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**Questioning the Commons:  
Resource Utilization in a Landscape of Overlapping Laws**

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*1. Introduction*

Sometimes we're a Christian man  
Sometimes we're under the law  
Sometimes we're a custom man.  
—Chief S. Maturu

This paper presents preliminary findings from recent doctoral research carried out over an eighteen month period in the Solomon Islands. Its main intention is to examine the multiple layers of laws and norms that structure access to communally held land on Lauru Island. Specific examples will illustrate the underlying fluidity and complexity of laws determining 'ownership' of and use rights to different types of land (i.e. garden, orchard, bush) and to particular resources (i.e. species of wild palms, mushrooms, nuts). We will also explore other lattices of laws based on social, ecological, and geographical variables which shift in time and in space, adding to the complexity of Lauru's system of land tenure. Lastly, we will look briefly at how increasing integration into global economic, religious and political institutions has altered common property relations, which threads new layers of meaning through an already densely-woven tapestry of laws.

This paper is part of a larger work in progress which will address various issues concerning common property land and resources, including an analysis of the meaning and transformation of common property relations on Lauru Island. It will also explore contested and contradicting ways in which Western ideologies have become incorporated into Lauru society, and at the impact this has on their

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Jody*

system of communal property relations. Lastly, by looking at the works of Western political theorists and Utopian thinkers, it will compare historical visions in the West with contemporary efforts by Lauru's religious and political leaders who, integrating customary and Christian ideology, are attempting to create a social and ecological 'Utopia' on the island.

This is the first attempt at trying to synthesize an enormous amount of minutely detailed and interrelated ethnographic data, and any comments, critiques or brilliant ideas would be gratefully appreciated!

## *II. Background*

Many common property theorists have struggled with definitions for such terms as 'ownership' and 'common property'. For example, McCay notes Malinowski's definition of ownership as "the concrete facts and conditions of use" (1987: 8). This definition is too vague for our purposes, and is problematic in that it (1) can be (mis)interpreted in exploitative ways (for example, in English law, which regarded "conjugal affection" as part of a man's property (Ryan 1987), or in reference to slavery); and (2) does not implicate any notion of limitation. Ciriacy-Wantrup and Bishop assert that the term 'common property' "refers to a distribution of property rights in which a number of owners are co-equal in their rights to use the resource" (1975: 2, *italics in original*). And Godelier very eloquently affirms that "what a society claims in appropriating a territory for itself is access to, and control and use of, both the visible realities and the invisible powers which constitute it and which seem to share between them the mastery of the reproductive conditions of human life—both the human beings' own life and that of the resources upon which they depend" (1986: 83). *It is clear from the above that any definition of common property must include a conception of use. It must also incorporate (1) the idea of access to and control of resources; (2) the fact that there are material and ideological laws associated with these; and (3) a notion of social boundary (somewhere between the individual [private property] and everybody [open access]).*

A major blindspot in the debates on common property theory is an oversimplification of the system—they fail to trace the overlapping patterns of rights and ownership and tease out the interwoven threads of meaning and action—which shape the cultural, ecological, and historical fabric of common property systems. Baines states that "though there is now a greater willingness to know, to understand, and to document these systems, few appreciate their complexity" (1990?:

16). Exceptions include Fernandez (1987), who provides an example of overlapping use rights in Spain, whereby arable lands are allocated to individuals for certain purposes (e.g. agriculture), and are treated as a commons for others (e.g. cattle grazing after the harvest). Carrier's (1981) work on Ponam Island in Papua New Guinea has similarly illustrated the complexity of common property systems in his meticulous study of marine resource management. Yet these kinds of studies are rare. Common property systems may incorporate several categories of land types and resources, each having its own set of laws that are constantly in the process of being defined and redefined. And there might be several layers and kinds of 'ownership' and usufructory rights which are in various degrees of being recognized, depending on other sets of interrelated political, economic, social, religious, and environmental factors. *In order to confront this complexity, it must be recognized that these systems involve highly intricate and fluid interrelations between numerable political, economic, social, religious and ecological forces that are constantly transforming in space and in time.*

While it is essential to understand internal complexity, it is equally important to examine the historical processes which transformed common property systems. Throughout the tropics, these systems have been challenged and oftentimes destroyed by externally imposed forces, and many of these 'strategies' have been transformed into 'tragedies'. Nature became 'resources' and resources became commodities. As the social value of resources is replaced by a monetary one, overexploitation and resource degradation ensue (Baines 1985; Blaikie 1985; Blaikie and Brookfield 1987; Ciriacy-Wantrup and Bishop 1975; Cordell and Fitzpatrick 1987; Hooper 1985; Johannes 1981; McKinnon 1975, 1976-7; Nietschmann 1972). The introduction of a money economy, and the new values that accompany it, by far had the greatest impact in transforming customary systems of resource use (Baines 1982; Gilles and Jamptgaard 1981; Johannes 1978; McCay 1987; Stocks 1987). Yet capitalism did not just land and stand nakedly on the shores of the Pacific. It traveled through time and space in boats, locked into the ideologies of traders, planters, missionaries, colonial administrators, and now multinational resource extractors. *Therefore, the historical processes which transformed the meanings and functionings of common property systems must be at the heart of any analysis that proposes to contribute to an understanding of these systems. And the expansion of global capitalism is of central importance in the past two centuries of Pacific history.*

Lastly, the question of 'meaning' must be critically addressed, as it is central to the issue of transformation (see Carney and Watts 1988). What is being transformed? The existence of cash does not in itself indicate that a person should, instead of sharing, demand a bit of shiny money from their mother before she may be given a fish. The transformation is something invisible. It is the meaning with which 'things' and social relations are imbued. To grasp the complex socioecological interrelations that cause changing patterns of land tenure and resource use, it is essential to follow the historical changes in meaning. Peters rightly argues that "without a keener sense of the relations in which individual users are embedded, we cannot penetrate the dynamic of a commons, which is necessarily a social system. And without an attention to the reciprocal interaction between practice and meaning, we shall also misconstrue or miss the dynamic in process" (1987:193). *Therefore, in order to understand the transformations which have occurred and which are presently occurring in common property systems, we must first understand the deconstruction and reconstruction of meaning, as it prevails in the thoughts and actions of individuals.*

### *III. Lauru Island*

The best arenas in which to investigate theoretical issues of common property are those societies undergoing rapid changes in land use, because change brings conflict, and conflict brings into sharp relief the rules and norms by which these systems operate. Lauru Island in northwest Solomon Islands is one such society. The island is presently facing a new era of social and ecological transformation. While its size is insignificant on a global scale, Lauru is representative of the types of social and environmental problems facing much of the Pacific, and indeed, much of the tropics. Restructured property relations, terrestrial and marine resource depletion, a 3.8% population growth rate, logging, and a growing reliance on imported foods are placing the survival of the island's people and resources in doubt.

