

Anthropology and Advocacy

A Case Study of the Campaign against the Ok Tedi Mine

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Abstract ■ What are the responsibilities of anthropologists towards the communities with whom they work? This article examines debates on anthropology and advocacy in relation to the Ok Tedi copper and gold mine in Papua New Guinea. Since the early 1990s, the indigenous communities living downstream from the mine have carried out an international political and legal campaign to reduce the mine's environmental impact and gain compensation for the damage it has caused. I argue that neutrality may not be possible in disputes between transnational corporations and indigenous communities because of structural inequalities that make it easier for corporations to take advantage of anthropological expertise and silence opposing voices. This article invokes questions raised in recent discussions of cultural property rights to consider the *proprietary* responsibilities of anthropologists towards the information that they collect and the claims made on anthropologists by the subjects of their research. Finally, the article considers the implications of recent political and economic trends regarding the role of non-governmental organizations (NGOs) in monitoring international capital for anthropological activism.

Keywords ■ activism ■ cultural property rights ■ environmentalism ■ mining ■ non-governmental organizations (NGOs) ■ Papua New Guinea ■ political ecology

What is the value of anthropological knowledge for the communities with whom we work? What are the responsibilities of anthropologists to these communities? Should anthropologists adopt a position of advocacy in relation to local political struggles? What are the consequences of maintaining a neutral stance in such contexts? These questions are not simply rhetorical, for they are increasingly raised by the claims made by the people with whom anthropologists work. My own 'ethnographic moment' (see Strathern, 1999b: 230) emerged in response to the environmental impact of the Ok Tedi copper and gold mine on the communities in Papua New Guinea with whom I have carried out ethnographic research during the past 15 years. The mine releases more than 80,000 tons of tailings and other mine wastes into the local river system daily, causing extensive environmental degradation. It is my participation in the political and legal

campaign to limit further pollution of their rivers and adjacent forests, and to gain compensation for damages already caused by the mine, that is the focus of the discussion here.¹

I want to contextualize this discussion with reference to emergent notions of *proprietary rights* to culture. Recent debates on 'cultural property' have focused on the kinds of rights that people may claim in relation to their ideas and practices. Anthropologists and others have debated the merits of extending property regimes to culture in the context of increasing globalization (e.g. Barron, 1998; Coombe, 1998; Greaves, 1994; Posey, 1996). These rights have been proposed not only for the ownership of particular objects or techniques, but also the ideas and knowledge on which they are based. While scholars have expressed legitimate concerns about the consequences of the 'proptertization' of culture and its potential exclusion from the public domain (e.g. Brown, 1998; Kalinoe and Leach, 2001), these proposals are nonetheless being given serious consideration by a number of multilateral organizations, including UNESCO, the International Labour Organization (ILO) and the World Intellectual Property Organization (WIPO). Regardless of one's position on whether 'culture' can or should be treated as a form of property, itself a Euro-American discourse of long standing, indigenous peoples and other communities are increasingly claiming *proprietary rights* to their culture, through which they seek to control how local knowledge and products circulate and the uses to which they may be put. This includes the information that these communities elect to share with anthropologists and other scholars. These debates highlight how information elicited by anthropologists has multiple and overlapping claims on it, including the interests of sponsoring organizations which may require that a portion of the research results be publicly archived, of universities and departments which expect that this information will be published in scholarly venues, and of community members themselves, who may regard this information as a form of investment – which may entail certain kinds of reciprocal obligations – in the researcher. I suggest that this latter claim in particular requires anthropologists to reconsider their relationships to these communities.

This article has two main parts. In the first section, I summarize and develop an exchange with Colin Filer that was published several years ago in *Anthropology Today* in which we debated the appropriateness of advocacy within anthropology.² The discussion focused on my contribution to a lawsuit by indigenous plaintiffs against the Ok Tedi mine, which was settled out of court in 1996 for an estimated US \$500 million in commitments to compensation and tailings containment (see Banks and Ballard, 1997).³ In the second half of the article, I address subsequent problems with the implementation of the settlement agreement and the release of new studies suggesting that legal action may have come too late to save the river and the surrounding forests. I then review more recent activist engagements, including a return to the courts in a writ charging BHP (now BHP Billiton,

one of the three largest mining companies in the world), the majority shareholder and operating partner of the mine, with breach of the settlement agreement. Finally, I consider the implications of recent political and economic trends regarding the role of NGOs in monitoring transnational corporations and new discourses expressing proprietary rights to culture for anthropological activism.

Advocacy and neutrality, a debate

The antecedents of my debate with Filer are relevant here, given the question of how some forms of knowledge come to be widely circulated and acquire significance, while others are displaced. As the 1996 Royal Anthropological Institute and Goldsmiths College Fellow in 'Urgent Anthropology', I was invited to contribute a commentary to *Anthropology Today*, describing the lessons that could be learnt by anthropologists about the political campaign and legal action against the Ok Tedi mine, which had recently been settled out of court. Let me review the key points of that article before describing the responses that it provoked. The rationale for the article was that the settlement provided an opportunity to assess the usefulness of international collaboration between indigenous peoples, anthropologists, lawyers and NGOs. I suggested that the working assumption of these coalitions was that political responses to the problems caused by transnational corporations must focus on global interconnections. This requires indigenous leaders to gain the skills and knowledge necessary to represent community interests in the international arena.

I also discussed the lessons that might be derived from government and corporate responses to their campaign. I described how corporations may employ bully tactics in their efforts to break up these alliances, including legal threats against its key players and attempts to divide the opposition through offers of employment and other inducements. Governments are likely to invoke the sovereignty trump card in order to evade international scrutiny and pressure. Corporations may hide behind host governments, claiming that their choices are constrained, or conspire with them against the alliance by attempting to legislate the problem out of existence and/or criminalize participation in protests or legal actions. All of these options were deployed at various times during the Ok Tedi case. Finally, I suggested that while the threat of government violence may be a critical factor in these disputes, indigenous communities may retain power of veto over unwelcome developments, as demonstrated by the violent closure of the Panguna copper mine in Bougainville in 1988, which precipitated a decade-long civil war. However, an important objective of the protest movement against the Ok Tedi mine was to find a non-violent solution to their dispute with the mine. The peaceful settlement of the Ok Tedi case suggests that political activism, legal pressure and increased public scrutiny can be an effective combination.

