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## Compositions of identity on the road to Ramu Sugar: Nahu property rights in musical works

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### Abstract

The “sing-sing” is ubiquitous throughout Papua New Guinea (PNG) and central to Nahu culture. As organizations like PNG’s Parliament and the World Intellectual Property Organization discuss Traditional Knowledge (TK) legal regimes, it is appropriate to contemplate how TK operates within the context of the “sing-sing”, or in the Nahu’s case, the Yambo. This paper identifies the Nahu norms that govern property rights in musical works and analyzes how these norms have operated over time in each of three Yambo. The norms, operating together, preserve Nahu heritage by restricting an individual’s creative freedoms and economic rights, while maintaining the personal and economic value a song yields for its creator by ensuring a creator’s right to restrict the dissemination and performance of a song. But as much as this is a paper about creative property rights, it is equally a story about three Yambo and their importance to Nahu culture.

**Key words:** Nahu culture, property rights in musical works, traditional knowledge

### Introduction

A single prop plane can land the bright green strip cut into Gumbarami village’s densely canopied slopes, located atop the Finisterre Range of Papua New Guinea (“PNG”). After takeoff from the central highlands en route to the village, the aircraft flies far above the quilted patchwork of oil palm plantations grown in Ramu and fed by the Nahu River. The Finisterre’s dark cathedrals loom in greens and blues ahead, and then surround and dwarf the plane. Ahead lay miles of dense rainforest dotted with grass roof huts. As the plane climbs to the mountains’ crests, Sewe village appears near the base of the closest mountain’s highest slope. Moro village and Dana, Moro’s satellite hamlet, then emerge halfway up the opposite slope. After the plane banks, swings back around the mountain, and straightens itself, Gumbarami’s cliff and airstrip appear ahead. The plane skips along and skids in ruts on the ground. A gathering of men and women, painted with pollen and decorated in flowers and feather plumes woven through greenery, begin the kundu<sup>1</sup> drums’ oblique rhythm. A chorus of simultaneously haunting and joyful voices drowns the engine’s hum. Welcome to Nahu One.<sup>2</sup>

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<sup>1</sup> A kundu is an hourglass shaped wooden drum.

<sup>2</sup> The author met the Nahu community at four months old and departed at ten years old. His first language was Iyo, which he has since lost; his second language is Melanesian TokPisin. This paper is based on a series of in-depth interviews with elders from Gumbarami, Moro and Sewe. It is,

This welcoming song and dance is Pareyambo. It is central to today's Nahu musical culture, which is the subject of this paper. Specifically, this paper attempts to identify the norms governing Nahu creative property rights in musical works and analyzes how these norms have operated over time within each of three Nahu Yambo (a musical performance). To understand Nahu One's norms and customs regarding music, this article begins with a brief outline of Nahu history and society and introduction to the Nahu Yambo. The next section presents a distillation of the norms governing property rights in musical works. Finally, the article discusses Kewayambo, Ganuyambo, and Pareyambo and analyzes how the norms operate within each Yambo.

The norms, operating together, preserve Nahu heritage by restricting an individual's creative freedoms and economic rights, while maintaining the personal and economic value a song yields for its creator by ensuring a creator's right to restrict the dissemination and performance of a song. Currently, scholars and policy makers are discussing legal regimes to protect indigenous communities' Traditional Knowledge (TK). Today's dominant protection mechanisms contemplate TK as purely being held in common by a community.<sup>3</sup> By demonstrating how Nahu property rights in a musical work balance a creator's personal interest in a work together with the work's future stewards and Nahu heritage, I hope this paper will clarify, and even caution, this prevailing conception of communal ownership.

### **The Taproot: Introducing the Nahu One**

The Nahu people live in the central region of the Finisterre Range, located along the Rai Coast of PNG. Their population is approximately 6,000 and Iyo is the shared vernacular. (Interview, Roroneyo in Moro, July 2010). They loosely divide themselves into three clans, identified by family line and region: the Rai Coast Nahu live on the coastal side of the mountain range; the Nahu One live in the inland crest of the range; and the Nahu Two live on the lower slopes, above Ramu valley. Nahu One is this paper's focus group and is composed primarily of Gumbarami, Moro, and Sewe villages.

