

Is Being “Really Iñupiaq” a Form of Cultural Property?

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During my most recent period of extended fieldwork in Barrow, Alaska, I heard what were, for me, entirely new conversations about people not being “really Iñupiaq.” These conversations were not frequent, but in a community where, in my experience at least, boundary maintenance generally receives less attention than the exercise of boundary permeability, they were all the more striking for their rarity. The comments clearly rested on the social recognition of a valued state of being – one that a person might or might not achieve. Is being “really Iñupiaq,” then, a matter of cultural property? If so, what sort of property is under consideration? If not, why not? Such questions, I suggest, may lead to a fruitful (re)examination of a number of key concepts that get caught up in discussions about cultural property. We need to ask if there is anything to be gained from making distinctions between *cultural property*, *culture as property*, the *property of culture* – or, remembering the etymology of the word, *one’s own* – or *proper* – *culture*.

Perhaps somewhat perversely, I wish to begin this chapter from the position that all property is cultural. Our topic therefore dissolves as an analytical category. Nonetheless we are all aware of how important the culture resource is – in debates about patrimony, in struggling to agree a fair return for “indigenous knowledge” that has the potential for forming the basis of profitable commodities, in establishing environmental programs that take into account people’s claims to resources on which they have customarily depended, or in the recognition that individuals draw on cultural grammar, cultural practices and cultural aesthetics to “produce” particular forms of culture for twenty-first century market relations. The language is used in national and international forums; it is incorporated into petitions for the right to access resources and it is called upon in articulating the reasons for acceptance or, more often, rejection of those petitions. As anthropologists, we are equally aware that “culture” is discursively applied somewhat unevenly across knowledge systems and/or economic practices. Thus “science” and with it, the reasons for conservation policies are assumed to rest outside of culture, whereas indigenous knowledge and connected practices are placed within “it.”¹ In a similar way, the globalized “free market” is often assumed to describe extra-cultural processes, whereas “subsistence” hunting is a cultural artifact.² The political relations involved clearly have the potential to entrench already existing inequalities. The terms themselves – indigenous knowledge, intellectual property, indige-

nous rights, ownership, cultural property – are often employed in mutually confusing, sometimes eliding, often overlapping and occasionally contradictory ways. They get drawn into equally complex and confusing discussions about the debated distinction between scientific and lay knowledge and the implications of that for sustainable development, co-management regimes and the like. Within most of the environmentalist discourse, the issues are not set forth in terms of property although they focus on contested rights to resource claims. That aside, much recent legislation, particularly that pertaining to intellectual property, is located squarely in the classification of relations realized in the market place with the resultant eclipsing of the complex sorts of property through which we all constitute our social lives.

We are simultaneously confronted, then, by an intellectual jigsaw puzzle and a complex of very real political dilemmas. Recently, a wide range of people who have been involved in such interactions – as lawyers, anthropologists, representatives of development agencies and local activists amongst others – have spent a good deal of time thinking about these relations.³ Wood (1998) (with not a little help from Foucault) suggests that bureaucratic classification systems create persons, who then are included or excluded from political processes in particular sorts of ways. Strathern (1999) argues that, with reference to kinship knowledge in “Euroamerican” idea systems, the recognition of (certain sorts of) scientific facts closes down the range of possible kinship decisions one can make. Sarris (1987) asks to what extent his sense of the familiar when reading a Louise Erdrich short story may close down possible readings, reducing her (Sioux) reality (rendered fictional) to his (California Kashaya Pomo) lived experience. Wood, Strathern and Sarris are talking about very different things. But each realizes that knowledge systems are structured through classification practices that depend on a sense of recognition that a particular instance “fits” or does not “fit.” The consequences for that moment of recognition both close down and open up avenues of possible action. For the moment I would like to step out of the frame of existing categories, looking for connections where categorical division might be assumed and seeking distinction where categorical homogeneity might be supposed. I shall try to set out what seem to me to be some crucial definitional issues below but I shall in no way attempt a synthesis of the myriad of issues mentioned above. Instead, I am here proposing a brief look at the ways a small number of Iñupiat have recently talked to me about (not) being “really Iñupiaq.” These conversations may offer the possibility of rethinking the relationship between “culture” and “property” in ways that keep “value” in view,

but dislodge it from the necessity of associating it purely with values defined through potential market exchange.