In examining the contributions of anthropologists to these alliances, I opined that they are well-positioned to analyse the social costs of environmental problems. Drawing on their understandings of local views on social and environmental issues, they can facilitate communication between the respective parties. Ideally, anthropologists will also provide local communities with information and resources that will assist them in presenting their own claims more effectively. While there is always a risk of political fallout for anthropologists who adopt an activist stance, this may be muted when focusing on the responsibilities of one's own society to regulate business and industry, including their impact abroad.

My article ended on a note of cautious optimism. Global alliances may only be practical for the most egregious of circumstances. They may not always be successful, as Ken Saro-Wiwa's execution and the on-going protest of the Ogoni against Shell in Nigeria illustrates (Bastian, 2000). Even if successful, the implementation of the resulting agreements may precipitate new problems and concerns, including conflict over the distribution of benefits and NGO 'compassion fatigue', effectively denying communities the support that they may need to take advantage of new resources and opportunities (Kirsch, 2000).

While the courts have generally been reluctant to claim jurisdiction over corporations operating abroad, such legal tactics have become increasingly prevalent since the Ok Tedi case, including actions taken against Freeport-McMoRan's Grasberg mine in West Papua (Irian Jaya, Indonesia), Exxon-Mobil's natural gas installation in Aceh, Unocal's oil pipeline in Burma, Shell for its petroleum operations in the Nigerian delta, Rio Tinto for its copper mine on Bougainville, Texaco for its petroleum operations in the Ecuadorian Amazon and Thor Chemicals for the health impacts of mercury-based chemicals on its South African employees, all of which have recently been or are currently before the courts in the United States and the United Kingdom (Kirsch, 1997d; Newell, 2001; Ward, 2001a). Other actions which raise questions about 'foreign direct liability', including new and stronger linkages between the provision of financial support for resource development projects abroad and compliance with industry standards at home, also show promise as effective regulatory mechanisms (Newell, 2000; Ward, 2001b). I concluded the article by arguing that activism is a logical extension of the commitment to reciprocity that underlies the practice of anthropology.

The publisher's response

When my article was published in *Anthropology Today*, I was surprised to learn that it had been sent to BHP for review and comments, and to ascertain whether the corporation objected to its publication. The piece was eventually published as submitted, although five footnotes attributed to BHP were appended to the essay.⁴ In considering these actions, it is important to bear in mind that the essay in question was written by a scholar whose

work was both unfamiliar to the editor and critical of a major transnational corporation.

I present these facts not to criticize *Anthropology Today* or its publisher, the Royal Anthropological Institute, but rather to examine the power relations which informed their actions. Permission to publish anthropological findings is presumed to be implicit in the practice of conducting ethnographic research, although anthropologists in the United States are increasingly subject to the strictures of institutional review boards (see Shea, 2000). However, these controls over research differ substantially from the right to veto or to veto specific publications, which anthropologists rarely if ever grant to the subjects of their ethnography. Although anthropologists regularly exclude certain kinds of information from their publications, including the names of informants, secret knowledge, confidential information and other data that might put their informants at risk, decisions on these matters are most often left to individual anthropologists or negotiated within the discipline rather than between anthropologists and the subjects of their studies.

The right to publish one's work may be implicit when conducting research among indigenous communities, but this is not necessarily the case when writing about powerful corporations like BHP. I recount these events to illustrate how corporations have the ability to affect the outcomes of scholarly research in ways that indigenous communities and other parties do not: did anyone consult with the Yonggom that their views were properly represented in my article? This example also highlights the controversial status of advocacy within anthropology.⁵

A colleague's critique

In his response to my article, Filer asked: 'What exactly do *anthropologists* contribute to this struggle. What weapons, tactics or strategies make them especially useful to the alliance?' (1996: 26; emphasis in the original). Let me briefly summarize his major points. He noted that my ethnographic knowledge of the communities downstream from the mine had enabled me to provide expert advice, at different points of time, to the mining company (in the context of a social impact study), to the community members themselves and to their solicitors. I shall have more to say about these relationships below.

He also argued that the real value of my contribution to the Ok Tedi case was as an 'honest broker' rather than an advocate. Filer (1996: 26) recommended that anthropologists adopt a position of neutrality by 'presenting themselves as stakeholders with the special ability to persuade all the other stakeholders to take better account of each others' mutual interest'. The justification that he provided for this position was two-fold: 'first that mining companies in PNG [Papua New Guinea] require the assistance of anthropologists and are in fact the primary customers for such expertise and advice', and, second, that indigenous communities will 'sometimes

trust anthropologists who work for mining companies to represent also the community interest', although he observed that this requires considerable 'ethical and political sophistication' on the part of the anthropologist (1996: 26). In this regard, it is interesting to note that a number of communities along the Ok Tedi River have begun to refuse access to their villages to social scientists affiliated with the mine. These actions have been taken because they are angry with how information which they have shared with 'neutral' researchers has been used by the mine to support agendas that they find objectionable. Filer (1996: 26) concluded his letter with the following salvo:

My fear is that Kirsch may have underestimated, even if he has not intentionally disguised, the real importance of his involvement in the settlement of the Ok Tedi dispute, as an honest broker and anthropologist. If anthropologists conceive themselves merely as the 'allies' or 'supporters' of the righteous and indigenous, they may be missing an opportunity to do (and claim) something which is far more effective in its practical outcome, even if it is harder to defend in the global tribunals of political correctness.

