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The Value of Music in Melanesia.

Creation, circulation, and transmission under changing economic and intellectual property conditions.<sup>i</sup>

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### *Introduction*

In Melanesia, customary principles governing the ownership and circulation of music have developed and adapted over the generations. Musical practice is part of what connects people in kin based, local, and regional systems of reciprocity, recognition, and social reproduction. The principles that underlie these systems are often starkly at odds with assumptions about value and transaction in capitalist, commodity focused economies, including the global trade system. The contrast is epitomized in the differences between claims and connections forged under Melanesian political economy and those underlying western intellectual property law, with the latter's emphasis on 'rights' in a 'work' that is detachable from the people who create music, and 'individuals' who hold, or alienate, those rights. In contrast, many customary systems in this region entail music exchanges as part of broader exchanges of wealth that generate ongoing social relationships that bring long-term, non-monetary benefits. This is as true for contemporary forms of musical expression as it was historically.

With the commoditization of local arts and the emergence of a local music industry on the one hand, and the national and international politics of heritage and intellectual and cultural property rights on the other, conflicting notions of value are coming into competition with one another. Urban and national gatekeepers seek to define local *kastom* as a form of intellectual property governable by international law (Forsyth 2012/13, Geismar 2013, Forsyth and Haggart 2014), and advocate for such knowledge to be catalogued so that it can come under bureaucratic control and administration (cf. Aragon and Leach 2008, Jaszi 2015). But both urban and rural populations in contemporary Melanesia rely on these traditions and

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their creativity to make value of another kind appear – that of everyday social reproduction and a rich social and cultural life.

In what follows, we illustrate, through detailed case studies, principles of connection with, and through, musical forms that characterize the region. We illustrate the array of ‘value’ that is embedded in music as social process. It is particularly important to articulate such principles in an era of the global expansion of a homogenizing and normative intellectual property (IP) agenda tied to inclusion in the World Trade Organization. As Madhavi Sunder has argued, this process is far from equitable and risks undermining many aspects of a ‘good life’ (Sunder 2012: 5-10). Specifically, Feld (2000, 2005) points out that the appropriation of traditional music by successful western artists is often based on intellectual property law that works against traditional musicians. Moreover, Seeger has highlighted the unequal relationships between those defining music and regimes of ownership and those subject to them. He writes, ‘the terms through which we will be able to experience and communicate about [...] music are probably going to be established by the concepts of music of the industrialized countries’ (Seeger 1992: 345). Seeger details specific ways in which IP regimes remain incompatible with principles that underlie the creation, ownership, and circulation of many musical forms around the world, highlighting possessive individualism, the public domain, and attributions of creativity (Seeger 2004: 156-160). This tells against the idea that IP is a suitable mechanism to protect such forms, and against those who advocate for its imposition in the Melanesian context. Our chapter examines how the different systems of value-in-music are constituted within different political economies, and how they adapt in the face of change. As we will argue, the problem with IP is not only with possessive individualism, but also with the consequent way the individual is contrasted with the group, and how the ‘private/public’ divide is thereby imposed upon existing complex modes of ownership that otherwise govern circulation through specific transfer.

In this chapter we refer to the Melanesian term ‘kastom’. Strathern and Hirsch write: ‘The [...] concept of *kastom* [is one] by which people indicate what makes them distinctive. Whether or not it is appropriately translated as ‘tradition’ is a moot point. *Kastom* refers to practices flowing across the generations which (like reproductive power) are to be found in habits, conduct and well being definitive of the present; in Bolton’s (2003) words, *kastom* is not conserved by enacted, and may have a transactable or communicational value to outsiders (Harrison 1999; Mosko 2002). (Hirsch and Strathern 2004: 5).

We begin with material that offers the reader some insight into the depth of connection and social value creation entailed in music in one area of Papua New Guinea. We then widen the frame to take in representative case studies from contemporary settings in Papua New Guinea and Vanuatu to illustrate a contemporary economics of value creation in music that lies outside conventional commodity thinking. We conclude with a critical examination of recent attempts to introduce copyright law and to reconcile market principles with principles of sharing and transmitting music of all types in the Pacific region.

*Musical kinship. Songs and other offspring*

In a recent study of plagiarism<sup>ii</sup>, the historian of science Mario Biagioli (2014) examines how metaphors of *paternity* first informed, and then receded in the development of western copyright law. He shows, however, that these metaphors maintained their animating power in the related realm of plagiarism. Noting that plagiarism is different to breaches of copyright (where the connection to the author is maintained), plagiarism severs the work from the name of the original author and *replaces it* with the name of someone else. ‘It concerns unauthorized fathering, not unauthorized copying’ (2014: 69). An important aspect of this distinction is that where copyright, (or intellectual property more generally) focuses on ‘the work’, on a finalized or materialized object of rights, plagiarism can apply to ‘Hypotheses, insights, and other embryonic works’. [L]ike children, the objects of plagiarism do not need to be fully actualized or stabilized yet’ (2014: 69). Plagiarism is concerned with the relation between author and the way their essence or extended self appears within a work. ‘The plagiarist, then, does not kidnap a copy of the author’s intangible ‘personal expression’ that is or may be replicated in various other material embodiments of the work. That would be a non-rivalrous good: if you copy my intangible idea or personal expression I still have it. Plagiarism, instead, treats the work as a tangible and thus rivalrous entity: if you kidnap my child I don’t have that child anymore’ (70).