The setting and the puzzle: For the past twenty years, I have worked with Iñupiat, hunters who live on the north coast of Alaska.⁴ They have done so for millennia, whaling and harvesting a broad range of the other resources that enrich the region. Today the North Slope Borough is an Iñupiaq-controlled home rule borough, funded largely through property taxes levied on the oil companies who exploit the resources at Prudhoe Bay.⁵ Being Iñupiaq – or Alaska Native, or Native American – has had political consequences of real significance for some time. To be legally recognized as Native American generates the right to make particular sorts of claims vis-a-vis the Federal Government not open to other citizens of the nation-state, something we will explore further below. Historically, however, “being Iñupiaq” has not been a matter of what I earlier called boundary maintenance. Genealogies provide substantial evidence that, for the last century at least, trade, war-fare and intermarriage have supported a steady flow of people from the region and beyond into Barrow who have become incorporated into Iñupiaq families, and Iñupiaq social relations more generally.⁶ Although the word Iñupiaq – as in so many other cases – itself means genuine person, it is easy, according to Mae Panigeo (a current whaling captain’s wife), to “turn a tanik into an Iñupiaq” by letting him work with you.

It was puzzling to me, then, when I heard a number of people asserting that “so and so isn’t really Iñupiaq” in 1997. In every case, the reference was to someone else, but in each case, the speaker would not have been “really real” by the same (unspoken, unacknowledged) criteria as they had employed in judging the other. In no case would this denial of authenticity imply a loss of rights to claim Iñupiaq status vis-a-vis the US government. That is, these were not statements of contested political identity. There are also many contexts in which “being Iñupiaq” is positively compared to being non-Iñupiaq (usually in terms of patience, courtesy, having a commitment to whaling and to the sharing that entails). In that the people talking to me would themselves not be “really Iñupiaq” by their own standards, I shall suggest that the conversations in question are not about ethnicity, but about the (assumed) matrix that is (assumed to provide) cultural identity – brought into relief by a perception of its absence. It would suggest, perhaps, that the state of being “really real,” is (in this case) an imagined property of culture – an imagined state of cultural identity that one imagines others have, but one cannot quite manage for oneself.

Cultural property:

Some working definitions – some definitional problems

Property continues to be defined as variously as there are people to define it. For some time, however, it has been commonplace to recognize that property is not the thing itself, but rather the social relations embodied as rights in the thing.⁷ The extent to which this involves non-material as well as material resources is clear. It seems more straightforward, then, to speak of resources – in whatever form a particular group wishes to define as valuable. I have deliberately not made a distinction between material and intellectual value. But because I am ultimately interested in the question of whether or not a valued identity state might be considered property, I shall concentrate primarily on social relations engaged in claims on non-material resources.

During much of the 1980s and 1990s, many discussions of property assumed that “rights” were included in the term and therefore one talked about property claims: claims on the rights embodied in a particular resource.⁸ Claims were defined as being socially recognized and, by the same token, enforceable. Drawing on material produced by anthropologists working with hunters and gatherers who entered these discussions, I want to avoid restricting the present exploration to the language of rights. In a number of systems, the right to tell a story is dependent on the proper acknowledgement of the source and may well depend on the proper maintenance of particular social relations. In the Yukon stories may travel along lines of corporate kinship groups, but they are not secret. Performance is public and interpretation is left up to the audience. However the right to tell the story – which often recounts travels and encounters with human and non-human agents – may encompass other sorts of claims to land. The property held in stories is thus often strictly controlled.⁹ The right to claim ownership of land, in many societies, is contingent on meeting one’s clan responsibilities to the land, perhaps most explicitly articulated in a number of Australian systems.¹⁰ As in the Yukon, these claims are also dependent on specific knowledge forms. But here the resemblance ends. As a general rule in Australia, the efficacy of the claim rests on the proper implementation of ritual knowledge, itself confined to a body of initiated men. In Barrow, Alaska, one’s individual property in the form of a share (or *ningik*) in meat is explicitly dependent on one’s prior contribution to the hunting effort. The right to the share is non-negotiable, but one cannot claim it without having earned it. At the same time, whales, the most valued of all resources, are assumed to act with intent and respond to the collective actions of a whaling captain couple as well as to the general