Rebuttal

I take up Filer's arguments here in the interest of examining the nature of advocacy in anthropology. I focus on one of Filer's key assumptions, the possibility of remaining neutral in relation to conflicts between multinational corporations – given their money, their power, their solicitors and their occasional power of veto over the publication of anthropological research – and indigenous communities, for whom the support of academics, NGOs, journalists and, much less frequently, solicitors willing to take up their case, may constitute strategic assets.⁶

To Filer, relations between mines and indigenous communities resemble a game of high-stakes poker, which can be considered a fair contest because one set of rules applies to all of the players, even though some can afford to wager larger sums of money or are more experienced in playing the game.⁷ His analysis is based on a model of stakeholder analysis in which all parties converge at the negotiating table; his key assumption is that there are commonalities of interest that the anthropologist adopting the role of an 'honest broker' can help to identify.⁸

In contrast, I would argue that structural differences in power between mines and landowners are the key to the analysis of these conflicts. No poker game is fair when one player (the company) changes the rules to suit its hand, threatens to walk away from the table before the others have the opportunity to recoup their losses and has a secret pact with the dealer (the government), who agrees to evict anyone who challenges the way that the game is being played. Furthermore, in the Ok Tedi case, this high-stakes game was by invitation only, requiring a court appearance for the communities downstream from the mine even to gain a seat at the table.

While the two views are not necessarily mutually exclusive – stakeholder analysis is possible provided that structural asymmetries are accounted for – they suggest different roles for anthropologists. Filer sees anthropologists as servants of the common good, by which he means the nation, which he treats as the embodiment of shared interests among all stakeholders. Filer’s vision of a level playing field leads him to propose that anthropologists act as referees in disputes over resource development projects, rather than advocates on behalf of indigenous stakeholders. He argues that policy reform should be the goal of anthropologists rather than advocacy.⁹ In contrast, my approach privileges the communities with whom I have carried out research, including their understandings and interests. In neither case is objectivity necessarily impaired, although Filer’s position displays a certain structural blindness to the unequal distribution of power, whereas my work elides some of the complexities inherent in balancing local and national interests given the importance of mining to the economy of Papua New Guinea. These perspectives may well be associated with our respective interactions with these organizations and communities, including Filer’s (1999: 96–100) role as the manager of a university consultancy company versus my long-term ethnographic relationship with the communities living downstream from the mine.¹⁰

Other choices

Let me describe the decisions made by several other anthropologists vis-à-vis the Ok Tedi case. My argument is that the scholars who chose to remain neutral during the campaign against the Ok Tedi mine ended up providing resources to one side but not the other. In 1991, the mine hired a consulting firm associated with the University of Papua New Guinea to investigate its social impact on the communities living downstream. A team of social scientists was engaged to examine these concerns along the length of the Ok Tedi and Fly Rivers. As part of this project, I was asked to return to the Yonggom and Awin villages on the lower Ok Tedi River where I had previously conducted ethnographic research. The social monitoring project had been initiated by a faction of the mining company which – with an eye to the causes of the 1989 civil war in Bougainville, prompted in part by resentment regarding the social and environmental impacts of the Panguna copper and gold mine – was concerned that reactions to the problems downstream from the Ok Tedi mine might also become a runaway train. The generous interpretation of their motives was that the research was intended to recommend potential remedies for the problems caused by the mine before they became too great to manage.¹¹

Following the commencement of litigation against BHP in 1994, the other social scientists involved in the project adopted a neutral stance vis-à-vis the dispute. None of them published or otherwise made available the results of their research to the public, nor did they provide assistance or advice to the Papua New Guinean plaintiffs in the case.¹² Consistent with

their neutrality, they rejected overtures to assist the lawyers representing the mine, although the mining company continued to liaise with several of the project members, myself included. Information generated through interaction with members of the communities affected by the mine was only made available to the mine, and not to the communities themselves, who never received copies of the research reports.¹³

The social impact study of the lower Ok Tedi River communities that I carried out was commissioned in 1992 and completed the following year. Although the mining company never challenged the validity of my findings, which have been substantially borne out by subsequent investigations and events, efforts were made to limit its distribution, with one of the mine executives reportedly telling a member of the research team that he intended to 'bury Kirsch's report so deep that it will never see the light of day'. Again the question of corporate veto power over the distribution of anthropological knowledge is at issue, even though this particular report clearly had three claims on it – that of the anthropologist as intellectual property, local communities as participants in the research and the mine as the sponsor of the study.

The American Anthropological Association (1986) code of ethics obliges its members to make public the results of their research. When I published a brief report on the impact of the Ok Tedi mine in a Cultural Survival publication on indigenous peoples (Kirsch, 1993), my contract with the consulting company was not renewed. While publishing that article meant choosing sides – it included a partisan call to American readers, urging them to contact the CEO of the US corporation AMOCO, then a shareholder in the mine – I reject the claim that electing not to publish this material would have been a neutral choice.

From the corporate perspective neutrality does not exist either; in the American vernacular, you are either 'with them or against them'. This was made evident to me in a series of corporate and legal manoeuvres which took place shortly after the lawsuit was filed in 1994. Initially the mine sought my services as an adviser, describing their concerns about the unscrupulous meddling of a profit-seeking Australian law firm. Yet shortly after I declined their offer, I received a letter from Arthur Robinson & Hedderwicks, solicitors for BHP, threatening me with legal action – on the grounds that I had carried out the social impact study commissioned by Ok Tedi Mining Ltd – should I continue to assist the plaintiffs or their solicitors in the matter before the courts. The implications of their actions were chilling: the mine sought to engage or silence all of the available academic expertise on its social and environmental impacts.

Anthropological agency

Filer challenges me to account for what anthropologists actually contribute to indigenous struggles. If the truth is the first casualty of large-scale mining projects, then my published work represents a useful corrective in the sense

of providing documentary evidence of the problems faced by the people living downstream from the mine. Drawing on several years of ethnographic research, I was able to publish essays and editorials that communicated local perspectives and experiences to a broader audience, information which was otherwise unavailable to the public (Kirsch, 1989a, 1989b, 1993, 1995 [1993], 1996a, 1996b, 1996c, 1996d, 1997a, 1997b, 1997c, 1997d, 2000, 2001). Over the last decade, this work has also been put to good use by several of the most active participants in the global alliance. My initial assessment of the problems downstream from the mine, for example, helped to prompt hearings on the Ok Tedi mine at the 1991 International Water Tribunal held in the Netherlands (International Water Tribunal, 1994). Writs filed by Slater & Gordon in the Victorian Supreme Court in 1994 drew directly on both my published and unpublished writings. Local activists incorporated material from my articles into their speeches when travelling in Australia, Europe and the Americas to spread awareness of the problems caused by the mine.¹⁴ During the 1992 Earth Summit, for example, one of the local leaders presented excerpts from one of my articles to the media during a press conference held on board the Greenpeace ship *Rainbow Warrior II* in the Rio de Janeiro harbour.

