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The Culture of Agreement Making in Solomon Islands

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ABSTRACT

Current growing interest in mining in Solomon Islands warrants critical reflection on the centrality of natural resources in the post-colonial formation of state-society interactions, in particular, as they have been shaped by decades of forestry resources extraction. Since independence in 1978 waves of Malaysian, Taiwanese, Korean, Australian and Japanese investors have developed natural resource extraction projects. Not only have these projects been poorly regulated, they have entwined politicians, leaders and landholders with the state as an economic agent with its own base of economic power. As a result, wealth in Solomon Islands is highly politicised and dependent on the bargaining position of the state and foreign investors (Bennett 1987, 2002). Instead of looking at the failures of the state, as is common in political science approaches to Solomon Islands, we draw on case studies in forestry, mining, and customary land dealings on the island of Malaita and on the Weathercoast of Guadalcanal to highlight the kinds of social networks that enable agreements over the use of natural resources. Challenging common assumptions about the division between state and society, we show that leaders in rural regions of Solomon Islands behave like landlords, that brokers from the communities see themselves as actors equalling the state, and that the state performs like a capitalist actor.

Keywords: agreement making, brokers and brokerage, state-society relations, state, mining, logging, fishery, tourism, hydro plants.

INTRODUCTION

Over the last few decades economic development in Solomon Islands has largely been focused on logging and fisheries, but at present there is growing interest in mining across the country, especially nickel extraction (see Baines 2015; Porter and Allen 2015). While the mining sector promises economic development, the government, civil society organisations and communities are worried about what this new phase will bring. For example, the Anglican Bishop James Mason, the Paramount Chief of Isabel and first Bishop of Hanuato'o Diocese, organised a gathering of more than a hundred Solomon Islands politicians, environmental experts, mining representatives and community members in an open discussion on what mining will mean for Isabel Province in November 2013 (The Nature Conservancy 2013). The participants learned about the mining process, the positive and negative impacts of mining, landowner and community rights, experiences and lessons learned elsewhere (such as Australia and Papua New Guinea), and current approaches by the national government and mining companies.

A more recent example is the opposition by the West Rennell Resources Owners Association urging the Ministry of Mines, Energy and Rural Electrification to cancel Asia Pacific

Investment Development's (APID) mining lease on Rennell Island (*Solomon Star*, 13 April 2015). APID was issued a licence in late 2014 to carry out bauxite mining on Rennell Island, but Association President Jonathan Tohuika said landholders of West Rennell wanted the company out from their land. In an interview with the daily *Solomon Star* Tuhaika said,

> the people have now realised that they've been tricked at the first place to accept mining on their land. … What had happen (sic.) at the first place and led to the signing of whatever agreements was a cover up. It is sad to learn the many irregularities and falsification of documents, even at the expense of less educated rural resource owners. … This is a slap on our people; we don't need mining (*Solomon Star*, 13 April 2015).

The Resource Owners Association was particularly concerned about social and environmental impacts of mining, including 'increasing single mothers, high consumption rate of alcohol and drug use, unfilled pits left behind, and oil spills just to mention a few' (*Solomon Star*, 13 April 2015). People's fear of mining comes by and large from the country's decades of overall bad experiences with logging.

It is widely documented that customary land dealings for logging in Solomon Islands often turn out to be bad bargains and that they occasionally evoke local conflict (Bennett 1987, 2002; Corrin 2012: 23–26; Foukona 2007; Ipo 1989; Kabutaulaka 2011; Sullivan 2007; Tagini 2001; Wairiu 2007; Warner 2007; Williams 2011). Unregulated logging activities began to boom under the governments of Prime Minister Solomon Mamaloni in the 1980s and between 1994 and 1997 (Bennett 2002). During these periods, many political figures became entangled in logging interests, the impact of which is still being felt today (Bennett 2002; Frazer 1997; Dauvergne 1997, 1999).

The general consensus is that logging agreements were often shady, and this is often linked to a failed or weak state (Hameiri 2007; Kabutaulaka 2002; Nelson 2006). This paper will go beyond highlighting problems with current state mechanisms and the mere diagnosis of 'failures'. Instead we will shed light on the actual networks and transactions that create the appearance of legitimacy and recruit support. We argue that the concept of the state in the Weberian sense, where the state has authority and power over a given territorial area, has limited application in the context of Solomon Islands. This is because most of the land and natural resources in Solomon Islands are in the customary domain. This begs the question of how effectively the state can deliver development and control the use of natural resources in a context where conceptually the state is a guest, or, more precisely, an abstract landlord.

We consider the state as an abstract landlord (Coronil 1997) because its revenue comes from natural resources that are under customary estates owned by autonomous groups of landholders. We will, however, not present a completely developed analysis of such state functioning, but merely note its main characteristics to underpin an analysis of the culture of agreement making in the country. We believe that a perspective on the state that recognises the centrality of natural resources in the formation of the economy contributes to understanding people's frustrations, aspirations and the sources of many conflicts over resources in Solomon Islands. The exploitation of the country's forests and more limited industrial mining on Guadalcanal has led to tensions between groups and stakeholders, and contributed, inter alia, to the 1998–2003 conflict (see Allen 2012; Bennett 2002; Fraenkel 2004; Kabutaulaka 2001).