actions of the community overall. The whale is a common resource; rules organizing the hunt as well as distribution ensure that access is generalized. But the very presence of the whale is thought to depend on responsible collective action. In this system, knowledge works a bit like open source software. One is expected to acknowledge one’s sources, but “you must tell what you know; that’s one of the rules.” Knowledge in this case is recognized as a resource; experts are called on for information and advice. It may thus operate as a form of social capital. In some cases it might even form the basis for a claim to a share in the day’s hunt. But it is not controlled either as a good in itself, or as the basis on which to put forward further claims. Even within systems where private property is the prevailing mode, private ownership cannot simply be understood in terms of rights to use and/or alienate. One may own a car in Cambridge England as a form of private property, but one is responsible for its maintenance or one takes the risk of losing the right to drive it. In some cases, responsibility is the consequence of having made a claim to a resource – as with the ownership of private property in Cambridge; in others, it precedes the claim to ownership – as in the case of earning a share in the whale. Sometimes the right to tell a story is simply dependent upon the acknowledgement of its source. Its telling generates no further claims. At other times, the right to gain access to particular knowledge forms is controlled precisely because being able to reproduce it has the capacity to generate other rights.

Thus we need to recognize that property claims – like citizenship – may encompass in complex and varied ways, not only rights to a valued resource, but responsibilities for and/or obligations with reference to it. The ways in which knowledge generates property in itself and acts as a conduit to other property claims is equally complex. I have taken pains to present a variety of examples in order to establish that the conjunction of rights and responsibilities which encompasses property in material and non-material resources can and does cut across the “classical” boundaries of common, corporate, personal or individual property.¹¹

For unsurprising reasons, much of the discussion out of which this volume developed centered on the problem of property as one of alienability – or not. Speaking of cultural practices, the problem of alienability as a core property claim is of course a very 19th /20th century concern. If one reads Locke rather than Marx, the problem of property is framed in terms of the right to have and to use, rather than in terms of appropriated rights in alienation. It is perhaps useful to hold this in mind when we are thinking in particular about the potential property in knowledge and in identity. That is, although the question of alienation, expropriation, and

exploitation may indeed be central to discussions about the nature of current relations as they are exercised through property regimes, they are not necessarily a *sine qua non* of the definition of property itself.¹²

As a working definition, then, property encompasses the enforceable claims that you can make or that can be made upon you – as an individual, as a social person, or as a collective – regarding a socially recognized good. In short, it is the basis on which the political organization of socially recognized value is institutionalized. This allows us to ask a series of questions that again have the potential to cut across the categories through which we generally classify property relations. What is the basis for a claim? How does one come to be the object of a claim? Who, in short, has the right to a right? What sorts of responsibilities, if any, are involved? What sorts of resources are involved (i.e., what is the claim in reference to)? And what are the limits of the claim?

