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Powers of Exclusion in Melanesia

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Introduction

In the recent explosion of academic literature devoted to the study of what has been described as a new global ‘land rush’ or ‘land grab’, reference is often made to the process that Karl Marx called ‘primitive accumulation’, and especially to his observation that ‘[t]he expropriation of the agricultural producer, of the peasant, from the soil is the basis of the whole process’ (Marx 1976: 876). That is because the new ‘land rush’ or ‘land grab’ is sometimes understood as a process that has resulted from a massive increase in the amount of transnational investment in large-scale agricultural projects, especially in ‘developing’ countries where peasant farmers constitute a large part of the rural population (Cotula et al. 2009; Borras and Franco 2010; Deininger and Byerlee 2010; Zoomers 2010; Alden Wily 2011; Oxfam 2011). This can be construed as the agrarian aspect of a global process of ‘accumulation by dispossession’ (Harvey 2003), since it entails the foreign acquisition of land rights previously held by local or indigenous communities. However, many scholars have argued that the idea of a generic ‘global land grab’ conceals a wide variety of more specific types of social, political and economic change in the distribution of landed property (Peluso and Lund 2011; Borras and Franco 2013; Hall 2013; Wolford et al. 2013). In this respect, they echo the point that Marx himself made when he said that the process of separating peasants from land ‘assumes different aspects in different countries, and runs through

its phases in different orders of succession, and at different historical epochs' (Marx 1976: 876). But beyond this, many scholars also argue that the ideas of 'expropriation' and 'dispossession' do not suffice to describe or explain the changes that are actually taking place in the distribution of landed property in different parts of the contemporary world.

In their book, *Powers of Exclusion*, Derek Hall, Philip Hirsch and Tania Murray Li argue that the concept of 'exclusion' is rather more useful as a point of entry to understanding the variety of such transformations in the countries of Southeast Asia. They define exclusion as a generic form of social process that has the effect of transforming landed property relations at various geographical scales or levels of political organisation. However, they do not define it as the opposite of a social process of *inclusion*, but as a process that consists of a denial of *access* to previous, current or potential users of the land in question (Hall et al. 2011: 7). In this respect, they regard it as an essential condition of any form of landed property or productive land use in any part of the world at any moment in history. But while this process may take a variety of specific forms in certain places at certain times, it is always a process that is 'structured by power relations' (ibid.: 4) that are understood to be broader than property rights (ibid.: 8). Specific forms of exclusion are therefore related to different forms of power.

The aim of the present volume is to test the application of their conceptual framework, which we shall henceforth call the Exclusion Framework, to the neighbouring region of Melanesia. The countries with which we are mainly concerned in this volume are the four Melanesian Spearhead states—Papua New Guinea (PNG), Solomon Islands, Vanuatu and Fiji. Given our interest in the relationship between state formation and transformations of landed property, we have excluded consideration of New Caledonia (still a French territory), Papua and West Papua (two provinces of Indonesia) and the islands of the Torres Strait (in the Australian state of Queensland). The combined population of the four Spearhead states is less than 10 million, which is very much smaller than the total population of the Southeast Asian nations in which Hall, Hirsch and Li situate their argument. It is not clear whether this difference in scale makes any difference to the suitability of any conceptual framework for finding answers to the 'land question', but there is no doubting the political and economic significance of this question in the Melanesian regional context.

The chapters in this volume derive from a collection of papers presented at a workshop designed to consider land transformations in Melanesia in light of the Exclusion Framework. The workshop was held during the biennial conference of the Australian Association for the Advancement of Pacific Studies in April 2014. It was chaired by Vanuatu's Minister for Lands, Ralph Regenvanu, and was also addressed by PNG's High Commissioner to Australia, Charles Lepani. The workshop was attended by academics, policy makers, advocates and activists, and functioned as an engaged space for policy discussion around land issues in Melanesia. During the workshop, Minister Regenvanu and High Commissioner Lepani challenged scholars to present their research on important land issues in a way that would be accessible to policy makers in Melanesia. This volume constitutes a response to that challenge.

The authors of papers presented at the workshop were asked to deal with one or more of a range of questions derived from our reading of the Exclusion Framework:

1. Who are the actors promoting or opposing key changes in landed property relations?
2. Who wins and who loses as a result of the changes that actually take place?
3. How are specific types of change informed by particular political or historical contexts?
4. Is it possible to identify processes of inclusion, as well as exclusion, in a broader process of transformation?
5. Does the transformation of landed property look different at different levels of political or social organisation?
6. What is the role of the state in changing the relationship between people and landscapes?
7. How is the transformation of landed property related to the process of state formation?