We begin with Biagioli’s striking research into the kinship framing (and see Strathern 1999, 2005) that informs the history of western intellectual property where ‘the work’ was conceived of as a kind of child in order to introduce an important aspect of our exposition. Political economy describes the power structures that control people and value

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<sup>ii</sup> Putting one’s name to the work of another.

creation/distribution. Principles that inform political economy rely upon deep-seated assumptions about persons and their relations to one another, and to things. As famously pointed out, ‘property’ is not a relation between people and things, but a relation *between people* with respect to things (Maine 2000 [1861]). What though, if some of those things are also ‘people’? As Biagioli rightly points out, ownership *of* people as things is called ‘slavery’, but relations *between* people can be conceptualized and practiced in many different forms. Early classical, and again early enlightenment, complaints about plagiarism describe an author and his works as connected through kinship, as father and son.

We turn now to Melanesia where the kinship basis of value creation extends to treating musical expressions as kinds of persons in themselves. This shapes how they are valued and the claims that are made over them. On the contemporary Rai Coast of Papua New Guinea, Nekgini speaking people practice a male spirit cult that is based around the production of spirit voices. The secrets of the cult are of how these spirit voices are made present, involving instruments that remain hidden from non-initiates. There are many different spirits and each one is recognized by a unique tune. This tune is ‘their voice’. In the case of spirit voices, tunes themselves are kinds of being. The tunes are actually said to be the voices of spirits. One tune is one spirit, and each tune is named individually as that spirit. One cannot simplify this to the statement: ‘the spirit is the tune’, as the spirit is the voice manifest by the male cult, its name, the lyrics that accompany each tune, and the power it has to move, grow, and transform both people and crops. So while each tune is a spirit voice, for that voice to appear, the male cult has to be the one that produces it, and that involves the secret instruments of the cult.

Each spirit voice also has a unique rhythm associated with its voice. These rhythms are played either on hourglass drums or on large slit-gongs of local and complex manufacture.<sup>iii</sup> Spirits are intricately connected to particular groups of people, and to the places in which they reside. They reside in deep water pools formed by the springs and streams that abound in this steep, rainforest landscape on the coastal side of the Finisterre mountain range, on the north coast of the island.

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<sup>iii</sup> see Leach (2002, 2015) for more detail.

Nekgini speakers' kinship system is based on connection through *place*.<sup>iv</sup> People grown in the same places share substance, substance that is grown into them and drawn from their particular lands. Spirits are agents of this growth, and the musical spirit cult is present and active at life cycle events. The spirits are said to transform the bodies of initiates, for example, from boys into adults. Their power and presence is what grows the staple crops of yams and taro, and the myths and stories of the origin of these vital everyday food items are also the sources of tunes and names of the particular spirits. Far from entertainment or occasional relaxation, music is central and core to the processes of life, growth, kinship, and identity differentiation of Nekgini speaking people.<sup>v</sup> Tunes/voices are other beings, with their own relations with their kin – those who call on them, bring them into the village spaces, feed them, and who take their power and identity through their relations with the distinctive power and sounds of places.

Spirit voices and the paraphernalia (including the instruments) of the spirit cult were one of the valuables that arrived in mythic times with the emergence of the first true humans. A giant tree containing what are called 'patuki' in the Nekgini language was cut to the west of their lands, and as it fell, all the knowledge and items that allow human life to exist were deposited across the landscape. 'Patuki' is a fascinating concept, referring to the mythic ancestors who gave these vital things to people, the narratives of their revelation, and the names and procedures by which they could be used or made to bear fruit. The simplest gloss for patuki is in fact 'knowledge', a personified knowledge that exists as the mythic being's name and narrative, tune and process. Many of the songs used today by Nekgini people originated at this time, and the tunes and names of the spirit (patuki) are used, for example, when yams are planted (from the yam patuki) or when ceremonial presentations are built in life-cycle exchanges. Of these spirits that are the manifestation of patuki, Nekgini speakers say 'Nalaka patang erieng', that they, 'emerged with the earth'. This sacred repertoire has been added to over the generations, with people dreaming into being new spirit voices, voices that are associated either with the places in which the dreamer was sleeping or had been working, or with the desire of a particular spirit to reproduce themselves.

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<sup>iv</sup> 'Place' is an anthropological concept that has developed currency in recent decades, see for example Feld and Basso (1996), Leach (2003, 2019).

<sup>v</sup> Identity in our text refers to processes of identification and differentiation rather than to self-consciously political constructions.

As the Rai Coast elder Porer Nombo explained:

‘[The spirit/song] Mokati does not have a child. It is only a mother spirit. Later, Siriman dreamed it and [the new spirit] Aiseer emerged. They revealed Aiseer with the mother spirit instruments, and after that, they adapted it again for the child [instruments]. On the night of independence, Siriman dreamed of a child for Aiseer. They adapted it again and Indepen [spirit/tune] emerged for both mother and child instruments. The voice was changed. The voice of Aiseer is different, Indepen is different. They do not follow Mokati.

Mokati is used for planting yams.

The tune of Aiseer is used to attach the growing shoot of the yam to its trellis.