A broad history of Nahu One can be divided into three time periods: the elders' age (origins–1939), the colonial age (1939–75), and the post-colonial age

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essentially, a Nahu oral history. Unless otherwise indicated, interview references to villages represent full consensus among the interviewees from each village. While the interviewees built consensus in Iyo, interviews were conducted in TokPisin. Each interview was based on the same set of questions and was conducted in July 2010. In January 2011, the community confirmed the paper's accuracy and consented to its distribution.

<sup>3</sup> See, for example, WIPO, *Traditional Cultural Expressions/Expressions of Folklore, Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore*, Art. 2, WIPO/GRTKF/IC/19/4 (July 18 – 22, 2011); WIPO, *Traditional Knowledge Draft Articles, Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore*, Art.2, WIPO/GRTKF/IC/19/5 (July 18 – 22, 2011); *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity*, Art.6, Convention on Biological Diversity, United Nations.

(1975–present). The elders' age predates the region's written history and can be traced back to at least 30,000 years ago when people first migrated into the region (Loeffler 1979, p. 24). Until the early 1800s, the Nahu lived on the coastal side of the Finisterre Range. In the early 1800s the great grandfathers of today's elders migrated from the coastal side of the mountain over the crest to settle what is now Gumbarami and Moro (Interview, Buyuwe in Moro, July 2010). The early pioneers' families are identified as Nahu One.

The elders' age could also be called the Kewayambo or Ganuyambo age, because each Yambo emerged during the elders' age (Interview, Bondo in Gumbarami, July 2010; Uroroe in Moro, July 2010). During this time, the Nahu gardened and hunted with tools made of wood and stone. The economic order was based on barter between villages within the Nahu communities. They practiced an animist and ancestral religion governed by a pantheon of ancestral spirits and one god named Usarong. Despite Germany's early explorations of PNG's northern coast, and WWI's impact on the same, Nahu territories remained outside the ambit of western exploration. (Interview, Buyuwe in Moro, July 2010, et. al.). Consequently, the so-called customary way of life remained largely unchanged until 1939, when a Papua New Guinean missionary arrived in Nahu One. Shortly thereafter, in 1942, Japanese, Australian and American soldiers, along with their cargo and weapons, arrived in the region. WWII concluded the elders' era.

The arrival of Christianity and the start of WWII mark the beginning of the Nahu colonial age (1939–75). While the traditional animist and ancestral beliefs underpin the Nahu worldview, Christianity became the dominant religion for the majority of Nahu One peoples (Interview, Buyuwe in Moro, July 2010, et. al.). In the 1960s, the Lutheran church built a small school in Moro village and churches in each Nahu One village. During this time, as neighboring tribes adopted Christianity and traded with Nahu One peoples, interaction increased between the Nahu and the Rawa tribe to the West and Markham tribes to the Southeast (Interview, Awi in Moro, July 2010). Such interaction was made possible by the development of Melanesian TokPisin.

Imperial Japan gained control of the Nahu One region in 1942 (Interview, Buyuwe in Moro, July 2010). The Nahu experienced great brutalities while under the control of Japanese soldiers (Interview, Forope in Lae, July 2010; Interview, Buyuwe in Moro, July 2010). Nahu One tribes joined Australian and American forces in the Finisterre Range Campaign to defeat Japanese forces in 1943 (Dickens 2005, p. 264; Interview, Forope in Lae, July 2010; Interview, Buyuwe in Moro, July 2010). During this time, Nahu One peoples traded for metal tools and western clothing. After WWII, Australia gained control of PNG and set up a central government in Port Moresby. However, government services did not reach the Nahu region. PNG remained Australia's territory until 1975.