In the remainder of this introduction, we elaborate on the ways in which such questions may be addressed in the Melanesian context. The nature of the Exclusion Framework itself entails that we divide this discussion into two main parts. The first has to do with the way in which property relations are conceived as social relations, and, therefore, the way in which

the transformation of property relations is conceived as a type of social process. The second has to do with the way that power is exercised in this type of social process.

Land, Property and Society

Hall, Hirsch and Li name seven different types of exclusion by reference to the types of people involved and the types of things they do:

1. '*Licensed* exclusion' is a process by which governments award legal land titles to some people but not others (Hall et al. 2011: 27).
2. '*Ambient* exclusion' is a process by which people are denied access to land that is reserved for the 'common good' or 'public interest' (most notably in the form of protected areas) (ibid.: 60).
3. '*Self*-exclusion' is a process by which 'local communities' are persuaded to limit the use of the land that they already occupy (as in various forms of 'community-based natural resource management') (ibid.: 71).
4. '*Volatile* exclusion' is a process by which small farmers lose access to large areas of land that are converted to a single land use to meet the market demand for specific agricultural commodities (ibid.: 111).
5. '*Post-agrarian* exclusion' is a process by which small farmers lose access to agricultural land that is converted to non-agricultural use (ibid.: 118).
6. '*Intimate* exclusion' is a process by which villagers exclude relatives or neighbours from land to which they formerly had access (ibid.: 145).
7. '*Counter*-exclusion' is a process by which poor people (or indigenous people) resist their own dispossession or repossess land from which they have previously been excluded (ibid.: 172).

They do not claim that this is an exhaustive list of all the specific forms of exclusion that can be found in the countries of Southeast Asia. There seems to be a fairly obvious bias towards the forms of exclusion that can be found in rural areas. All of these processes have been documented in Melanesia, and some are documented in this volume. The question we ask is whether this sort of typology is the best way to understand the current transformation of landed property relations as a universal phenomenon. Although we pose this as a question about Melanesia, we do not assume or propose that Melanesia has some unique social or cultural characteristics

that entail a special answer to this question. Whatever the relationship between land, property and society in the recent history of this particular region, some aspects of this relationship are likely to be found in other regions as well. What we aim to do here is to unpack some of the concepts conventionally applied to an understanding of this relationship and see whether the Melanesian evidence makes more sense if we add the concept of exclusion to the mix.

Property Relations

Property is conventionally understood as a bundle of rights in resources that are necessarily embedded in the social relations through which some people do or do not recognise the rights of other people (Blomley 2003; von Benda-Beckmann et al. 2006). All property relations, including landed property relations, are therefore social relations, although many social relations are not property relations. At the same time, it can be argued that the very concept of property conceals social relations (between people) by representing them as rights that people can exercise independently of each other (Rose 1994). In the four Spearhead states of Melanesia, this concealment is accomplished by the Western legal principle known as Torrens Title, whereby the act of registration creates an 'indefeasible' private property right that trumps all customary rights of access to a circumscribed area of land, and thus constitutes the legal basis for the use of state power as a power of exclusion (see Chapters 3 and 9, this volume). This is an instance of what Hall, Hirsch and Li call 'licensed exclusion'.

In his analysis of commodity fetishism, Marx elaborated on this idea of concealment by proposing that social relations between people in a market (or capitalist) economy are completely disguised as economic relations between commodities. Following this line of argument, many anthropologists would argue that there was no (abstract) concept of property in traditional Melanesian societies, even if there were all sorts of economic transactions between people, some of which (like barter) were quite impersonal, and some of which could involve the alienation of what might be described as 'land rights' (Carrier 1998).

We have no quarrel with the idea that property relations should be conceived as a set of social processes rather than a set of 'things' that are either present or absent in a certain type of economy or society. This remains the case when a traditional society is somehow combined

with a capitalist economy. The question is whether the generic concept of exclusion, rather than some alternative concept like alienation, throws more light on the place of landed property relations in this combination.

Hall, Hirsch and Li try to avoid the reduction of social relations to what Marx or Weber would recognise as class relations, even though they are dealing with transformations of landed property. That is because social classes have traditionally been distinguished as the parties to an economic relationship that only has two sides to it. An example would be the distinction between landlords and tenants as two sides to the economic relationship represented by the payment of rent, or the distinction between capital and labour as two sides to the economic relationship represented by the payment of wages.

Marx defined the social relations of production as a combination of property relations and labour relations. Hall, Hirsch and Li are less concerned with the combination of these two types of social relation, and more concerned to show that the transformation of property relations may involve more than two classes of people (or social actors) in a single social process, especially when that process is analysed at more than one geographical scale or political level. They are trying to get beyond the traditional Marxist analysis of agrarian class formation or social differentiation at the level of the village, involving landlords and tenants, merchants and moneylenders, or rich and poor peasants.