Lauru is a volcanic island situated in Choiseul Province in the Solomon Islands (see map, next page). Its steep interior is densely covered with tropical rain forest, and dotted with impermanent garden plots. Most of the island's coastal areas have been converted to coconut plantations. The island is fringed with coral reefs and mangroves. The majority of today's population lives in coastal villages and has a mixed economy of gardening, fishing, hunting and collecting for household consumption, and cash crop cultivation (coconuts, cocoa), fishing and shell collecting for market.

Customary utilization of resources on Lauru was based on the fulfillment of biological needs (nourishment, shelter) and social obligations that were enmeshed in a sacred understanding of and relationship with nature (of which humans are seen as an integral part). Although this relationship may have been dramatically altered, it is not merely vestigial; the sacredness and supernatural powers with which some plants and animals are imbued is still a vital element in peoples' perception of nature, as is the social significance of land and resources. This view clearly opposes the (relatively new) perception of 'resources' as commodities. Recognizing the importance of sharing and generosity—attributes which have been widely observed throughout the Pacific (e.g. Carrier 1987, Johannes 1981a)—is vital to understanding the logic of customary resource allocation, use, and management on Lauru. Linked with these is a web of social norms, including 1) the contempt for material accumulation; 2) a great respect for chiefs, priests, ancestral spirits, and Gods; 3) the asking of permission; 4) the paying of compensation; 5) close kin relations; and 6) other cultural and political functions and institutions which may have been more critical in determining patterns of resource use than, for instance, relative resource abundance or other such environmental factors.

Still, social relations and human-environment relations are simultaneously interrelated, and the complexity of laws concerning resource use—while not being necessarily determined by—are mirrored by the complexity of the resource base. That is, laws controlling access to and use of resources vary with ecological conditions, species, and location as well as other conditions such as intended use, kin relations, and 'type' of land on which a particular resource lives. On Lauru there are numerous 'types' of land, or 'land use zones', each with its own pattern of allocation, utilization, and consumption. Detailed examples will be given later which illustrate these laws.

Another aspect of resource use is the unequal social and economic significance attributed to each 'resource'. For instance, Bonito were highly valued, and sharks and dolphins were sacred, as they were the Gods of certain tribes. Furthermore, the various species of giant clams comprise a wide range of value, from 'God' to good-eating to fair-eating to 'rubbish clam'. Certain birds and turtles are kept as pets, and other animals such as beche-de-mer and trochus had no meaning until their recent economic importance for foreign markets. Crocodiles were sacred until guns were introduced by traders at which point they were fervently hunted. Various species of ginger were cultivated in womens' gardens, and eaten to control fertility. (This practice was prohibited by missionaries and abolished, though a few women continue to grow them secretly in their gardens). The laws associated with many other

species (over forty) of wild and cultivated gingers are numerous, and the meanings with which ginger is imbued ranges from political to medicinal to supernatural (See Somerville 1897 on use of ginger in nearby islands).

#### IV: Land Tenure

A brief description of Lauru's system of land tenure is necessary in order to provide a foundation for understanding the nuances of laws and norms which structure access to land and resources on the island. Lauru is divided into nine 'sections' which comprise distinct language groups. The land laws of one section vary from those of the others. Sections are divided into a number of tribal lands, or *Kutea Lua*. Each *Kutea Lua* is roughly bounded by geographical features such as rivers and ridges, or marked by prominent landmarks such as stones and trees. These boundary marks serve as the pegs which have at their center a shrine, the most significant feature identifying the tribe's land (Naitoro 1989:49).

Some *Kutea Lua* are located inland; others include a section of reef and sometimes offshore islets. The reef is not seen as a separate entity from the land, but instead as that part of land which is covered with water. When rivers serve as boundaries between two *Kutea Lua* the rivers and resources within them are shared by the members of both tribes. There are laws of riverine etiquette within and between upstream and downstream tribes insofar as resource utilization and riverine resource management are concerned, but these will not be covered here.

The *Kutea Lua*, originally comprised of virgin forest and reef, is held communally by the tribe. Theoretically all tribal members have equal access to the land and resources located inside the *Kutea Lua*, though as we shall see later, in practice this is not necessarily so.

The *Kutea Lua* is presided over by the tribal chief. He is not the 'owner' of the land, but is responsible for the welfare of the land and the people of the tribe. In practice, he does wield more power over the tribe's land and resources, and those who disobey the laws he sets down are severely punished. Eventually the *Kutea Lua* becomes divided by clan/lineage or '*jojolo*'. This can happen in two ways. If the chief has two sons, he can divide the tribe's land in half, thereby creating two separate *Lua Zinakutama* within the *Kutea Lua*. In this case the *Kutea Lua* will be presided over by the tribal chief (the father), and the two *Lua Zinakutama* will be presided over by the two clan chiefs (the

sons). When the father dies, each of the *Lua Zinakutama* will become a separate *Kutea Lua* (tribal land) and the sons will become the tribal chiefs of those lands.

The second way to divide a *Kutea Lua* is for a tribal chief to allocate certain areas (*Lua Zinakutama*) within the *Kutea Lua* to each *jojolo*, allowing parts of the *Kutea Lua* to remain as communally held bush (virgin forest), shared by all tribal members. In this way all *jojolo* stay united as one tribe, presided over by a single tribal chief, though each *jojolo* has its own *Lua Zinakutama* within the tribe's land, which is presided over by a clan chief.

In either case, it is the obligation of the clan chief to allocate garden land within the *Lua Zinakutama* to the individuals of the *jojolo*. These individually held garden lands are called *Kenakena Lua*, and are held exclusively by the individual to whom it was originally allocated (or who cleared the bush (virgin forest) in order to make their garden there). Thus the people of Luru have a telescoping pattern of embedded rights, organized as follows:

- a). A large *Kutea Lua* held communally by the tribe (*sinangge*), controlled by the tribal chief, off-limits to those outside the tribe;
- b). Medium-sized *Lua Zinakutama* within the *Kutea Lua* held communally by the clan/lineage (*jojolo*), controlled by the clan chief (though he is under the tribal chief's authority), off-limits to those outside the *jojolo*;
- c). Small *Kenakena Lua* within the *Lua Zinakutama* held individually by members of the *jojolo*, controlled by the individual (though they are under the authority of the clan chief), off-limits to those outside the individual's immediate family (*tatama*), unless permission is asked before entering.

