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0521849926 - Kinship, Law and the Unexpected: Relatives are Always a Surprise

Marilyn Strathern

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KINSHIP, LAW AND THE UNEXPECTED

How can we hold in the same view both cultural or historical constructs and generalities about social existence? In response to this anthropological conundrum, *Kinship, Law and the Unexpected* takes up an issue at the heart of studies of society – the way we use relationships to uncover relationships. Relationality is a phenomenon at once contingent (on certain ways of knowing) and ubiquitous (to social life).

The role of relations in western (Euro-American) knowledge practices, from the scientific revolution onward, raises a question about the extent to which Euro-American kinship is the kinship of a knowledge-based society. The argument takes the reader through current issues in biotechnology, new family formations and legal interventions, and intellectual property debates, to matters of personhood and ownership afforded by material from Melanesia and elsewhere. If we are often surprised by what our relatives do, we may also be surprised by what relations tell us about the world we live in.

Marilyn Strathern is William Wyse Professor of Social Anthropology at the University of Cambridge and Mistress of Girton College, Cambridge. She has carried out fieldwork over several years in the Highlands of Papua New Guinea (Melanesia). She is the author of *The Gender of the Gift*, *After Nature* and *Property, Substance and Effect*.

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MARILYN STRATHERN

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Preface

Anthropologists use relationships to uncover relationships. The device is at the heart of social anthropology, and anthropologists also find it at the heart of kinship. This book would not have been possible but for the wave of anthropological writing that has gone under the name of ‘the new kinship’ (studies), although it does not fall into the genre. I wish to add a footnote about the role that appeals to relationality play in anthropological studies of social life and suggest why we should be interested in it. Appeals are made to a phenomenon at once contingent (on certain ways of knowing) and ubiquitous (to human society).

One of the enduring methodological conundrums of anthropology is how to hold in the same view what are clearly cultural and historical constructs and what are equally clearly generalities about social existence. The trick is to specify each without diminishing the other. If this is an attempt, by its very nature the present work must be incomplete precisely because of the specific circumstances that have suggested kinship as an intriguing field for investigation here. The field already limits (‘constructs’) the exercise.

The specific circumstances are epitomised in the new kinship. Studies under this rubric focus on the reflexive nature of analytical constructs, and very often on people’s dealings with one another under new technological regimes, with the stimulus to indigenous reflexivity that brings; people come to make new kinds of connections between their lives and the world they live in. Much of the substance of what follows would be familiar to such concerns, especially in the first part. Part I touches on contexts in which the new medical technologies have posed questions for families and relatives. These contexts become, in Part II, a foil for comparative analysis. The essays thus move from materials lodged largely in the United States and the United Kingdom, and in the first chapter white Australia, to creating the grounds for talking about Melanesia, Amazonia and (briefly) Aboriginal Australia. They describe the consequences of relationality, both in the data and in the organisation of it; several of the

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essays are illustrative in this sense, deploying the term no differently from its use in much anthropological writing.

Indeed, relationality – as an abstract value placed on relationships – is highlighted in a recognisable and conventional manner through attention to the law. Running through these essays is a commentary on the way modernist legal thinking at once opens up and closes down predispositions to think in terms of relations. Part I introduces Euro-American law on its own home territory, so to speak, in both creative and regulative mode, whereas Part II shows legal categories being introduced in situations otherwise foreign to them, in some cases in the name of governance, in others as an analytical device on the part of the observer. Either way, one should not overlook the imagination and ingenuity of lawyers in dealing with new issues. Concepts developed in the name of intellectual property offer a rich seam for mining here and are in the foreground or background of several chapters. ‘The law’ is thus depicted in different guises, whether contributing to the conceptual resources through which people approach problems entailing ownership or rights, or intervening in disputes, crystallising certain cultural moments for the sake of advocacy, and so forth.

There is a particular purchase to bringing in legal thinking. It is a discipline and a practice that has to deal with different kinds of relationships. After all, in European mythology, the law is the classic locus for situations where categorical and interpersonal relations confront each other, as – in her lectures of the name – Judith Butler (2000) reminds us was true of Antigone’s claim. Adjudications in the courts, pleas on the grounds of human rights: the law deals with persons in relation to categories. We shall see the significance of this.

The essays are intended to convey the embeddedness of relational thinking in the way Euro-Americans come to know world, and the descriptions of social life this embeddedness has made – and continues to make – possible. It offers us truths of a very special kind. In turn, such relational thinking is successful to the extent that it capitalises on a common capacity or facility in the making of relations that exist in other registers altogether. From here comes the attempt to hold in the same view what are clearly cultural and historical constructs and what are equally clearly generalities about social existence. The Introductions to the two parts, *Divided Origins* and *The Arithmetic of Ownership*, spell this out.