Nineteenth-century social theorists were much impressed by the seeming impersonality of market forces in a capitalist economy. Marx himself distinguished between social relations—by which he meant relations between social classes—and what he called ‘personal and local’ relations. This was similar to the distinction that other social scientists have made between society and community, where local communities are built out of personal (or ‘face-to-face’) relations such as friendship, kinship or patron–client relations. While Marx might have seen the distinction between economy and society as a product of capitalist (or liberal) ideology, this second distinction has been institutionalised in the separation of economics from sociology as two distinct branches of social science. Polanyi (2001) reacted against this second distinction by insisting that all economies are ‘embedded’ in societies, by which he meant that economic processes are a subset of social processes, while social relations include both economic and personal relations.

If economic relations are regarded as a subset of social relations, then it is hard to maintain the argument that all social relations are also class relations. In a broader definition of social relations, it can instead be argued that social relations are the relations constructed between the different characters who participate in specific social (or economic) processes. In a Melanesian social context, the separation of social and economic relations from personal relations is nowhere near as complete as it is in the idealised model of a capitalist economy. What some scholars describe as a ‘moral economy’ (Gregory 1982; Ballard 1997) or a ‘relational economy’ (Curry and Koczberski 2009) could otherwise be described as a type of society (or community) in which economic relations are also personal relations.

Anthropologists have come to use the word ‘transaction’ as a broad label for traditional or pre-capitalist social relations that perform economic functions—or what Maurice Godelier (1986) would call the functions of relations of production—without having any obvious counterpart in a modern capitalist economy. The various forms of ‘gift exchange’ would constitute an obvious example in the Melanesian context (Strathern 1996, 1999). These could be described as economic relations if it were not for the argument that there was no separation of economy from society (or economic from social relations) in pre-capitalist societies, and it is certainly not possible to see any such separation in traditional Melanesian societies.

How then should we describe the relationship between different types of transaction in land and the different types of social process designated by words like exclusion, dispossession or expropriation? In our view, this is essentially a question of spatial and temporal scale. It may take weeks or months (or even years) for different actors to negotiate the sale or lease of a particular block of land. This is a social (and economic) process, but still one that has fairly narrow spatial and temporal limits, and therefore one that is likely to involve ‘personal and local’ relations. In the bigger scheme of things, it is just one instance of a social (and economic) relation that may be more or less common across a wider region or a longer period. For example, when we write about the ‘transition from feudalism to capitalism’, we refer to a process that may last for decades or centuries, in which a society (and economy) based on the relationship between landlords and tenants is replaced by one based on the relationship between capital and labour. The problem then is to determine the spatial

and temporal scale at which it makes sense to make general statements about a general process called ‘exclusion’ or a number of more specific forms of this same process.

Land-Based Livelihoods

The majority of the people or households in each of our four Melanesian countries are smallholders united by their dependence on what we shall here call ‘land-based livelihoods’. There has been much debate about the best way to designate this social class. The word ‘smallholder’ is far from perfect, but it is preferable to the word ‘peasant’, which is hardly ever used in Melanesian political discourse, and even preferable to words like ‘villager’ or ‘farmer’ (MacWilliam 1988). The critical feature of a land-based livelihood is that the land on which it is based is not just the space occupied by a house or a workshop or a trade store, but an area, however small, from which natural resources are extracted. These resources include the nutrients in the soil cultivated by a farmer or gardener, but they also include the timber harvested from a native forest, or the metal derived from an underground ore body.

Smallholders do not necessarily derive their livelihoods from the land through the application of their own labour. They might also make a living from the collection of compensation or royalty payments from a mining company or a logging company that operates on their land. To obtain this sort of income, they must normally be able to assert their status as ‘customary landowners’ (Filer 1997; Holzknicht 1999).¹ The owners of customary land, or holders of customary land rights, may also rent land to an agribusiness company, or more frequently to other smallholders who cultivate it for a living (Ward 1981; Curry and Koczberski 2009). Although many smallholders aspire to be petty landlords, the number of households that actually collect some sort of resource rent is relatively small. For most of these households, a resource rent is only one component of their land-based livelihood, and in some cases—as with logging royalties—it may not last too long.

1 ‘Customary landowners’ may be thought of as customary groups, or as groups holding customary rights, or as individuals holding customary claims to membership of such groups. The ambiguities of this phrase are an inherent property of what Filer (2006) calls the ‘ideology of landownership’. In Vanuatu, such people are generally called ‘custom landowners’—a phrase that connotes an additional element of reification.