PNG peacefully gained its independence from Australia on September 16, 1975, which marks the beginning of the post-colonial age (1975–present) (Loeffler 1979, p. 67). Today's age could also be called the Pareyambo age,

since Pareyambo emerged at roughly the same time (Interview, Totoyu in Gumbarami, July 2010). The independence movement ripened into a parliamentary democracy, with Britain's Queen as the official Head of State. Initially, the fledgling government expanded services previously instituted by the Australian government. While there are no roads or modern amenities in the region, a government-supported school was built in Gumbarami in 1986. In 1988, an airstrip supported by the provincial government and missions organizations was also built in Gumbarami (Murphy 1990, p. 121). In 2008, a Lutheran medical clinic opened next to the airstrip. If parents can afford school fees, Nahu One children receive a kindergarten through to grade eight education.

Two significant changes during the post-colonial age included the introduction of the Kina, the PNG currency, and Iyo's written language. While barter is still practiced in the region, the sale of goods and labor has largely replaced the barter system. Individuals can leave the village to work in factories and plantations. Many harvest and carry produce to the cities for sale. In addition, the Iyo alphabet allowed for Iyo literacy programs to develop within the schools (Murphy 1990, p. 124). The post-colonial age marks a culmination in rapid societal changes unfolding within one lifetime. Today's surviving elders were children when the first Christian missionary and foreign soldiers arrived in the region and are the true tellers of the Yambo's story (Interview, Buyuwe in Moro, July 2010, et al.).

The Yambo, the song, and the role each play in Nahu culture must be introduced before the laws or norms that govern a Nahu person's property rights in musical works may be understood (Interviews, Gumbarami, Moro, and Sewe elders, July 2010).<sup>3</sup> These norms are generated by the cultural significance rooted in each of the three Yambo, along with the familial relationships that constitute the Nahu body politic. The traditional Yambo are Kewayambo and Ganuyambo. Pareyambo emerged in the 1970s. Each is a musical ritual conducted for a specific purpose that involves at least one community's participation. Each is composed of a unique beat, dance, and melodic pitch together with an individual's lyrics and stylistic nuances. A Yambo's unique beat, dance, and melodic pitch are shared in common by the tribe. Usually, participants dress in ornament, gather at sundown, sing and dance until dawn, all according to the particular structure of the Yambo being performed.

The most common songs are ones that embody a familial or individual experience. Unlike songs created to perform magic, these songs are included in Yambo performances and are vested with property rights. Rights to a song can be held individually, by a family, and by an entire community. During a Yambo, an individual's song is sung by the individual and by Yambo participants. Because the Yambo being performed determines the beat, dance, and melody's pitch, an individual's song is typically composed of the creator's

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<sup>3</sup>Unless otherwise indicated, interview references to villages represent full consensus among the interviewees from each village.

lyrics and stylistic inventions, which are made within the scope of the Yambo's predetermined beat and melody.

Songs composed for a Yambo are considered a supernatural gift. Typically, an individual receives a song from an ancestor in a dream. After the death of a family member, one often retreats to sleep at a place in the forest where an ancestor's spirit is known to reside. While sleeping, the ancestor provides the sleeping relative with a story and stylistic melody. A song is also provided through a bird's call. The bird's call does not simply inspire a melody. A bird gives a song by singing intelligible words. After receiving a song from an ancestor or bird, an individual composes the song (Interviews, Gumbarami, Moro, and Sewe elders, July 2010).

### **The Footpath: Norms governing Nahuproperty rights in musical works**

*"Laws written in closed books are not known by their people. Known laws are lived laws."* Ganango Buyuwe, Moro elder

This is an attempt to informally codify, strictly for purposes of this paper, the norms governing creative property rights in use among the Nahu people. They are included to offer clarity and reference for later analysis of each norm. The following norms are as relevant today as they were during the elders' age.

*23710<sup>4</sup> - Ownership, alienation, expiration and suspension of property rights in Nahu musical works*

*Purpose:* to identify Nahu ownership rights vested in a musical work, and the transfer, expiration and suspension of those rights.

#### *Definitions*

*Musical work:* a creative invention composed of a rhythm, melody, lyrics and story, or any combination thereof.