It is here that Fernando Coronil's (1997) idea of a 'magical state' is useful as an alternative take on the state's authority and power in relation to natural resource dealings. In the first part of the paper we will discuss the 'magical state' and in the remainder we will focus

on the culture of agreement making and ideologies of legality by drawing on empirical observations of agreement makings.

THE CULTURE OF AGREEMENT MAKING

Since Solomon Islands achieved independence within the British Commonwealth in 1978, waves of Malaysian, Taiwanese, Korean, Australian and Japanese investors have developed natural resource extraction projects. Not only have these projects been poorly regulated, they have entwined politicians, leaders and landholders with the state as an economic agent with its own base of economic power. As a result, local leaders tend to behave like landlords and local brokers have come to see themselves as actors equalling the state (*cf.* Fisher and Timmer 2013). People feel confident to negotiate agreements on their own terms by participating directly in the productive sector of resource extraction. In ways similar to what Golub and Rhee (2013: 231) have found for members of the business community in Papua New Guinea, these local leaders and brokers 'reduce the potential friction created by adhesion of global capital to the country by lubricating, as it were, these companies with their particularity'. In that sense, this article contributes to the ethnography of global connection in Melanesia.

For our analyses of agreement making within this framework, it is important to realise that excessive resource extraction has promoted the idea that riches reside directly in nature, as Coronil has pointed out with respect to Venezuela (1997). Coronil shows that the working of the state in Venezuela has been heavily determined by the centrality of nature (oil) involving multiple social agents in complex worldwide interactions. This has made the state look more like a sovereign landlord over a national territory than a democratic service provider.

Coronil's analysis of the magic of black gold in the historical formation of the state in Venezuela highlights that:

> the infusion of oil money into the domestic economy helped naturalize wealth, disconnecting it from the productivity of labor by basing it on the valorization of a mineral resource which required little labor for its extraction. In doing so, it promoted the notion that riches reside directly in nature. It also politicized national wealth, making its monetary magnitude dependent on the bargaining relations between the state and oil companies and its local acquisition reliant on access to its state-mediated channels of domestic distribution (1997: 389).

As Bennett (1987 and 2002) has pointed out, for the Solomon Islands national wealth has been politicised by logging. From the 1960s – 1980s there was a shift in the state's role as the mediator of the use of forest resources when landholders were allowed to engage directly with logging investors. This resulted in the increase in logging agreements that were signed between landholders and logging companies. The government's role shifted to attracting foreign companies, vetting their financial investment proposals, facilitating the identification of true owners of forest resources, and ensuring that foreign companies follow the legal outlines (Schoeffel et al. 1994). But, as Bennett (2002) and others (Baines 2015; Kabutaulaka 2000, 2006; Porter and Allen 2015) have highlighted, the wealth from logging has become highly politicised and dependent on the bargaining position of the state and foreign investors. Local acquisition of natural resources has often been poorly facilitated by the state and as this paper highlights, the state has come to be seen as an abstract landlord and an active capitalist.

The magical state in Solomon Islands has contributed to the culture of agreement making. First of all, as previously noted, people have become familiar with the attitude of the state towards nature and its role as a capitalist actor in the multinational resource industry. Secondly, as a result of growing familiarity with how the state regulates through arbitrary use of statutory provisions, people increasingly try to use the law for their own ends. This has led to a growing judicialisation of local conflicts as well as the growth of an everyday culture of legality (Comaroff and Comaroff 2009; Comaroff 2010; Hermkens and Timmer 2011; Timmer 2010). Many of the local conflicts end up in court and there is an increasing use of the law as a tool to legitimatise interests of landholders, the state or foreign logging investors.

The cases we discuss in this article reflect this evolving culture of legality, and not only show the state's inroads into people's lifeworlds but also illuminate that the state expresses itself in the form of a blending of 'the law' with two other prominent normative systems in Solomon Islands: Christianity and *kastom* ('custom', customary and traditional political systems) (see, for example, Timmer 2008). In other words, to see the culture of legality as just the effect of growing familiarity with 'the state' would underestimate people's creativity and render the idea of familiarisation to mere copying. Therefore, we do not automatically see the culture of agreement making in terms of the activation and implementation of legal norms. Although many Solomon Islanders today have good knowledge of 'the state', the related vernacular legality needs to be explored more carefully in order to fully understand what is happening in people's lifeworlds. While we will not be able to pursue this task to the full extent in this paper we see that legal mobilisations articulate with other normative systems and practices and how they mutually allow for and invite strategies.

The legal status of the customary landowner has often fundamentally informed the way people relate to neighbouring landholders and resource development projects that need access to people's land. As a result, customary landholders who are in dispute over land with a company, the state or another local landowner, tend to define their land ownership in terms of the state's legal language. The informal resolution sought may also be grounded in local understandings of state laws and procedures. It is this very development that divorces the 'customary landowner' from 'custom', precisely because it has intensified legal attachment of the landowner to the land for reasons that are *not* 'traditional'. Those who do not manage to secure such legal attachment fear losing access to natural resources.