I will have more to say about the complex circuits that link the production and subsequent use of ethnographic material in my conclusions, but at this point let me point out that my interviews with local activists, among others, resulted in published works that they later deployed as strategic resources. As Bruce Albert (1997: 57–8) has noted:

... the social engagement of the ethnographer can no longer be seen as a personal political or ethical choice, optional and foreign to his scientific project. It clearly becomes an explicit and constituent element of the ethnographic relationship. The anthropologist's 'observation' is no longer merely 'participant'; his social 'participation' has become both the condition and the framework of his field research.¹⁵

That the community under study influences the direction of ethnographic research has become axiomatic in the era of reflexive anthropology, although the politics of cooperation and collaboration have yet to receive similar or sufficient attention.

In addition to writing about the campaign against the Ok Tedi mine, I also contributed to its development by working with local leaders, helping them to evaluate their options and convey their views. While the local leaders with whom I worked most closely had access to advisers who knew more about the law, mining or the media, none of them had more than a passing acquaintance with their society or rural life in Papua New Guinea. I had more than my own research objectives in mind when I discussed the case with local community members, politicians, mining executives, solicitors and NGO representatives; I examined the constellation of interests and power with an eye towards promoting equitable solutions to the problems

faced by the people living downstream from the mine. Moreover, I was party to many of these discussions not only because of my research experience and ethnographic knowledge, but also because of my long-standing relationships with local landowners.

In contrast, none of the social scientists who adopted a position of neutrality *vis-à-vis* the Ok Tedi campaign, or who continued to work for the mining company, were able to use their status as 'honest brokers' to facilitate communication between the parties to the dispute. Advocacy rather than neutrality enabled me to contribute to the settlement of the dispute between local communities and the Ok Tedi mine. This observation highlights the flaw in Filer's critique of advocacy: that the gospel of neutrality may limit what anthropologists are able to contribute to the equitable resolution of conflicts.

The campaign continues

In the second half of this article, I describe recent developments in the relationship between the mine and the communities along the Ok Tedi and Fly Rivers. My purpose is to answer Filer's (1996: 26) query regarding the nature of anthropological contributions to political struggles.¹⁶

In August 1999, Ok Tedi Mining, Ltd made public the results of environmental studies carried out after the case was settled out of court. These reports were devastating. Most significant was the recognition that even if mining were to stop immediately, environmental problems downstream from the mine will continue to *increase* and will persist for at least 50 years due to the sheer volume of tailings already in the river and ongoing erosion from waste rock dumps adjacent to the mine (Parametrix, Inc. and URS Greiner Woodward Clyde, 1999a: 8). This is as far into the future as these models can predict and the problems may well last even longer. Another admission was that there will be a cascading effect as the tailings and other mine wastes gradually migrate downstream, spreading deforestation in their wake (Parametrix, Inc. and URS Greiner Woodward Clyde, 1999a: 5).

Other concerns were also raised by these reports and the associated peer review commissioned by the mine (Chapman et al., 2000). More than 478 sq km of forest along the river was already dead or under severe stress in 1997 (Parametrix, Inc. and URS Greiner Woodward Clyde, 1999a: 7), with the greatest impact in the upper third of the river system. This damage will spread downstream and may eventually affect up to 1,500 sq km, although this could be an optimistic projection and the affected area might be twice as great (Parametrix, 1999a: 8). While the changes to the river system will eventually stabilize, the peer review emphasized that local species composition will probably not return to pre-mine conditions, with

savannah grasslands replacing much of the existing rain forest (Chapman et al., 2000: 17).

Concerns were also raised about toxicity at both the bottom and the top of the food chain. The reports questioned whether algae in the Ok Tedi River has been permanently affected (Chapman et al., 2000: 7–8) and suggested that chemical toxicity may be harmful to the plants and trees along the river, contradicting long-standing company assertions that these trees are dying of hypoxia because their roots have been covered by tailings (Parametrix, Inc. and URS Greiner Woodward Clyde, 1999b: 7–8). Local keystone species, including the flying fox, an important agent of seed dispersal in the lowland tropics, may also be vulnerable to the presence of heavy metals in the food chain (Parametrix, Inc. and URS Greiner Woodward Clyde, 1999b: 9).

Although the reports commissioned by the mine suggest that the potential health risks of exposure to heavy metals for the human populations along the river are minor (Parametrix, Inc. and URS Greiner Woodward Clyde, 1999b: 13), several concerns remain unresolved. The reports review data on copper, highlighting its irregular release into the river system, whereas previously the company only reported averages, which concealed these fluctuations. Periodic spikes in copper levels in the river can increase the amount of toxic material that becomes bio-available (Chapman et al., 2000: 16). High dietary intake of copper is toxic to humans. The reports commissioned by the mine also recommend that populations be monitored for their exposure to lead and cadmium, both of which are highly toxic substances (2000: 14). Finally, the threat of acid mine drainage is not insignificant. Were tailings from the mine to become acidic, this would precipitate an even greater environmental crisis. The peer review indicated that continued operation of the mine without effective tailings containment increases the chances that this will occur (2000: 8–9).

The 1996 settlement agreement stipulated that BHP would implement the most practicable tailings containment option following an independent review by the Papua New Guinea government. However, BHP's most recent reports claimed that none of the proposed options – a tailings dam, as envisioned by the original environmental impact assessment, dredging the lower Ok Tedi River to remove tailings and sediment, or a combination of dredging and a 100 km pipeline to transport mine tailings to a stable lowlands dump – would substantially mitigate the environmental processes already in train. They also claimed that the impact of the mine was far greater than they had previously anticipated and conceded that its continued operation was incompatible with corporate environmental values (Barker and Oldfield, 1999). The subsequent debate has focused on whether the mine should stay open and continue to pollute the river, or close down its operations, causing social and economic hardships at both the local and national levels.