Douglas and Wildavsky (1982) noted some time ago that notions of “risk” rest on larger notions of “goods” and “bads” in a particular society. For the purposes of the discussion at hand, the recognition of “value” is inescapably culturally informed (I avoid the word determined) and thus inevitably culturally variable. All property is, in this sense, cultural. Thus cultural property’s existence as a separate, analyzable category is thrown into doubt. How knowledge, for instance, is incorporated into property systems is thus likely to be significantly different if access to “it” is generalized and defined as a common good, where it is gendered and ritually secret and/or where it is a factor in market relations. Practices vary in terms of how access to and use of knowledge may be controlled or to what extent it may be the basis for further claims. These variations can be found within as well as across cultural systems. I have already talked about how knowledge in Barrow is generally presented as a valued resource that is morally constructed as one that ought to be shared. At a recent workshop on sinew braiding, the elders who provided their time and expertise for three days, did so within the context of a community college. They explicitly avoided defining their role as one that required reciprocal payment. The resulting book (Akpik and Bodenhorn 2001) emerged as a consequence of multiple forms of co-operation. The discussion over who was to receive copyright, however, was intense. At stake was not the question of potential royalties, but the issue of agreeing “whose knowledge” was to be acknowledged as foundational for the overall project. I would be hesitant to call this a dispute over cultural property. Sinew braiding depends on both knowledge and skill that is central to the safe construction of whaling boats; the social dynamic of the workshop in which three elders taught a roomful of youngsters was distinctly Inupiaq in its informality, in its good humor, and

in the rigorous standards participants were required to achieve. The debate had nothing to do with who might gain from copyright, but rather – in the manner of all Iñupiaq knowledge – who should be acknowledged as the original source.

The fact that it is difficult to accept cultural property as a separate category that may be planted on the firm ground of separate cultures for consideration, does not mean it does not exist as a social fact. Indeed as I said at the outset, it is a social fact that has profound social and political implications for the ways in which people negotiate their lives. From the U.N. to local municipal governments to grass-roots resistance movements, “culture” has been seized upon as the source of answers to a number of ills. And the question not only of who may lay claim to “it,” but also of what may be achieved through the claim is heavily contested at many levels. That, of course, is what requires analysis.¹³

Culture is as difficult as property to come to grips with. Without denying “its” existence, I favor using terms such as cultural processes which allow us to recognize the enduring possibility, likelihood and strength of collective meaning-making without falling into the trap of assuming either that cultures somehow describe neatly bounded entities nor that they are trapped in some changeless time warp. That being said, here again it seems worthwhile to revisit a number of old theoretical chestnuts. The first is the linguistic notion of marked and unmarked categories; the second is the well-established distinction between ethnicity and culture (Barth 1969; Cohen 1974), a distinction that appears to be eclipsed in a number of these conversations. In many ways, when “culture” becomes the grounds upon which contested property claims are made, the processes that have been under discussion in this volume seem to me to be the processes of turning cultural practice from an unmarked to a marked category – often (although not always) in the service of arguments around identity politics, or ethnicity. Again, I by no means think that this is inevitable and suggest that some of the ways some hunting peoples seem to talk about these processes point to ways in which they might be conceived of as cultural without being about ethnicity, or boundary maintenance.

Toward an anthropology of cultural property?

As is noted throughout the volume, the term cultural property spans a wide range of interests and actions – from land claims to intellectual property to religious practice – whose practitioners do not necessarily recognize any natural affinity to the concerns of the others. If we try to come to some definition of cultural property that is something more than simply the conjunction of culture with property, a number of possibilities/questions emerge:

- One issue that (I assume) confronts every anthropologist in this volume is the nature of her or his own production. As cultural accounts of value to someone, the question we all face is what sort(s) of property relations are involved. Anthropologists produce, I would assume, a form of cultural property.
- To what extent should we assume that cultural property equals the recognition of cultural practice as valuable?
- To what extent does that include the right to cultural practice as a form of political sovereignty?
- Does the emphasis on “property” imply a form of economic license? That is, do we assume that cultural property claims imply the right to some form of material return?
- How do we conceptualize the intersection of cultural and intellectual property?¹⁴

Being “indigenous” in the United States – a form of political property?