Though the above is in simplified form, it does illustrate the fact that as the land becomes more and more divided, it becomes less and less 'communal' in terms of authority over land and resources. And the question of authority becomes very murky after several generations of complicated (and highly contested) laws of inheritance.

Customarily, Luru's system of inheritance was patrilineal. Children acquired their tribal affiliation from their fathers. This means they had 'primary' rights to land and resources within the land of their father's tribe; and 'secondary' rights to land and resources within the

land of their mother's tribe. Land was passed down by fathers to their sons, and daughters married and went to live in their husbands' villages. But sometimes a man had no son, and sometimes he had no children at all, so an elaborate system of adoption was used to insure that the land remained with the tribe (was not taken over by a different tribe as a result of there being no male member of the tribe left to claim it).

The above laws of inheritance, and especially the issues of descent and adoption, are presently at the forefront of deeply emotional and highly controversial debates within Luru society. Today there are countless disputes (prompted by the logging agreements waiting to be signed) as to the degree of people's 'tribalness' (membership in the tribes of their many grandparents, great-grandparents, etc.), and special complications arise when someone (or their grandparents, etc.) has been adopted by a different tribe, or if they (or their grandparents, etc.) were a *seka* (slave taken during headhunting) from a different island altogether, or if a distant relative went away to marry to someone from a different island, or if somewhere down the line in their genealogy a relative 'came from a woman' and not from a man, as these are all issues which determine the degree to which an individual has authority within a particular tribe's land.

An interesting aspect of Luru's system of land tenure—especially relevant to the theme of this conference—is the customary allocation of land (*Kenakena Lua*) for gardening to individuals within the tribe. In Luru custom there were ten divisions of people, which can be said to comprise four social 'classes'. These divisions were as follows:

Class I:

1. *Bovoe* (Chief)
2. *Podoleke* (Men from chief's lineage/'born from the man')
3. *Mate Bangara Sosoka* (Adopted namesake to replace chief)
4. *Varauto Sosoka* (Chief's son-in-law who will replace him)

Class II:

5. *Podoleke* (Men whose mothers were from chief's lineage)
6. *Mate Bangara* (Adopted namesake of beloved person/chief)
7. *Varauto Jajujaju* (Chief's son-in-law who lives with wife's tribe)

Class III:

8. *Bose Katoko* (Slave(?)—Criminal bought from different tribe)



Class IV:

9. *Seka* (Slave—Taken during headhunting raids of other islands)
10. Women

Land was allocated as follows:

Class I:

These people had access to as much land as they were willing to work, and were given the best land.

Class II:

These people were allocated a piece of *Kenakena Lua* by the chief, but not very big.

Class III:

These people were allocated a very small piece of land by the person who bought them (inside the person's *Kenakena Lua*).

Class IV:

No land was allocated for slaves and women.

In summary, the customary system of land tenure on Lauru was based on the division of land by tribe with smaller areas held by clans or individuals within the tribal land. As the land became more and more divided it became less and less communal, and the privilege of access to land and resources was not equally held by all members of the tribe.

## V. Land Use Zones

A. Ecological/Topological Zones—Lauru Island is comprised of a steep interior dotted with swampy valleys, razor-sharp ridges, and hills that roll down into riverine floodplains, coastal flats, mangroves, fringing reefs, and occasionally offshore islets. Offshore islets are generally small, sandy coral atolls. All of these zones are associated with specific soil types, each with different properties in terms of their suitability for various species of wild and cultivated vegetation.

While ecological variability was not a major focus of the study, it is important to note the heterogeneity of the physical landscape as one of the layers of complexity underlying the intricate web of laws and norms which shape patterns of land tenure and resource use on Lauru.

B. Land Use Zones—Inside each *Kutea Lua* is a multi-textured pattern of land use zones, including 'bush' (virgin forest), gardens, *piara* (old, overgrown garden), *quana* (ngali nut orchard), sago palm groves, coconut plantations, paths, individual species of plants and animals, pandanus patches on offshore islets, clam gardens, areas that stay communal (reef, village area, harbors, and most streams/springs), areas of land transferred by customary means to new owners, sacred/taboo areas (caves, waters, groves, hills, specific trees), and alienated land. Sometimes a particular land use zone stands alone in the *Kutea Lua*; but oftentimes two or more zones overlap, or are incorporated one within the boundaries of another.

A detailed description of each land use zone is beyond the scope of this paper. This information, including how these zones are used, and the laws defining how access is obtained, to what degree each zone can be 'owned', and how use rights to areas or resources held by others can be procured, will be incorporated into a larger work in progress. For the purpose of this paper the following example should illustrate the point that each *Kutea Lua* is comprised of a multitude of smaller areas, each with its own set of laws determining access and use, that are constantly changing in time and in space.

The majority of land use zones are not at all fixed or permanent; each follows a fluid and oftentimes irregular pattern of change. For instance, an area of communally held bush (within the *Kutea Lua*, held by the tribe), once cleared, becomes the exclusively held garden land (*Kenakena Lua*'property') of the individual who cleared it (*i f* they are a member of the land-owning tribe or if they follow a prescribed set of ceremonial gestures that could entitle them to exclusive use rights by the tribal chief). After the garden grows, it is left fallow and becomes that person's *piara* (still *Kenakena Lua*).

This *Kenakena Lua* can be held by the individual, by the individual and their spouse and children, or by the individual and their parents and siblings. In most cases the area can be enlarged to serve the needs of the users, though the tribal chief should be asked or notified, depending on a number of social variables such as the status of the garden holder (chief's son, man who married in from a different tribe, slave, etc.) as well as other variables such as the relative amount of land available.