Although these petty landlords constitute a minority within the larger class of smallholders, their number could be comparable to the number of people who are formally and directly employed by mining companies, logging companies, or other companies that extract natural resources from the land. These wage-earners also have land-based livelihoods, but they do not count as smallholders. When the companies involved in this type of business are extracting resources from customary land, they occasionally try to employ the customary owners of that land to do this kind of work, but they are not always successful because the customary owners may regard such work as an affront to their own status as petty landlords.

There is another subclass of smallholders who do not count as ‘villagers’ because their labour is applied to land-based livelihoods in urban or peri-urban areas. Most of them are engaged in the production of food crops for sale in urban markets or cash crops for export to overseas markets. Furthermore, most of them do not have customary rights to the land from which their livelihoods are derived. This group includes the so-called block-holders who cultivate oil palm on allotments of state land in state-sponsored resettlement schemes in PNG and sell their crops to the operators of a nearby nucleus estate, but it also includes migrants who have made arrangements with customary landowners to access some of their land for the same purpose (Ploeg 1999; Koczberski et al. 2009).

There are numerous instances of this kind of informal tenancy arrangement between petty landlords and migrants or ‘settlers’ who have been separated from their own customary land for periods of time that may be long enough to entail a complete loss of customary land rights in their places of origin (see Chapter 5, this volume). Whether or not the tenants have land-based livelihoods, their numbers have almost certainly grown in step with the growth of the urban and peri-urban population as a whole, but it is hard to determine the prevalence of such arrangements from official census and survey data because information on household economic activities is not normally accompanied by information on land rights. Nevertheless, the number of households involved in this type of arrangement seems to be larger than the number involved in the type of informal labour contract by which customary landowners employ other people to work their land. This second type of arrangement is generally confined to areas in which customary landowners can obtain a reasonable cash income from other sources while still living on their own land.

As a general rule, the dependence of smallholders on the value of resources extracted from their own customary land can be expected to increase with the distance of their normal place of residence from an urban centre or a decent road that leads to one. The more remote a rural settlement, the larger the proportion of households with land-based livelihoods, the more likely that these will depend entirely on the exercise of customary rights, and the smaller the opportunity for landowners to supplement their subsistence by selling some of the fruits of their labour (Hanson et al. 2001; Gibson et al. 2005; Bourke and Harwood 2009). At the other end of the spectrum, in urban and peri-urban areas, households with land-based livelihoods may only account for a minority of the total population, and some of them are likely to contain members who derive a livelihood from something other than the use of land—as wage-earners, shopkeepers, artisans, criminals, and so forth. The transformation of landed property relations should therefore take different forms at different points along a line of accessibility that leads from the most remote rural villages to the biggest urban centres. The exchange value or ‘price’ of a given quantity of land should vary along the same continuum, but so should the capacity to realise that value in some sort of monetary transaction such as rent collection. Exceptions to this rule normally arise with the discovery of a natural resource in a ‘remote’ area which has a higher market value than the land with which it is associated—oil, gold, timber, and so forth—which makes for the creation of a new resource frontier (Tsing 2005; Li 2014).

Hall, Hirsch and Li clearly think that people who qualify as smallholders are the principal victims of different forms of exclusion, even if they can also be perpetrators in the process of ‘intimate’ exclusion. They do not try to calculate the number of households or people whose land-based livelihoods are disrupted or destroyed by different forms of exclusion, and that is not surprising, given the size of the national populations in Southeast Asia and the uninformative nature of national census data. The statistical issue is no less problematic in Melanesia, but the populations are much smaller, so anecdotal evidence or subnational survey data can tell us more about the rate of absolute or relative decline in the size of the smallholding population and the different reasons for this type of social change.

The Urban Question

Hall, Hirsch and Li have little to say about the transformation of landed property relations in urban areas, mainly because their central concern is with various types of 'agrarian transition'. In the Melanesian political context, it is not possible to separate the land question from the problem of urbanisation, because struggles over access to land are generally more intense in urban and peri-urban areas than they are in rural areas. This is not simply a function of population growth or population density, but is also due to the fact that some of the land in urban areas is still customary land or is subject to customary claims. As a result, urban spaces are rather like patchwork quilts, with some parts covered by formal land titles, some parts occupied by their customary owners, and some parts whose legal status is quite uncertain. From this point of view, urban spaces are condensed versions of the rural spaces in which the patches tend to be much larger, with much lower population densities.