Too late for Ok Tedi?

One political challenge posed by these reports was how to formulate a constructive response. I begin by presenting a range of views on these issues, based on interviews carried out in late 1998, prior to the release of the environmental studies carried out by BHP. These perspectives are relevant given their influence on subsequent campaign strategies.

In a series of village meetings convened to discuss the future of the region, people were discouraged about the prospects of reversing ongoing environmental degradation. Without an independent, external review of the prospects for tailings containment and environmental rehabilitation, these views were dependent on information released by the mining company. Australian NGOs were only able to provide the communities with very general information about the future of the mine, and this sometimes contained factual errors. Consequently, many of the landowners were sceptical of the viability of a tailings pipeline or other interventions. One landowner explained his views like this:

What is growing [along the river banks] now? Just pitpit, elephant grass, and softwood trees. Why protect them? They can grow anywhere. If we were talking about hardwood forest and animals, that would be different. But now? It is not worth protecting what is here. (Kirsch, fieldnotes, Kiunga, October 1998)

In a village meeting held in Dome, where I was based during my original fieldwork, I was told that:

By the time that the company implements their plans [for tailings containment], it will almost be time for the mine to close. . . . It would be better [just] to give us the money . . . because the river is already dead and the land and the creeks are already ruined. (Kirsch, fieldnotes, Dome village, October 1998)

Another landowner told me that:

If it is safe, then they should continue to dump tailings into the river . . . They can never fix this river – it is already dead. They should give us that money instead. By the time that there are results [from tailings containment], the mine will almost be closed. (Kirsch, fieldnotes, Kiunga, October 1998)

In Yeran village, they said much the same thing: 'We don't think that the pipeline will make any difference because the land is already spoiled . . . Everything is already damaged, already gone' (Kirsch, fieldnotes, Yeran village, October 1998). At the same meeting, another landowner described the situation in the following terms: 'We want fortnightly . . . compensation payments. When we say "fortnightly," it means survival. The sago swamps are almost gone, so we need an alternative means of subsistence.'

It is worthwhile reviewing several other perspectives on the case as well. Brian Brunton, a lawyer employed by Greenpeace Pacific who was party to the original lawsuit, continued to stress environmental issues and the larger national scene:

The priorities in the Ok Tedi case are environmental. What legacy will we provide for future generations of Papua New Guinea? How does this case shape policy in the minerals and petroleum sector? We cannot roll over on the pipeline. The Ok Tedi mine has produced damage in perpetuity for very low profitability; a few quid for this generation at the expense of future generations. If we disengage now, there is no chance of affecting other mining projects in Papua New Guinea. (Kirsch, fieldnotes, Port Moresby, October 1998)

The view from the mine, as represented by David Wissink, programme manager for agricultural development at the Ok Tedi mine, was that:

People ask me: 'Why spend 30 million [dollars annually] on dredging, why not use the money to benefit the communities directly?' Even if it is affordable, the pipeline is a waste of money. The social costs of closing down the mine without establishing a sustainable economy based on agricultural development are far greater than the ecological costs of continued dumping into the river. (Kirsch, fieldnotes, Tabubil, October 1998)

A Catholic priest based in the mining township in Tabubil, who was also a board member of a regional trust that controls some of the benefits from the settlement, was similarly concerned about the social and economic costs of early closure:

The proposal to close the mine early is very serious. Thirty-five hundred people are employed by the mine and the region depends on the road for transport. The government has no plans for after the mine closes and the long-term development projects being set up by OTML [Ok Tedi Mining Ltd] need a decade before they become established and self-sustaining. It would be a far larger disaster . . . for the mine to close early [because of the resulting] social unrest and [the curtailment of] social services. (Kirsch, fieldnotes, Tabubil, October 1998)

Finally, in a briefing given to stock analysts in June 1999, Paul Anderson, the CEO of BHP, presented his assessment of the situation:

With waste management issues back in the limelight, there are legal eagles waiting out there with their greenies preparing to talk a few landowners into making demands yet again. Well, perhaps this time they may just be successful in closing down the mine. Do the landowners really want that to happen? (Anderson, 1999)

Anatomy of an NGO campaign

Following the 1999 release of the Ok Tedi environmental reports, exchanges between NGOs in Australia and Papua New Guinea prompted Greenpeace Pacific to set up a private email group to discuss these issues. The initial position taken by the NGO community was that the mine should close down immediately and BHP should assume full responsibility for the consequences, including the support of communities which have become dependent on the cash economy (what one Australian-based NGO described as 'supermarket culture'). Others argued against this perspective,

suggesting that it was a losing proposition to enter into debates with BHP on their terms. Our view was that decisions about the future of the mine should be made by the people most affected by it. From this perspective, the charge for NGOs was to provide the communities living downstream from the mine with the information and resources that they needed to evaluate their options.

Therefore a number of us argued that we should reject BHP's opening gambit, which required people in the mining area to choose between social and environmental problems. Our position was that BHP should take responsibility for its environmental impact downstream from the mine regardless of the timing of mine closure. We argued that for BHP to abandon the project would be irresponsible; given that the problems will intensify over the next few decades and continue for at least another 50 years, they should be preparing for long-term relationships with the people in the area.

We developed the following campaign strategy, the details of which were negotiated over email. We decided that we would not initially take a public stance on mine closure. We called for an independent audit of the mine, its operating procedures, the environmental reports that it had commissioned and the social consequences of closure. Furthermore, we recommended that no binding decision about the future of the mine be made until this review was carried out. We also called on Ok Tedi to draft a mine closure report, standard practice for the industry, which should then be subject to public review. We argued that this report should include a complete accounting of the social and environmental problems for which it was responsible, whether mine closure is imminent or the mine lasts another decade, and that BHP should commit the resources necessary to mitigate future impacts and rehabilitate the damage already caused, to the extent that this proves feasible. We recommended that the mine closure plan should drive all decisions about the future of the mine rather than political interests at the national level. Finally, we insisted that BHP provide the necessary financial and logistical support for the transition to life after the mine, including the maintenance of existing infrastructure and the implementation of programmes to create a sustainable economy for the province.

