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Contextual flexibility: present status and future of customary marine tenure in Solomon Islands

Edvard Hviding*

Department of Social Anthropology, University of Bergen, N-5007 Bergen, Norway

Abstract

In this paper I discuss some long-term continuities in the socio-political dynamics of customary marine tenure in the Melanesian South Pacific. Building on field research material from Solomon Islands, and paying close attention to the pan-Melanesian concept of *kastom*, I exemplify how customary marine tenure and its social contexts are challenged and transformed by external economic and political pressures. These challenges and transformations are discussed with reference to the emerging legislative contexts of customary tenure rights. General trends are identified for Solomon Islands, particularly regarding the management potential of customary marine tenure. It is argued that the relationship between external challenges and local transformations is not one-sided. Certain modern pressures may lead to organizational innovation and reinforce the political base of customary control over marine resources, as expressed by present systems of customary marine tenure. © 1998 Elsevier Science Ltd. All rights reserved.

1. Introduction

The Melanesian South Pacific is notable for the ways that social institutions and processes of customary marine tenure co-evolve as core relationships among people, sea and marine resources. These processes are fundamental in both routine village fishing activities and in external relations with agents of resource development. Rural politics in Papua New Guinea, Solomon Islands and Vanuatu are characterized by diverse voices that argue for villagers' ancestral privileges over nearshore seas, reefs and their resources. This is invariably expressed through the rhetorics of 'tradition' or 'custom', subsumed in the politically salient concept of *kastom*, or the 'selective

*Tel.: 00 47 5558 9264; fax: 00 47 5558 9260; e-mail: edvard.hviding@sosantr.uib.no.

representations of the past... constructed in and for the present' [1].¹ Virtually any invocation of Melanesian *kastom* and 'tradition' is heavily politicized and explicitly backed-up by the national recognition given to 'customary law'. Locally specified entitlements to marine territories and resources claimed and exercised by the 'guardians' of those territories and resources are supported by statute law that enshrines the general privileges of customary law [4, 5].² Concurrently, the day-to-day operation of customary marine tenure in Melanesia demonstrates a resilience to new and diverse external pressures [6–9].^{3–5} In Papua New Guinea and Solomon Islands, for example, the tuna-fishing industry's need for baitfish from lagoons under customary control has led to much negotiation and conflict [5, 10, 11].

As a consequence diverse forms of customary marine tenure in the Pacific Islands, and notably in Melanesia, continue to thrive as dynamic socio-political links between local human populations and marine environments. Population pressure, accelerating cash economies, transformations of local politics or the rise of new nation-states have not generally overthrown these forms of resource management. Rather, they continue to provide channels for a widening range of local responses to ever-new challenges posed by external social, economic and political factors. Customary marine tenure continues to be the key dimension in any initiative involving coastal resource development in the region. This has been experienced in recent years by commercial fisheries enterprises, fisheries and mariculture development agents, tourism operators, conservationist NGOs, as well as loggers and miners, among others.

I outline some of the general patterns in the socio-political dynamics of customary marine tenure exhibited throughout Solomon Islands. The focus is on institutional mechanisms that regulate the exploitation of marine resources.

2. Customary marine tenure and the flexibility of *kastom*

To better grasp the potentials of these forms of marine resource management, within the context of increasing and diversifying external pressures, the implications of the term 'customary' require clarification. 'Customary', as applied to Melanesia, is closely tied to the concept of *kastom* as 'selective representations of the past', invoked not least for contemporary political ends. It is worth noting that Melanesia is simultaneously a region from which striking examples of complex, adaptive customary marine tenure systems have been described and from which much social theory has emerged about long-term transformations of social and political systems in general.

¹The now voluminous literature on Melanesian *kastom* is well represented by such edited collections as in [2,3].

²For case studies of conflicting government obligations in Solomon Islands, see [5].

³For analysis of such processes in terms of Solomon Islands examples see [5, 6].

⁴For recent regional overviews see, for example, [7].

⁵The Traditional Marine Resource Management and Knowledge Information Bulletin, published by the South Pacific Commission, provides brief, current examples from the Pacific Islands region.

Anthropological approaches to Melanesian *kastom* highlight how its unwritten, non-codified nature seems to allow for great local flexibility in adapting to new situations and circumstances, while still keeping within certain generally defined bounds of acceptable social behavior and political procedure [1, 3, 12]. *Kastom* in its very essence is an intercultural phenomenon. It is a framework for interpreting and dealing with others whose customs are different. It may also be argued that the flexible, self-referential ‘tradition’ of *kastom*, defining as it does the cultural distinctiveness of localized groups while providing the basis for dealing with others in social and political interaction, has a virtually unlimited capacity for accommodating ‘new things’. For example, it has been shown for certain groups of New Guinea highlanders and coastal Solomon Islanders how the first arrivals of Europeans were less of a surprise to the locals than European sources would have us believe. These Melanesians tended to interpret the Europeans not as unique examples of a type of spirit or god, but rather as yet another type of human arrival from afar (whether across mountain or sea) – just another in a long string of arrivals by ‘other people’. Consequently, these encounters (‘new’ to the Europeans) were structured by the Melanesians according to precedents set by ‘old’ events not involving Europeans. New forms arise out of old, as is to be expected in a region characterized by thousands of years of migration, maritime travel and cultural diversification [5, 13].^{6,7}

The capacity of Melanesian *kastom* to handle the unexpected by generating ‘new forms out of old’ provides some explanation for the present tendency of customary marine tenure systems in the Melanesian archipelagos to perform successfully ‘functions in the modern context for which they were not designed’ [15]. An old chief of Marovo Lagoon, in Solomon Islands, noted for his ability to devise and implement new regulations for the portion of the lagoon controlled by him, responded when asked to explain the customary ‘laws’ pertaining to fishing within ‘his’ territory: ‘That always changes. What we have to do is always different, and we cannot write down laws like the English do, in books that have one law for every little thing. No, we do not write that down, because everything is different, and our laws have to fit that’ [5].⁸ This elegantly summarizes the motivation for wishing to keep customary marine tenure noncodified and unwritten, thereby retaining a capacity to generate any variety of specific responses to new challenges on the basis of a ‘broad legal standard’ of basic principles, not unlike Western-style ‘enabling laws’.

