read her published collection of their oral history, legends, and folktales, because she had not collected and published stories from other kin groups, or other “more authentic” versions of the ones she did (Counts and Counts 2002: 19). Similarly, residents of Nanumea Atoll (Tuvalu) in one breath thanked Keith and Anne Chambers for their publications and in the next asked why they had used one person’s version rather than another’s. The Chambers acknowledged the impossibility of including in their publications the full range of implicit political meanings of the accounts given to them by different Nanumea elders, or “the depth of cross-referencing, community memories, political ambitions, and influence seeking involved in the transmission of materials of this sort” (Chambers and Chambers 2002: 158-159). Despite such limitations, the Chambers discovered that a 1975 report they had written for the Tuvalu government had unintentionally resulted in systematizing some cultural practices (or “freezing traditions”) for Nanumeans, who were consulting their work as authoritative some twenty years later while trying to describe their practices regarding chief selection and installation, for instance (2002: 161 and 163). Lack of other published materials may increase the likelihood that a publication, even a bound set of kinship diagrams, will be considered “official,” and be used in unintended ways, for instance, as evidence in community disputes (Chamber and Chambers 2002: 159-160, 165). That said all these authors felt it not only worthwhile and important but also an obligation to write and publish materials for the people who gave them the information in the first place.

Access to information is inextricably bound up with choices about language. Writing in local or indigenous languages has implications for which and how many people will be able to read it, and in turn, how many copies should be printed. If it is appropriate to write in a language such as French or English, academics also need to consider their audience when deciding whether to use a specialist language

(jargon) and, if so, how to use such concepts to make something more understandable and interesting rather than less (Counts and Counts 2002: 22-23). Financial cost is also a factor in access to published material, and I will speak a bit more about these access issues later when discussing choices my husband, Alan Howard, and I have made in our recent publications for Rotumans.

Alan and I have been doing research and writing about the people of Rotuma since 1959 and 1987, respectively. Rotuma is a small island some 450 kilometres north of Fiji. Although culturally and linguistically distinct, Rotuma has been politically affiliated with Fiji since 1881, first as a British colony, and since 1970 as part of an independent nation. The population of Rotuma is about 2,500, with approximately 7,500 Rotumans living in the main Fiji islands, primarily in urban areas such as Suva and Nadi. We estimate that perhaps another 2,000 Rotumans live elsewhere, especially in New Zealand, Australia, Hawai'i, and the West Coast of North America, with a few families in central Canada and in Europe.

Anthropologists are commonly required to provide copies of publications arising from their research to government institutions of the countries that host their fieldwork. Between the two of us Alan and I have now authored or coauthored some thirty-seven articles about Rotuma. In 1970 Alan published a book called *Learning to Be Rotuman*, which he was gratified to learn has been used as a text in teacher education in Fiji. Over the years we have dutifully sent copies of our publications to the government of Fiji; copies of most of them are available in the library of the University of the South Pacific in Suva. In about 1990 we also photocopied and bound all the individual articles Alan had published to that time, and hand-delivered copies to the Rotuma Council of Chiefs, Rotuma high school teachers, and various Rotuman friends on the island, in Fiji, and in diaspora communities elsewhere. As English is the language of instruction in schools on Rotuma, most Rotumans there as well as in Fiji are literate in English. Although individuals expressed appreciation for the article copies, and a few told us they actually used data from them, we suspect that much of that material went unread.

It was in the early 1990s that we began to write and publish specifically for Rotuman audiences. Working with Elizabeth Inia, a Rotuman cultural expert who was the island's first woman schoolteacher, Alan composed a biography of her

husband, Wilson Inia, who had been Rotuma's first senator in the Fiji Parliament (Howard 1994). Wilson had been key in establishing the Rotuma Cooperative Association as well as the Rotuma High School, and his life story and writings (through his speeches in Parliament as well as his Methodist lay-preacher's sermons) reflected on much of Rotuma's twentieth-century history. The book, published by the Institute of Pacific Studies at the University of the South Pacific in Suva, was greeted with much excitement on Rotuma, where Alan was honoured with a feast and tearful speeches expressing heartfelt gratitude. The copies we delivered to the island and to communities in Australia and New Zealand were quickly snapped up, circulated widely, discussed, and debated by Rotumans.