In September 1999, I convened a meeting of environmental NGOs in Washington, DC and presented information on the mine at a second gathering. I arranged funding for a representative from one of the affected communities to attend these meetings, although last-minute political developments at home prevented him from attending. The first meeting was held by the Mineral Policy Center and attended by a dozen environmental NGOs. I presented a review of the mine's history, and an overview of recent events and the positions agreed to by the Australian and Papua New Guinean NGOs. The second meeting was with a group of international NGOs working on policies relating to export credit agencies, organizations

which provide loans, financial guarantees and political risk insurance to projects operating overseas. Ok Tedi Mining, Ltd, for example, was initially supported by both the US Overseas Private Investment Corporation (OPIC) and the Australian counterpart to that organization, the Export Finance and Insurance Corporation (EFIC). An earlier interview with an OPIC official revealed that staff members had become aware of the shortcomings of the Ok Tedi project, but lacked the political support needed to terminate their contractual relationship. Research by Friends of the Earth revealed that commitments from OPIC and EFIC to the Ok Tedi mine had already expired. Participants in the second Washington meeting were encouraged to promote the Ok Tedi mine as both an example of the failure of export credit agency policy and an ongoing liability. Coordinating the NGO communities on three continents – as environmental NGOs from Europe were well-represented at the second meeting – resulted in a united front, one of the few tactics capable of influencing BHP because of their global prospecting interests. For example, a representative from the Ok Tedi River travelled with a solicitor from Slater & Gordon to Canada's Northwest Territory in 1995 to testify at public hearings on BHP's interest in the billion dollar Ekati diamond concession. A copper project proposed for the Caribbean island of Dominica received negative attention due to BHP's track record at Ok Tedi and was later withdrawn. These events helped to prompt the original settlement in 1996. Keeping Ok Tedi on the global agenda was therefore a high priority.

This campaign was able to put intermittent pressure on BHP and the Ok Tedi mine through press releases written by American, Australian and Papua New Guinean NGOs. Unfortunately, the call for an independent review of environmental conditions downstream from the mine was never supported by the PNG government and the closure report subsequently produced by the mine has never been subjected to formal public review, and in any case failed to provide clear directions regarding the future of the mine or a complete accounting of its environmental impacts. While the campaign increased international scrutiny on the mine, the NGO community lacked sufficient leverage to impose its recommendations and the media failed to become the galvanizing force that it had been during the initial lawsuit from 1994 to 1996.

Corporate end games

In January 2000, the World Bank (2000: 1–2) released an in-house review of the studies carried out by the mine, which was notable primarily for its criticism of the mining company for focusing on the risks posed to the corporation and shareholders rather than to the Papua New Guinea state (or even to the communities themselves). Nonetheless, the report recommended that the Ok Tedi mine should be 'moving towards closure as soon as possible' (2000: 21), prompting BHP to announce its intentions to sever its connection to the project. Several proposals were subsequently

floated in the media, including a possible take-over of BHP shares by Atlas mining, responsible for the large spill of acid mine waste off Cebu Island in the Philippines in August 1999 (Nicholas, 2001). Several landowner representatives from the Ok Tedi area were flown to the Philippines by Atlas to discuss the proposal. Another plan proposed to transfer BHP's shares in trust to the Papua New Guinea government in exchange for a waiver of future environmental liabilities. The government of Papua New Guinea subsequently contracted economic and legal consultants to determine whether BHP's 52 percent share in the mine has sufficient economic value to offset its long-term liabilities. The current management of Ok Tedi Mining, Ltd then proposed that it continue to operate the mine independently of BHP once its shares have been liquidated or put in trust. No final decision has been made, however, and the future of the mine remains uncertain. The remaining life of the ore body is another 10 years, perhaps longer if extensions to the original ore body prove economically viable. No new methods of production or pollution control have been proposed, apart from a dredge installed in the lower Ok Tedi River after the settlement, the capacity of which is greatly exceeded by the volume of tailings and other mine wastes that the mine continues to release into the river.

The gates of justice

With the continued use of riverine tailings disposal, the prospect of another decade of mining and BHP's decision to end its relationship with the mine, the landowners returned to the Victorian Supreme Court in Melbourne in April 2000, filing a class action suit which argued that BHP had breached the terms of the settlement agreement. While a key provision of the 1996 accord was a clause preventing BHP from challenging the appropriateness of the Melbourne courts as the forum for any disputes arising in relation to the settlement, their solicitors have delayed the certification of the class action for more than a year. In effect, BHP has sought to raise the standard for bringing the class action so high that it is not practicable. The key issue is the provision of Australian class action law that requires members of the affected class to 'opt out' in writing if they do not wish to participate. BHP raised the legal issue of *res judicata*, which holds that a party cannot be held accountable for the same claim for damages more than once, arguing that landowners who are included in the class action without their informed consent would later lose the right to seek independent redress of their concerns. The solicitors for the plaintiffs asked me to provide expert evidence when BHP lawyers argued that the procedures for notifying the members of the class action were insufficient in the Ok Tedi case because of impediments to communication and understanding, a position that would effectively have denied these communities access to the courts in Australia. I was also asked to express my views on the appropriateness of methods for distributing, translating and explaining these procedures to the people living downstream from the mine.

BHP's claim that it sought to protect the rights of the proposed class members did not pass by without notice, however, as Judge Heddigan (Supreme Court of Victoria, 2001: 68) observed in the final hearing:

HIS HONOUR: Some persons might think, I'm not one of them, that there is a certain irony that the defendant's solicitors [i.e. acting for BHP] appear to be much more concerned about the fulfilment of the democratic process than Slater & Gordon, but I'm merely asking questions about that.