This flexibility, adaptive yet anchored in widely recognized and long-standing general principles, characterizes Melanesian *kastom* in general. Consequently, a pattern of ‘contextual’ adaptation of customary marine tenure to shifting external circumstances is widespread in the region. Whereas customary managers of fishing grounds may impose few, if any, restrictions on day-to-day activities by relatives and allies, a wide range of prohibitions may ‘suddenly’ emerge when less predictable

⁶For the New Georgia Group of the Solomon Islands.

⁷For the Mount Hagen area of the New Guinea Highlands.

⁸Ref. [5] Ch. 8, contains an analysis of the relations between customary marine tenure and ‘customary law’ in local resource management strategies.

parties enter the scene: ‘fishing for food’ (subsistence activities) is generally ‘free for anyone’ (i.e. all except foes or total strangers), whereas ‘fishing for money’ (i.e. commercial activities) generally requires permission from the chief or other representative of the controlling group. The scope and rigidity of customary marine tenure tends to fluctuate with past, present and future economic values attached to certain fishing grounds or specific resources. This fluctuation is superimposed on restrictions that reflect more regular lunar or seasonal variations in marine resource abundance.

Like neighboring Papua New Guinea and Vanuatu, Solomon Islands is commonly referred to as a nation of extraordinary cultural diversity. This is certainly true in a linguistic sense (see below). There may be at least as many recognized variations of *kastom* as there are languages. From gender-, age- and class-related divisions, as well as from religious factionalism, considerable variation of opinion may also arise within any given language group as to what is ‘proper *kastom*’. However, there are also many strikingly common themes in *kastom* across the Solomon Islands archipelago, not least in the domain of relationships between social groups and the territories on which they base their livelihood. Notable cultural variation, such as in types of leadership, mainly follow regional patterns in part defined by Solomon Islanders themselves with reference to perceived ‘entities’ such as the island of Malaita, the New Georgia archipelago, or the small Polynesian outlying islands.

Although *kastom* is a transcultural phenomenon that contrasts the received wisdom of one community (of whatever scale) with that of another, there are also considerable similarities that make many aspects of the *kastom* of different groups appear as variations on common themes. It may be generally assumed that such common themes are identifiable for the Solomons, and that they represent more widespread Melanesian patterns. A literature review, also including general anthropological studies that do not deal with marine tenure specifically, support this argument for generality. For example, a wide-ranging overview of the evolution of land tenure by anthropologist Harold Scheffler and land policy analyst Peter Larmour identified widespread similarities throughout the archipelago, not least in terms of the flexibility afforded by predominantly cognatic (or non-unilineal) descent principles governing the allocation of customary land, and by extension of fisheries-related rights [16].

3. Customary marine tenure in Solomon Islands: an overview [17]⁹

Solomon Islands, a far-flung archipelago whose 400 000 citizens represent approximately 85 distinct linguistic communities (corresponding largely to localized ethnic

⁹Except where noted, the following section is based on my field research. Research since 1986 in Marovo Lagoon (cf. [5]) has been carried out with the permission and involvement of the Marovo Area Council, visits to other communities in the Solomons were made possible mainly as part of an assignment in 1991–92 with the Coastal Aquaculture Centre operated near the capital Honiara by the International Centre for Living Aquatic Resources Management [18].

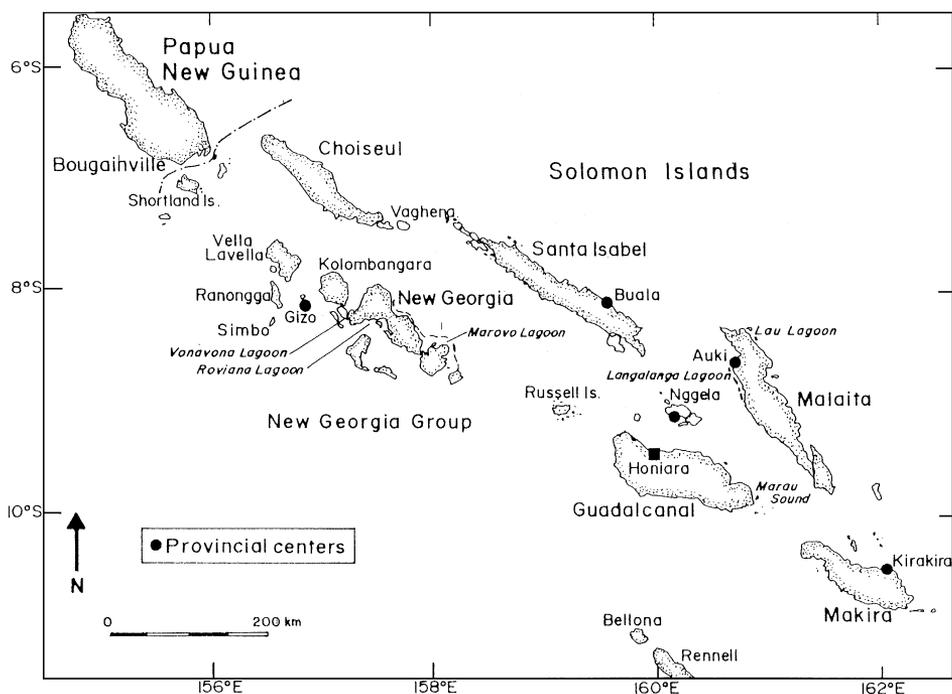


Fig. 1. Solomon Islands (Main Group Archipelago excluding outer islands), showing locations mentioned in the text. (Source: Hviding, E., *The Rural Context of Giant Clam Mariculture in Solomon Islands: An Anthropological Study*. Manila: ICLARM, 1993)