In the early 19th century, Chief Justice Marshall made a series of decisions concerning the political status of Amerindian groups. In a nutshell, what he said was that Europeans had occupied the Americas illegally; they really had not had the right to stroll in and take over what had been in fact sovereign territory of resident peoples. The Europeans would not leave, but the status of those autochthonous peoples, the Chief Justice declared, would be recognized as that of “semi-dependent nations.” This decision is at the base of what is now considered “Indian law” in the United States. How that has been interpreted over the past two centuries has fluctuated wildly – from flat out dismissal by Andrew Jackson, President at the time of the Supreme Court decision, to serial strategic manipulation on the part of the Federal Government, to successful political negotiation from the grass roots.¹⁵

It is made profoundly complicated by the jurisdictional divisions of labor between the federal government and individual state governments. This is nowhere more difficult than in Alaska where the State Constitution decrees a no discrimination policy which eclipses the status of Alaska Native as a position from which to operate politically.¹⁶ Nonetheless, for the purposes of the present discussions, what is key is that from the perspective of the nation-state, “Native Americans” have a legal basis for making claims regarding resources that a) recognizes a sort of corporate identity; b) that therefore does not stem from the claims inherent in the individual status of citizen (thus allowing claims to be made that other citizens may not make); and c) does not rest on a claim of cultural practice which so often then

depends on evidence of tradition “since time immemorial” for legitimacy. Plenty of those traps exist – Iñupiat get caught in them all of the time – but that does not negate the potential of this alternative political position.

When the International Whaling Commission (IWC) declared a moratorium on indigenous whaling in 1978, Iñupiat played the culture card by inviting IWC officials up to Barrow for the whaling season so that they could see how important it was to the entire community – “since time immemorial.” They also played the science card, employing whale biologists to monitor the reproductive rate and general health of the bowhead population. *And* they played the sovereignty card with the U.S. Federal Government – successfully demanding that their interests be represented in the international forum of the IWC and equally successfully negotiating Iñupiaq authority to assume the responsibility of monitoring the hunt.

In this sense, “being (able to claim) Iñupiaq (status)” is a necessary basis for being able to make other sorts of claims and is thus potentially a source of political property. It is a legally recognized valuable status that has increased in potency in the post-land claims era. It is a *sine qua non* for having a right to claim rights. To paraphrase Bourdieu, being Iñupiaq can be employed (and is quite consciously employed) as cultural *as well as* political capital, invested to increase Iñupiaq access to the interconnected but not identical resources of (limited) political and economic autonomy.

No notion of a property as a limited good seems to underpin the strategic planning of these processes either in terms of restricting Iñupiaq membership or in terms of the institutional regulation of access to the very highly controlled – and very valuable – resource of bowhead whales. Whaling crews must register with the Alaska Eskimo Whaling Commission before beginning to whale and by registering, each crew agrees to quite stringent regulations concerning the conduct of the hunt as well as its documentation. Although there is a strict quota defining the number of whales that may be taken, the number of registered whaling crews on the North Slope is not controlled. In addition, there are explicit and rigorously followed restrictions that regulate whaling on a daily basis. But these guarantee rather than restrict access to this scarce and valuable resource. Thus if a crew is in a position to land a “first strike” on a whale (which would give them the right to the largest share in the animal), they must then withdraw from the ice edge to give other crews an equal chance at subsequent first strikes. This assumption that access is open is perhaps most visible with relation to recent gestures of solidarity with Siberian whalers. For the past several years, the AEWC has shared both intellectual and material technology with them so that they might resume whaling. What is important here is that the cultural/social/political capital belongs to the collective

and it is exercised in the name of the collective. Although specific cultural practices surrounding whaling have become heavily marked as ethnically Iñupiaq, the boundaries around Iñupiaq-ness remain, for the most part, porous.