At any point this person can 'give' the *piara* to their siblings, parents, children or other close relatives, though the degree of relatedness and other social factors (such as the precise nature of any feasts given) might determine subtle differences in the amount of control the original garden/*piara* holder retains over the land. If the land is

inherited by the garden holder's children, who then pass it on to all of the grandchildren, it again becomes communally held, this time by the *jojolo* (clan/lineage). Land within the *Kutea Lua* that is held communally by a *jojolo* is called *Lua Zinakutama*. When the chief of the *jojolo* divides the *Lua Zinakutama* into individual or family held blocks, the land reverts back to *Kenakena Lua*. Therefore some *Kenakena Lua* are separate entities held by individuals within the tribe's land (*Kutea Lua*) which is presided over by the tribal chief, while other *Kenakena Lua* are individually-held blocks within a *Lua Zinakutama* (a larger area within the *Kutea Lua*) which is held collectively by the *jojolo*, and presided over (in terms of land matters) by the clan chief.

If the garden holder(s) or any of their relatives commit(s) a crime and has no *kesa* (custom shell money) to pay compensation, this area of land might be given instead. The amount of land given (i.e. part or all of a *Kenakena Lua* or a *Lua Zinakutama*) is determined by the seriousness of the crime. Land given (or taken) as compensation thereby becomes *Lua Sake*, which will be held by another person or group of people from a different clan or tribe.

*Lua Sake* can be transferred temporarily (which can mean as long as 500 years), until the original land holders are able to pay the appropriate amount of *kesa*, or the transfer can be permanent. Temporary holders of *Lua Sake* have 'secondary' rights to that area of land and the resources within it; permanent holders of *Lua Sake* have primary rights to the land and resources—the original land holding individual, clan, or tribe loses all rights associated with it.

The area of land described above went from bush to garden to individually held *piara* to communally held *piara* to *Lua Sake*. If, for example, a ngali nut tree grew on this land, users (tribal members wishing to harvest the nuts) would have to abide by five different sets of laws in order to know who had rights to harvest the nuts as the tree traveled through time into five different eras of 'ownership'. And each set of laws might have various options, depending on certain variables such as:

- a) Who had planted the tree (a person or a flying fox);
- b) How close the kin relations were between the person who planted the tree or held the garden/*piara* and the would-be user;
- c) What gender the person who planted the tree or held the garden/*piara* was in relation to the would-be user;

- d) The distance the person who planted the tree or held the garden/*piara* lived from the area;
- e) Whose garden(s) you had to travel through in order to get to the tree;
- f) Whether or not a *naki* (huge feast) was planned for the near future; and
- g) Which point it was in the harvest season.

This could be further complicated by the fact that the tree planter might be one person, and the garden/*piara* holder another, and these two individuals could be from different *jojolo*.

At some point the tree planter or garden/*piara* holder(s) might plant other fruit and nut trees in the same area. The trees will sprout seedlings and thus a *quana* (nut orchard) is born. *Quana* were (and, to some extent, still are) very important to Lauru people, both nutritionally and socially, as ngali nuts, along with pig and taro, are the most significant foods of the feast, and feasts played a major role in customary Lauru culture.

Whether a *quana* is planted in the bush, in a *piara*, or in someone's garden, it is still perceived as a separate entity and has its own set of laws for ownership and use. Chief Cornelius Joe gives a brief summary which highlights the principal channels by which *quana* are acquired:

*Tataqi* means 'clearing to own'—only men, not women. If any man (not woman) in the tribe, while walking about in the *sinaqi's Lua Makata* (tribe's virgin forest), sees two or three nut trees growing in an area, he will clear the area around them (no need to ask the chief) and it will belong to him. Because many things (e.g. flying foxes) eat nuts, they will come to this *quana* to eat, and they will go to the toilet and the seeds of breadfruit and other fruit trees will be sown—then when all these trees grow (in the cleared place) they will belong to the man who cleared it (even cut big trees), tho the birds, etc. planted all the trees in it. And the man will have primary rights forever—first individual, then *tatama* (nuclear family), then *jojolo*, etc. Sometimes an individual who has a big *quana* will divide it between his two children, so each is individual owner of half the *quana*. If the man has many children it's hard to divide it so they will share it. But it is up to him—he can give it to only one of his children to own individually, whose children (not his nieces and nephews) will be the next owners of the *quana*.<sup>1</sup>

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<sup>1</sup> Chief Cornelius Joe, Loimuni Village. There are separate ways for women to 'own' nut trees/*quana*, and intricate laws defining who can harvest the nuts of whose trees and when, though these will not be covered here.

The following illuminates the range of variability insofar as use rights are concerned, in a description of laws for harvesting nuts from a tree in someone else's garden:

Some trees—you must ask the person who owns the land (if a different person owns the land and the person who owns the garden took permission to make their garden there) So if a nut tree grew in the garden, and I wanted to harvest the nuts, I'd have to ask the land-owner for permission to harvest the nuts (owned by him/her) and ask the garden worker/owner permission to go into their garden to harvest the nuts. If the nut tree grew on the periphery of the garden, I'd only need to ask permission from the landowner (tree owner). If a nut tree was planted by A on B's land in C's garden (who took permission from B to work their garden), I'd have to take permission from A (tree owner) and C (garden owner), NOT B (land owner) to harvest the nuts. <sup>2</sup>

Entering someone's garden to harvest a wild plant or cultivated crop without first obtaining permission is generally taboo. This does not necessarily reflect possession of the particular plant or crop; there are other factors besides perceived 'ownership' which underlie the norms of 'garden etiquette'. These are described in the following excerpt:

With some plants there is no need to ask permission unless it grows in someone's garden, and this is not because the garden owner necessarily 'owns' or has exclusive use rights to the resource, but because

- 1). The garden belongs to the person who works it.
- 2). If the wife of the garden owner is working in the garden, a man or boy could go have sex with the wife—so they must tell the husband and wife (owners of the garden) so that they know "oh, this man is coming to our garden" So then the wife will not go alone to the garden.
- 3). Also, they'd want to go to their garden and be there before the man came to make sure he didn't work any poison (sorcery) in the garden (to kill someone or to make the garden not grow).
- 4) They also think "no good the man goes and steals something in the garden"—so they'd want to be there to watch him This is why oftentimes the garden-owners will harvest the plant the person wants themselves and bring it to the village to give to the person. <sup>3</sup>

The above discussion illustrates the fact that the laws and norms followed in obtaining access to land and resources in different land use zones are numerous and complex. It also hints at the fact that:

- a). Within the *Kutea Lua* of one tribe are areas of landholdings that are owned (to various degrees) by other tribes (i.e. *Lua Sake*). There are close to twenty different types of these transferred landholdings, each with its own elaborate laws for ownership and use.