On 27 August 2001, the court gave instructions to the plaintiffs' solicitors to proceed with the case. Information about the class action will be advertised throughout Western Province on the radio and in newspapers. Notices describing the class action will also be distributed to 116 villages and towns, including translations into the two main trade languages (Motu and Tok Pisin), followed by meetings held in 15 regional centres to explain the meaning of the notice and answer questions. The four-month period from the commencement of advertising, through receipt of notices, and through the holding of regional meetings was designed to provide potential class members with sufficient opportunity to decide whether to opt out and pursue an individual course of action, to opt out and do nothing, or to remain members of the class action against BHP. Notices indicating the desire to 'opt out' will be collected and delivered to the court in January, after which a decision will be made as to whether the number of participants warrants certification of the class action. Despite BHP Billiton's intention to withdraw from the Ok Tedi mine, the lawsuit will go forward in the Victorian Supreme Court if the landowners who make up the affected class elect to support it. The lawsuit is intended to keep BHP Billiton from walking away from its responsibilities in the Ok Tedi case, to compel the implementation of tailings containment for the remaining years of mine operation, and to obtain punitive damages for the years during which the mine failed to limit its environmental impact as agreed to in the initial settlement agreement.

Conclusions: the implications of global trends for anthropological activism

In a recent article on 'audit culture', Marilyn Strathern (1999a: 280–1) observed that governments are increasingly transferring their responsibilities for monitoring and evaluation to the organizations under review. Developing an observation initially made by Peter Pels, she notes that the committees, social policies and ethical debates spawned by the institutionalization of internal audits results in social forms with many of the same properties that anthropologists used to look for when talking about culture. This process has parallels in the NGO actions that I have described here.

The efflorescence of NGO activity in the 1990s stemmed in part from the failure of nation-states to regulate multinational corporations, a policy outcome of economic models emphasizing development and the free-market ideology that is central to the neo-liberal agenda. Corporations are increasingly being asked to monitor themselves, a practice which has been rejected by all but the most conservative elements of civil society.¹⁷ NGOs dispute the legitimacy of these arrangements and are attempting to replace the regulatory mechanisms that have been abandoned by the state. The responsibility for monitoring international capital has thus been taken up by NGOs and the participants in global alliances like the one formed in response to the Ok Tedi mine, which are held together by emergent cultures of activism.

These developments, in turn, raise questions about the accountability of NGOs. Many of these organizations are now international in scope and some have budgets which exceed those of establishment bodies like the World Trade Organization. Yet NGOs are neither elected nor subject to democratic checks and balances, and their priorities are perhaps unduly influenced by donors and trends. One challenge in the Ok Tedi case has been to make sure that the agenda continues to be driven by events on the ground and the concerns of the local communities, rather than by the political agendas of participating NGOs. A more general challenge to NGO action is posed by the growing practice of establishing formal, institutionalized links between corporations and NGOs, including joint review processes, corporate sponsorship of NGO initiatives, appointment of NGO representatives to corporate boards and development of collaborative policy documents. Formal separation and political difference constitute a key element of NGO efficacy and it is currently unclear to what extent these engagements will compromise NGO capacity for the independent monitoring of corporations. Given anthropologists' obligations to the communities with whom they work, rather than to particular NGOs, they are well-placed to assist indigenous leaders in negotiating their relationships with NGOs, and would do well to call attention to the potential pitfalls of corporate-NGO engagement.

Let me return to the question about the value of anthropological knowledge in relation to conflicts like the dispute over the Ok Tedi mine. I have already described how interviews with local leaders formed part of anthropological writings that later served them well in their political campaign. While anthropologists usually emphasize the singularity of their work, its ability to stand on its own, rather than the relationships through which it is produced, the activism in which I have been engaged reveals contexts and relationships through which anthropological work may assume other forms, as part of a collaborative project along the lines suggested by Albert (1997). In my case this did not happen by chance; I made deliberate choices in my writing, including decisions about the language that I used and the venues in which I published, often in reach of Papua New

Guineans.¹⁸ The majority of my published work on these issues was not intended to stand alone, but rather to follow through on a series of relationships that had their basis in prior conversations and emerged as texts which looked forward to larger political agendas.¹⁹

I want to make two final points by returning to the discussion of *proprietary rights* to culture with which I began this article. One of the challenges of this debate concerns the language of property rights, which is usually based on notions of individual ownership and control, whereas discourse on cultural property rights is contingent on the recognition of multiple, overlapping claims to ideas and things. Strathern (2000) has suggested one way to avoid the language of individual versus communal. Euro-American discourse on property tends to focus on either the identity of the thing or the identity of the person who claims rights in that object or idea. Alternatively she suggests that for Melanesia it may be more appropriate to focus on exchange: rights to property 'may be defined by the process of transaction itself' (Strathern, 2000: 55). My contribution to the Ok Tedi campaign has been possible precisely because I have treated this work as part of an ongoing relationship with the people with whom I have carried out research, a series of transactions in which we exchange ideas and information.

In contrast, social scientists who claim neutrality in disputes between corporations and indigenous peoples may deprive those communities of potential benefits from knowledge that was produced *in interaction with the communities themselves*, even though the same information may be made available to the corporation in the form of unpublished reports, conversations and advice. As powerful actors in the public domain, corporations wield influence over the distribution of anthropological knowledge that is not ordinarily matched by their indigenous counterparts. Advocacy of the variety that I have described here might be seen as the only way to help level the playing field.

Finally, returning to the other questions raised at the outset of this article, what do these events and debates contribute to the understanding of the relationships and responsibilities that anthropologists have to the communities with whom they work? How should the notion of *proprietary rights* to culture affect the way in which anthropological responsibilities are conceptualized? Recognition of these rights clarifies the obligations of anthropologists to those parties who have invested in their understanding of local conditions and interests. The resulting commitments may mandate engagement and advocacy on our part, rather than a scholarly, neutral stance. The notions of right and wrong can be invoked not only in relation to the truth, but also with regard to the cause of social justice.