*Owner:* a person who obtains ownership rights in a musical work.

*Family:* a group of persons that fall within a male's bloodline.

*Yambo:* a performance in which more than two families participate and during which a musical work is performed.

*Pareyambo:* a Yambo in which men, woman and children from at least two families participate and during which a musical work is performed.

*23710.1: Ownership of, and ownership rights in a musical work:*

A person who composes an original musical work, or is the recipient of legitimately alienated ownership rights in a musical work, obtains the ownership rights in that musical work. A person with ownership rights to a musical work has the right to:

- (a) alienate or deny the alienation of ownership rights in the musical work

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<sup>4</sup>The reference number "23710" represents Moyumbanu's death date (July 23<sup>rd</sup>, 2010), to whom this paper is dedicated.

- (b) retain ownership rights in any derivative work
- (c) require any person to learn the musical work, from the owner directly or by a method elected by the owner, before performing it
- (d) prevent a person who does not play the musical work as it was taught from performing the musical work again.

*23710.2: Alienation of ownership rights in a musical work:*

To alienate ownership rights in a musical work to a recipient, an owner must give notice to the community at large of his intent to alienate said ownership rights to the recipient and a recipient must give notice to the community at large of his acceptance of said ownership rights from the owner. If a person dies without alienating their ownership rights in a musical work, the ownership rights in that musical work belong to all members of the deceased's family upon death.

*23710.3: Sharing, expiration and suspension of rights in musical works:*

The right to use the rhythm, melody, and dance of a Yambo is shared by the community at large. Strictly regarding members of the Nahu tribe, ownership rights in a musical work that are held by a family expire upon the death of the last surviving member of persons born into the composer's family no later than ten years after the song's composition. Ownership rights 23710.1 c) and 23710.1 d) are suspended as to persons united in the performance of and for the duration of a Pareyambo.

*23710.3: Infringement:* The violation of ownership rights protected in 23710.1-2 is an actionable infringement.

**The Headwaters: Kewayambo, Ganuyambo, and the norms that govern the ownership and transfer of property rights in musical works**

Kewayambo's and Ganuyambo's stories are also the stories embedded within the norms that govern the ownership and alienation of rights in a musical work. These are the Yambo of the elder's era, sung by the Nahu that migrated over the crest of the Finisterre Range into what is now Gumbarami and Moro lands (Interviews, Gumbarami, Moro, and Sewe elders, July 2010).

Kewayambo has a unique rhythm, melody, and dance. Its beat is patterned off the sound of water clapping against stone as it falls and runs its course. Participants dance in unison, a rhythmic sway of bodies that dip as men bend low their knees and backs then quickly crests as each man straightens. The melody originates from a bird's call. These elements are ancient, performed by Rai Coast Nahu ancestors living on the coastal side of the mountain. The first explorers who settled Nahu One territory changed the pitch of the Kewayambo melody, thus distinguishing themselves from the Rai Coast Nahu.

Kewayambo is literally translated as "fire song." The name is derived from the occasion by which an adolescent male received his song, which is intrinsic to the process by which a boy became a man. This process took place at the "houseman," a large home built away from the larger village where men live.

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When boys reached adolescence, they went to the houseman to live with elders for their initiation into adulthood.

The elders' first tied a wig of strong vines, called a Rombe, into the adolescents' hair. Small, leathery, cylindrical flowers, colored in a brilliant crimson with pure white tips, were strung along the vine end to end to make long red strands with intermittent white bands. The Rombe reached from the head to the lower back and the adolescents slept sitting up to preserve the wig. When all the Rombe loosened and fell from the adolescents' head, the initiation into adulthood was complete.

The Rombe's purposes were to enable the adolescent to learn from the elders and to reveal his strength of character. As long as the Rombe were tightly fastened to the adolescent's head, he possessed the power to learn what the elders had to teach. Elders circumcised each adolescent and taught them the ways of Nahu life: their customs and religion, how to care for a family, fight in battle, garden, hunt, trap, etc. Every adolescent had to follow strict rules and guidelines during this process. The adolescent's ability to follow these rules demonstrated his strength of character and the Rombe revealed which adolescent broke the principle rule: the initiates cannot be in the presence of a woman during this time. If a particular iridescent-blue fly rested on the crimson Rombe, the adolescent's peers and elders knew that he was with a woman and that his character was weak. The adolescent with Rombe that remained free of the fly and fastened the longest was the strongest in character.