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<sup>2</sup> Chief Cornelius Joe, Loimuni Village.

<sup>3</sup> *Ibid.*

- b). Throughout the *Kutea Lua* are specific resources (i.e. nut trees) that are held by individuals.

The following section will examine some of the laws concerning individual 'ownership' and use of specific resources.

## VI. *Individual Resources*

Within most land use zones are species of trees and other plants which can be held exclusively by individuals or *tatama* (nuclear families). Leaving marine resources and terrestrial fauna for another paper and looking only at forest plants, we find more than 252 species that are used, many with their own laws of access and use. Of these 252, 34 species are 'introduced'. 115 species (excluding those that were introduced) can be 'owned' by individuals, and of these 115, 90 species are usually planted in order to be owned.

The main factors which customarily came into play in determining individual 'ownership' of (see numbers 1, 2, 3, and 6 below) or use rights to (see numbers 1-7 below) specific resources are as follows:<sup>4</sup>

1. *Labor Input*—clear, cut, brush, mark, plant, find first.  
Normally whoever exerts their own labor to mark or cut down a tree becomes the 'owner' of that tree.
2. *Perceived Importance*—best flooring, delicious fruit, etc.  
Resources perceived as very important are generally associated with more stringent laws (i.e. mandatory asking of permission before use).
3. *Location*—garden, *piara*, plantation, bush, or proximity to village.  
Particular plant species have different sets of laws which define its use within each land use zone (i.e. a user must follow four different sets of laws when harvesting bananas in the bush, in a *piara*, in a garden, and in the village, though other factors besides location are also involved).
4. *Intended Use*—medicine, food, house building, feast, [sale], etc.  
Rights to harvest a specific plant can depend on how the user intends to use it (i.e. generally any resource can be taken without asking if taken for medicine, though location, etc. also comes into play as to whether a person can harvest for medicine without asking).

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<sup>4</sup> 'User' refers to the person who wishes to use a specific plant already 'owned' by someone else

5. *Kin/relatedness* (or friendliness of relation) to recourse 'owner'. Normally the closer the relation the more relaxed the norms of resource use. If the 'owner' is a chief or a member of the chief's nuclear family (especially his wife or daughters), there are extremely stringent laws associated with resource use that, if not followed, were punishable by death.
6. *Relative Abundance* of Resource. A general principal is that 'ownership' is less likely to be claimed by an individual if the specific plant is abundant (and especially if it is also nearby). Similarly, a would-be user would, in most cases, not need to follow such stringent laws if the desired resource was abundant (if fruits were at the height of the harvest season, or if there were many such trees in the 'owner's' *piara*). It should be noted, though, that abundance, like most of the above, is generally taken into account within the context of other factors; for example, it is very much interlinked with that of perceived importance.
7. *Quantity Needed* by User. If, for instance, a passer-by was hungry and saw some fruits or nuts that had fallen down from someone's trees, they could take enough to curb their hunger from off the ground (or even in some circumstances from the tree) without asking. Whereas if they wanted to take enough for a feast they'd have to ask the tree owner permission before harvesting.
8. [*Commercial Value*] (new category). Permission must be obtained before most resources with commercial value can be used by anyone outside the individual's immediate family (though in some cases they must ask as well). An exception is that if anyone in the tribe/village wishes to drink the water from a green coconut, or if they want the meat of a mature coconut to eat or for cooking, they can take them without asking permission of the plantation owner.

So far the discussion has focused on general principles underlying the definition of rights to own and use land and resources. The following examples should fine-tune our understanding a layer deeper by illustrating species-specific laws concerning the ownership and use of twelve different plant species.

*Individual Resources—Table 1. (a)*

#	Name: Local	Name: Botanical	Name: English	Uses
1.	Qalu Koko	Gmelina moluccana (?)	Bush Buni	Dugout canoes rafter of leafhouse
2.	Baluve	?	? (a palm)	Trunk flooring of leafhouse. Leaf: roof of bush shelter
3	Vuku	Caryota rumphiana	? (a palm)	Trunk. flooring (best) of leafhouse; leaf roof of bush shelter, heart eaten
4	Jariu	Rhopaloblaste elegans	? (a palm)	Same as Vuku. Trunk also used as battens in walls and roof of leafhouse
5	Nive	Metroxylon spp. (3 spp.)	Sago Palm	Leaf: walls and roof of leafhouse, parcelling of pig and fish. Midrib leaf sewing leaves. Stem of leaf: arrows for pigeons. Trunk: floor of leafhouse, flour of two foods— bia, karamao
6	Kela	?	?	Trunk: poles of leafhouse, carvings. Dead trees: firewood for copra
7	Mudumudu	Cananga odorata	Ylangylang	Flowers: fragrance in oil. Other: medicine
8.	Zizinu	Cominsia gigantea	? (herbaceous)	Leaf. parcelling pig, fish. Other: medicine
9.	Kua	Ficus spp.	? (fig)	Dead tree: firewood
10.	Kurumeme	?	? (mushroom)	Eaten
11.	Nona	?	? (mushroom)	Eaten
12.	Talike	Terminalia spp. (2 spp.)	? (nut)	Eaten



Individual Resources—Table I. (b)

#	Cleared to make Garden	Planted	Owned	Owned by	Commercial Value
1.	Sometimes	Sometimes	Yes	Men (bush) Men and Women (planted in piara and gardens)	Yes
2	Sometimes	No	Yes	Men	None
3.	No	No	No	N/A	N/A
4	Yes	No	No (only when cut down to sell)	Men	\$0 50 per 12 ft.
5.	Never	Yes	Yes	Men, women	\$10.00 per parcel of 200-300 leaves
6	N/A	No	Yes	Men (before); now women too	\$50 00 for a piece 8 in. by 10 in.
7	No (?)	No	No	N/A	Not unless sold in coconut oil
8	Sometimes	Yes	Yes (but not in the bush unless planted)	Men, women	Medicine sold for \$10 00-\$100.00 for one bottle Leaves 10 for \$0.40
9	Yes	No	No (unless tree cut down)	Men, unless tree in woman's piara	None
10.	No	No	Yes (except those in the bush)	Men, women	\$0.30-\$0.50 per mushroom
11.	No	No	Yes (but only in the garden; not bush, piara)	Men, women	None
12.	No	Yes	Yes, all	Men, women	\$0.10 for 4 nuts

*Individual Resources—Table II.*  
(Excerpts from fieldnotes—Loimuni Village, Lauru Is.)