Notes

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- 1 See David Hyndman (2001) for an overview of this process from the perspective of liberation ecology.
- 2 For the history of this question see Wright (1988); for important re-evaluations of this relationship see Turner (1991), Albert (1997) and Ramos (2000).
- 3 The value of the settlement has been greatly reduced by the devaluation of the Papua New Guinea kina by more than 50 percent and by the lack of expenditure on tailings containment.
- 4 One footnote added to my article concerned BHP's relationship to the PNG Compensation (Prohibition of Foreign Legal Proceedings) Act of 1995, which criminalized Papua New Guinean participation in foreign legal proceedings against mining companies operating in Papua New Guinea. The act made it a crime punishable by substantial fines and/or incarceration for the lead plaintiffs in the lawsuit against the Ok Tedi mine to continue with their legal action against BHP in the Victorian Supreme Court. They all elected to continue with the case despite the considerable personal risks posed to them by this legislation. A constitutional challenge to the act was pending before the High Court of Papua New Guinea when the case was settled. The footnote submitted by BHP and appended to my article in *Anthropology Today* maintained that the legislation was 'enacted without consultation with BHP or the mining company' (Kirsch, 1996c: 15–16), although the Supreme Court of Victoria found that BHP's lawyers had indeed drafted the legislation and were therefore in contempt of court. This ruling was subsequently overturned through ministerial discretion by a conservative Victorian government minister.
- 5 It is interesting to compare the reaction to Frynas's (1998) recent essay on the relationship between political instability and economic opportunity, which raised questions about Shell's operations in Nigeria. The editors of *Third World Quarterly* invited Shell to respond (Detheridge and Pepple, 1998) and provided Frynas with the opportunity to defend his views (Frynas, 2000), but did not solicit a response from the Nigerian communities that were discussed in these articles.
- 6 These relationships are not without their limitations, however, including NGO stereotypes of the 'ecologically noble savage' (Conklin, 1997; Conklin and Graham, 1995).
- 7 Filer (1990: 93) used a similar metaphor to describe negotiations between the mine, the state and communities in Bougainville:

I am inclined to think of this process as a game of strip poker in which everyone expects to lose some of their clothes but no-one wants to lose all

of their clothes, and which is supposed to go on until everyone is satisfied with the total amount of clothing which has so far been removed.

- 8 Filer (1999: 89, emphasis in the original) subsequently argued that:

... [in] the political setting of mineral resource development in PNG ... it *normally* does make more sense for anthropologists to act as 'honest brokers' in mediating the relationships between different stakeholders (including the multinational companies) than it does to act as the partisans or advocates of local communities in their struggle against the 'world capitalist system' ...

although he acknowledges that 'there will always be *specific circumstances* in which the anthropologist is obliged by the dynamics of the public policy process to adopt a more radical position' involving efforts to transfer power 'from the "system" to the "community" '.

- 9 Filer (1999: 90, emphasis in the original) recommends that anthropologists should act as 'messenger[s] whose messages are justified primarily by the contribution which they make to various kinds of "agreement" over the terms and conditions of the development process. In this case, the object or subject of study is not a "community" (or even a group of them), but the *structure of the political setting or the policy process itself*. The anthropologist becomes a kind of policy analyst ...'
- 10 John Burton (personal communication, 2001) suggests that while anthropologists with prior, long-term relationships with communities affected by mining projects may be well-placed to act as advocates, anthropologists lacking similar ties to these communities may find their access to information restricted unless they engage these political processes through consulting contracts, social impact studies or social monitoring projects.
- 11 Writing about social science consultancies for the petroleum industry in the Amazon, Rival (1997: 2) asks:
- What kind of knowledge do they produce and what are the consequences? Whose interests do they serve, and what is their ethical code? On what basis do they classify and rank the interests at stake? What are the power structures within the firms? What dilemmas do their researchers face? Do they seek convergence of interests, and if so by what method? What is their role in the appropriation by powerful transnational authorities, national governments or local elites, of community-resource management projects and policies designed to advance local interests?
- 12 My contribution to the project was completed in 1993 and later published by Filer in his capacity as editor of *Research in Melanesia*, although it did not appear in print until after the settlement of the lawsuit against the mine (Kirsch, 1995[1993]).
- 13 Brian Brunton, a lawyer with Greenpeace Pacific in the Papua New Guinea capital of Port Moresby, argues that: 'with the commercialisation of Australian universities and research programs in the 1980s, many academics have fallen into the camp of government, big business and the mining companies' (1997: 170-1).
- 14 Compare Kirsch (1995[1993]) and Maun (1994).
- 15 Terence Turner (1991: 310-12) has described a similar relationship with the Kayapó of Brazil:

As an anthropologist, in short, I had become a cultural instrument of the

people whose culture I was attempting to document. . . . I have repeatedly found myself scripted by Kayapó planners and leaders for supporting roles . . . in the very events I was attempting to study and analyze. The line between observer and observed, I realized, had shifted . . . [and i]n the process, we had become co-participants in a project of resisting, representing and rethinking, and both their 'culture' and my 'theory' had become, in some measure, our joint product.

- 16 Focusing primarily on the relationship between environmentalism and identity politics, Brosius (1999: 288) echoes Filer (1996: 26, 1999: 89) in questioning the value of anthropological contributions to specific political engagements, suggesting that:

. . . not only is it unclear what impact our commentaries might have on these movements and discourses but also it is no longer very clear what is emancipatory and what is potentially reactionary either in the movements we wish to study or in our own commentaries on these movements.

Instead he recommends the study of 'how various forms of environmentalism are being discursively transformed by powerful actors: national governments, industries, public relations forums, multilateral agencies, and the like'. Like Filer, Brosius emphasizes anthropological contributions to policy domains rather than to particular political campaigns.

- 17 These practices are part of what Brosius (1999: 278) describes as the 'increasingly earnest backlash which denies the existence of an environmental crisis or promotes the idea that environmental problems can best be ameliorated by market forces'. Moreover, they are part of efforts by transnational corporations to 'displace the moral/political imperatives that galvanize grassroots movements with a conspicuously depoliticized institutional apparatus that is by turns legal, financial, bureaucratic, and technoscientific' (1999: 278).
- 18 Anthropologists should not underestimate how widely their work may travel. During a meeting with BHP in Melbourne after the settlement of the lawsuit, I was shown a file containing copies of my publications on the mine, most of which bore the marks of multiple fax numbers which traced the complex journeys they had taken to reach that office.
- 19 Albert (1977: 60) opines that the:

. . . 'working uneasiness' that goes with an ethnography of 'observant participation' and critical solidarity is what makes this sort of engaged anthropology particularly interesting. Under such circumstances, anthropological research is situated at the crossroads between an ethics of responsibility which links it to relativism (care for the local), and an ethics of truth which turns it towards universalism (care for the global).

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