THE CASE STUDIES

To shed light on the culture of agreement making we interviewed dozens of people involved in deals in fishery, mining and customary land transactions, in 2011. During our research we spoke at length with Kwao, an older village leader and landholder in Suafa Bay, North Malaita. Kwao shared with us his experiences with logging in his region. His narrative reminded us of how urgent the kind of awareness building organised on Isabel is, but also what needs to be overcome before things may change for the better. Kwao dwelled long on local confusion about the contents and implications of agreements and disillusion about the benefits of logging operations for the community.

> All these things happen so quickly. Like the last time, we were overwhelmed and I felt pressured by other landholders who had already agreed to sign the agreement. The licensee [broker] told us that the logging would be beneficial to us, but in fact we got very little money and the operations damaged food crops, coconut trees, nut trees, and the river got polluted (Interview with Kwao, Suafa Bay, 15 April 2011).

Kwao also made us think about the agreement process. While we thought we could identify parties to agreements as separate entities, Kwao pointed out that roles and functions of those who signed the agreement often overlap. He sketched a situation in which signatories have dual or even triple roles: a landholder can, besides being a landholder, also be an investor, a broker, and a government official. Conjunctions of responsibilities of signatories significantly shape the culture of agreement making. This is largely so because the forestry companies prefer to work with brokers who tend to fulfil all key roles for them to operate efficiently. As a result, the brokers move between communities and logging companies and create the space and forum for these people to meet and sign agreements over the use of natural resources.

Here the broker is able to act because of the nature of power in a Foucauldian sense, where the broker can modify the action of others through government guidance or practice (see Foucault 1982). For example, most other landholders we spoke with said that they believe they had to engage with investors on their terms, as this is what government officials do too. 'Of course, like the people in Honiara we have no choice, we can't harvest our resources so we rely on them. Why then put anything in their way and if we would make it difficult for them they might go somewhere else and we might never get a chance again', said one landholder.

We also spoke with investors, the companies or individuals interested in natural resource extraction or establishing business opportunities. Investors devote considerable time, effort and energy to secure the agreement of landholders for undertaking commercial ventures. Several companies in the forestry business advised us to meet with the Solomon Islands Forest Association. This organisation is established for the purpose of shielding its members and to project a consistent message towards critical media, NGOs, government investigators, and researchers.

Finally, we looked at the role of the government institutions that formally regulate access to natural resources and customary land dealings. These institutions are advised by a variety of services including such bodies as the Landowners' Advocacy and Legal Support Unit (LALSU) in the Public Solicitor's Office. Other services available to the government are consultants who work within the frameworks of donor programs.

BROKERS

John Meke is an influential broker in North Malaita. In the past John worked as an accountant for a state company. He resigned from this job after a friend advised him to become an agent for a logging company. In our conversations with John he explained that a broker is also the adviser to the landholders. When a timber rights access agreement is signed and money is paid to the landholders for compensation or access, some of the money can be withheld by the agent. John claims that people do not care about their resources; all they think about is cash to buy rice, to pay school fees, to purchase clothes, and so on. John also mentioned that the prices of the logs that are determined by the logging company are never disclosed to landholders. These prices can be very different from the prices offered by overseas buyers.

The incoming flow of advice to the brokers comes mainly through connections with individuals who act, or have acted, as brokers themselves and have had the 'tricks of the trade' taught to them by investors. A telling example is a timber broker from Tikopia Island (that has no forest) who got excited by the fortunes of logging by watching his office mate from Malaita advising investors in Honiara and smoothing their way into local communities. He soon quit his government job and began to advise and guide timber companies.

Brokers are individuals from the local community who are contracted by investors to arrange and negotiate the plans, settlements and deals for access to natural resources. They are knowledgeable about relevant legislation and familiar with local circumstances and end up advising, interpreting and negotiating in the arena of stakeholders. Brokers are thus not only negotiators and interpreters but also match makers, who provide incentives in cash or kind for enabling landholders and companies to meet and sign agreements over the use of natural resources. To make this happen, brokers are advised and supported by a variety of people in Honiara including skilled businessmen and influential government officials who are usually *wantok*, that is, being members in a system of relationships and obligations between individuals characterised by common language, common kinship group, common geographical area of origin, and/or common social associations or religious affiliation (see Nanau 2011). Although this social network might be perceived as facilitating corruption most landholders consider it acceptable in terms of helping a *wantok*.

Brokers live in two or three domains at the same time in many ways. They are members of a community and as such live and think in line with the need for cash. Therefore, they are keen to strike good deals for the community, but it also teaches them that the most strategic way to lure landholders and others into agreements is by simply promising incentives such as cash. At the same time they act in the world of the investors where hunger for profit prevails. By facilitating deals between the two parties brokers use and perpetuate an overall culture of greediness. At the same time they make sure that the government feels all is going well and their verbal reports to the investor also sketch a rosy picture.

With respect to forestry most brokers are also local landholders themselves and play a pivotal role in securing access agreements. These individuals, known locally as licensees, often operate as trading companies incorporated and registered under the Companies Act 2009 (No. 1 of 2009). In other words, when dealing with local communities these brokers legally represent companies that are distinct legal entities. The companies are sometimes local branches of international companies and are often well-connected local, entrepreneurial families. These companies gain access to customary land under the law that prescribes landowning status.