The words composed by men to sing alongside the spirit voices are also different. (Interview text, 2018).

There are (at least) two sides then to this generation of songs. There are different instruments that are called the ‘mother’ and the ‘child’ respectively. People adapt the tune played on the mother instruments to play it on the child instruments. This is to say, the ‘tune’ or voice is recognized as the same, but it can take a mother or a child form depending on which instruments are used. The different spirits are grouped according to the kinds of instruments that are used – there are ‘mother’ spirits, and there are ‘child’ spirits.

Then there is the fact that some spirits ‘give birth’ through dreams, to ‘children’ of their own. These are different related tunes. The relation is in the tune. As spirits manifest *as* the voice of the spirit and each is identified by their distinctive voice (tune), a man dreaming of a spirit and, in the dream, becoming aware of a variation on the tune of that spirit, understands this as the spirit itself producing or generating a related spirit – a child. The new tune is the ‘child’ of the old tune. New songs (new spirits) are dreamt into being by people in each generation. And some spirits have ‘grandchildren’, a recognition of a lineage of both correspondence in tunes and in the people who have dreamed them. *Music itself (or what we would call compositions) are enmeshed in their own relations of kinship. These relations are part of human kinship, as people’s actions in gardens and in life cycle changes draw upon spirits in order to achieve their aims of growth and transformation.* Human kinship then is intertwined with spirits’ kinship in ways that make the connection between composition and performance, power and identity – between people and their spirits – a generative core of social relations.

Given this close association between people and their songs, where one might even say songs are part of the family, it may come as a surprise that songs are regularly traded and exchanged. The fact points to crucial conceptions of exchanges of music that reflect wider principles in Melanesian economies (eg., Malinowski 1922: 186, Guiart 1956: 219, Larcom 1982: 333, Lindstrom 1996: 127, Ammann 2012, Stern 2013) where persons, and wealth that substitutes for persons are what circulate in exchange.

Sticking with the case study at hand, we now outline something about the generation of new spirits/songs, and how they are part of wider kinship exchanges. While many of our examples are designed to show the irrevocable intertwining of practices of kinship and politics with the production and making of music, the example of spirit songs from Reite provides a stark and rather beautiful example of how far and how deep these connections between family and music go. Our description of these relations highlights a form of connection between music and people that is nothing like individual creation, individual ownership and control, and has a very different logic of circulation to that of alienable commodities.

Spirit songs often 'follow' women on marriage. Nekgini speakers assume women move to their husband's lands, and when they go, exchanges of food and wealth compensate for the loss of a body produced in one kin group and its addition to another. Exchanges are always reciprocated, and many spirit songs have been given as part of the wealth a woman takes with her to her new home. Nekgini speakers say this is because women miss the music they grew up hearing, and having these spirits with them in their marital village 'makes them feel happy'. The simplicity of this statement however belies the complex equivalences here: that spirits and songs are wealth, that like persons, they can be traded, but also like persons, that trade does not alienate them from their original owners. Owning persons or songs is not a form of slavery in this case as ownership speaks of inalienable connection and obligation, not rights to direct and dispose of.

In cases of serious dispute between kin groups in this region, it has been known for one side to threaten to return all the spirit songs and designs that they use from the other kin group. The threat is powerful because, as they say, it means 'we are no longer sisters and cross cousins, we are broken apart'. Songs and spirits are items that lie between and connect people, just as children or relatives in common do.



Music then connects people in sharing truly vital elements of their places and constitutions. This becomes even clearer in the next and final ethnographic description from Nekgini speakers that demonstrates the core (economic and social) logic of a system in which songs and rhythms are parts of what make up persons and kin groups. They are not inalienable by law or custom, they are inalienable in their *constitution*.

The slit gong drums mentioned earlier are an ever-present aspect of life in Nekgini villages. They are used during ceremonies when the spirit cult is present to accompany the voices of the child spirits. In addition, and much more often, they are used to send messages from one village to another, or to kinsmen in the forest. There is a large 'vocabulary' made from different rhythms, and it is possible to develop complex messages through combining conventional sequences denoting pigs, dogs, today, tomorrow, come, go, fire, bananas etc. There are also commands such as the much used 'hurry up'. All messages rely on identifying the intended recipient, and for this, men's 'call signs' (Burridge 1959) are used.

Each man's call sign has its origin in the spirit voices of his mother's brothers. Mother's brothers are responsible for initiation in Nekgini, and women move from their natal hamlet to that of their husband on marriage. The relationship between in-laws ('affines' in anthropological terminology), sustained through life cycle exchanges, is the core economic relationship for Nekgini speakers, and most production (from gardens, from hunting, from domestic livestock, and nowadays from cash cropping) is channeled into these exchanges. (In fact, it is reasonable to characterize the Nekgini economy as one focused on the production of persons rather than the production of goods or things.) Garden produce and meat, knowledge and care, and spirits, are seen to combine to produce the bodies of persons. Persons are valuable because of the labor and substance that grows them, and affinal exchanges are the epitome of moral action as they are the circulation of the substance of life in productive flows which produce the possibilities for new and more people (Leach 2019: 214-7).