In terms of the expansive nature of tribal membership, this has been a general position throughout the United States – hardly surprising if increased membership increases the potential political voice of the group as a whole. Indeed, the basis on which membership may be claimed has recently become much more culturally appropriate. Instead of having to prove one quarter blood quantum (the original Bureau of Indian Affairs standard), the Federal Government now recognizes membership of anyone who is recognized as a member of the group by the group.

The puzzle

So – we have a setting in which membership has for some time at least not been a major issue of boundary maintenance; and we have a relaxation of the formal parameters of who “counts.” It was at a funeral in 1997 where I heard Mae Panigeo declare that the way to turn a *tanik* into an Iñupiaq was to let them work with you. Why then – for some people at least – at the same time, does being “really” Iñupiaq seem to be increasingly problematic? The examples include the assertion that x is not “really” Iñupiaq because he doesn’t speak Iñupiaq; y was declared not really Iñupiaq because she didn’t grow up in Barrow; z was proclaimed not really Iñupiaq because one parent is not Iñupiaq. Two things seem striking to me from this admittedly small sample. The first is that in each case, the speaker would not have counted as really Iñupiaq if the same criterion had been applied to them. But that was not made explicit in any way. The second is that the person referred to played no other role in the conversation; their social identity; their social relationships and their social interactions with the speaker were not relevant. I have *very* occasionally heard people dismissed as “half-breed,” but only as an epithet hurled in anger at something that person had done or not done. The following day they might easily be referred to as “my cousin.” The epithet had to do with the social relationship between the speaker and the person referred to. Such is clearly not the case with the examples above. In each case, however, the speaker held a position (or positions) of significant responsibility in which they were required to draw on multiple cultural logics, invest in multiple sorts of social and political capital and negotiate endlessly. Stakes are high, expectations are complex and potential criticism comes from all sides. What is at issue is a notion of what a “proper” cultural identity should feel like in a context where the potential for feeling that one is falling short is great.

So can we talk about the state of being really Iñupiaq as a form of cultural property? The answer, I would have thought, is no. “Being Iñupiaq” is a form of political property that is only loosely connected to cultural practices. Being “really Iñupiaq” is tied to notions of cultural identity which are clearly valued, but this is not value in which claims are socially organized – at least in the present context. It is individually experienced and is neither something one claims, nor does it offer the basis from which one might be able to make claims. In this case, I would prefer to talk about the property of culture as an imagined state in which one knows who one is, is recognized for it and is satisfied with it. Instead of an imagined past, this may be about others’ imagined presents.

Notes

- 1 Despite the legacy of decades-long research in the anthropology of scientific knowledge (Latour, 1986, Hayden, 2003, Franklin, 1997, 2001 Lupton, 1999 Strathern, 1999 amongst many, many others), it is still possible for Alvard (2003) to dismiss Huna ways of telling what they know about their environment as both anecdotal and “interested” without questioning for a moment whether or not his own models of “disinterested” science and the needs for conservation might not require similar attention.
- 2 Again the anthropology of capitalism as a cultural system has a significant history, from Gudeman (1986) to Carrier (1997) to Miller (1997), amongst many others. Yet, rational choice theory as a description of universal human motivation is the unchallenged beginning point through which many economists continue to model economic behavior.
- 3 The references are far too numerous to review here. But see for example Hodgson (2002); Kuper (2003) regarding indigenous rights, human rights and international regimes; Agrawal (1995), Alvard (2003), Cruikshank (1998), Hensel and Morrow (1998), Hunn et al (2003), Huntington (1995) for differing views concerning indigenous knowledge, indigenous claims to resources and development policy; Fan (2003), Leach (2003), Strathern (1999) on intellectual property; Brown (1998), Cowan (2001), the U.N. (1994) on culture; Coombe (1998), Levy (1998) on multiple legal systems that intersect with the above.
- 4 Iñupiat is the collective term for the people who have occupied the northwest Arctic for millennia. The singular as well as the adjectival form is Iñupiaq. I am not making an argument about the general state of “being Iñupiaq.” These conversations happened in Barrow; the meaning-making under consideration may well be particular to that place. Whether or not and how identity boundaries are conceived of, maintained and/or challenged varies significantly across the region.
- 5 The organizations I have worked for since the early 1980s have been the Iñupiaq Community of the Arctic Slope; the Iñupiaq History, Language and Culture Commission; Ilisagvik College and the Alaska Eskimo Whaling Commission.
- 6 These patterns are most probably the consequences of specific historical processes. Burch (see for example, 1998) argues convincingly that 18th and early 19th century Iñupiaq societies had boundaries that were patrolled; resource usage had to be negotiated and strangers were at risk. It was explained to me