To more fully understand the environment in which the broker operates and shed more light on the culture of agreement making, we will discuss agreement-making dynamics in a number of sectors. This is a reconstruction on the basis of interviews held in 2011 reflecting on events that mostly happened a decade earlier. As forestry has been the main force in shaping this culture we will start with this sector.

FORESTRY

The forestry sites we visited include Suafa Bay, Fulo, and Matangasi and Pulaha, all on the island of Malaita. We chose these sites because they were logged until a decade ago. The passing of time would avoid us getting involved in tensions over land rights and the distribution of revenues while still allowing access to fresh memories about the agreements and their effects. At all of these sites landholders resent what they perceive as broken promises by investors, regardless of whether these promises are included in deeds of agreements or not.

The courts have distinguished customary ownership of land and trees. For forestry this is regulated under the Forest Resources and Timber Utilisation Act [Cap 40]. This Act provides that an investor is allowed to harvest timber on customary land, or any other private land, if a licence is obtained first. To obtain a licence the Act requires a Timber Rights Application Process and the completion of several forms provided as Schedules attached to

the legislation. While section 8(3) of the Forest Resources and Timber Utilisation Act [Cap 40] requires that the provincial government discusses with the applicant and landholders such issues as 'whether or not the landholders are willing to negotiate for the disposal of their timber rights to the applicant; whether the persons proposing to grant the timber rights in question are the persons, and represent all the persons, lawfully entitled to grant such rights, and if not who these persons are; whether landholders are willing to dispose of their timber rights; the nature and extent of timber rights; the sharing of the profits in the venture with the landholders; and the participation of the appropriate government in the venture of the applicant,' in all cases there was already a predetermined deal between the broker and landholders.

At a government level, the so-called Area Councils are responsible. Area Councils are the nominated bodies in the Provincial Government Act 1981, 1996 [Cap 118], but since their abolition in 1998 their role has been taken over by the Provincial Executive as the institution to convene timber rights hearings and to certify timber rights agreements. (Under the Forest Resources and Timber Utilisation (Amendment) Act 2000 (NO. 6 of 2000) the principal Act no longer mentions Area Council but Government instead.) Like Area Councils Provincial Executives are exposed to conflicts of interest in relation to whom they should be protecting or cultivating. They tend to engage in 'moonlighting' and in revolving door appointments upon retirement within the industry. We were frequently told that provincial officers often put up a public notice for a timber rights hearing two to three months before a hearing. Rarely do people respond to this notice because they do not know how and where to lodge a complaint. The way the Provincial Executives determines who has timber rights is mostly flawed because there is no clear legislative framework for doing so (see the Forest Resources and Timber Utilisation Act [Cap 40], section 8).

Brokers, not the actual loggers, are often registered either as a subsidiary of a transnational company or privately owned company. Hence, the responsibility to fulfil the logging agreement lies with the broker, yet he is mostly not on the ground to monitor activities. At the same time, landholders are mostly not aware of the responsibility of the broker and they tend to think that all legal responsibility lies with the investors. Brokers are obviously keen to keep the landholder in ignorance about this and readily join in when people complain about the logging company.

The relationship between the broker and the logging company is specified in what is referred to as the Technical and Management Agreement. Landholders are not parties to this agreement, therefore under the privity of contract principle they cannot take action to enforce it. The Technical and Management Agreement is a private contract, which states that the logging company should provide advice to the broker and not to landholders. These contracts are not a statutory requirement or form but almost all the ones that we have seen address, in wording that differs only slightly, such statements as: 'ensure arrangements are in place in connection with the timber operation regarding supervision and management; land use development and planning take into consideration logging and conservation plan; road planning and construction; transportation of sawn timber and felled logs and loading of such onto freighters; purchase, delivery and maintenance of machinery; provisions of expertise and suitable workers and provision of other requirements as may be needed from time to time'.

Landholders are also not aware of the fact that both the Standard Logging Agreement and the Technical and Management Agreement include provisions for the protection of the environment while being silent on the issue of an environmental impact assessment. However, under the Environment Act 1998 (No. 8 of 1998), logging is prescribed as a form of development that would require an environmental impact assessment. Developers or those who intend to do logging need to satisfy this statutory requirement unless the Director of

Environment exempts them from doing so. Despite the difference in the purpose of the Environment Act 1998 and the Forest Resources and Timber Utilisation Act [Cap 40], the recent case of Kera v Attorney General [2007] SBHC 154; HCSI-CC 153 of 2007 (27 June 2007) affirmed that a logging developer (that is, the licensee (broker) and their contractor) must provide an environment impact assessment prior to any logging activity.

Not all logging operations have complied with this statutory requirement but landholders could apply for an injunction to ensure there is compliance before logging commences. This can be made complicated, however, by preliminary defence arguments questioning the legal standing of the applicants, resulting in an adjournment of the injunctive actions. As a result, land disputes become prominent during the resulting interregnum. Typically, many years later the landholders bring their land ownership dispute to the High Court to be finally determined, by which time there are commonly no rents left to be awarded to the winner.