A man receives his 'name' on a slit gong from his mother's brother on his initiation as part of the reciprocation for his payment to the mother's brother on this occasion. The sequence of strikes on the slit gong is a portion of the rhythm accompanying one of the mother's brother's spirit songs, and is identifiable because of its association with this spirit. What this means is that a man's audible identity is a marker not of his individuality or even of *his own* spirits, but

of *his connection* to others that define who he is. A man is audibly linked to those who have grown him (in initiation) and those who recognize his existence elsewhere. Links between places, spirits, and between people are everyday aspects of the auditory landscape, and referring to one person is always also referring to others who are connected with them.

There is a clear relational logic. The rhythm that is ‘your’ name refers to your relations with specific others. This rhythm is returned upon a man’s death. It does not stay with the kin group of the initiated man, but is always and remains part of the spirit of the mother’s brother’s group. The constitution of identity is explicitly between people, the contribution to the person is maintained as a relationship, and it is not alienated, despite payment. There are of course political implications in these connections also.

Showing how these spirits are entwined with the relational constitution of people and groups’ identities, we demonstrate two further things. Firstly, that the ownership of spirits and music is not communal, but specific to the relations of their creation and kinship, and secondly, that there are modes of circulation for these things that enhance and develop social value because of how inextricably linked to people and places they are.

*The value principles apparent in Melanesian musical exchanges: reciprocity and the extension of the self*

This ethnographic material reveals the core themes of this chapter: growth, spirituality, exchange and differentiation, identity formation, and the close incorporation of musical forms into kinship processes of life, growth and death. We began with detail from one place in order to give the reader a sense of the depth of the connections, and thus the real value of music in such places. As we will see, we find these themes in other material throughout region. They form part of a wider regional pattern of extending value through circulation and exchange (eg., Mauss 1925, Weiner 1972).

In her famous account of trade and value creation among Gawa islanders of the Massim archipelago in far eastern Papua New Guinea, Nancy Munn develops a notion of “spacetime” as an indicator of value creation. She argues that:

‘Gawan society has to be understood in terms of its grounding in [an] inter-island world. On the one hand, the community asserts its own *internal* viability through the concept of its positive evaluation by . . . *external* others, expressed in the Gawan

emphasis on fame (*butu-*), the renown or good name of Gawa in this world. On the other hand, fame itself . . . can be produced for Gawans only through an initial externalizing process involving the separation of internal elements of Gawa (especially garden crops and canoes, which are the produce of its land and trees) and their transaction into the inter-island world.’(1986: 6)<sup>vi</sup>

Munn continues by stating that “in the Gawan case, value may be characterized . . . in terms of an act’s relative capacity to extend or expand what I call *intersubjective spacetime* — a spacetime of self-other relationships formed in and through acts and practices” of exchange (1986: 9).

Munn highlights the extension of the self through relations with others in a particular mode we can identify as Melanesian. This involves the circulation of items that remain closely connected to their donors. The distinctiveness and the quality of products are consequent upon their constitution. To be effective, to achieve a satisfactory attribution of effectiveness, they *require reception and re-use*.

Roy Wagner offers a lucid description of the mechanisms of a ‘differentiating mode’ of symbolization in Melanesia that is highly pertinent:

‘Differentiating acts take the form of competitive improvisations, substituting an unconventional element for that which one might literally expect. The result is a novel expression that intentionally “deconventionalizes” the conventional (and unintentionally conventionalizes the unconventional): a new meaning has been formed (and an old meaning has been extended). The novel expression both amplifies and controverts the significance of the convention upon which it innovates. The force and color that it embodies is a measure of its differentiation of the conventional; the test of its appropriateness is the degree to which it amplifies or “interprets” convention strategically’ (1978: 28).

The distinctiveness of the original act (a song, a musical style, a form of initiation etc.), and its relation to the style associated with a particular origin or place is only of value, then, in its capacity to elicit acts of decomposition and recombination from others. This process extends the influence, names, and presence of an entity or actor or place into space and time, creating value for all those involved. “[T]he spatiotemporal value transformations effected in given

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vi (citation omitted).

types of practice can be viewed as transformations of the value of the actor's self. In producing a given level of spatiotemporal extension beyond the self, actors produce their own value," (15) where, "*extension* means here the capacity to develop spatiotemporal relations that go beyond the self . . . (11)".

It is important to note that these exchange practices rely upon forms of ownership that are built on the principles of close connection, even substantial mutual constitution, between people and the items they produce and trade. Songs are closely guarded, the permission to utilize them or adapt them comes alongside reciprocation in the form of recognition and flows of wealth. Secrecy over compositions and spirits is paired with moments of revelation when social value is created and social and political recognition are ensured. Melanesian economies are not based upon possessive individualism or private property (Strathern 1988, Pocock 1992, Macpherson 1978). Connection of a different type is paramount to value creation and realization.

Munn and Wagner put into theoretical language aspects that are present not only in the Rai Coast example, but throughout this region. These are based on a series of principles that guide economic relations. We distill these here before moving to wider illustrative examples that also move us from contemporary rural spirit music to contemporary inter island and regional political economies including the emergence of new musical styles in urban areas.

