

When Landscape Encounters the Law: The Legalization of Land and its Quandary in Solomon Islands

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ABSTRACT

Landscape has been where people and ancestors encounter each other in Austronesian societies; it is also the field in which history is shaped, memorized and represented. The penetration of the Western legal system brings in another mode of imagining human-land relations; furthermore, people's relationships to landscape have been transformed in the process of legalization. Since the independence of Solomon Islands in 1978, the majority of land has been returned to indigenous hands, the new legal regime has adopted 'customary land tenure', and local elders or chiefs have been incorporated into court proceedings. However, despite various implementations to incorporate indigenous practices and their land tenure, land disputes continue to be a problem in the post-independence state, and the ideal of preserving traditional human-land relationships has not been achieved. The failure calls for explanations.

In this paper, I first review the history of land tenure alteration in the Solomon Islands, including the amendment of related land laws and the development of the court system, and local responses to those policies and measures. I will then analyze case files in local land courts, in particular evidence from land surveys, narratives of various agents in court hearings, and their representational tactics. The codification of land tenure cannot preserve 'tradition'. Instead it changes the nature of customary land tenure from flexibility to fixation, from one which combines biological and behavioral

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principles to a more rigid patrilineal rule of inheritance. The process of legalization—including the human/thing dichotomy embedded in the identification of ‘evidence’ in court system, and the presupposed definition of property in law—contributes to the shift of people’s relation to landscape from processual to inscriptive concepts. Revealed in the contesting modes of historical representation through landscape is the transformation of how people, ancestors and landscape are associated: no longer linked by spiritual power, it turns into a matter of inherited possession. Legalization is not the sole antidote to the problem of land, and we need to look into the dynamics of cultural concepts in the process of legalization.

Keywords: landscape, legal anthropology, land dispute, Solomon Islands, Austronesians