To sum up, we see that the culture of agreement making with respect to forestry is determined by an unclear legislative framework, limited knowledge about legal frameworks among landholders and other stakeholders, and a sheer monopoly on knowledge and access to companies and government institutions by the brokers. This often means that the bulk of the revenue goes to people who are already doing quite well. Where large sums of money trickle down to landholders this usually leads to excessive drinking and socialising, often increasing the number of fights and levels of domestic violence.

OTHER LAND DEALINGS

To get a broader sense of how agreements are struck in Solomon Islands we included a number of non-forestry cases in our study. These cases are: a seaweed-farming project initiated by the government, a government run hydro plant, and a private investment in a tourist resort. Seaweed-farming was promoted and piloted by the Ministry of Fisheries and Marine Resources since the early 1990s in Langalanga, Central Malaita. It collapsed about a decade ago. The project targeted landholders who have access to reefs where seaweed grows well. The local farmers are experienced divers who know the reefs and at the time they understood the idea of seaweed farming. The government appointed officers from the Malaita Fisheries Division at the Provincial Government and the Ministry of Fisheries and Marine Resources in Honiara to advice and train the landholders.

The Malaita Fisheries Division was to be the buyer and exporter of the seaweed, but the government failed to provide a market for the seaweed. According to the information we collected, the government was also not providing adequate guidance and advice on the seaweed farming process and on costs involved, even though under the Fisheries Act 1998 (No. 6 of 1998) it is responsible for proper management and further development of fisheries in Malaita Province.

The seaweed business has not seen brokers and formal contracts between investors and those holding rights over the sea. There also have not been any payments to individuals or groups of people. The people who hold access to the sea invested labour in the venture and were expecting revenue. They organised themselves along traditional divisions of access to reefs and this worked fine. The different groups came together for trainings and planned to work together for storing and selling their product. They were not bound by any contract and no tensions arose over responsibilities, promises and issues of seaholdership.

In sharp contrast stands the more formalised and highly contentious hydro project at the village of Manakwai, North Malaita. The so-called Malu'u Hydro is a micro-hydro plant in the Manakwai River. It is supposed to power the hospital, police station, a number of

shops at the Provincial Substation of Malu'u, and houses in the nearby villages such as Ngalifasi, Darawarau, Kwene, A'ama, and Manakwai. The construction of the plant was completed in 1986 after a five-year long construction process that was regularly hampered by financial problems and technical failures. The Solomon Islands Electricity Association (SIEA), a state institution, manages the plant.

The plant is constructed on land over which the Abuilalamoa tribe claims ownership. The neighbouring Te'ekwali tribe feels that they also have a compensatory interest in this place. The root of the tension between the two tribes and between the local communities and the state institutions involved dates back to the early 1970s. Amid frustration about lack of economic development and a serious level of unemployment in the region, landholders, brokers and negotiators have favoured their own groups in most of the negotiations. There are also people in the higher echelons of SIEA who come from the region and have favoured one group over the other in the decision-making processes. On top of that, the government and SIEA have been disadvantaged by limited access to advice about how to navigate the local politics.

By 1982, SIEA realised that most of the decision-makers in their own organisation were entangled in the conflict in Malu'u. In desperation, they sent Nelson Ne'e, who is from South Malaita, on a mission to Malu'u to attempt to settle the conflicts around the project in any way possible. The approach taken by Ne'e was initially correct, because he began seeking advice in Malu'u about local genealogies and land rights. The advice he received was limited though and the pressure on Ne'e to resolve the matter was too high to allow him to properly investigate the case in sufficient detail. Once he began to attempt to settle the conflict between landholders with promises of cash payments, things went wrong again. As a result people have seen a lot of tension around the hydro project while there has been little reward. The hydro has, due to the ongoing dispute, continues to experience disruption in its operation.

This case also illustrates the effects of the role of a community member who is both a member of the community and also a government official. He became involved in preparing and lodging legal cases that eventually were judged in favour of his group. The wider community was barely involved in the negotiation processes. Because of the other group's lack of access to the government, in particular the SIEA, the resulting confusion and anxiety has fuelled wariness about government and investors. At a more general level we may conclude that the government of Solomon Islands is often not tuned to playing a guiding role and providing the advisory services to ensure the durability and equity of customary land dealings and natural resources access agreements. Most people say that officials do not act with the public interest in mind, an interest that is associated more with the state as abstract landlord than landholders of customary estates.

Our interlocutors commonly referred to these factors as problems and often said that the problem lies in the fact that the government is a capitalist stakeholder in the business. It is telling that people explained to us that they thought that the government had not become a key player in the seaweed business because of the limited revenue expected from the venture. Lack of interest also meant that the government failed to organise a market for the local produce, but it allowed the seaweed farmers to organise themselves free from brokerage, pressure from stakeholders, suspicion about favouritism and confusion around written agreements.

In particular, the forestry business has taught people that the government acts like an active capitalist. In the period of large-scale logging from the 1970s until the late 1990s investors, public officials and local licence holders became closely allied. Such close, elite alliances impede the flow to wider groups of landholders of appropriate services in relation to agreement. This is probably not correct in all instances, but the fact that most people

think it is so makes it harder for public officials to gain the trust of the people and for people to seek advice from them.