groups), consists of seven main islands (Fig. 1).¹⁰ Since 1978, Solomon Islands has been an independent nation with a Westminster-style parliamentary democracy. National legislation, although undergoing significant revision, devolves many political-administrative functions (including some relevant resource management policies) to the nine provinces. The main islands are high and volcanic, densely forested, and partly fringed with mangroves, coral reefs and lagoons. Most Solomon Islanders live in small-to-medium size coastal villages, although there are considerable inland populations on some major islands.

Land and nearshore reefs remain largely in the hands of local people, under customary law regimes. Most rural land and virtually all reefs are controlled communally by kin-based groups (lineages, clans or 'tribes') resident in areas recognized as theirs. Leaders of these groups allocate more or less permanent use rights to each family to specific blocks of land for shifting cultivation, coconut groves or other cash crops. Communally held, corporate rights of territorial control have invariably been

¹⁰The population figure is a 1997 estimate based on a 1986 census figures (Solomon Islands Government, Report on the Census of Population, 1986, Statistics Office, Honiara, 1989) and population projections. For an overview of Solomon Islands languages, see [18].

handed down through many generations, and group members express a strong sense of shared attachment to their ancestral territorial estate. In general, mangroves, reefs and lagoon areas are controlled under the same overall regime as land, but with less subdivision of the marine holdings in each communal territory.

Whereas many coastal groups with a history of maritime involvement control both land and sea, the so-called ‘bush people’ control only land. Although groups of bush people may have certain rights to fish in the sea adjacent to their land, in many cases those seas remain under the corporate control of ‘salt-water people’. The latter, groups with a particularly strong and long-standing maritime association, do not represent any single linguistic group, but their mode of life, in some cases involving densely populated villages on artificial islands, is seen in quite disparate corners of the Solomons archipelago. The presence of salt-water people in scattered locations reflects similar historical processes of migration and economic specialization. These groups have become influential particularly where ecological and demographic conditions permitted productive fisheries and complex systems of maritime trade and warfare, such as in the extensive lagoon areas around the islands of Malaita and New Georgia. As in the Lau Lagoon of Malaita, their adaptation relied, as it still does to some degree, on the institutionalized exchange with bush people of fish and other marine resources for root crops and forest products.

3.1. Leadership

Customary leaders of kin groups, usually termed ‘chiefs’, act as custodians of the resources within the group territory. They often take it upon themselves to enforce harvest restrictions on stocks considered in danger of depletion or otherwise needing attention. Other elders, mostly men, assist the chiefs. For example, recognized ‘master fishermen’ assist in sea-related matters. Senior women may command considerable respect, particularly in societies with matrilineal descent (see below). Customary leadership is supplemented and potentially rivaled by a variety of more specific, task-oriented leaders tied to the ‘modern world’. These include pastors, teachers, businessmen, politicians, and other entrepreneurs. However, their presence does not necessarily undermine chiefly authority; it is not uncommon for customary leaders to use such potential rivals as allies in dealing with the worlds of church, education, business and state, thereby extending the reach of *kastom*. More often than not the ‘modern’ actors on the village scene are the chief’s relatives. Melanesian *kastom* is characterized exactly by such potential for expansion into and integration with new fields of social relations and channels of power. Such expansion may entail the formation of ostensibly ‘new’ organizational frameworks.

The Bina Harbour area of southern Langalanga Lagoon, in Malaita, provides an example. In 1990 a number of lineages inhabiting three neighboring villages around Bina registered the Gwa’ata People Foundation as a new yet *kastom*-based association. It was empowered to control the land and sea resources of the joint lagoon area (including, as for most Langalanga people, molluscs important for making traditional shell money), to stop dynamite fishing, and to negotiate on behalf of its members with government and foreign enterprises regarding lagoon resources and those of adjacent

lands. In a different fashion, the Christian Fellowship Church, an indigenous movement founded in the 1960s on New Georgia, Western Province, fuses old-style Methodist doctrines with pre-Christian ancestor worship and traditional chiefly authority. It has grown into a powerful regional system with strong control over the land and sea resources held through *kastom* by the many largely interrelated kin groups of its 22 original member villages.

3.2. Rights

Individuals invariably gain access to productive resources through membership in the corporate kin groups controlling them. Generally, Solomon Islanders acquire at birth important primary entitlements as a member in the descent group of either father (in the case of patrilineal descent) or mother (in the case of matrilineal descent), or of both parents (where cognatic or ‘non-unilineal’ descent principles, and hence bilateral inheritance, prevail). This depends on locally specific cultural rules specified by *kastom*, and shows complex variations. The role played in Solomon Islands societies by non-unilineal descent, whereby group membership and rights to territories and resources are conferred through both parents, was downplayed by the colonial administration in its attempt to record customary land tenure. However, it has retained its local importance. The parts of Solomon Islands particularly relevant for the present discussion, such as the New Georgia Islands and much of Malaita, are dominated by quite flexible principles of cognatic descent and bilateral inheritance, sometimes emphasizing patrilineal or matrilineal relations in one way or another [19, 20].¹¹ In this sense, where descent through the male line is emphasized, those born of the descent group’s women are also likely to acquire certain important though less senior rights.