Continuing the collaboration with Elizabeth, we then helped her to publish two other books, drawing on materials she had compiled and written over the years concerning Rotuman sayings and ceremonies (Inia 1998, 2001), as well as an updated Rotuman dictionary and English-Rotuman wordlist, with the help of two other Rotuman language experts (Inia et al. 1998). All three books were published by the Institute of Pacific Studies, and include both Rotuman and English. For Elizabeth's two volumes, Alan and I prepared camera-ready copy using a special font Alan had created to represent the somewhat complex set of diacritics used in the written Rotuman language (for Wilson Inia's biography, some of the diacritics had to be penned in by hand; by the time the dictionary had been published, a wider range of diacritical symbols was available to the printer). This approach – while labour-intensive on our side – kept production costs down and helped make the books affordable for local audiences.

The process of producing Elizabeth's books was so enjoyable and the reception of the books by Rotumans so rewarding that we determined to pull together and publish a history of the Rotuman people, drawing not only on our own research but also on archival sources. For nearly fifty years Alan – and later, I – have been compiling published and unpublished materials about Rotuma in our home office. In the early 1990s we also tried to help establish a physical archive on Rotuma for all published and unpublished writings about Rotuma, but our efforts were fruitless as the grant proposal we helped the Rotuma District Officer draft never cleared the Fiji government bureaucracy. Since 1996 we have used the Rotuma Web site to make available numerous historical documents and photos that

would otherwise be difficult if not impossible for most Rotumans to locate (Alan will discuss the Web site this afternoon; see also Howard 2002). We have also posted all the academic articles we have written about Rotuma. Because such a large proportion of the worldwide Rotuman community lives in urban areas, the Internet works well for providing access to many such materials. Although the island of Rotuma is now wired for the Internet, the cost of access is prohibitive, so we periodically make CD copies of the Rotuma Web site for high schools, hospitals, and so on. Also, Rotumans who can go online print materials from the Web site to mail to their relatives on the island and elsewhere.

Still, most of our articles as well as the other archived materials had been written for academics, and were framed in the disciplinary debates and conventions of the time. We were determined to write a Rotuman history for Rotumans, in a way that they would find interesting and meaningful. This involved several choices, including some that academic publishers we consulted discouraged us from making:

1. We quoted as many sources as possible, Rotuman voices as well as colonial officials, missionaries, and researchers, including our own interpretations while acknowledging them as such. As an example, we considered Rotuma's religious conflicts of the late nineteenth century from the perspectives of the English Methodists and the French Catholics as recorded in their letters and diaries, and of a Rotuman chief, Albert, as recorded by J.S. Gardiner in an 1898 publication. Multiple versions make for a longer book, but better reflect the complexity of reality.
2. We chose visual richness, by including more than one hundred photographs, drawings, and maps. Because the images not only illustrate but also amplify the information, we devoted a lot of time, effort, and money to obtaining images from archives around the world.
3. Although we drew on our earlier publications for some sections of the book, we avoided discussions of other anthropological literature and the use of disciplinary jargon. We did, however, include some interpretation informed by anthropological perspectives, for instance, in analyzing the metaphoric content

of a legend about Tongan invaders as giants to show its resonances with other, more straightforward historical accounts.

4. We organized the history by topics and by a general rather than strict chronology (e.g., a history of the economy, of population and health, of the missionaries and religious strife), to enable the use of the book as a reference work by Rotumans with interests in one area or another.

5. We noted one underlying theme – Rotumans’ preference for autonomy at all levels, from personal to island – but did not consciously use it to structure the book (something one academic reviewer criticized us for).

For several reasons, most especially cost and ease of distribution, we ultimately decided to make the Rotuman history available through one of the world’s largest print-on-demand publishers, Trafford Publishing. Using the skills we had developed while preparing Elizabeth Inia’s books, we laid out camera-ready copy of the text, again with correct Rotuman diacritics. Generous colleagues drew the maps and prepared the cover and inside illustrations, without charge. The paperback version of *Island Legacy: A History of the Rotuman People* is now available worldwide from Trafford’s Web site for US\$33 (or \$36 for hardcover), or even less from some of the major online booksellers (Amazon.com has the hardcover for \$29 US) – compared to the \$50 or \$60 US estimated cost quoted to us by an academic press. In addition, Trafford insists on paying royalties (something we are not used to receiving as academics), which we are donating entirely to a scholarship fund we established in 2006 for students from Rotuma High School, to underwrite the costs of attending Form 7 (the year between high school and university) at a school in Suva. We also purchased more than a hundred copies at the author’s discount and mailed them to Rotumans who have supported our research over the decades and to everyone who helped with the preparation of the book.