The principles are, firstly, that circulation occurs under conditions of recognition, reciprocation, and mutual value creation (or destruction)<sup>vii</sup>. These exchanges and transactions are often part of wider life-cycle relations based on kinship, or political structures based on trade and exchange, and are the basis of social reproduction. The 'reproductivity' of songs and spirits on the Rai Coast is not a pleasant metaphor or quaint idea, but an authentic understanding of the potential of musical forms to generate and sustain reproductive relations between people, and also of musical forms' constant transformation and renewal in these contexts of use and exchange. People extend themselves, gain name and recognition, political and social power etc., through the circulation and use by others of their (musical) creations.

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<sup>vii</sup> Munn focuses on Gawan 'witchcraft' as the contraction of 'spacetime' and the destruction of value.

Secondly, there is often a displacement of authorship from individual persons to spiritual powers, collective endeavors, places, etc. The notion of the ‘possessive individual’ or individual creator/author is always complicated in Melanesia by the claims kin have on one another for their very existence in the first place (as in the audible presence of a Rai Coast man in his landscape), and then on the recognition of multiple sources and inspirations for any one form.

Thirdly, the ownership of musical forms and songs takes other forms than that of property ownership. Even when ‘alienated’ (and most exchanges emphatically do not assume alienation) musical forms retain reference and thus a flow of value to their source.

#### *Customary circulation of music in Vanuatu*

The connection of music and kinship in Vanuatu was recorded by the early Marist missionary Elie Tattevin (1928), magical songs to influence weather (for example) belonged to specific clans and their use was only permitted to initiated clan members. These powerful repertoires of ancestral origin were inalienable from the clan. In the same vein, on the island of Tanna, as Ammann reports (2012: 44), the *natatao* songs testifying of the ownership of a piece of land are kept secret to those who may inherit that land.

In Vanuatu generally, the focus on relationship building, the spiritual nature of music, and the existence of strict rules concerning the use of music is well defined. The importance of kinship and music is supplemented by relations of power, and of spirituality. Music plays an important role in numerous ceremonial exchanges such as marriages, funerals, and hierarchical grade taking ceremonies. Locally regarded as ancient and originating from the supernatural world, the *kastom* repertoire is not fixed (Seeger [2004] argues this is a global phenomenon). It is "recreated" in accordance with precise rules allowing people to receive new songs from the spirits. Throughout the archipelago,<sup>viii</sup> competent specialists communicate with spirits and obtain songs in dreams, while sleeping or awake. They are not considered as the creators of songs, which are inspired or given by ancestors’ spirits.<sup>ix</sup> These

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<sup>viii</sup> Both, Ammann (working predominately on southern islands) and Stern (whose research covers several islands in the Centre and North of Vanuatu) note the existence of “specialists” that receive the songs from the spirits.

<sup>ix</sup> On the Banks islands as well as on Tanna, lyrics of the songs can also be received from ancestors with a song, in common language or “vulgar language” (on Tanna, see Ammann 2012: 25), but the receivers of songs have to rework them in the special song’s language. Indeed, on Banks islands, the songs’ lyrics are in the specific “poetic” language, distinct from speaking language, called “language of Qat (or Qet)” which

experts are solicited to commission songs and dances, which help specific people to gain prestige, recognition, political and social power. They are recompensed using the wealth that is used in kinship exchange cycles (pigs, shell money, mats, food, and are today sometimes completed by cash).<sup>x</sup>

Other modes of transmission exist in the specific context of a hierarchical political system based on politico-economic competition known as ‘grade-taking societies’ in the north of Vanuatu. Members of each grade have responsibilities, privileges, and secrets exclusive to their rank. Political power is closely related to the ancestors’ power. On the island of Pentecost, to reach a higher rank, a person must acquire ornaments and other valuable objects associated with that rank, among which is specific knowledge in the form of songs, dances and rhythms. Acquiring his new hierarchical status, the candidate acquires the right not only to know them, but also to transmit them further.<sup>xi</sup> Music appears as an important, relational component of persons. Its display in public demonstrates the social and hierarchical relationships of ranked men and thereby legitimizes their status. When a rank holder dies, drum rhythms announcing the death will be combined with his rank rhythm. To preserve this audible identity and the prestige that it brings, the practice of secrecy and restriction are central.

Secrecy/restriction is an important part of our exposition of the differences between Melanesian modes of circulation and restriction and those imposed under IP regimes. Secrecy takes different forms including the right of participate in dances or perform secret songs; restrictions on dress and bodily ornamentation and on musical instrument fabrication; concealment of musical instruments from the view of non-initiated people; knowledge of a song’s lyrics; secrets about how to perform a masked dance or repertoire, etc. ‘*Secrecy*’ makes kinship and particular relations of obligation central to distribution, unlike a commoditized economy in which things circulate in a ‘public domain’ and are detached from any particular kin or identity based restrictions. Through such mechanisms, secrecy protects the power of some people over others. Genealogies, family histories, artistic knowledge,

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is mythical creator on the Banks islands, or “language of spirits”, which is only understandable by some people holding this knowledge (Ammann 2012: 28, and François and Stern 2013: 90-92).

<sup>x</sup> Where cash feeds into reciprocal exchange cycles. It does not necessarily imply commodification. Two documentary films give more detailed demonstration about how music is ordered and acquired. For Tanna see Ammann and Kapere (2005); for Mota-Lava (Banks Islands in northern Vanuatu) see Wittersheim (2005).