In general, senior entitlements inherited on the basis of ‘filiation’ (parent–child links) give ideally indisputable rights to cultivate gardens and to fish within the boundaries of the customary territory of the group(s). They also convey varying degrees of influence over the allocation of resources to others. Yet such rights must be maintained through the continuous support of the descent group, most visibly through permanent residence in its village communities. Rights may fade through long-term non-residence unless wages and/or modern political power are converted into village benefits through cash remittances, project funding or other community assistance.

Less all-inclusive rights to use resources, without participating widely in decision making, are granted by corporate groups to individuals who become attached through marriage and adoption, though the latter may also appear as analogous to filiation. Still other permanent or temporary resource use entitlements may be granted to non-relatives not resident in the area, as part of reciprocal exchange or alliance. Such rights, the origins of which are often traced to acts of warfare, peacemaking or regional trade many generations ago, continue to be a focus of inter-island friendship,

¹¹See [5] for New Georgia. A brief review of cognatic descent with patrilineal emphasis is given for salt-water people in Malaita in [19].

as well as of intra-island conflict. They complicate the overall picture of who may do what, where and when, and add to the inherent lack of clarity that, according to some observers, inhibits the systematic and scientific planning and implementation of effective resource management.¹²

In the contemporary climate of increased rural entrepreneurship, rights to land, sea and resources are increasingly subject to dispute. This is particularly the case if an individual member of a community wishes to monopolize a section of communally held land or reef, or a particular resource for personal commercial purposes. Although most such disputes have involved land for intensive cash cropping, this type of conflict has also emerged as a problem in the collection of marine products (pearl shell and *bêche-de-mer*) and for fixed-site mariculture development (such as giant clam cultivation and seaweed farming).

In contrast to the commonly held and narrowly 'practical' view that customary marine tenure basically has to do with 'fishing rights', to Solomon Islanders their customary rights over marine areas comprise a great deal more than merely what relates to fishing. As is common in the South Pacific, Solomon Islands languages tend to classify land and nearshore sea under one general category which in some cases (such as throughout New Georgia) is translatable into 'nurturing soil' (i.e. which has nourished ancestral generations, supports those living today, and should provide the source of life for generations to come). The integrated land-and-sea estate implied by such classification has a profoundly spiritual quality for its customary managers, whose entitlements and obligations to their land-and-sea continuum exceed those entailed in European concepts of property and ownership. Generally, neither land nor reefs can be freely sold or otherwise transferred. In other words, customary tenure over land and sea is not tied to concepts of freely alienable property, but rather to an inalienable, ancestral estate to which 'owners' are considered to stand in a constant custodial relationship.

Most Solomon Islanders are coastal villagers. Many have immediate access to resources of both land and sea through ascribed or acquired membership in a localized group that controls a territorial continuum of land and sea. A minority of the population remains not just land holding 'bush people' but also bush dwellers, whereas still others are 'salt-water people', as described above. Yet the diets of most Solomon Islanders are based on the twin components of protein from the sea and carbohydrates from root crop agriculture. Access to the fruits of both fishing grounds and gardens is generally ensured for all through forms of exchange, barter and reciprocal sharing of use rights. Historical relationships between salt-water people and bush people were such that enmity was suspended only on regularized occasions of institutional exchange. Even today conflict may arise between such neighboring groups, who often share complicated histories of migration and intermarriage.

For example, in Marau Sound, at the eastern tip of Guadalcanal Island, small offshore islands and coastal reefs are heavily used by fishing-oriented people who migrated there many generations ago from the 'Are'Are district of Malaita. However, the Guadalcanal groups who consider themselves to be 'original' inhabitants of the

¹²For such an argument concerning commercial shell stocks, see [21].

area also claim ancient privileges over offshore reefs. But intermarriage has blurred the distinction between original inhabitants and later settlers, and lines of conflict and consensus are by no means clear as far as the commercial exploitation of reefs is concerned. In Marovo Lagoon, Western Province, major reef-holding groups have in recent years threatened to revoke fishing rights granted to bush groups several generations ago. This was done in response to announced plans about uphill logging and mining, perceived by the salt-water people to jeopardize the clean and healthy state of lagoon waters and coral reefs.

3.3. *Boundaries*

Customary marine tenure in Solomon Islands, exercised by the communal control of corporate kin groups over areas of coastal reefs and seas, is delimited spatially by lateral and seaward boundaries. Land boundaries are usually rivers, mountain ridges or similar prominent features. They are often highlighted by planting symbolically significant shrubs, particularly croton (*Codiaeum variegatum*). But the visual delimitation of marine territories poses certain challenges. A common saying in the Marovo Lagoon, where marine tenure is exceedingly complex and involves a large number of groups using 700 km² of reef and lagoon, is that ‘there are no crotons at sea!’ Throughout the Solomons, common markers of lateral sea boundaries are estuaries or other highly visible topographical features on the coast of main islands, aligned with such natural markers on outer fringing or barrier reefs as coral islets, exposed rocks or reef channels. Less conspicuous boundary markers, visible only to those with detailed local knowledge, include the color of water above a certain type of reef, or prevailing patterns of waves and currents generated by either the presence or absence of submerged rocks. Outer reef markers may be made more visible with wooden poles. In some parts of the archipelago, such as New Georgia, the cultural significance of outer boundary markers is underlined by the presence of ancestral skulls in old ‘burial chambers’ on islets or beaches adjacent to the boundary zone.