To look at private investment we researched the Sea Sound Resort at a coastal stretch near Gwaunaru'u airport of Auki. The Sea Sound Resort was established in 2009 and has ten rooms and dining tables on the beach. The resort is operated by Helen Kofana from Gwaunaru'u village, amid ongoing tensions between the investor and landholders. Helen is married to an entrepreneur of Chinese descent. Her husband has provided the bulk of the finances for establishing the resort. The resort is on Gwaunaru'u land that is legally recognised as belonging to the Kwaruiasi/Biranakwao tribe. This area is registered as a perpetual estate (Parcel No. 15-005-1 LR 60) comprising 10,579 hectares, of which the resort only uses a small fraction (about two hectares), and was granted in perpetuity to Atonia, Martin Boloi, Marcus Maomaibai and Robinson Kofana as trustees. Officially Helen does not own the land but enjoys a family relationship with the landholders.

The operator of the resort was advised by the Malaita Provincial Government Tourism Officer to get consent from the landholders before setting up the resort. Following his advice, the operator of the resort held discussions with members of her tribe and asked them to sign a letter indicating that they had given their consent for the establishment of the resort and that the land was free from any dispute. The Tourism Officer confirmed that he read that letter and that he advised the resort operator to go ahead with her plans. However, it is not clear whether the signatories to the letter were those who were registered as the owners of the perpetual estate (Parcel No. 15-005-1 LR 60).

According to Lucy Aute'e, who is the granddaughter of late Antonia, the people registered as owners of the perpetual estate title were never consulted about the use of land for a resort. The leader of Gwanauru'u village claimed that the above-mentioned letter was merely for the purpose of obtaining funds from the Tourism Authority and not to release land for the establishment of a resort. It is not clear whether the letter constituted a mutual agreement between the landholders and the investor, who by birth is related to them.

In the recent court case of Bilimaoma v Aute'e [2006] SBHC 40; HCSI-CC 085 of 2006 (15 September 2006) the High Court held that Lucy Aute'e and Martin Sade are recognised as the landholders of the Kwaruiasi/Biranakwao lands and Gwaunaru'u lands. The fact that one of the relatives of the resort operator (Robinson Kofana) is registered as one of the perpetual estate titleholders created a misunderstanding about who exactly is the landholder.

The case study of the Sea Sound Resort shows that neither landholders nor the investors are fully aware of the formal regulations, but are keen to suggest that they were lured into agreements and did not have the knowledge to prevent things from going wrong. The most popular explanation for the behaviour of landholders is that 'they are hungry for money'. This hunger for money should not be understood as a form of personal greed. It is part of household needs including school fees. Land is often the only asset that people have, and when a broker who appreciates that situation promises access to money, people get excited.

MINING

For the mining sector our study focused on the Koloula mining prospecting activities on the Weathercoast of Guadalcanal where Australia Resource Management (ARM) PLC conducted a mineral exploration operation in a joint venture with Newmont Ventures Limited (NVL) PLC (henceforth: ARM/NVL), on the basis of a prospecting licence issued in 1995. The mining venture targets high tonnage copper-gold porphyry discoveries and related epithermal gold ore bodies. The parties involved in the Koloula prospecting activity are the

landholders, officers of the Ministry of Mines, Energy and Rural Electrification, ARM/NVL, office of the Attorney General, and the Guadalcanal Provincial Government.

The functions assigned to the Mining Board by legislation include the following obligations: informing (potentially) affected landholding groups about operations to be carried out, in terms of permits, licences or leases; assisting miners to negotiate with landholders and land owning groups; and assisting landholding groups with the determination of surface access fees and other payments (Mines and Minerals Act [Cap 42], section 11). At the time, the Mining Board felt itself stretched to its limits due to the reopening of Solomon Islands' only operating mine, Gold Ridge, and international tendering of a large nickel deposit. Even if the Mining Board had the capacity to deal effectively with the ARM/NVL case, the above-mentioned multiple roles are often untenable because they tend to generate conflicts of interest.

The initial surface access agreement drafted by ARM/NVL was signed by representatives from three different villages: Peochakuri, Aona, and Walearanisi in 1995. ARM/NVL signed a renewed Access and Compensation Agreement with trustees representing the tribal leaders and landholders of Koloula on 1 November 2010. The trustees consider themselves as having the legal right to act as brokers. The primary legislation regulating their prospecting activities is the Mines and Minerals Act [Cap 42]. This surface access agreement sets out what is expected of the parties in terms of access to the land and compensation, but according to the narratives we collected some of the landholders remain unclear on some of the provisions in the agreement.

Guadalcanal Provincial Government also has a say in deciding whether to grant the companies the required business licences (see Provincial Government Act 1997 (No. 7 of 1997), section 40). However, according to the Provincial Secretary, the Provincial Government basically uses its licensing powers to facilitate whatever interests the central government is keen to pursue. This suggests that no attempt is made by the provincial executives to obtain expert advice in relation to exploration activities after the Minerals Board forward the letter of intent to them (see Mines and Minerals Act [Cap 42], section 21 (3)).