- that the walrus-tusk shaped decorations on a man's hunting parka would make it easy to decipher the origin of a stranger from afar (Neakok, personal communication). And stories abound of hunters, stranded on an ice floe, choosing to take their chances on the ice rather than landing near a community where they were not known (see Guemple, 1972). Nonetheless Chance (1990) argues that the lack of ethnic tensions in Kaktovik are a consequence of early Euro/Iñupiaq interactions; Barrow is both defined and self-defined as a community with a continuous presence over time and with a long history of "international relations." Axtell (1990) discusses incorporative aspects of many Native American societies in general and Ingold (1980, amongst others) suggests that many hunting societies are characterized by open rather than closed boundary systems. The extent to which the current boundaries of kinship, household and community in Barrow are both explicit and porous has been the subject of much of my own research (see for example 1989, 1994, 2000).
- 7 See Macpherson (1980) who provides a significant review of the shift in European legal language from recognizing property as rights in a resource to defining property in terms of the thing itself. The extent to which this parallels Marx' argument that value comes to be held in the thing rather than in the social relations involved in the production of the thing forms part of his analysis.
 - 8 See for example Macpherson (1980); Hann (1996). That intellectual property rights continue to be debated illustrates the extent to which this has not become a universal mode of description.
 - 9 See for example Julie Cruikshank's (1998) discussion of stories-as-property as a function of Tlingit/Athapaskan social relations in "Pete's Song." The recent Giks'aan case is the first in Canadian jurisprudence in which the claimants insisted on presenting their claims on their terms – in the form of songs, dances and stories.
 - 10 See for example Fred Myers description of Pintupi ownership in "Always ask" and Nancy Williams' discussion of Yolngu ownership practices in "A boundary is to cross," both in Williams and Hunn (1982); Hiatt (1988); and for non-Australian material, Feit (1988).
 - 11 Although we will not explore this further, quite a lot of the research recorded in Williams and Hunn (1988) was in response to Hardin's (1968) "tragedy of the commons" thesis in which it is argued that common property invites over-exploitation. That thesis ignores both the extent to which common property is regulated and the extent to which private property is subject to regulation extending beyond self-interest.
 - 12 Over the course of the past few months, I have seen Locke invoked several times as the philosopher whose arguments justify possessive individualism which then is used to justify the creative work that generates profit-making commodities in Western systems. Locke clearly argues for the justice of claiming property in the products of one's own labor but only insofar as one uses what one has produced. In *The Two Treatises of Government*, Locke decries the emergence of money as a medium through which man can store more than he can use. That, for Locke, was the beginning of the problem. His was not an argument in support of profit.
 - 13 See Cowan (2001) on re-ification of culture just at the moment that anthropologists question its usefulness as a category; Cruikshank (1998) for a similar point with reference to indigenous knowledge.

- 14 Although these are questions that occur to me, I am by no means the first to ask them. See for example Sillitoe (1998) and accompanying commentary.
- 15 Again there is vast literature addressing not only the facts but the implications of this. But see for example Thomas Berger (1991; Vine Deloria Jr. and D. Wilkins, 1999. Curiously Poynton (1997) noted that a similar judgement was made in 1841 in Australia. That language simply disappeared from the corpus of law.
- 16 See for example David Case (1984).

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