The seaward boundaries of marine territories are often vague, and some groups claim that their marine territories extend indefinitely toward the horizon. In better-defined cases the seaward boundary follows the edge of outermost fringing reefs, or, in large lagoons, the outer submerged fringes of the offshore coral islands that separate the lagoon from the ocean. Such sets of boundaries often effectively divide a coastline and adjoining reefs, islands and nearby sea into adjacent, discrete and quadrant-like sections held by adjacent social units and recognized as such collectively by the villagers of the larger area. In some cases the overall patterns of marine boundaries are exceedingly complex. These may involve outer and inner zones of lagoon and ocean-facing reefs held by different groups, or remote offshore reefs or islets jointly controlled and used by groups from several different main islands. Boundaries of marine territories generally appear quite flexible in the Solomons. This allows adjacent communities some degree of mutual access to each other’s territories (a practice also promoted by intermarriage). Joint use and sharing are important components of customary marine tenure, and boundaries are rarely absolute or all exclusive in

a practical sense, although their existence and location may be firmly established in villagers' perceptions.¹³

Clearly, contrary to claims that in the Solomons 'ownership of reef and lagoon areas almost invariably lies with the owners of the adjacent land' [22],¹⁴ organizational patterns in the relationships between specific groups and territories (usually the outcomes of long and complex historical processes) often mean that areas of reef and lagoon and adjacent lands are controlled by different groups. In some cases single groups do hold fringing reefs as an extension of land. But in many others 'salt-water' people hold reefs, lagoon and parts of the coastline, whereas 'bush' people hold much of the inner coast (sometimes including mangroves and estuaries) and all interior land. This is the case in the Langalanga and Lau lagoons of Malaita Province. In the Marovo, Roviana and Vonavona lagoons of New Georgia, even though all present-day villages are coastal, only some are inhabited primarily by people of senior reef-holding groups. Many communities on the seashores of those lagoons have little or no control over reef and lagoon, although they have access through well-established rights of use.

In general, then, control over nearshore and outer reefs and lagoons is not necessarily tied to control over land; nor is customary marine tenure based on villages as such. Rather, reef and lagoon tenure is based on kin groups whose members trace common descent, that in turn confers senior rights to decide over matters concerning the ancestral estate. Accordingly, some decision-makers may be resident elsewhere, an expression of the widespread preference for marrying outside one's own group.

3.4. Regulations

Within its demarcated territory, a reef-holding group, most of whose members usually reside within the boundaries, enforces a variety of regulations on the access to and use of all kinds of living and non-living resources. The use of certain fishing technologies (common examples being plant poison, spearguns and gillnets) may be prohibited or severely restricted, either permanently or temporarily. Non-members may be required to ask permission before taking any resource from reefs and islands held by a group. Temporary taboos may be placed on all exploitation of a section of reef or a particular resource. For example, a known aggregation of an important food fish or locally depleted trochus or pearl shell may be placed under taboo for stocks to build up. Often, commercial harvesting of fish and such 'marine products' as trochus, pearl shell and *bêche-de-mer* by any non-member of the group is subject to rigid regulation, and customary sanctions may be invoked on trespassers. This, however, depends on the perceived scarcity of a given resource at a particular time. Such an assessment does not necessarily reflect absolute states of abundance or depletion.

¹³See also [6, 17] for general information on such boundaries.

¹⁴A brief unpublished review by a Solomon Islands fisheries officer observes that although reefs are generally perceived as joined to the land, they do not necessarily 'belong to the adjacent land owners' (Collenson K, A report on the customary reef survey around the Solomon Islands, typescript, undated).

Rather it may be influenced by the perception of market prices, available transport and other factors that affect the demand for, and number of potential harvesters of, the resource(s) in question. Throughout the Solomons during the past decade marine boundary enforcement has intensified concerning access to fishing and gathering marine products. In many cases, intensifying commercialization has led to a revitalization of the customary authority of chiefs and others. In turn this has caused expansion of customary politics concerning the sea into new fields of social and political relations and new channels of power, partly through organizational innovation.

On the decidedly ‘traditionalist’ side, despite a century or more of Christian influence, customary reactions to trespass in most parts of the Solomons retain elements of old spiritual beliefs. ‘Sacred’ reef areas (referred to in Melanesian pidgin as being *tambu*), not to be fished nor even visited, may be found in most parts of the country. And the known presence of ancestral spirit beings, manifested as certain sharks or saltwater crocodiles, may deter prospective poachers. When I conducted a nationwide survey of potential sites for rural mariculture, many potential giant clam ‘farmers’ pointed out that the widely ‘publicized’ protection by shark and crocodile spirits of the reefs under consideration for mariculture should serve to protect growing *Tridacna* clams from poachers. Similar beliefs may apply to harvesting by ‘outsiders’ without permission of such particularly valued resources as turtles, dugong, or (wild) giant clams. Even simple subsistence fishing in strange waters may be reckoned to entail danger of attack from guardian sharks believed to patrol the area.

It is notable that those who hold sharks and/or crocodiles to be their spiritual allies and protectors of their territory are not allowed to harm, kill or eat these animals. Such patterns sometimes influence village diets. For example, the ancestral traditions of many people in the Langalanga Lagoon dictate that they may not disturb, kill or eat any *Tridacna* clam, since their original ancestral shark was protected and nurtured by its human mother in a giant clam valve. For some groups, customary or Christian food prohibitions also influence any harvesting of certain marine animals, as among Seventh-day Adventists, whose doctrine follows food taboos of the Old Testament. Accordingly, arrangements have emerged whereby non-reef-holding neighbors of another denomination with fewer food taboos are freely allowed to gather resources forbidden to Seventh-day Adventists.