While some established anthropologists do return materials in various forms to their host communities, such efforts generally earn no academic acknowledgment and sometimes involve significant costs in time and money. Junior scholars therefore often find it difficult to make such projects a priority as

they are under pressure to publish for academic audiences. In 1999, Dorothy and David Counts called on the Association for Social Anthropology in Oceania to support the publication of research materials for Pacific Island communities. After exploring various alternatives for how best to do this, the ASAON Board asked Dorothy, David, Alan, and me to organize special sessions in 2005 and 2006 to come up with concrete plans. The sessions resulted in the establishment of a new ASAON program, the Grant to Return Indigenous Knowledge to Pacific Islander Communities (GRIKPIC). Open to ASAON members, with priority to junior scholars, GRIKPIC provides financial support for such publication projects in amounts up to \$1,000 US per year, paid for out of member dues and contributions. The first GRIKPIC grant was awarded in 2007 to Haidy Geismar, to help underwrite the publication of a Bislama-language publication, *John Layard Long Malakula 1914-1915*. With the help of ASAON and several other organizations, one thousand copies of the book have been printed and will be made available to schools and other educational organizations in Vanuatu.

Applications for GRIKPIC 2008 are now being accepted. The guidelines stress issues such as those raised in this short paper, including making sure the publications are appropriate to and useful for the community (see ASAON 2007). It is hoped that ASAON's official acknowledgment and support will help raise the profile of and validate this practice in academia.

References

ASAON (Association for Social Anthropology in Oceania), 2007, *Grant to Return Indigenous Knowledge to Pacific Islands Communities (GRIKPIC)*, Online at <http://www.asao.org/pacific/GRIKPIC.htm>, accessed 24 August 2007.

CHAMBERS, K. S. and A. CHAMBERS, 2002, "Ethnographer as Taker and Maker in Tuvalu", *Jaarsma*, 2002: 151-173.

COUNTS, D. A. and D. R. COUNTS, 2002, "Talking to Ourselves, or Getting the Word Back", *Jaarsma*, 2002: 17-27.

GARDINER, J. S., 1989, "Natives of Rotuma", *Journal of the Royal Anthropological Institute*, 27: 396-435, 457-524.

HOWARD, A., 1970, *Learning to Be Rotuman*, New York: Teachers College [Columbia University] Press.

HOWARD, A., 1994, *Hef Ran Ta (The Morning Star): A Biography of Wilson Inia*, Suva: Institute of Pacific Studies [University of the South Pacific].

HOWARD, A., 2002, www.repatriating_ethnography.edu/rotuma, Jaarsma, 2002: 28-45.

HOWARD, A. and J. RENSEL, 2007, *Island Legacy: A History of the Rotuman People*, Victoria B.C.: Trafford Press.

INIA, E. K. M., 1998, *Fäeag 'es Fuaga: Rotuman Proverbs*, Suva: Institute of Pacific Studies, University of the South Pacific.

INIA, E. K. M., 2001, *Kato 'aga: Rotuman Ceremonies*, Suva: Institute of Pacific Studies, University of the South Pacific.

JAAESMA, S. R. (ed.), 2002, *Handle with Care: Ownership and Control of Ethnographic Materials*, ASA Monograph Series 20, Pittsburgh: University of Pittsburgh Press.

MOTS-CLÉS

Restitution – patrimoine immatériel – retour des données
– ethnographie – Rotuma – îles Fidji – partenariat –
publication

Web Sites as Vehicles for Repatriation

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Let me begin by providing some background to my involvement with the island of Rotuma, which has been the focus of a Web site I created in 1996. I first went to Rotuma for doctoral research in cultural anthropology in December 1959, and spent a year on the island. I spent an additional year doing research among Rotumans in Fiji, with which Rotuma has been politically affiliated since 1881, when the chiefs ceded the island to Great Britain. I must admit that I was enchanted with the island, the culture, and its people; it was an extremely positive experience. Because of the island's remoteness and transportation problems (boats came only once every three months or so), I did not return until 1987, when I had a sabbatical leave. In 1981 an airstrip was completed, making the island more accessible, although flight schedules were, like boat schedules, rather erratic and unpredictable.