It is difficult to measure the rate of urbanisation, or the growth of the urban population relative to the rural population, mainly because census data continue to divide the two populations on the basis of town boundaries established during the colonial period. Some of the areas now defined as 'peri-urban' areas result from the expansion of a single urban space beyond the limits of these boundaries (Storey 2003), but these new urban areas are still officially designated as parts of a surrounding rural area. This does not mean that urban or peri-urban areas can be defined in material terms by the exclusion of land-based livelihoods. As we have seen, there is a class of smallholders in these areas who make some sort of a living out of the practice commonly known as 'urban gardening' (Thaman 1977, 1995), even if they form a small minority of the total urban population.

It is currently estimated that the urban and peri-urban population of PNG accounts for roughly 20 per cent of the total national population. The proportion is more than 25 per cent in Solomon Islands and Vanuatu, and as much as 50 per cent in Fiji (see Chapter 2, this volume). Between 30 and 50 per cent of the people who live in such areas are housed in so-called squatter settlements (Connell 2011), and so 'squatters' are represented in the national political discourse as a distinctive (and problematic) social class.

One of the main reasons for the growth of informal settlements in urban areas has been the inability of national or local governments to acquire, secure, subdivide and service additional land for residential development. This has entailed an increase in the cost of accommodation in the private housing market, well beyond the general rate of inflation reflected in the consumer price index, and a corresponding decline in the proportion of the urban population who can afford to pay rent to a private landlord or pay off a mortgage obtained from a bank. While some employers (including government agencies) subsidise the housing costs of their employees, a growing number of full-time wage-earners in the formal economy have joined the population of the settlements. It is not the source of people's livelihoods that distinguishes the settlements from other residential areas, or distinguishes one settlement from another. Instead, the residents of each settlement are more likely to share common origins in a particular province or district or 'tribal group' (Oram 1976; Jackson 1977; Foukona 2015; Moore 2015; also Chapter 4, this volume).

In theory, a general distinction can be drawn between settlements located on government land that has been alienated from its customary owners, but not yet leased out to other users, and those located on customary land, where the settlers have entered into an informal purchase or tenancy arrangement with the customary owners (Numbasa and Koczberski 2012). In practice, the distinction is blurred by legal uncertainties surrounding the original process of alienation, or by the resurrection of customary claims over land left 'waste and vacant' by the state. In both cases, settlers have good reason to escape their identity as 'squatters' by constructing personal and local relations with the customary owners or their descendants (Chand and Yala 2008). Alternatively, those in occupation of vacant public land may seek to establish a quasi-customary right of adverse possession to protect themselves against the threat of eviction (Chapter 3, this volume), or even claim an entirely new kind of right on the basis of their economic contribution to national development (Chapter 2, this volume).

Despite these efforts, the threat of eviction is a very real one, and the practice has grown more common with the rise in the real market value of urban land and the intensity of competition for new leasehold titles (Koczberski et al. 2001; Connell 2003). In some cases, evictions have only been temporary demonstrations of state power, and settlers have been allowed to reoccupy the land from which they have been removed (Goddard 2001). In other cases, they have been 'compensated' with an

allocation of land, and even the promise of formal land titles, in another part of the same town. But because of the way that settlements have been socially constructed, the process of eviction can easily take on the character of an ‘ethnic cleansing’ exercise, in which squatters are demonised as alien intruders who should be forced to return to the province or district from which they originated (Allen 2012). In this version of ‘intimate exclusion’, the ‘customary owners’ of an urban or peri-urban space may well repudiate their social connections with settlers from other parts of the country or reprimand each other for selling or renting the land on which the outsiders have settled (Monson 2015).

Dispossession and Expropriation

One of the main reasons that Hall, Hirsch and Li have opted to portray the transformation of landed property in Southeast Asia as a mixture of different forms of exclusion is their desire to question the idea that there is just one form of dispossession or expropriation that is a necessary condition of capitalist development. They recognise that the process known as enclosure in British and European history is indeed a specific form of dispossession or expropriation, and one that may well have supported the accumulation of agricultural and industrial capital, but this does not entail that dispossession or expropriation is invariably part of a process of (primitive) capital accumulation, nor does it necessarily involve the privatisation of communally owned land (Hall et al. 2011: 13–14).

When people say that ‘possession is nine-tenths of the law’, they imply a contrast between possession (in practice) and ownership (in law). The same contrast appears in the distinction often made between land use and land tenure. The contrast sometimes disappears when people talk or write about dispossession and expropriation, as if these were just two different words for the same sort of social process, but the distinction is significant. When ‘squatters’ have been evicted from an informal settlement, they have been dispossessed. They might also believe that they have been expropriated, if they think that their occupation and improvement of the land has created a legal entitlement to it. But the people who evict them will commonly justify the act of dispossession by saying that they had no such entitlement, and so they have not been expropriated. Dispossession is a physical process whose occurrence can be observed ‘on the ground’. Expropriation is a change in the distribution of property rights that can be, and often is, contested in law. In some

circumstances, a process of expropriation may constitute the legal basis for a subsequent process of dispossession that often involves the application of physical force. However, dispossession can occur without a prior process of expropriation, and expropriation does not necessarily lead to a process of dispossession (Borras and Franco 2013). Numerous examples exist in Melanesia of land titles being created without any subsequent material possession of the land.