3.5. *Challenges and transformations*

Any recognized member of a reef-holding group is free to carry out most forms of resource use within the territorial boundaries of the holdings. This sometimes leads ‘insiders’ to express the view that few regulations exist on marine resource use. However, this is a gross understatement from the perspective of more disadvantaged ‘outsiders’, and is often further modified by restrictions tied to the intensity of commercial fishing or harvesting of ‘marine products’. The general freedom of access to resources within the area of one’s own group (subject to the restrictions mentioned above) also applies to ‘affiliated’ members who have gained their status through marriage and residence rather than birth. People wishing to fish or gather resources

from a marine territory not controlled by their own group must generally ask permission before harvesting, although long-established use rights in many cases simplify this procedure.

Although specific control over certain fishing grounds by individuals or families exists in some parts of Solomon Islands¹⁵ in general there seems to be little internal subdivision or ‘nesting’ of group territories. Most fishing grounds are open to all group members and to other inhabitants of villages within the group’s territory. This is in contrast with agricultural land, which tends to be finely subdivided, with substantial garden blocks (including fallow) allocated more or less permanently to individual households and extended families.

However, the customary marine tenure systems of Solomon Islands commonly contain provisions for assessing more individualized claims to reefs in the immediate vicinity of an individual’s own settlement site or other land. Usually, sections of village beach and shallow reef immediately in front of a family’s house site are considered ‘theirs’, and form an integral part of that site. Families living alone in smaller hamlets are similarly regarded as having strong claims to the reefs just off the beach. In the first instance, the recognition of territorial privilege is related to the practical necessities of canoe access and anchorage, and traditionally to the ownership of stone fish traps (rarely used today). In this sense the establishment of permanent structures on reefs off one’s own beach tends to derive from, and further define, some level of primacy in control. Today the most noticeable expression of this is the widespread practice of keeping small ‘clam gardens’, where *Tridacna* clams gathered from outer reefs are brought home for live storage for later consumption.

Such micro-level rights to reefs reside firmly within the framework of supreme control by the corporate descent group, in a way similar to that of agricultural plots. The households, families or even individuals who assert primacy of control over a subdivision of communal reef holdings do not as a rule control ‘their’ area to the extent of being able to transfer it to outsiders. Neither can the corporate group transfer these rights to outsiders, through lease or sale. The exclusive rights held jointly by its members constitute an inalienable estate, unless there is an undisputed decision to effect a transfer. That is highly unlikely considering the overlapping claims to, and multiple ‘owners’ of, most customary land and reefs throughout the Solomons. Notable in this regard is a widespread belief that since colonial law defined ‘land below high-water mark’ as belonging to the Crown (a concept not clear to villagers), present-day alienated land (i.e. smaller islands or seaside plantation sites purchased in colonial days from the customary owners, and registered as such) does not include the adjacent reefs.

Yet customary marine estates may be drawn into complex, ‘modern’ money-earning situations involving descent groups and their leaders with foreign capital, government policy and legislation. The recent arrangements whereby the tuna industry is granted access to lagoons for bait-fishing purposes in return for resource rents (‘bait royalties’) calculated and paid to the customary ‘trustees’ of defined areas or ‘bait grounds’, is

¹⁵Examples of individual and family ‘ownership’ of net sites in the Lau Lagoon of Malaita are given in [23].

one example. Among the most recent, and for coastal villagers most exotic, challenges to customary marine tenure are the arrivals of ‘live fish’ enterprises licensed by the government and operating seasonally in selected locations of the Solomons. These buy live fish of prime species (mainly snappers and groupers) and airfreight them to Asian markets. They purchase the fish directly from local fishers at prices locally perceived as extraordinarily high, and provide gasoline for outboard motors and the proper hook-and-line gear. In Marovo Lagoon this has created conflict between groups who allow such activities in their area (in one case reportedly with dire consequences for an annual spawning aggregation of coral trout) and those that prefer to forego the money while, as they say, ‘keeping their reefs better’.

Such complex encounters involving *kastom*, foreign capital and government policy, whether in the form of ‘co-management’ or as less systematic negotiations of resource rent for ‘insiders’ and access rights for ‘outsiders’, are likely to diversify and expand in the future. Therefore, a brief examination of the legislative contexts in which customary marine tenure must realize its future potential is required.

4. Legislative contexts of customary marine tenure: future channels for *kastom*

Diversity and generality are highlighted at the interface between ‘customary’ and ‘modern’ regulations and policies, as represented by the localized repertoires of *kastom*, on the one hand, and nationwide legislation and marine resource management policy, on the other. Although based on statute law, government policy in Solomon Islands accords important privileges to rights entailed in customary law. In effect this recognizes to some degree the flexible, contextual application of local *kastom*. But few explicit provisions exist in the formal legal system regarding customary marine tenure specifically. The *Fisheries Act* 1972 (amended 1977) does not deal with customary fishing privileges as such, but gives the national government power to implement a number of management measures. Provision is given to ‘make regulations for the conservation and protection of fish of any species; establish closed seasons for any area of Solomon Islands; place a limit on the amount, size or weight of fish to be caught or traded; designate prohibited fishing areas for all fish or certain species; designate prohibited methods of fishing; prohibit certain types of fishing gear or methods of fishing, and in relation to fishing nets, specify the minimum mesh size’ (see [4]). As the preceding discussion has indicated, this list of measures from the books of scientifically based fishery management correlates rather closely with non-written *kastom*-based repertoires of rules and regulations in customary marine tenure. With reference to accelerating challenges from foreign fisheries enterprises, the *Fisheries Regulations* 1972 and related legislation specify certain requirements for foreign and local commercial vessels to seek agreements with customary ‘owners’ before fishing within one nautical mile of a ‘fishing’ (reasonably interpretable as ‘coastal’) village. In addition, the *Lands and Titles Acts* and the *Penal Code* give some recognition to customary rights over such resources as fish and shellfish. A vaguely defined concept of provincial jurisdiction over the sea within 3 nm of shorelines exists in provincial legislation, but the *Provincial Government Act* 1981 (now undergoing

broad revision) specifies that such jurisdiction cannot override customary law [24].¹⁶