Somewhat to my surprise, and despite many rather significant changes over the previous 27 years, I found the island as enchanting as ever, and was determined to return on a regular basis. My wife, Jan Rensel, had recently received an M.A. in anthropology at the University of Hawai'i and decided to do her doctoral research there, so we had a good excuse to go back. We have consequently returned on multiple occasions ranging from six months to a week or so. In addition, we have spent a good deal of time visiting migrant Rotuman communities in Fiji, Australia, New Zealand, Europe, Canada, and the United States. As with many other Pacific populations, Rotumans have spread around the world during the past half-century. In 1956 the majority of Rotumans in Fiji (2,993 or 68 %) were living on the island,

while slightly less than a third (1,429 or 32 %) were elsewhere in Fiji. By 1996 only 27 % of Rotumans in Fiji were residing on Rotuma and the percentage continues to drop. Perhaps as significant, there has been a steady flow of Rotumans abroad, so that now we estimate from two to three thousand Rotumans or part-Rotumans (there has been a high incidence of intermarriage) live away from Fiji.

My re-engagement with Rotumans stimulated a desire to find a way to contribute to the perpetuation of Rotuman culture (which I greatly admire) and a sense of community in their diaspora. It was with this in mind that I began a Rotuma-oriented list serve in 1994, with the objective of sharing news and announcements with Rotumans who had access to e-mail at the time. This project was quite limiting, and was not a suitable vehicle for achieving a related goal, that of making accessible historical materials that were buried in professional publications, obscure books, and scattered archives. As I became familiar with the Internet, I decided a Web site would be a far more suitable vehicle for perpetuating a sense of community. In November 1996, I launched the Rotuma Web site.

Web site as archive

The Web site was begun modestly, and included general information about Rotuma (history, language, population, culture, geography) along with a selection of photographs, mostly from our recent visits. I added sections as they occurred to me or were suggested by visitors (maps, a news page, an interactive Rotuman-English wordlist, a register that allowed people to locate one another, sections for Rotuman humour and food recipes, etc.).

My retirement from teaching in 1999 afforded me more time to devote to the Web site, which has continued to expand and now hosts over 7,000 files amounting to over a gigabyte of disk space. I have digitized historical materials to upload to the Web site, beginning with the most important early documents (pre-twentieth century), and have continued to add other relevant sources as they become available to me. These include Gordon Macgregor's 1932 field notes, which had been deposited at Bishop Museum in Honolulu.

With the museum's permission, I posted Macgregor's notes, which were well organized by topic, but had never been incorporated into a publication. The notes were particularly appropriate for repatriation because rather than "inscriptions", they were essentially "transcriptions", that is, accounts given by Rotumans about their customs and beliefs, with a minimum of interpretation or attention to what James Clifford labelled "passing events". According to Clifford (1983: 135-142), transcribing is a process of recording already formulated, fixed discourse or lore. A ritual, for example, when its normal course is recounted by a knowledgeable authority, is a transcription; an ethnographer's musings about an event that she has witnessed is not.

Macgregor's field notes in fact are polyphonic insofar as he identified a number of different consultants, each of whom is a source of specified items of information. This presented me with another dilemma. Should I identify Macgregor's informants on the Web site, or should I follow the anthropological custom of keeping such people anonymous? The issue was complicated somewhat by the fact that Macgregor not only identified consultants by name, but also had in his files an assessment of each one, including, in some instances, his opinion of their veracity. In addition, I was able to identify most of his consultants in my demographic files, making it possible to place them genealogically as well as spatially (i.e., which district they were from). My decision to include the names of Macgregor's informants, along with his assessments and my registry information, was based on three considerations. One was that they were all now deceased and therefore beyond embarrassment. It is possible, of course, that some of their descendants might be teased for what they are reported to have said, but teasing is endemic to Rotuman society and, in my opinion, essentially harmless. Besides, the material is generally not of an embarrassing nature. A second consideration was that the information on informants allows knowledgeable Rotumans to place them not only in time and space, but genealogically as well, and since such contextualization of information is central to Rotuman epistemology it seemed appropriate to include it. Finally, there is the issue of credit. In fact the information contained in the notes "belonged to" Macgregor's informants and I believe they should be given proper recognition. On the Web site, a viewer may click on an informant's name (attached to each entry) and find a brief biographical note composed of Macgregor's comments and my registry data.

What results is a rather postmodern (decentred, heteroglossic) perspective on Rotuman “traditional” culture. It is rather ironic that notes that were originally oriented toward producing a standard, homogenized monograph in the 1930s Bishop Museum series should turn out this way. On virtually every topic multiple voices are in evidence, providing divergent, sometimes contradictory information.