1. **Local Name:** Qalu Koko  
**How to Own:** If you go walking in the bush and see a qalu koko that is very straight and big then you brush around it (not to make it grow better, but to signal to other people that you own it) and write your name in its bark and you own it. After you brush around it, you tell the chief so he knows. Anyone who wants to cut it down to make a canoe must ask you for permission.  
 If a person makes their garden in the place where the tree grows, and they want to cut down the tree, if they cut it down without knowing that it belonged to you and said they were sorry, it would be okay. If they cut it down knowing it belonged to you, there'd be a row and they'd have to pay compensation.  
**How to Obtain Use Rights:** Everyone must ask the owner. If it grows in a piara and someone wants to make a canoe out of it, they must ask the man who owns the tree, not his wife or kids or brothers, etc.
  
2. **Local Name:** Baluve  
**How to Own:** Can own it in the bush by brushing around it and writing your name or an 'X' on the trunk. No need to tell the chief because there are many baluve but (not many qalu koko).  
**How to Obtain Use Rights:** Must ask owner of tree/piara if you want to use the tree/cut it down. Cannot just ask their relatives.
  
3. **Local Name:** Vuku  
**How to Own:** Some places where there are not many, and they don't grow in clumps, the people can mark them and own them (e. g. in Babatana, where there are not many vuku, but many marato).  
**How to Obtain Use Rights:** Must ask the owner, not their family, to use/cut a vuku if the tree grows in the person's piara.
  
4. **Local Name:** Jariu  
**How to Own:** Cut it down.  
**How to Obtain Use Rights:** N/A.
  
5. **Local Name:** Nive  
**How to Own:** (Men and women): Planted (seed/fruit) in the bush, garden, piara, village, plantation, quana. (Men only): Cleared in the bush (planted by flying fox)  
**How to Obtain Use Rights:** If it grows in the quana and was planted by the tribe and belongs to the tribe, must ask permission from the chief. If it grows in the kutea lua (wild/was planted by a flying fox) must ask permission from the chief. If it grows wild or is planted in a plantation or a piara, it belongs to the owner of the plantation or the piara/person who planted it. Sometimes it is planted in the kutea lua. It/they then belong(s) to the person who planted it. If you want to use any nive that belongs to another person, you must ask the person who owns it/them.
  
6. **Local Name:** Kela  
**How to Own:**
  1. put a mark on its trunk ('X');
  2. write your name on its trunk;
  3. brush around it;
  4. tell all the people in the tribe you own it;
  5. if it grows in your plantation.**How to Obtain Use Rights:** Before, if a dead kela was wanted by anyone, they'd ask a man (not women) who cut it if they could have it. If a man from a different tribe took it without asking he would have to pay compensation or give Lua Sake if no

kesa were available. If a person from the same tribe took it, the 'owner' of the tree would be cross and tell him to ask next time. Today, if anyone took a kela without asking, whether from the same tribe or not, they'd have to pay compensation and even be taken to court (no Lua Sake is given anymore)

7. **Local Name:** Mudumudu  
**How to Own:** N/A  
**How to Obtain Use Rights:** Must ask the person who owns the garden—the same holds with every tree. ( In piaras, you must ask for permission to use only the most important trees). If you want to use mudumudu to make oil, you must ask sometimes (most times but not every time). To use as medicine, no need to ask permission This is if the tree grows in the piara. If mudumudu grows in the garden, must ask every time for oil and for medicine Two ways. 1). ask first, then take; 2) ask the garden-owner to bring it for you.
8. **Local Name:** Zizinu  
**How to Own:** Plant If you plant them in the bush you must tell people you own them. But usually people plant them in their gardens or piara or plantation or quana or the village—because very important.  
**How to Obtain Use Rights:** If brothers or sisters (tatama) you can take it first, then tell them (owner) afterwards; otherwise you must ask permission before taking. This law holds with almost everything except very big trees (very important trees) like: qalu koko, kaku, saqa, mango (if you want to harvest many, climb the tree—if just eat ripe fruits on the ground, no need to ask first). If you're a different tribe and just want to eat a few ripe mangoes on the ground, you can take it without asking or telling them later Only these four trees you need to ask permission first before taking even if you're a sibling, child, parent, etc. of the owner.
9. **Local Name:** Kua  
**How to Own:** Cut down the live tree.  
**How to Obtain Use Rights:** N/A
10. **Local Name:** Kurumeme  
**How to Own:** Owned if a man cuts a sago palm in the bush—the sago belongs to him and therefore so do the mushrooms that later grow upon it. Women own the mushrooms that grow on taro skins—not men. Both women and men own them if they grow on bananas. Whoever is the first person to see the mushrooms on a wild banana (which grow in the dense bush), s/he can take them and they 'belong' to her but only for then—the next day they can 'belong' to someone else who sees them. If the wild banana trees grow in the piara of one person, anyone who sees the mushrooms on them can take them without asking. So...mushrooms that grow on wild bananas or domestic bananas are not really owned. Mushrooms that grow on taro skins outside her kitchen (village) are owned by the women, and others must ask permission to use/harvest them. The mushrooms are owned by her because the taro upon which they grow belong to her; not because the kitchen area/rubbish heap belongs to her If the sago palm is not wild (in the bush) and belongs to a woman (piara, etc ), then the mushrooms that grow on it belong to her (or a man if he owns it). If a dead sago palm in her piara has mushrooms on it, a person wishing to harvest them must ask permission before harvesting them.  
**How to Obtain Use Rights:** Tatama (immediate family) of owner can harvest without asking; see above for those outside immediate family.
11. **Local Name:** Nona  
**How to Own:** If it is located in your garden, you own it.  
**How to Obtain Use Rights:** Everyone outside of tatama must ask garden owner permission to harvest them.

## 12. Local Name: Talike

**How to Own:** If you plant it or if it grows in your garden, piara, plantation, quana or in the village (and you planted it), you own it. If you brush around a wild one in the bush you also own it. If anyone touches it, they go to court. Before it was the time belong compensation—now it is the time belong court.