A distinction between the possession and appropriation of land, and hence between the dispossession and expropriation of people, does not make much sense in a stateless society. In the pre-colonial societies of Melanesia, the possession or appropriation of land was intimately linked to the practice of shifting cultivation (Rimoldi 1966; Lea 1969; Panoff 1970; Brown and Podolefsky 1976; Mitchell 1976; Healey 1985). The members of a single 'tribe' or political community had various ways of deciding which households would clear which plots of (normally forested) land to make new gardens in any particular year. The act of cultivation was generally an act of exclusive possession during the brief period in which most of the crops were harvested and planted, but in the longer term, it did not enable the household to appropriate the land itself. Personal property rights were normally confined to the products of people's own labour. This explains why the ownership of planted trees was typically vested in the individuals who planted them, while the ownership of the land on which they grew was vested in a larger social group. In this property regime, acts of dispossession within a political community were a threat to its existence as a community, and when they did occur, they were often acts of expulsion. The dispossession of people in other communities was commonplace, but 'tribal warfare' did not necessarily entail a change in the territorial boundaries of these communities (Reay 1967); it could just involve the appropriation of other people's heads or bodies.

It is a moot point whether (and where) the 'alienation' of customary land during the colonial period counted as an act of dispossession or expropriation. Each of the four colonial regimes in our region—British, French, German and Australian—had its own way of recognising or not recognising 'native land rights' (Mair 1948; Rowley 1958; Brookfield 1972; Crocombe 1972; Firth 1983; Bennett 1987; Van Trease 1987; Ward and Kingdon 1995). There were also considerable differences in the way that British colonial authorities dealt with this issue in their four Melanesian possessions in the late nineteenth century. In the early years of colonial rule, when land was supposedly 'purchased' from its native owners with

the proverbial beads and trinkets, it barely makes sense to ask whether the 'sellers' knew what they were doing, or whether they had a customary 'right' to engage in such transactions. On the other hand, the idea of a 'colonial land grab' obscures the fact that colonial annexation of these territories was partly justified by the need to regulate the appropriation of native land by European planters, miners and missionaries (Harris 1981; Quinn 1981). The colonial authorities constructed a legal concept of native land rights through the very same process by which they constructed the capacity of individual native leaders (often designated as 'chiefs') to act as group representatives in the alienation of native land. This process was accomplished far more rapidly in Fiji than it was in the other colonial territories (France 1969), but in all cases it led to the creation of specific institutions, policies and procedures for the investigation of native land rights as a precondition for the purchase of native land (Holmes 1953; McGrath 1964). White anthropologists were more or less active participants in this legal and political process (Mair 1948; Bell 1953; Rimoldi 1966; Lawrence and Hogbin 1967; Panoff 1970).

This process was markedly different from what happened in the white settlement of Australia, where the legal doctrine of *Terra Nullius* deprived the Aboriginal population of any form of landed property rights. In Melanesia, the colonial authorities generally accepted the evidence of shifting cultivation as evidence of appropriation, as well as possession, although it took them some time to appreciate the extent to which the landscape had been modified by this practice, and even longer to appreciate that it was not wasteful and destructive (Allen and Filer 2015). The recognition of native land rights did not prevent the colonial authorities from appropriating large areas of land that were declared to be 'waste and vacant', and some of these areas may well have qualified as a sort of 'no man's land' for one reason or another. However, these declarations were generally invalidated at the end of the colonial period, as the political leaders of the newly independent states insisted that any land that had not been purchased from its customary owners must still belong to the realm of customary tenure (Sack 1974).² In Vanuatu, they went even further, by insisting that all alienated land must still be customary land in some sense, because the very nature of customary tenure did not allow for the permanent alienation of communal ownership, only for the temporary

2 This complete rejection of the principle of *Terra Nullius* had obvious links to the simultaneous demands being made for the recognition of native title in Australia.

grant of use rights (Larmour 1984). This idea has since gained ground in all four Spearhead states, creating a version of Polanyi's 'double movement' in which the principle of Torrens Title is continually challenged by the reassertion of customary rights (Filer 2014; also Chapter 12, this volume). This has come to resemble the process that Hall, Hirsch and Li call 'counter-exclusion' when the descendants of customary landowners whose land was alienated during the colonial period actually repossess the land from which their ancestors were excluded (Filer and Lowe 2011).