After a letter of intent is issued by the Minerals Board, consultations should be held with landholders, as provided for under the Mines and Minerals Act [Cap 42], section 21 (4). Our informants confirmed that consultations were held, but they added that they were too brief and too focused on obtaining approval from the landholders. Moreover, during the consultations, hardly any information on the nature of prospecting was provided to landholders. This has caused confusion.

Following deliberations with the landholders, the content of the agreement was enriched with a transcript of the main points raised during the consultation, in particular with respect to compensations. The new title of the agreement reflected this important amendment: Access and Compensation Agreement. The drafting of this document was done by the prospecting company and scrutinised by the Attorney General's office on behalf of the Government, in accordance with the Mines and Minerals Act [Cap 42]. When the agreement reached the landholders it was ready to be signed, but they were not given a chance to adequately study let alone amend the text. Landholders felt under pressure to read through the agreement quickly and sign it straight after that. Most of the narratives we collected indicate that the landholders signed the agreement because of the expectation that they would receive monetary benefits and future 'development'.

The surface agreement was signed by representatives from three different villages: Pichakuri, Aona, and Walearanisi. At the time of our research ARM/Newmont was in its final phase of prospecting activity. A signatory in the village of Aone told us about his involvement in the negotiations that led to the agreement. He mentioned that there were only two days allocated for studying and discussing the draft agreement. He also indicated

that he was overwhelmed by the length and formal language of the document. Employees of Newmont and a representative of the Ministry of Mines brought the agreement to the landholders to sign and told the signatories that after signing the agreement each landholding group would receive SBD 1,500 (AUD 175). When that amount of money was shared among members of the groups they each received only SBD 20.00 (AUD 2.30). He felt that people really need advice on how to negotiate well with the companies that want to use their resources.

The Mines and Minerals Act [Cap 42], section 26, provides that a person with a prospecting licence '… shall have the exclusive right to enter any land in the prospecting area and carry out prospecting … '. Since ARM/NVL has a prospecting licence, they have exclusive rights to access customary land for prospecting purposes only. The consent of the Guadalcanal Province Government is also required for the granting of a business licence (see Provincial Government Act 1997 (No. 7 of 1997), section 26 (1)). However, according to the Provincial Secretary the provincial government's permission to operate a mining business in its province automatically follows from the granting of an exploration licence by the central government. This indicates that the Provincial Government has limited power to deal with mining while it is most aware of local conditions and most accessible to landholders when seeking on regulations and legislation.

An interview with a manager of ARM highlighted that, for the company, the Mines and Minerals Act [Cap 42] is their main guide and they are not inclined to establish ongoing conversations with the communities. Their bottom-line seems to be that when there is any disagreement during operations, the company will take note of the disagreement and deal with it when the licence is up for renewal. The licence is renewed after the initial three years and again after two years, after which it can be renewed for another period of two years. (The notional maximum life span of prospecting operations is seven years.) The company can be given an extension if they want, but they must submit to the Mineral Board a good and valid reason for the extension. When the company is given the letter of intent preliminary negotiations will begin to identify the right landholders, who will then represent the local community in the agreement. In remote places, it may take up to one week for negotiating an agreement.

The company seems to assume that the people know the difference between prospecting and mining because many companies have already operated in these two areas on Guadalcanal. They seem to have drawn the conclusion that people are just looking for cash payments. Nevertheless, the company still needs to make sure that if the people or are unclear about anything in the agreement officers of the company will explain things to them. The nominated period for negotiation is six months and during this period the company should build awareness about the company, the work program, and explain such things as the differences between prospecting and mining.

The narratives we collected show that the company, in accordance with Clause 7.0 of the Access and Compensation Agreement, gave landholders money by way of community assistance, medical assistance, and reimbursement of expenses incurred by the Koloula Region Resource Owners Committee. There is, however, misunderstanding about who was doing the payments, because some of the landholders made reference to money given by ARM while others said the money came from Newmont. Some seem to think that ARM and Newmont operate separately rather than as a joint venture. While the identity of the investor is often a mystery to the landholders, the identity of the landholders also remains a mystery to the company.

During our visit to the Ministry of Mines, a Senior Tenement Officer told us that one of his duties was to inform both the landholder and the company about how to behave in accordance with the Mines and Minerals Act [Cap 42]. He is also responsible for reminding

companies about their role as stated in the Act, and for making sure that the company does not overrule the landholders with regards to salaries for labour and other benefits. He pointed out that Newmont Company did well because it organised consultations, but also indicated that the advice given by the government to land owners is not sufficient because of the lack of legal knowledge and the limited time (two days) spent on site.

Just like customary land dealings, agreement making for access to natural resources presents exceptional challenges because of conflicting or competing interests and the vital role of the unequal distribution of sovereignty over agreements, knowledge and connections.

KNOWLEDGE AND LEADERSHIP

Wherever agreement making plays a role, all of the landholders we interviewed strongly expressed the need for more and better knowledge of the agreements, the process and consequences of resource extraction, and the mediating role of the state. People are generally not aware of the content of agreements, and may not even know of the existence of formal and signed agreements. Moreover they are not familiar with having to be wary of particular clauses and the implications of particular wordings. In general they trust those who represent and lead them in the process. Overall community members and landholders have limited access to knowledge about resource management. This is because of distance, language barriers, limited funds, psychological and cultural barriers, and elite and influential male domination.