The majority of adolescents received a song while at the houseman. The song was often given by a dream-man while the boy slept beside the sunken fire pit in the center of the house. Other times a bird provided the song. This song is a man's sacred fingerprint. Some tell the story of the individual's place within a family. Some are deeply religious. All songs are revered and respected. In rare circumstances, shortly before death, an individual may give his song to another, often to someone who did not receive a song. Normally, however, a song composed during this time belongs to the composer until his death. Only a man with a song can participate in the wider Kewayambo performance.

When the adolescents' initiation process ended, the men returned to the village center. The entire community – normally all three villages – and a freshly cooked feast awaited the initiated. Participants gathered in concentric circles, the elders in the center and the newly initiated with their battered, wild, and falling Rombe at the outer edge. The performers' kundu drums began the irregular rhythm and the mass began to turn and sway and dip and rise in unison. While all would sing the same Kewayambo melody, each man sang his own lyrics. The collection of each individual song and stylistic melody joined to compose a larger, recognizable whole, called the Kewayambo. If one of the families belonging to a clan was not represented by a family member's song, the performance was not Kewayambo (Gumbarami, Moro, and Sewe elders, interviewed by author, July 2010).

The first norm to be gleaned from Kewayambo is the rule underlying all Yambo: the right to use the rhythm, melody, and dance of a Yambo is shared by the community at large (23710.3). An individual's song is not purely an insular method of self-expression. It flows from the heritage that comes before it. Because the rule allows for an outlet through which individuals' songs are performed for the whole community from generation to generation, the rule preserves the heritage embodied within the song. It ensures a uniform and pre-existent structure within which individuals create. Like a sonnet's structure, the form generates the content, distinct in itself but consistent with the form. While individual songs are not identical, they share the same backbone the composers' grandfathers shared, creating a unity between generations and a shared, musical, Nahu One identity.

The norms concerning individual ownership rights vested in a musical work are also present in Kewayambo's story. A person who composes an original musical work obtains the ownership rights to that musical work (23710.1). A man's song, especially his Kewayambo, is bound to his adult identity and his relationship to the community and world at large. Often, a song carries spiritual significance. In kinship societies identity is paramount and a song that identifies an individual is fiercely protected. It was and is a grave offense to infringe upon another's identity by wrongfully sharing or performing another's song. The protection of a song's meaning is central to Nahu property rights in musical works. This principle generates the following ownership rights.

A composer can require any person to learn the musical work, from the owner directly or by a method elected by the owner, before performing it, and to enjoin a person who does not play the musical work as it was taught from performing the musical work again (23710.1 (c) and (d)). By preventing someone from playing a composer's song until the song is learned, these rules protect the personal meaning and commercial value songs hold. While Pareyambo created exceptions (discussed later), persons who have not properly learned an owner's song cannot sing it. Traditionally, it was very rare for a man to give or sell their Kewayambo to another. The act was reserved for particular circumstances. For example, if a composer had no relative to give his song to, he may choose to give or sell it to someone (whom he greatly respects) outside the family line. In this way, the man's story lives within the throat of another. Because there was no written language or ability to record music (before the 1980s), a song was not easily separable from its creator and teaching was the initial method of distribution. Passing on unaltered knowledge is a reverent act and the above rules protect the meaning of an individual's song as it is distributed from person to person.

Another ownership right – the owner retains ownership rights in any subsequent derivative work – also protects the meaning and commercial value of a song (23720.1 (b)). Essentially, this rule turns any derivative into a gift to the composer. Like the performance of another's song, the creation derived from an original work must honor the work's meaning. Because the composer retains ownership rights in the derivative, it likely will honor and embody the original work's content in another form. A gift is one method for alienating

ownership rights in a musical work to another person. When one receives a song as a gift, he receives the ownership rights vested in that song (23710.1). This act creates a reputable association between the benefactor and beneficiary. The topic of gifts introduces the norms governing the alienation of ownership rights in a musical work, as well as one of Ganuyambo's stories.