For practical purposes the reefs and inshore seas of Solomon Islands are held under customary law, and customary marine tenure systems remain the major mechanisms for regulating the uses of these areas. Increasingly, customary leaders enlist the support of administrative and legislative powers to obtain added formal recognition of customary privileges and management measures. This is not entirely new. For example, in the 1930s villagers of the Marovo Lagoon enlisted the support of the colonial administration to expel Asian vessels poaching for *bêche-de-mer*. And in 1951 customary reef holders of the Marau Sound, on Guadalcanal Island, filed a court complaint against a European trader for harvesting trochus without their permission. In the same year it was judged by the High Court that the law would recognize ‘for the purpose of this case, the custom [from time immemorial] of the Marau natives, under which the exclusive possession and enjoyment of particular reefs, that is of the substance comprising the reefs and whatever is growing upon them is vested in lines (lineages) to which those natives belong’. In this benchmark case ‘time immemorial’ was defined as 1893, when the British Solomon Islands Protectorate was established [25].^{17,18}

The issue of customary fisheries-related rights has become increasingly sensitive politically, particularly for tuna bait fishing, which causes local conflict but underpins a major earner of national export revenue. Efforts have been exerted to define the status of such rights more explicitly, and to include some legal recognition and protection of them. Revised fisheries legislation for Solomon Islands, drafted under a FAO project in the 1980s but still not fully implemented, formulated requirements and procedures for consulting customary ‘owners’ of fishing rights, and for the legal enforcement of such rights and customary regulations. Legal procedures for the establishment of aquaculture operations were also formulated, although not referring to customary reefs (see [24]).

All these initiatives involve an interplay between fixed legislation (largely of national scope) and the flexibility of locally specific, continuously evolving forms of marine tenure. How can the ‘broad legal standards’ of *kastom* be accommodated in a formal legislative framework, and how may the day-to-day concerns of local ‘reef owners’ be afforded channels into national policy-making? It is clear that the customary marine tenure systems of the Solomons run a risk of being ‘essentialized’ in the process; that is, being represented in an orderly and uniform way that obscures their inherent variability

¹⁶Further detail concerning fisheries-related legislation in Solomon Islands has been provided in [4,6].

¹⁷For the Marau Sound example, see High Court of the Western Pacific, The judgement of Judicial Commissioner Charles in *Hanasiki vs. Symes*. British Solomon Islands Protectorate (BSIP), Honiara, 1951. Similar yet contrasting judgements involving customary marine tenure are referred to in the late-1950s report of the BSIP Special Land Commission.

¹⁸Allen mentioned how the action taken in 1955 by salt-water people of Fanalei island in South Malaita against the mainland bush people ‘for exclusive possession of certain reefs adjacent to Fanilei [sic.] island was decided in favor of neither party’; the Judicial Commissioner declaring that every person had the right to fish on the reefs adjacent to Fanalei [25].

and flux. Studies of land tenure transformations in colonial and post-colonial times in Solomon Islands and in Fiji (where customary fishing rights have been codified) highlight the ways in which tenure may become less of a day-to-day practice. Instead it may be turned into a ‘standard form, inflexible, and highly respected... in the hands of an urban elite’ [16, 26–28]. Such a process would undermine that contextual flexibility that appears to be a prerequisite for the future influence of local groups over the management of local fisheries resources. To return to the words of the Marovo Lagoon chief quoted earlier: ‘... everything is different, and our laws have to fit that’. Across Melanesia, and beyond, retaining a capacity for flexible adaptation across a range of situations and contexts must be addressed in the further interaction between customary marine tenure and national legal systems and management policies.

5. Conclusion

It has been argued that every reef in Solomon Islands is ‘owned by someone’ and on a day-to-day basis is guarded more or less closely by its customary ‘owners’ or custodians. The existence and resilience of customary marine tenure are inescapable facts for any scenario in coastal resource development. This is likely to apply also in the foreseeable future, with the further expansion of *kastom* into new political fields, escalating conflict among various customary decision-makers notwithstanding. The potential of customary marine tenure as a cost-effective, de-centralized way of managing coastal fisheries in the Pacific Islands has been noted by an increasing number of observers. This may be exemplified by a recent assessment by two marine biologists and fisheries managers with long experience from the South Pacific to the effect that ‘... in the longer term it seems likely that only community-based limited-entry systems will prevent overharvesting in most fisheries’ [29].

A general theoretical point needs emphasis concerning the transformations of marine tenure in the Solomons. For Solomon Islanders, locally specific forms of customary marine tenure, still uncoded, variable and, to outsiders, sometimes frustratingly unpredictable, continue to be one of several interrelated frameworks for dealing with the exigencies of changing social, political and economic circumstances. Notably, this important field of *kastom* appears to retain its capacity for expansion into ever-new types of encounter and fields of social interaction, including policy and legislation on the national level. ‘New’ forms of marine resource management evolve with reference to ‘old’ ones, through a typically dynamic pan-Melanesian process where certain general, basic principles, represented as core elements of *kastom*, are exercised in such ways that the ‘new’ may bear little overt resemblance to the ‘old’. The actual measures taken vary among localities and islands, not just according to cultural specificity but also, and perhaps more significantly, in response to an expanding range of external challenges. In this light, customary marine tenure certainly retains a capacity for adapting to the rapidly changing and ever more varied contexts of modernity.