To make some of the notes intelligible I had to do some editing, or add marginal notes. I tried to keep editing to a minimum, a goal made easier by the fact that Macgregor had typed most of the notes from his original handwritten versions (which were also included in the Bishop Museum Archives). Still, some of the notes were cryptic and required interpretation or, more frequently, grammatical correction. This means that my interpretations of the notes are part of the final mix.

Another project was to digitize all of my and Jan's articles about Rotuma and to make them available on the Web site. To date we have uploaded 37 items, with publication dates ranging from 1961 to 2006. Recent publications by other authors on relevant topics have also been uploaded (with the authors' permission), or in some cases links have been made to other Web sites where relevant publications may be viewed or downloaded.

In addition to written materials, we have over the years collected, from archives and individuals, historical photographs dating back to the latter part of the nineteenth century, which I have now uploaded. Photographs are a particular cynosure among Rotumans; trying to identify individuals, and especially ancestors, is of particular interest. I also added a photographic essay using a selection of pictures from my 1959-1961 field work.

Interaction and allowance for participation

Soon after creating the Web site I added a message board that allowed visitors to post messages and engage in conversations with one another. At the beginning I was charmed by the distinctively Rotuman banter and communication styles, but in time the board came to be dominated by a few anonymous individuals who engaged in nasty personal debates filled with profanity and inappropriate language. At the urging of several of my Rotuman friends, I removed the message board in favour of a bulletin board that required people to identify themselves and to send

their messages to me for posting. Regrettably there was a loss of spontaneity, but a welcome increase in civility. It also helped to foster a better sense of community insofar as contributors were identifiable as real people who had to take responsibility for their postings instead of anonymous individuals who may or may not have been Rotuman. I mention this point because it highlights the degree to which I have come to exercise personal control over the Web site.

Still, I wanted to provide Rotumans with opportunities to express their views on topics of interest to them, so I introduced the Rotuman Forum, a section of the Web site in which people could propose and address particular issues and comment on one another's postings. To date, 43 topics have been brought up, ranging from issues of Rotuman identity, whether or not Rotuma should be independent of Fiji, to the question of whether there should be a morgue on the island. The discussions convey quite well, in my view, the range of opinions that prevail within the now global Rotuman community.

Jan and I have also taken steps to encourage Rotumans to make literary contributions to the Web site. One project was to post the writings of Elizabeth Inia, a sage Rotuman elder, whom we worked with on three separate projects: a book of Rotuman sayings, a book detailing Rotuman ceremonies, and a Rotuman-English wordlist. The sayings (473 of them) have been posted at the rate of one per week ; the ceremonies book is on the Web site in its entirety ; and the wordlist is on the Web site in an interactive form, allowing visitors to translate Rotuman words to English and vice versa.

Another project we started was a literary competition with cash prizes that we established for the best three submissions in each of seven categories: Rotuman and English poems for high school students, for primary school students, and for adults, and an open competition for short stories. We held the competition for two successive years (2004-2005) but terminated it for lack of sufficient participation and logistical problems. The winning submissions have been posted on the Web site in a literature section. Although the competition is no longer being held, several Rotuman poets continue to submit items for posting.

I also established a section of the Web site for the exclusive use of Rotuma youths. In this section youths are encouraged to send in accounts of their experiences (visits to Rotuma or foreign lands, special projects, etc.), poems, short stories, or other creative products suitable for a Web site.

Role of web site manager

It may be clear by this point that I take quite an active role in managing the Rotuma Web site. For example, I routinely search the Internet for items likely to be of interest to Rotumans (Google keyword alerts have been a great help in this regard). I screen items for their appropriateness, and edit submissions for grammar, spelling, and clarity, so that most of the material on the Web site from Rotumans (and others) has been modified by me. I make sure, however, to have submitters check my edits for their approval. If they object to any of my changes, or request changes of their own, I accommodate them.

Why do I feel I have a right to take such an active role, not being Rotuman myself? For one thing, a distinction must be made between Rotuman ethnicity and the Rotuman community (which is now global in scope). While I can never be ethnically Rotuman, I (along with many other non-Rotumans, e.g., non-Rotuman spouses of Rotumans) am an accepted member of the global Rotuman community. As such, I feel a sense of responsibility to the community, which includes taking an active role in promoting its welfare.