<sup>xi</sup> Although today they are sometimes also performed during Arts Festivals.

magic formulae, etc., give a group of people a common identity and prestige that others who do not share this knowledge cannot claim.

Traditionally, spirits themselves protected the 'rights' to songs or dances. People were supposed to respect the rights of the initiates and their work of acquiring this repertoire because of the fear of falling ill from revenge by an ancestor's spirits. Those who hold rights of use and transmission have power and authority; 'they do not achieve exclusive control over them, however' (Leach 2004: 155) as these songs can be only performed and transmitted following strict rules of full membership in a graded society. In this way, music is involved in the construction of local hierarchies.

Besides belonging to a kinship group or hierarchical rank, musical repertoire has a strong link with its place of origin: *ples* (in Bislama: pidgin, local lingua franca). As Bolton has stressed, in Vanuatu: '[p]lace is a resource, a basis of social identity, a source of knowledge' (Bolton 2003: 71). As on the Rai Coast, people, spirits and expressions emerge from and refer to connections in places. This carries forward into the contemporary, and emergent music scene. Thus during the independence movement in Vanuatu, land and *kastom* were closely related, 'this new formalization of this connection had immediate effect on people's knowledge and practice (...) the stories that could be used to link people to places became a powerful resource in themselves and could no longer be freely told' (Bolton 2003: 71-2). Hence, the notion of "*ples*" also includes belonging and identity. Publicly affirmed through national radio broadcasts and local Art Festivals, the connection between knowledge and people from a specific place was reinforced. During the 1970's radio broadcasts were highly participatory and people from all over the archipelago contributed to building a national identity through the medium. This identity reflected different practices and knowledge, including oral histories and music (Bolton 1999). The new Vanuatu Cultural Centre that was opened prior to independence implemented rules (similar to 'secrecy' or the right to reveal) that prevented anyone speaking about *kastom* from another island than their own (Bolton 1999: 346). In Port Vila, the capital of Vanuatu, special music expressions or instruments are seen as part of the identity of particular islands: for example, a particular style of face sculptured on big wooden drums, is exclusively from Ambrym island; Toka dance is from Tanna, more recently Water Music is seen as from Gaua, and Bamboo Band music from Mota-Lava. The close identification with songs or genres allows these to 'travel', to be known and even borrowed or adapted, without necessarily alienating or illegitimately appropriating them.

### *Kastom Performances and tourism: the case of water music*

In Melanesia to this day, most people outside urban areas have a level of self-sufficiency through agriculture. However, school fees, household lighting, mobile phones, domestic utensils, etc. demand monetary income. Subsistence agriculture is now supplemented by cash cropping and other market-based activities. In Vanuatu, tourism has grown into an important aspect of economic development (Hayward 2012: 57-8), sometimes ascribing a new value to traditional expressions, sometimes labeling new forms as ‘kastom’ to give them legitimacy in tourist contexts. The government, the national tourism office, and international NGOs all encourage people to use ‘culture’ to develop their income stream. However, as we have seen above, there are often important restrictions on repertoires that rely on creating reciprocal recognition and obligation. There is little or no commercial recording of secret repertoire or spirit songs. New contexts create controversy concerning usage rights and ownership. These arguments are connected to local customary rules concerning knowledge, language, community, kinship, and *ples*, and illustrate a clash between established modes of value creation and realization, and the new forms of appropriation and exploitation demanded by the commodity economy.

For example, in the Banks archipelago (North of Vanuatu), women have long enjoyed water drumming as a game while washing or swimming.<sup>xii</sup> This exclusively female activity has (had) no spiritual and restricted nature, and many say that such water games were practiced not only in the Banks islands<sup>xiii</sup> but also more widely across the region. As women from west Gaua relate, when they enjoyed a practice named locally *ētētung* tourists from sailing boats appreciated it and offered them presents and money. *Ētētung* was named “water music” by two sisters from West Gaua in the 1970’s (Dick 2014: 397-8). News of their water music was passed around sailing boats networks, and more and more tourists came to see them. Performances multiplied on the island, while competitive discourses about who made more beautiful water music emerged.

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<sup>xii</sup> Descriptions about Water Music case study are founded as well as on academic sources from Dick (2014) as indicated in the text and from Monika Stern’s fieldworks on Gaua (2005 and 2018) and Mere-Lava (2005) islands.

<sup>xiii</sup> The ethnomusicologist Hugo Zemp (1978, 1995) also recorded and described water music (“water play”) at Solomon Islands



Although musical expressions have a long history of exchange and circulation all over Melanesia, the particular mobility of water music, its commodification and money-making potential, prompts people to face challenges and create new discourses about music and its origins and value that are not without their own contradictions. Conflicts have ensued, with water music claimed exclusively as the *kastom* of Gaua and the discourse of IP used to restrict other's practice of it (Geismar 2013: 82-88), and from its commercialization by urban diaspora and foreign NGO's. The same people who complain about the appropriation/theft of water music (by their relatives living in towns) regularly borrow forms of musical expression from elsewhere. For instance, people from Mota-Lava island (another Banks island) have appropriated the bamboo band style from a group of the neighboring Solomon Islands by "steal eye" (to use their own expression – that is, hidden observation and copying). On the one hand, this could be seen as part of the traditional nature of the circulation and reuse of musical expressions and styles, of the spatiotemporal transformations described by Munn and Wagner and the consequences of the Melanesian mode of production of self-value. On the other hand, as some kinds of musical performances are today increasingly seen as commodities, individual (rather than relational) identity discourses and exclusive claims from different communities concerning musical expressions are growing: Gaua is claiming ownership of water music, Mota-Lava of bamboo bands, etc. The water music example shows competitiveness and the possibility of detachable value are appearing with the new contexts for income generation. We now turn to urban contexts in order to show how the emergence of a new music styles rely on Melanesian principles of exchange and connection, but the social relations of production and use are also subject to distortion by market demands for exclusive control and 'authenticity'.