DEBTS

Separate acknowledgements are recorded at the end of each chapter, as each originated at a particular event or for an occasion. (To this extent, they may be

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read as independent pieces.) This is to record more generally my intellectual debts to colleagues whose work makes superfluous any further rehearsal of the turn to kinship; that micro-history within anthropology has been well written. I include Janet Carsten's *After Kinship*, which rewrites the debates that shifted the study of kinship from a mid-twentieth-century preoccupation to an arena of much future promise; Sarah Franklin's and Susan McKinnon's collection of essays on new locations for new interests, *Relative Values: Reconfiguring Kinship Studies*, and the reader edited by Robert Parkin and Linda Stone, *Kinship and Family*, that brings a span of diverse materials into provocative relationship. Of ethnographically based monographs, Jeanette Edwards' *Born and Bred: Idioms of Kinship and New Reproductive Technologies in England* is foremost. All these include reflections on the substantial materials, theories and analyses that are constantly re-drawing kinship studies today.

This book is not only about kinship, and there are other debts; for the stimulus of many conversations, Françoise Barbira-Freedman, Debbora Battaglia, Joan Bestard-Camps, Barbara Bodenhorn, Corinne Hayden, Caroline Humphrey, Alain Pottage, Paul Rabinow, Christina Toren, Eduardo Viveiros de Castro. Benedicta Rousseau is owed special thanks. Much of the thinking occurred in the environs of Ravenscar in North Yorkshire, under Jenny Bartlet's stimulating hospitality, and it is not inconsequential that Ru Kundil and Puklum El from Mt. Hagen have stayed there too.

Chapter Three and the three chapters of Part II were first written under the auspices of Property, Transactions and Creations: New Economic Relations in the Pacific. This was a three-year investigation (1999–2002) funded by the U.K. Economic and Social Research Council (award Ro00 23 7838), and acknowledgement is gratefully made. The arguments here owe much to Eric Hirsch, co-convenor, and to Tony Crook, Melissa Demian, Andrew Holding, Lawrence Kalinoe, Stuart Kirsch, James Leach and Karen Sykes, as well as to Lissant Bolton and Adam Reed, and to the ephemeral association that called itself the Trumpington Street Reading Group.

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Chapter Three *Abridged* as Emergent relations, in Mario Biagioli and Peter Galison, eds. 2003. *Scientific authorship: Credit and intellectual property in science*. New York: Routledge, pp. 165–94.

Chapter Four *From* the journal *Theory, Culture and Society* 18: 1–26, 2001; also pub. in Christopher Pinney and Nicholas Thomas, eds. 2000. *Beyond aesthetics: Art and the technologies of enchantment: Essays for Alfred Gell*. Oxford: Berg, pp. 259–86.

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Chapter Five *From* Martha Mundy and Alain Pottage, eds. 2004. *Law, anthropology and the constitution of the social: Making persons and things*. Cambridge: Cambridge University Press, pp. 201–33.

Chapter Six to appear in Bill Maurer and Gabriele Schwab, eds. In press. *Accelerating possession: Global futures of property and personhood*. New York: Columbia University Press.

MANDA

Among several interesting developments in social anthropology at the moment, a particular trajectory directly affects the substance of this book and leads to a different kind of acknowledgement. It is invariably to one's benefit that one consumes the work of colleagues, critical or otherwise, and there is a temptation to be like the marketing executive or policy maker in this era of ready responsiveness and absorb criticism the moment it is articulated. Indeed, ethnographers these days will tell you that hardly have they jotted down observation or comment and their subjects will have come up with their own analysis. I am sorely tempted, for example, to take on board a piece that Alberto Corsín Jiménez (2004) generously sent me; informed by James Weiner's prescience, it is a critique of relationality with which I find myself at almost every step agreeing. I might not have fallen in with the criticism so readily had I not been warmed up to the task first by Iris Jean-Klein, and Annelise Riles, and then by Tony Crook's (2003) work on unmediated relations in Angkaiyakmin, Bolivip, by Monica Konrad's (2005) account of nameless relations in Britain, and by Andrew Moutu's (2003) study of kinship and ownership in Iatmul. I think, though, that I can best serve the new radicalism by my own conservatism, and thus conserve what will then become an original position rather than consume new ones! So I endeavour to remain true to a point of view not because I defend it but because there is some mileage to be gained from specifying – precisely at this juncture – what is so interesting about it that it could become important to leave behind.

The Melpa (Hagen) term *manda* means something along the lines of 'enough said', 'sufficient for the present', 'let's stop for now' – an exhortation to shut up, recognise an end, acknowledge a finish, even though everyone could go on talking forever.

Marilyn Strathern, August 2004
Girton College, Cambridge