Ganuyambo is as old as Kewayambo (Interviews, Gumbarami, Moro, and Sewe elders, July 2010). Its purposes were to celebrate a momentous occasion, evoke love in the hearts of listeners, honor a respected individual, and honor Usarong, the traditional Nahu god. Ganuyambo shares the same rhythm and dance with Kewayambo, but has a deeper, guttural, melody that changes during the beginning, middle and end of the performance. Performers started Ganuyambo at dusk by singing one melody in unison and then broke into their own individual songs. Again, the collection of each individual song created one whole. As the performance ends, usually at dawn's first light, the performers joined again to sing the uniform closing melody (called *bisabisa*), which imitates the songs of morning birds.

A man could sing any song he owns during Ganuyambo. After composing the adult initiation song, one may compose any number of songs. Some men do not receive and compose a song and therefore cannot participate in community Yambo. For various reasons, a song owner may give a song to a man who has none. The Ganuyambo gift ceremony initiated the novice into the art of the Yambo. After the song owner taught the novice his new song, he chose a day for the celebration. He then fashioned a four to five foot high headdress, with a base made of leaves that covered the novice's face and head, and a trunk made of either one solid piece of wood or carefully hewn branches that connect and rise in conjoined triangles. The headdress was decorated in brilliant red feathers plucked from a rare bird called the Nombio. The longest and brightest of the blaze crowned the headdress. Other participants wore smaller but equally elaborate headdresses. Participants gathered in concentric circles with the novice at the center. The owner sang the song once all the way through, and then everyone joined. After completing the initial song each participant sang his individual song until dawn, at which time they unified again in the morning melody (*bias-bisa*). When the performance ended, the song belonged to the novice (Interviews, Gumbarami, Moro, and Sewe elders, July 2010).

The Ganuyambo gift performance exemplifies the rule concerning the transfer of ownership rights: an owner must give notice to the community at large of his intent to transfer ownership rights to the recipient and the recipient must give notice to the community at large of his acceptance of said ownership rights from the owner (23710.2). The methods for transferring such rights are through the sale and the gift of a song. The rule's purpose is to clearly identify who holds ownership rights in a musical work. Ganuyambo constitutes clear notice.

Relationships, and therefore gift giving, are cornerstones of Nahu culture. Gifts create or solidify bonds and obligations between individuals, families, and clans. Song gifts are commonly included in a bride price. For example, if a man from Sewe village marries a woman from Gumbarami, an individual in the

man's family from Sewe may give a song to an individual in the woman's family from Gumbarami. When the Gumbarami family learns and sings this new song, the story of the gift, and the familial obligations and bonds created through marriage, are simultaneously evoked and recognized. The song will be taught to many throughout Gumbarami. Previously, the song was only sung in Sewe. After the gift, Gumbarami members who learn the song may sing it. When the two villages meet to perform a Yambo they will be unified in the song as the families are unified through the marriage. Indeed, tracing the transfer of a song's ownership rights through different families and clans also traces the family tree of relationships and alliances created within the Nahu tribe (Interviews, Gumbarami, Moro, and Sewe elders, July 2010).

Nahu songs have not only extrinsic and communal value, but also a commercial value enjoyed by individual creators. Historically, selling songs was a common practice. If a potential buyer has no song, or simply enjoys the song enough to purchase it, and has not already learned the song, the seller will teach the buyer how to play it correctly before agreeing to sell it. Songs were traded for other songs, or bought with customary wealth: pigs, other rare proteins such as tree kangaroo or birds, ornament made of shells and teeth, and decorative feathers. The exchange increased the stature and bartering power of each party. Again, both parties must give notice to the community at large of the transfer of ownership rights in the musical work (Interviews, Gumbarami, Moro, and Sewe elders, July 2010).