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References

- [1] Keesing RM. Kastom re-examined. In: Lindstrom L, White G, editors. Custom today. Anthropological Forum (Special Issue) 1993;6(4):587–596.
- [2] Jolly M, Thomas N, editors. The politics of tradition in the South Pacific, Oceania (Special Issue), 1992;62(4).
- [3] Keesing RM, Tonkinson R, editors. Reinventing traditional culture: the politics of kastom in island Melanesia. Mankind (Special Issue) 1982;13(4).
- [4] Pulea M. An overview of constitutional and legal provisions relevant to customary marine tenure and management systems in the South Pacific (FFA Report 93/23), Honiara: South Pacific Forum Fisheries Agency, 1993.
- [5] Hviding E. Guardians of Marovo Lagoon: practice, place, and politics in maritime Melanesia, Pacific Islands Monograph Series, 14. Honolulu: University of Hawaii Press, 1996.
- [6] Baines GBK. Traditional resource management in the Melanesian South Pacific: a development dilemma. In: Berkes F, editor. Common property resources: ecology and community-based sustainable development. London: Belhaven Press, 1989.
- [7] Ruddle K, Hviding E, Johannes RE. Marine resources management in the context of customary tenure. *Marine Resource Economics* 1992;7:249–273.
- [8] Ruddle K. External forces and change in traditional community-based fishery management systems in the Asia-Pacific region. *Maritime Anthropological Studies* 1993;6:1–37.
- [9] South GR, Goulet D, Tuqiri S, Church M, editors. Traditional marine tenure and sustainable management of marine resources in Asia and the Pacific. Suva: International Ocean Institute - South Pacific, 1994.
- [10] Hviding E, Baines GBK. Community-based fisheries management, tradition and the challenges of development in Marovo, Solomon Islands. *Development and Change* 1994;25(1):13–39.
- [11] Turner JW. Sea change: adapting customary marine tenure to commercial fishing. The case of Papua New Guinea's bait fishery. In: South GR, Goulet D, Tuqiri S, Church M, editors. Traditional marine tenure and sustainable management of marine resources in Asia and the Pacific. Suva: International Ocean Institute - South Pacific, 1994:141–154.
- [12] Keesing RM. Custom and Confrontation: the Kwaio Struggle for Cultural Autonomy, Chicago: University of Chicago Press, 1992.
- [13] Strathern M. Artefacts of history: events and the interpretation of images. In: Siikala J, editor. Culture and history in the Pacific. Helsinki: Transactions of the Finnish Anthropological Society, 1990.
- [14] Polunin NVC. Primitive myth. *Nature*, July 1987;328:106.

- [15] Polunin NVC. Do traditional marine 'reserves' conserve? a view of Indonesian and New Guinean evidence. In: Ruddle K, Akimichi T, editors. *Maritime institutions in the Western Pacific*. (Senri Ethnological Studies, Vol. 17) Osaka: National Museum of Ethnology, 1984.
- [16] Scheffler HW, Larmour P. Solomon Islands: evolving a new custom. In: Crocombe R, editor. *Land tenure in the Pacific*. Suva: University of the South Pacific, 1987.
- [17] Hviding E. The rural context of giant clam mariculture in Solomon Islands: an anthropological study, ICLARM Technical Report, 39, Manila: International Center for Living Aquatic Resources Management, 1993.
- [18] Tryon D, Hackman B. Solomon Islands languages: an internal classification. *Pacific Linguistics C-72*, Canberra: Australian National University, 1983.
- [19] Goto A. Lagoon life among the Langalanga, Malaita Island, Solomon Islands. In: Akimichi T, editor. *Coastal foragers in transition* (Senri Ethnological Studies, vol. 42). Osaka: National Museum of Ethnology, 1996.
- [20] Keesing RM. Nonunilineal descent and the contextual definition of status. *American Anthropologist*. 1968;70:82–84.
- [21] Foale S. Ownership and management of traditional Trochus fisheries at West Gela, Solomon Islands. In: Hancock DA, Smith DC, Beumer JP, editors. *Developing and sustaining world fishery resources: the state of science and management*. Second world fisheries congress, Brisbane. 1996, vol. 2. Melbourne, Australia: CSIRO, 1997:266–272.
- [22] Ruttley HL. Analysis of replies to a questionnaire on customary fishing rights in the Solomon Islands, Fisheries Law Advisory Programme, Western Pacific and South China Sea Region TCP/SOI/6601(A)FL/WPSCS/87/16, Rome: Food and Agricultural Organization of the United Nations, 1987:5.
- [23] Akimichi T. The ecological aspects of Lau (Solomon Islands) ethnoichthyology. *Journal of the Polynesian Society* 1978;87:301–326.
- [24] Moore G. The Revision of the Fisheries Legislation in Solomon Islands (Final Report), Fisheries Law Advisory Programme, Western Pacific and South China Sea Region, TCP/SOI/6601(A)FL/WPSCS/87/14, Rome: Food and Agricultural Organization of the United Nations, 1987.
- [25] Allan C. Customary land tenure in the British Solomon Islands Protectorate. Honiara: Western Pacific High Commission, 1957.
- [26] Hviding E. Indigenous essentialism? 'Simplifying' customary land ownership in New Georgia, Solomon Islands. *Bijdragen tot de Taal-, Land- en Volkenkunde*. 1993;149:802–824.
- [27] France P. The charter of the land: custom and colonisation in Fiji. Melbourne: Oxford University Press, 1969.
- [28] Ruddle K. A guide to the literature on traditional community-based fishery management in the Asia-Pacific tropics. *FAO Fisheries Circular No. 869*. Rome: FAO, 1994:47–51.
- [29] Munro JL, Fakahau S. Management of coastal fishery resources. In: Wright A, Hill L, editors. *Nearshore marine resources of the South Pacific*. Honiara and Suva: Forum Fisheries and Institute of Pacific Studies, 1993.