This does not mean that the rate of expropriation has diminished, or that it has not taken a variety of new forms. In urban areas, 'land grabbing' may involve the expropriation of persons holding leasehold titles over public (state) land through the fraudulent grant of new leasehold titles over the same land—an activity that often leads to lengthy legal battles. In cases where the fraudulent grant of titles does not affect the rights of an existing title holder, it may still be deemed an act of expropriation, rather than misappropriation, if people with customary claims over the land are able to maintain that they were not consulted about the transaction, or if the new title holders proceed to evict the current occupants of the land, whether or not they have customary claims over it. These types of 'licensed exclusion' have flourished with the 'corruption' of government agencies responsible for land administration in response to the boom in urban land values (see Chapter 9, this volume).

The same types of fraudulent activity have also been recorded in rural areas, especially in places where the economic value of the land has suddenly risen with the prospect of some form of large-scale 'resource development', but in rural areas, they are more likely to involve the expropriation of customary landowners, and less likely to lead to the dispossession of the current occupants. A notable example is the abuse of the so-called lease-leaseback scheme in PNG, whereby huge areas of customary land have ended up in the hands of foreign 'developers' operating in partnership with landowner company directors (Filer 2011a, 2011b, 2012; also Chapter 7, this volume). In this case, all customary rights to the land in question have been legally abrogated for the period of the lease, which is normally 99 years, without the knowledge of the customary landowners who have supposedly consented to the transaction (see Chapter 6, this volume). This would count as an example of what Hall, Hirsch and Li call 'volatile exclusion' if the customary owners were to be dispossessed, as well as expropriated, since most of the leases have been granted for agricultural purposes, even if many of the leaseholders are

more interested in harvesting logs than in planting cash crops. A similar form of expropriation has flourished in some rural areas of Vanuatu, albeit with a different collection of investors and local collaborators, and with a much greater risk of dispossession for the customary owners (Van Trease 1987; Scott et al. 2012; McDonnell 2013). This would count as an example of what Hall, Hirsch and Li call ‘post-agrarian exclusion’, since most of the leases have been granted for the construction of tourist resorts or residential property.

There are other forms of expropriation and dispossession that take place in rural areas, even when customary land is not legally alienated through the creation of new leasehold titles. That is because customary landowners or their representatives can alienate specific types of use right, such as timber harvesting rights, or can consent to the grant of mining rights by governments that claim ownership of subsurface mineral resources. The four Spearhead states have different policy regimes in place to regulate different types of extractive industry, and these contain different provisions for the establishment of what is nowadays called ‘free, prior and informed consent’. But even when serious efforts are made to establish the consent of customary landowners to the logging or mining of their land, they can still be expropriated through the misappropriation of the compensation and rental payments to which they are entitled by the development agreements signed on their behalf (Zimmer-Tamakoshi 1997; Koyama 2005; Golub 2007; Lattas 2011; Hviding 2015).³ Large-scale mining operations are liable to involve a distinctive form of dispossession, when the customary owners and occupants of land covered by mining leases are subjected to the process of ‘involuntary resettlement’, but the compensation they receive for their loss is not so easily stolen from them.

Alienation and Incorporation

Hall, Hirsch and Li make hardly any use of the word ‘alienation’, either because they think that their concept of exclusion is a better way to think about the transformation of landed property relations, or because the concept of alienation is open to many different definitions and interpretations. The distinction commonly made between alienated and customary land rests on a narrow legal definition by which the owners

³ Hviding describes this as an instance of ‘accumulation by dispossession’, but he recognises that the misappropriation of logging royalties in Solomon Islands does not involve what we would call the dispossession of customary landowners.

of land rights can either choose to alienate them to other people by various means, or else these rights can be alienated by other people without the knowledge or consent of their rightful owners, in which case the owners are expropriated. However, there is a much broader philosophical or sociological interpretation of the concept that is concerned with the way that ideas about the relationship between people and property have developed in different types of society.