**How to Obtain Use Rights:** All but tatama must ask owner.

It should be noted that there are some plants and animals in the forest that are 'owned' by bush spirits, supernatural beings, and individuals of a different 'wild' race purported to be living in the bush. Four species of trees, for example, can be 'owned' by Matizana, a wild Angel (flying box of light) and cannot be used/touched by people (though they are sometimes cut down in order to rouse the Matizana if located uncomfortably close to the village). These species are: Bua (*Alstonia scholaris*), Rokoso (*Ficus drupacea*), Kuvili (*Intsia bijuga*) and Roo (?). None of these four tree species are ever owned by people (even when they are not owned by a Matizana), except for Bua, whose ownership is rather peculiar:

The Kua tree is not used for anything except Kaku reto and Saqa reto [Kaku and Saqa are two species of ngali nut—*Canarium indicum* and *Canarium salomonense*, respectively; reto is pigeon feces]. If a pigeon nests in and poops at the bottom of a Bua tree and the poop contains nuts, a person will want to eat (own) the nuts [when they grow into a tree]. So they say they own the Bua tree so that they own the pigeon's nest, and therefore the pigeon, and therefore the pigeon's poop, and therefore the nuts in the poop. the Kaku reto and Saqa reto.<sup>5</sup>

## VII. Transformations

We are very lost at this time—  
The paths of our forefathers  
are covered with bushes  
—Chief C. Joe

Now a new set of laws and norms—those introduced by missionaries and by increased integration into the market—add an additional layer of complexity to the already densely woven mesh of customary land law. The peoples' own interpretations of these new laws and the changes they have wrought are clear expressions of their views about the importance of communal relations between people and the land.

The following are brief vignettes which tell stories of change from three Luru tribes.

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<sup>5</sup> Chief Cornelius Joe, Loimuni Village.

*Ghohoro Lavata Tribe—*

A custom on Choiseul is that land is not for sale. So you can't hear anywhere on Choiseul "oh—I bought this land with custom money"—the reason why they took Lua Sake, Lua Panaka, etc. was only to make peace, not to sell the land. Europeans came and took our land by crooking us—we did not sell our land to them.

—Chief Cornelius Joe, Loimuni Village, Lauru.  
(From Ghohoro Lavata tribe on his mother's side)

Before, white men came to our forefathers and when they saw this land they wanted it. ... "If you give us your land, this is what we will give you" they said. . . They only gave them one case of tobacco but the elders liked it so they took it. Our elders didn't know anything about registered land, so when the company asked where the boundary of their (tribal) land was, they stood beside the sea and pointed to the hills, inland and said "over there". Then they surveyed it, and put marks at the four corners of the land. Then they put everything in a book. When this was done, they showed the book to our elders, Varoromata and Sobona to sign. Our forefathers didn't know anything about signing so they just put a cross-mark.

—Chief Cornelius Joe, Loimuni Village, Lauru.  
(From Ghohoro Lavata tribe on his mother's side)

Several decades after the coastal part of their land had been 'bought' by planters and turned into a coconut plantation, the members of Ghohoro Lavata ('Big River') tribe decided to 'buy back' their land. For twenty years they made and sold copra (from coconuts) in order to raise the funds to purchase the majority of their land back (which they succeeded in doing in 1965). Today the members of the tribe are in a series of legal disputes with one another over their land.

Now this land has a different title—even though we bought it back, it is not Kutea Lua like it was originally. It is owned by the Poroporo Association, not by the tribe. ... The people in the Poroporo Association are not the true landowners (they are on the side of the woman). So there is still a dispute about this land today. This land is now called 'Registered Land'.

—Chief Cornelius Joe, Loimuni Village, Lauru.  
(From Ghohoro Lavata tribe on his mother's side)

The parts of the alienated land that were not bought back by the Poroporo Association (i.e. Taro and Sipizai Islands) were bought by the Solomon Islands Government. And part of Sipizai Island has recently been bought by the ex-Member of Parliament, Jason Dorovolomo, who now works at Moli as Public Relations officer for Eagon Logging Company. The idea of the government or an individual owning tribal land is highly contested.

If the land belongs to the government the land belongs to money, not to human beings. So if you put it this way it is wrong, yes? Because money can't plant anything in the ground and make it grow, only people can plant things in the ground and make them grow. So this proves that land should belong to people, not money. Again, the land speaks

—Chief Cornelius Joe, Loimuni Village, Lauru.  
(From Ghogoro Lavata tribe on his mother's side)

Only people who own money can go there (to land belonging to the government). The rich people who work there are happy, but the island of Taro is not happy because it is not helping people. The island should not belong to money, it should belong to people.

—Chief Cornelius Joe, Loimuni Village, Lauru.  
(From Ghogoro Lavata tribe on his mother's side)

If the land belongs to the individual many people will suffer. Because only one person will have power (control) over the land—and will only look after themselves or their family.

—Chief Cornelius Joe, Loimuni Village, Lauru  
(From Ghogoro Lavata tribe on his mother's side)

### *Qegetovoru Tribe—*

The Qegetovoru tribe is one of the first tribes on Lauru to have their land logged. Much of this land has been logged without their consent; the logging agreement was signed by a man who, following customary laws of inheritance, is not in a position to speak for the tribe. Now the logging company is based in their backyard at Moli, and Qegetovoru land is riddled with soil erosion and disputes. According to customary law, the company has no authority to log the land, and the boundaries drawn on the logging agreement maps are wrong. But the agreement is a 'legal' document and very difficult to change in time, while there are still parts of the forest standing.

One thinking—Moli belongs to money—so now the land looks different. It now doesn't look like it belongs to people—it looks far away, it looks like it belongs to money.

There are three groups of people there.

1. is the new owner of the land, money.
2. is the happy people (happy because they will make a lot of money)
3. is the people who are starting to suffer, who have no way to drink fresh water—they want to go fishing but the fish are faraway—everything is starting to be hard— not easy like before. Now the land has no manpower—because the land has been handed over to the new owner (money). The new owner made new laws. He (money) doesn't recognize the old landowners of before. With the new owner there is no more love. People love money, not each other. They don't love their neighbors, they only want to make money from them.

—Daniel Vudukana, Spokesperson, Qegetovoru Tribe, Lauru.

There is a constant struggle between the cash economy and human relationships. Because of the cash economy people deny the rights of one another

—Hon. Rev. Caleb Kotali, M P of Luru, Boe Village, Luru

The company makes the boundary—that's why there's disputes.

—Rev. Goldie Veqo, Sasamuqa Village, Luru.

We are not people of money; we are people of people. Big companies bring money—with money we buy sugar, tobacco and beer. Big companies create land disputes. Land disputes create enemies. When you create enemies you degrade humanity.