While the seed of ownership begins with an individual, through the basic norm governing intestate succession, ownership can quickly extend outwards into every branch of every family line. This is the final method for alienating creative property rights in a musical work: if a person dies without transferring their ownership rights in a musical work, the ownership rights in that musical work transfer to the members of the deceased's family upon their death (23710.2). All who own a song must consent to the transfer of the rights vested in a song. Once held in common, the marketability of a Nahu song dramatically decreases. Building consensus, however, is woven through the Nahu culture and the transfer of ownership rights in a musical work held by many individuals is common. In these circumstances, the norms requiring consent and notice of the transfer of property rights in a musical work are essential. If four siblings own a song and one sells the song without obtaining consent from the other three siblings or fails to give notice to the community at large, the three siblings that remain unaware of the sale will defend their interest in the song against the new owner. Notice prevents this potential conflict.

It is unusual for a song owner to die without assigning their ownership rights to another and the act usually reflects the owner's intent that the song belong to the community. A song enters the 'public domain' upon the expiration of a musical work's ownership rights. Ownership rights in a musical work that are held in common expire upon the death of the last surviving member of persons born into the composer's family no later than ten years after the song's composition (23710.3). In terms that are accurate but less precise, after roughly two generations grow up hearing a song sung during Yambo performances, and

the rights to the song have not been alienated by the owner, the song belongs to the Nahu tribe. Such songs are legends, or are sung to remember ancestors, and the incentive to unify a community within the song's meaning outweighs enforcing residual ownership rights vested in the work.

The Yambo's form, ownership rights, and norms governing intestate succession, balance an individual's commercial interests with the heritage in which the composer creates. They restrict the composer's freedoms enough to maintain the Nahu heritage, but not enough to overcome a song's personal and economic value. Individually held ownerships rights encourage composers to make music. Teaching norms limit access to songs, thereby increasing a song's value. The norms also allow composers to benefit from selling, trading, and gifting compositions. In addition, the norms preserved the religious, political, and socio economical significance embodied in a song, thus protecting the individual and familial reputation exemplified by a song.

The Yambo's communally held form and structure, together with the norms governing intestate succession, restrain a song's marketability and preserve the heritage in which the composer exists. The Yambo's form created the boundaries in which a creator may invent. While this practice prevented changes in musical style and restricted the marketability of music, it ensures that the same outlet for musical and spiritual expression would be available from generation to generation. In other words, marketability and innovation are subordinated to generational stability. Operating together, the norms ensure at least one of the Yambo's purposes: to recognize the individual's identity within the larger past, present and future Nahu identity. The success of these norms is evidenced by the fact that songs composed three hundred years ago are still performed (Interviews, Gumbarami, Moro, and Sewe elders, July 2010).

#### **The confluence: Pareyambo's new forum**

PNG gained its independence in 1975 and Pareyambo emerged at about the same time (Gumbarami, Moro, and Sewe elders, interviewed by author, July 2010). Pareyambo is a celebratory performance for everyone in the community: woman, children, men, those with or without songs, and those that follow the old and new religions. Pareyambo has its own rhythm, melody and dance to which most songs now conform. It may be performed by one village, by a collection of villages that perform it separately, and by a collection of villages united in its performance.

The performance begins at nightfall and ends at dawn. Performers gather in concentric circles around a small fire and the ceremony's leader. Men compose the center ring of performers. Around the men dance a ring of children. Women – painted in yellow and white pollen, decorated in bright flowers woven into greenery, grass skirts swaying from their hips – surround the whole group. The air smells of sap (heated and shaped to tune the kundu heads), freshly cut flowers and smoke. A leader begins and completes any known song. The circling mass orbiting the lone voice echoes the song in unison. The performers sing the song repeatedly until a leader chooses a new song. Pareyambo's

performance recognizes the strong bonds (and divisions) present between the many family lines that compose each village (Gumbarami, Moro, and Sewe elders, interviewed by author, July 2010).