#### *Old and new, and the imposition of Copyright*

We consider that the principles of exchange that underpin 'traditional' music to be retained in the new contexts of urban and non-traditional music production, blurring the lines between the old and new, and the urban/rural in an interesting way. The real divide is not between traditional music and modern music, but between the regimes of value creation and circulation that arise with and are the assumed context for the different genres. It is the co-existence of the two regimes of value, that benefit different interest groups in different ways, which are making for conflict. We argue that the more appropriate principles for exchange there are being eclipsed by assumptions and impositions of new forms of value and circulation, epitomised by copyright, its institutional and political motivators etc. This leads

to our conclusion in which the particular case of Melanesia is set in the wider context of the problematic of copyright for music more generally, and then made specific to Melanesia again through the discussion of public/private as rigid domains and secret/revealed as relational concepts.

Until recently, Vanuatu had no official copyright legislation<sup>xiv</sup>. In 2011, in preparation for joining the WTO (World Trade Organization), Vanuatu had to publish its Copyright. In 2012 the National Copyright Office was established. International organizations often valorize copyright following a worldwide idea that the music industry cannot exist without protection, and supposing that copyright laws are the only way to stimulate musical creativity and make the music industry profitable. The rhetoric of WIPO hides the fact that if everyone claims their own protection in order to make money, this will also involve costs (not necessarily easy to cover) for everyone, and it is important to keep in mind that local salaries are low<sup>xv</sup> compared to those of more industrialized countries. Under the pressure of international organizations working closely with the copyright office, new policies are being implemented in accordance with international standards. The accession of Vanuatu to the numerous international treaties was motivated by the idea that it would enable ni-Vanuatu to make money from their cultural heritage. As shown by Forsyth and Haggart (2014) the amalgam between customary ownership and international copyright laws that the authors call “false friends” was an argument used to demand and precipitate Vanuatu's adherence to the totality of global intellectual property treaties with no possibility of flexibility. The authors describe ‘(...) the incorrect assumption that the global system works in a similar way to some of the underlying principles of Vanuatu's indigenous intellectual property systems’ (Forsyth and Haggart 2014: 217, 218). There may be a rural/urban issue as people in town do not distribute the benefits of collectively owned forms in the same way as they would at home in village, which is perhaps merely a reflection of the different subsistence/economic necessity in each place. But the answer does not lie in copyright. We suggest that clearer comprehension of Melanesian modes of value creation and distribution offer a possible solution. Intellectual property causes division, and it establishes class of beneficiaries and gatekeepers yet further removed from creators.

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<sup>xiv</sup>For the Vanuatu copyright legislation process, see Forsyth and Haggart (2014: 216).

<sup>xv</sup>The minimum monthly wage is 30 000 VUV (230€)

The fact is that customary principles are still very present in everyday life, even in Port-Vila as shown, for example, by the director of the Vanuatu Cultural Centre's idea that contemporary artists who would like to use traditional elements should ask permission and make *kastom* gifts to the traditional owners before using them. However, in contrast, members of the copyright office believe that because of the financial benefits that it could bring, this gesture is insufficient and that profits should be shared in accordance with copyright law (interview with Stephen Huri from the National Copyright Office, Port-Vila, 9 May 2018). Interference between the two systems based on misrepresentation and misunderstanding though is highly problematic, and can give rise to dangerous political uses. The idea that copyright under international intellectual property law is merely a more enforceable, updated version of traditional forms of restriction on circulation (Geismar 2013) is problematic. As Forsyth and Haggart write, 'there are also dangerous and negative consequences of this identification between the two concepts, which can be seen through the false friends concept ... In particular, this identification risks causing a certain blindness to the fundamental differences between the two systems, differences that are heavily weighted through geo-political realities to shift the balance of power (and transfer of rents) from the local to the outside world' (Forsyth and Haggart 2014: 216).

*Conclusion. Copyright, circulation and creativity*

Melanesia is not the only place to provide examples of a series of problems and issues arising from an inappropriate confidence in the implementation of intellectual property law. Notions such as "author", or musical "work" are inoperative in many creative and performance contexts. In many musical cultures borrowing and re-creation have always existed and are part of creativity (Guillebaud, Stoichita and Mallet 2010: 7, 8). The notion of novelty required for copyright needs to be handled carefully. As many authors point out, 'Artists' appropriation of other artists' works is an integral and longstanding part of creative production' (Chon 2012: 433; and see Hennion 2010; and see Olufunmilayo 2006: 550-2).