—Bishop Leslie Boseto, Boe Boe Village, Luru.

### *Loimuni Tribe—*

I then told the people in the Church "sometimes peace is made but it is like cutting down a tree—if the roots are left in the ground it can grow back again. I want to make everlasting peace by pulling out the roots" Then everyone cried, including the Bishop ... And one thing I thought about very much was 'what can we do to make this peace last forever?' This was one heavy thinking I had at the time. ... First I knew that the chief system was separating us. So my thinking was that one thing I could do to make this peace last forever was to forget this name 'chief'. The second thing I thought was that ... if I say this land belongs to me, peace will end and disputing will come back. But now I believe that this land belongs to God so it belongs to all of us.

—Chief Cornelius Joe, Loimuni Village, Luru.

Before 1985 the Loimuni Tribe had a different name, 'Legelege', meaning "disobedience". For close to forty years the two main lineages within Legelege tribe were in dispute over land. In 1985 Bishop Leslie Boseto based his annual Land Conference in Legelege land, where he spoke about peace and unity in both the laws of Christianity and the laws of Custom. During the Conference Chief Cornelius Joe and members of the opposing lineage came together to reconcile their differences. They realized that it was some of the customary laws that were coming between them and causing so much disharmony. At the end of the conference the Bishop changed the name of the tribe to 'Loimuni', a composite of 'love', Immanuel, and 'unity'. Led by Chief Joe, the tribe decided to form a new body of authority over their land—the Loimuni Tribe Council—based on Christian principles of equality.

Today Loimuni land is divided equally—Chief Joe has no greater access to land than the convict (supposed sorcerer) who is seeking asylum there. The experience in Loimuni has had a lasting impact on the rest of the island. Though, under the Bishop's suggestion, each 'section' on Luru has a Peace Making Group to help alleviate land disputes, and a Land Committee to discuss and record customary land law, Chief Joe's Peace Making Group is frequently called to every corner of the island to inspire the reconciliation of others who are in dispute. Chief Joe is

highly respected for his leadership—because he is a chief and knows customary law in more detail (and truth) than anyone else on the island—and because although following customary law he should have 'won' the land dispute with his co-tribemembers, he put aside custom in order to bring peace to his tribe by following Christian law instead.

Every tribe has its own story to tell, and each story is unique. This is an important point because it underlies the fact that when common property systems are transformed, they don't necessarily follow the same pattern of change, and may therefore have very different outcomes in terms of access to land and resources. When, for instance, capitalist ideology is differentially absorbed by neighboring communities, it makes constructing a coherent theory of transformation quite a daunting task.

### VII. Discussion

In order to more precisely define 'common property', we need to include a more refined understanding of their nuances, dynamism and complexities. What the terms 'common property' and 'communal' are masking is a pattern of multiple types of 'ownership' that shift along a number of ecological, social and geographic axes.

What is apparent from the above discussion of Lauru's land tenure system is that 'common property' does not necessarily mean 'equal access'. In customary law land was not equally accessible to all members of the tribe, and some people, such as women, were given no land at all. Furthermore, 'communal' does not mean something static. 'Communal' areas on Lauru can become divided up into smaller areas that are held exclusively by individuals. As the land is divided more and more it becomes less and less communal (less of it is accessible to all members of the tribe). But some kinds of land (such as *Kutea Lua*, *quana*), which start off as being individually held, become more and more 'communal' with each generation (though they can also eventually become less 'communal' again if divided).

Lauru is divided up into embedded spheres of control; the tribal land (*Kutea Lua*) surrounds clan held lands (*Lua Zinakutama*) which are divided up into individually held lands (*Kenakena Lua*). This landscape of telescoping control is overlaid with another landscape of ecological zones and land use zones, each with its own laws of access and use. To use a particular resource within a certain land use zone a user must follow a number of laws based on a series of social, ecological and geographic variables. Sometimes one land use zone overlaps with or is



encompassed by another kind of land use zone (i.e. a *quana* inside a *piara*).

A third layer of complexity is added by the fact that certain resources are held exclusively by individuals. There are general principles to be followed for obtaining access to these resources, including labor input, perceived importance, location (which land use zone, proximity to village), intended use, kin/relations, relative abundance, quantity needed, and (recently) commercial value. Many of these individually held resources have their own laws which determine ownership and use rights. Some (such as the mushroom *Nona*) are relatively straight forward; others are quite complex. For example the *Kurumeme* mushroom, which grows on three different species of 'host' plants, has separate laws for its ownership and use associated with each host plant, and another separate set of laws for the various land use zones in which the three host plants might grow.

Information obtained from detailed case studies will enable us to more accurately understand the underlying mechanisms of common property systems, and therefore to make more representative generalizations about how these systems operate.

This is especially important in light of the fact that some common property systems, such as those on Lauru, are at once being challenged, and also being reconstructed. What is being transformed when, for example, a communally-held forest is turned into a landscape of individually-owned blocks? Whose rights to what areas and which trees are being undermined? And similarly, when re-introducing common property systems, which aspects are integrated into the new system and which are left out? What are the costs of leaving out certain aspects of a particular system? An in-depth understanding informed by the combined knowledge of case studies could offer the insight necessary to more responsibly reconstruct common property systems so that they best serve the aims of ecological sustainability and social equity.

Yet careful attention must be paid when making generalizations about common property systems. Trying to generalize about how global processes such as capitalism transform common property relations might be masking the intricacies of transformation as it occurs in specific places.

It is not enough to say that external forces such as Christianity, capitalism, and resource extraction by multinational companies cause common property systems to disintegrate. These forces work on the

ways in which people perceive land and resources, which changes in a rocking synergism with changing social relations. The outcome is a landscape of transformed meanings (i.e. regarding who is entitled to which resources), which can be simultaneously conflicting and contradictory. When overlapping and contested meanings are attributed to certain resources, laws, or social relations, it is difficult to make meaningful assumptions or generalizations about peoples' actions in regard to resource use. Certain meanings and actions such as 'stealing' or 'not stealing' from someone's sago palm grove, or 'illegally' spearing or not spearing a turtle depend on a three-dimensional grid of possible circumstances which enables the actor to act in one way at one time, and in another way at another time. This is especially so in such cases as the Solomon Islands where an array of customary and introduced laws are constantly sliding along and slipping through a multi-layered mesh of social norms.

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