Pareyambo's form generated an exception to two ownership rights. Persons united in a Pareyambo performance can freely sing one another's songs for the duration of that Pareyambo (23710.3). During the performance, the owner's ability to require another to learn his song before singing it and to enjoin a person from singing a song is suspended. The norm operates in the following way. When one village performs Pareyambo alone, every member of the village can sing and learn any song included in the performance. The freedom to sing anyone's song, whether or not one has learned or has explicit permission to sing the song, represents a united community.

When more than one village meet to celebrate, but each village performs Pareyambo separately, each village can only sing songs owned by its own members. In this case, persons from different villages are not united in the Pareyambo performance and therefore do not enjoy the exception's benefits. Consequently, with respect to members of each separate village, the fundamental norms govern who can sing what songs. When more than one village unites to perform Pareyambo as one whole, members of the united villages can sing and learn one another's songs. If the Moro and Gumbarami villages meet in Gumbarami to perform Pareyambo together, Moro's members can sing songs that only Gumbarami members own and visa versa. There are times when Moro, Sewe, and Gumbarami will meet in Gumbarami, but only Moro and Gumbarami will unite to perform Pareyambo. In this case, Sewe can only sing songs owned by its own members. The rule reinforces the unity of those villages that perform together and the division of those villages that perform alone.

Pareyambo's exceptions reflect a more inclusive culture and the devaluation of traditional music as a result of outside influence. In contrast to Kewayambo and Ganuyamob, Pareyambo is strikingly inclusive in that woman and children participate in its performance. Not only do women own songs, today's musical celebrities are women. In addition, people who do not have a song, as well as followers of the old religion and Christianity, can participate in Pareyambo.

The exceptions also reflect the devaluation of customary music as a result of outside influence. While the Nahu One worldview remains heavily influenced by the customary religion, Christianity is the predominate religion. Due to the intrinsic relationship between Kewayambo, Ganuyambo, and Usarong, together with the emergence of a new belief system, the customary Yambo are disappearing. Today's elders know the customary Yambo, but most have not taught the common melodies to the next generation. Ganuyambo was last performed in 1974 and Kewayambo in 1986 (Gumbarami, Moro, and Sewe elders, interviewed by author, July 2010). Consequently, Nahu youth do not know the customary Yambo. While all generations still create music for Pareyambo, and gift and sell songs, the youth are incorporating western musical styles into their Pareyambo compositions.

Finally, the fact that customary norms governing creative property rights are not enforceable in PNG's formal courts erodes the value of customary musical works. Educational and anthropological demand for customary music, and the fact that PNG copyright law protects an outsider's recording of a composer's song, gives rise to many conflicts. Due to the deep meaning of a song, composers often felt robbed of their identity when non-members recorded and distributed a song. Unless resolved privately, these disputes remain outstanding. Not only are the country's courts too expensive for Nahu members to access, the courts do not recognize customary creative property rights. The value vested in songs and enforced by customary norms has decreased because the formal forums that may offer remedy do not enforce customary norms. As a result, customary norms are strictly enforced against outsiders and Nahu members no longer share or teach TK with non-members.

### **The trade post: Closing thoughts**

"Known laws are lived laws." The Nahu represent one of 830 language groups in PNG, each of which live their own distinct system of norms governing rights in creative works. Let this paper inform the debate driving the implementation of Traditional Knowledge (TK) legal regimes. A TK regime that, for example, only recognizes communal rights in TK will subvert any community's customary system that recognizes an individual's right to benefit from a creative work. A TK legal regime designed to recognize, reinforce, and further indigenous rights should, wherever possible, incorporate and defer to the rights of indigenous people as understood within their particular culture.

The Nahu norms detailed above have survived cultural change and preserved Nahu identity. While making music was and is commercially valuable, preserving the identity encapsulated within musical expressions is the core purpose of the norms' application. The very pin in the wheel turning the Nahu way of life is under extreme stress as the people adapt to and adopt elements of novel worldviews. However, it is the strength and composition of the pin itself, represented by the enduring quality of the norms, which hold the wheel together.

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