When it comes to treating global musical expression, copyright laws have their own contradictions and problems. As McDonnagh writes, 'The Berne Convention provides an international framework for copyright in relation to the musical work. Under Article 2(1) of Berne, the "musical composition with or without words" and "dramatico-musical works" is protected, but no further definition of "music" or "musical composition" is given. In fact, there are surprisingly few definitions of the "musical work" in national and international

copyright law and there is no internationally accepted definition.... For instance, TRIPS largely adopted the terms of the Berne Convention and it did not provide any further definition of the musical work. The WIPO World Copyright Treaty of 1996 also did not give any further definition' (McDonnagh 2012: 408).

It is useful in this context to turn to the legal scholars critique of the notion of copyright, embodying, as it does, principles antithetical to the three principles we have distilled above. Margaret Chon recently wrote, 'The scholarly critiques of the romantic author focus on current copyright law's excessive reliance on possessive individualism, claiming that this overreliance then influences copyright doctrine to ignore or devalue collaborative and collective forms of authorship' (Chon 2012: 430).

Peter Jaszi's writing has been foundational to the critique of the romantic author figure at the basis of modern copyright law. He argues that the notion of the author is: 'the specific locus of a basic contradiction between public access to and private control over imaginative creations' (1991: 457). McDonnagh's (2012) critique of copyright over music here is informative and telling. His concern is with the ability of musicians to utilize existing material in pursuit of creativity and new expression. The axis of public/private is enforced upon a genre and art form to which it is particularly poorly adjusted.<sup>xvi</sup> And that is because the canon, the existing corpus of works, is often not authored at all. So private control can be exercised, but only after appropriations are made from an anonymous tradition, and thus hived off from into a realm of private ordering *of which the counterpart is the public domain*. Our point here is that this creates a 'public domain' of works that can then be appropriated. McDonnagh's wider implication is that for music in particular, the imposition of the frame as a whole is unsatisfactory. Jaszi writes, 'Even the statement of the basic contradiction with which this Part began assumes "authorship"' (262). In the case of Melanesia, the axis upon which copyright is deemed incoherent *in its political economy of origin* – public access and private control – is an additional layer of concern.

Let us spell this out. For all the image of a stable geography of public and private domains, these categories applied to human creations are anything but stable (Boyle 1996). There is not a simple and natural terrain (Hayden 2003) into which 'works' can be organized for (at least)

two reasons. Firstly, what exists in ‘the public domain’ is also a construction (many would say achievement) of (limiting) the secluded and protected area of private domain ownership. The point is, they are shifting because they are constructed in relation to political and economic pressure and interests, and thereby, in relation to one another. Jaszi also alerts us in no uncertain terms to the particular historical construction of the concept of ‘the work’. The work, as understood in contemporary copyright law has come to supersede the author. It is where the law focuses to delineate originality and value. And for this to happen, according to Jaszi, the individuality and creativity of the author (which was historically used as justification for granting copyright over expressions) has been lodged within the object itself. It is still what merits protection, but it is detachable from the person of the author. Having the qualities of ‘distinctiveness and originality’ in ‘the work’ itself means the work can be traded and those qualities attach to a new owner *as if* they were the author.

Secondly, and following from the last point, public and private domains are not the only possibilities. They have to be imposed, and that imposition is often, Luke McDonnagh argues, at the expense of other forms of sociality and exchange, forms that may be more functional, or even fairer for different forms of expression or artistic endeavor (2012: 401).<sup>xvii</sup> As Kalinoe, and Strathern, point out, there is nothing natural about the fit between one restricted form of knowledge circulation (secrecy, social distinction) and another (public and private ordering under intellectual property law). Part of the problem is that Intellectual property law brings things into the public eye; the limited restriction guaranteed by initial protection is nothing compared to exposure when copyright expires (Kalinoe 2004: 50). The public domain aspect of IP causes as many problems as its private property aspect (Strathern 2011: 105). It is important to understand that the notion of free use is also contested in a system like Melanesia. Kalinoe makes a key point in that regard; the concept of a public domain is as unsuited to the social restriction’s we see built into music use and circulation in Melanesia as is copyright (with its emphasis on possessive individualism), and the work (as the object where value is embodied).

In this chapter we have given examples from Melanesia that highlight modes of creating, valuing, and relating to musical expressions that emphasize their integration into kinship,

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<sup>xvi</sup> ‘Music, due to its own unique limitations, may be unsuited to a strict delineation of what may and may not be “copied”’ (McDonnagh 2012: 401).

identity, and value creation. By focusing on how and where music is both intimately part of people's relations with one another, and on how it nevertheless circulates to bring further connection, distinction, and differentiation between people and groups, we have shown various aspects of value creation that are misrecognized and distorted under the conditions of market exchange and the particular laws over intangible and intellectual creations that have followed the expansion of that mode of economy. Where songs are also offspring, and mutual relations through kinds of person operate to develop deep and lasting value chains, the very notions of an 'intellectual' domain of music, and of 'property' in these things, is at the very least, open to the same questions as early authors asked of those who plagiarized their works. That is, how are vital connections being severed, and replaced, with circumstantial 'rights' that have little to do with place, person, or social reproduction?

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<sup>xvii</sup> 'musical creativity requires a reasonable degree of freedom to make creative use of existing materials. At present copyright law does not properly encourage the practice...' (McDonnagh 2012: 401).

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