The demand for knowledge appears to be spread fairly evenly among community members. In particular, where brokers are involved, we notice a particularly high demand for knowledge from women, youth and others not immediately involved in the agreement process. This is because brokers advise the signatories and when the deal turns out to be less favourable than expected, others in the community begin to see that they should have been better aware of the meaning of agreements. Interestingly, none of the people we interviewed blames the brokers who in fact are the sources of advice to the local communities. This is because people tend to think that the problem is the role of the state as a stakeholder in the resource business.

Some of the issues with the role of the brokers are related to poor local leadership amid often weak organisation of civil society. Strong leaders who appeal to status and respect as being important traditional values tend to make decisions that often do not benefit the community. Increasingly people seek advice from educated community members, or so-called *wantok,* and this paves the way for youth and women to take responsibility over matters. They have to act carefully though so as not to offend elders and traditional leaders. In some instances, educated young men become brokers or want to be treated as traditional leaders and addressed with modern titles such as ‘chief’ or ‘boss’ because of the obvious benefits this brings.

Women in the communities stress that people need to be better informed about the content and risks of agreements. Most women we spoke to stressed that they were initially excited about the agreements and supported the signatories in going ahead. When they began to see that things worked out less favourably than expected, they began to ask critical questions. Nevertheless, many women would support new agreements with investors again because they can hardly imagine other ways of accumulating cash to pay for school fees and medical needs.

Customary traditions of Malaita and Guadalcanal notoriously favour men over women in decision-making processes. This pattern seems to be reproduced in decisions around agreements for assigning land and permitting access to natural resources. We have indeed

found that men often legitimise the exclusion of women from the agreement process by saying that women are not able to talk about natural resources and cannot deal with (all-male) government officials, brokers, and foreigners including investors and researchers. Women share that view but indicate that they exert much influence over the decisions men make. Men acknowledge that they are pressured by women to make sure that the whole community benefits. Overall, while direct involvement in agreement making processes is hard for women, women see the importance of improved access to knowledge for all, as this would empower them in their traditional methods of affecting the way men think and do things.

CONCLUSION

The case studies demonstrate a culture of agreement making in which the idea that wealth is located in nature is central and determines the ways in which people approach their relationship with brokers and investors. Because the focus is on wealth and what it might bring in terms of development, the brokers' and investors' promise of wealth allows them to play a key role in brokering relations between the state and society and they thus embody the blurring or overlaps between the two. The logging cases see written agreements between the landholders and the brokers who legally act on behalf of the investors. Also, in the mining sector, brokers have well-established connections with landholders (either by blood, marriage or social affiliation) and with government officials. Overall, brokers play a major role in negotiating agreements with landholders and this, as some expressed to us, makes them feel that they act like the state.

There is growing resentment against continuation of this culture, as highlighted in the news reports cited in the introduction. Confirming the media reports, our study on exploration activities for mining on Guadalcanal highlights that many are keen to break the connections between interests of the state and those of the community. While in most cases consultations were held with the local communities, people see that they were too brief and that they were focused too much on obtaining approval from the landholders. Moreover, during these consultations hardly any information on the nature of prospecting was provided to landholders. Hence, many landholders are not in a position to, for example, differentiate between a prospecting licence and a mining lease. Clearly, proper access to knowledge would assist in providing more certainty, as it would provide clarity on the responsibilities of all parties involved and allow all parties to better assess risks and benefits. This would give the community more sovereignty over agreements; they would no longer be mere signatories in an agreement that often holds little profit for them, evoking resentment.

In contrast, the seaweed venture was not based on a written agreement and landholders did not remember the substance of the various verbal agreements struck between governments and the parties in the same way. This became an issue when the expected benefits of the project did not materialise and people began to blame the government for poorly guiding them and not helping with getting access to markets for their product. Need for certainty about what was agreed arose. This case study indicates certain advantages of working with verbal agreements but, more importantly, we also found that people organise things more smoothly when there is no brokerage, favouritism, suspicion, and so on. People then become less likely to dispute the responsibilities of different parties or factions, but instead engage in constructive discussions about what can be done to settle issues to the benefit of all.

Overall, we see that in many ways agreement making is not a fact or anything objective; it can only be mastered with the collaboration of many actors and forces in a political field. Through their personal characteristics as people who can wear multiple hats and speak a variety of languages (customary, state, business), brokers lubricate the relationships in this

field, and 'reduce the friction between the nodes in the network' (Golub and Rhee 2013: 232). Overall, agreement making is a space that is always networked and always social, always connected and we have shown that people consider this all quite normal. People have become so much part of the culture of the state, so entangled in its political economy of resource extraction, while they have reaped many sour fruits from these connections. It is hard to predict what the future holds for Solomon Islands, but for those watching it, it is necessary to move beyond analyses of state failure. We hope to have shown that this approach opens up a rich space for exploring the actions and relationships of a wide variety of actors formed within increasingly interrelated material and cultural conditions.

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