I also view the Web site as one of Rotuma's more visible representations in the world and I want it to be a positive one, one that will not cause Rotumans embarrassment or distress. From the feedback I have gotten to date, I am greatly encouraged in that regard. An M.A. thesis by Caroline Clark at the University of British Columbia, entitled "The Rotuma Website: Transnational Relations and the Articulation of Cultural Identity" (Clark 2005), was particularly heartening. Clark received 151 responses to an extensive online survey regarding the Rotuma Web site. She reported that "90 % of survey participants indicated that the website works to preserve Rotuman culture and 100 % responded that the website works to create and maintain a sense of community among the global Rotuman community". Several respondents suggested additions they would like to see to the Web site, many of which I have subsequently implemented, but more can and should be

done. The main concern expressed by survey respondents was that of succession – who will take over the site when I am no longer able to manage it? Given the politics of controlling information in Rotuman communities, this issue is a fascinating one. It is going to require some careful research to decide who can best continue the legacy.

References

- CLARK, C. A., 2005, *The Rotuma Website: Transnational Relations and the Articulation of Cultural Identity*, MA thesis in anthropology, University of British Columbia.
- CLIFFORD, J., 1983, *On Ethnographic Authority*. Representations I: 118-46.

MOTS-CLÉS

Rotuma – Îles Fidji – site internet – retour des données – ethnographie – histoire mélanésienne – partenariat – témoignage – photographie – archive

Notices biographiques

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Avocat membre du Barreau du Québec depuis 1984, Ghislain Otis détient un Ph.D en droit de l'Université de Cambridge (1988, prix de thèse Yorke). Constitutionnaliste et spécialiste du droit autochtone, il est professeur titulaire à la Faculté de droit de l'Université d'Ottawa où il occupe la Chaire sur la diversité juridique et les peuples autochtones. À titre de boursier Fulbright pour l'année universitaire 2008-2009, il est aussi *Visiting Chair in North American Studies* à l'American University de Washington. Directeur scientifique et co-auteur de l'ouvrage *Droit, territoire et gouvernance des peuples autochtones* publié aux Presses de l'Université Laval en 2004, G. Otis est l'auteur de nombreux articles scientifiques sur les droits des peuples autochtones, les droits de la personne et le droit constitutionnel.

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Leader politique particulièrement actif dans la défense des intérêts et des traditions inuit, Peter Irniq a d'abord travaillé pour l'Assemblée législative du gouvernement des Territoires du Nord-Ouest de 1975 à 1979 et de 1987 à 1991. De

1994 à 1997, il a été désigné membre de la Commission d'établissement du Nunavut. Il a ensuite occupé le poste de sous-ministre responsable de la culture, des langues, des aînés et de la jeunesse, puis la fonction de Commissaire du Nunavut entre 2000 et 2005. Peter Irniq dispose d'une expérience considérable de consultant, notamment auprès de l'Institut arctique de l'Amérique du Nord, Historica Canada, le Comité des prix du Duc d'Édimbourg, le ministère des Parcs ainsi que le Musée des beaux-arts de l'Ontario. Il a enfin aidé le gouvernement du Nunavut à valoriser les connaissances traditionnelles des Inuit et il a publié de nombreux articles dans la presse du Nord (*Nunatsiaq News*, *News North*).

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en collaboration avec F. Laugrand, de l'ouvrage *La nature des esprits / The Nature of Spirits* (Presses de l'Université Laval, 2007).

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Note à l'intention des auteurs

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Exemple :

LAROSE, François, Jimmy BOURQUE, Bernard TERRISSE, et Jacques KURTNESS, 2001, « La résilience scolaire comme indice d'acculturation chez les

autochtones : bilan de recherches en milieux innus », *Revue des Sciences de l'Éducation*, 27(1) : 151-180.

Pour un article dans un ouvrage collectif :

NOM DE L'AUTEUR, Prénom(s), Année de publication, « Titre de l'article », *in* Prénom(s) Nom(s) du ou des directeurs de publication, *Titre du livre*, Lieu d'édition : Nom de l'éditeur, pp. première et dernière pages du chapitre.

Exemple :

HAMPTON, Eber, 2001, « First Nations-Controlled University Education in Canada », *in* Marlene B. Castellano, L. Davis, et L. Lahache (Dirs), *Aboriginal Education : Fulfilling the Promise*, Vancouver : University of British Columbia Press, pp. 208-221.