The vernacular languages of Melanesia rarely contain a word that is used in the same way as the word 'land' is used in English, let alone a phrase equivalent to 'land rights'. This does not exactly mean that they had no such ideas; it just means that the arrangements by which people gained access to specific places or resources could not be spoken of in isolation from a larger bundle of local and personal relations that were represented, or embedded, in the biophysical landscape (Weiner 1991; Leach 2003). In recent decades, the advocates of indigenous land rights in all corners of the world have come to encapsulate this form of attachment in a variety of slogans with the common theme that 'land is life'.⁴ The construction of land as an alienable form of property is thus conceived as a universal social process that destroys the special attachment of indigenous people to something that is much more than this. From this point of view, the alienation of land from people is not a process of expropriation but a process of reification. Land is separated from human labour, local livelihoods and personal relationships, and made into a substance that can be mapped and surveyed, quantified and measured, divided and subdivided, without any necessary reference to its cultural and natural attributes (see Chapter 12, this volume). As we have seen, the process by which land was turned into a new kind of legal object was the same as the process by which the 'native' was turned into a new kind of legal subject—the 'customary landowner' whose rights could be recorded and, perhaps, eventually registered. However, the fixed idea that native land rights must, by definition, be collective or communal land rights meant that the subdivision of native territory had to be matched by a parallel subdivision of native society. This was a regional variant of the process that some scholars call territorialisation (Vandergeest and Peluso 1995).

4 The original version of the slogan was probably coined in the Philippines around 1970. It made its first known appearance in PNG in a book published in 1974 (Dove et al. 1974: 182). The preferred version of this mantra in contemporary Vanuatu is 'my land, my life'.

The suppression of tribal warfare often entailed the demarcation of territorial boundaries between neighbouring tribes, especially in areas of high population density (Brookfield and Brown 1963; Allen and Giddings 1982; Gordon 1985; Curry 1997). Once this task had been accomplished, the colonial authorities could envisage the subdivision of each tribal territory between the constituent elements of each territorial community. In doing so, they were inclined to regard each tribe as a combination of 'clans', and each clan as a combination of smaller social units, such as 'lineages'. Each of the entities in this social and spatial hierarchy was conceived as a group of people with exclusive rights to its own territorial domain, and each group would ideally be represented by a greater or lesser 'chief' whose status allowed him (or very occasionally her) to deal in the rights of the whole group (see Chapter 11, this volume). Most of the vernacular languages of the region contained a set of proper nouns that could be read as the names of such groups,⁵ and many contained words that could be read as the titles of their leaders. The key point about such acts of translation is that they took away the significance of proper nouns that were not the names of groups that could dispose of land, but were the names of the roles played by different groups in some other kind of social activity, like the practice of marriage or the conduct of mortuary ceremonies. At the same time, they took away the significance of words that referred to positions of leadership in any kind of social activity that could not be construed as an allocation of rights to the use of land. It is in this sense that the process of territorialisation was also a process of alienation, even when customary land was not legally alienated from its customary owners.

As we have seen, the process of territorialisation was a form of uneven development. In Fiji, tribal territories were subdivided into the properties of clans and lineages in the 1880s, and a corresponding hierarchy of chiefly titles was established at the same time (France 1969). In PNG, the colonial authorities made no serious attempt to demarcate the boundaries of 'landowning groups' until the 1960s, and even then they failed to get the job done (Hide 1973). Nevertheless, the idea that clans and lineages are corporate groups of landowners, in which the rules of membership are also the rules that govern access to customary land, was firmly entrenched

5 In some areas, the names were derived from words that represented different species of animals or plants, and were thus part of a system of totemic classification. In other areas, the names were derived from the names of founding ancestors, or the names of places where those people once lived, and therefore sounded more like the names of descent groups.

in the colonial legacies of all four Spearhead states. As a result, post-colonial laws and policies that have aimed to protect or enhance the powers and rights of customary landowners have generally made these corporate groups take on more and more of the characteristics of a private company. By this means, the ‘chief’ of such a group is liable to be recast as the chairman or managing director of a board whose other directors have a lesser claim to chiefly status.⁶

The incorporation of customary groups and the formalisation of their customary rights count as separate moments in the alienation of land from people because most of the people who notionally belong to such groups or hold such rights progressively lose control over the pieces of paper that represent their membership or ownership. Certificates of incorporation are not used to accomplish anything like a traditional economic transaction; they are more like a form of paper currency that can be used as evidence of the right of an individual office-holder—say a chairman or secretary—to act on behalf of a group that may only exist on paper. When survey plans and title deeds are added to this currency, the process of alienation is taken to another stage, as individuals are then able to accomplish the transfer of legally recognised ‘customary rights’ to third parties that bear no resemblance to any sort of customary group, and in so doing, strip away their customary quality (Cooter 1989, 1991; also Chapter 6, this volume). In this respect, the formalisation of customary land rights is not just a process of ‘licensed exclusion’ in which governments award legal titles to some people in preference to other people. It can also be a process of ‘intimate exclusion’ in which the possession of titles and offices is used by powerful men to exclude other members of the customary group from decisions about the use of customary land (see Chapters 10, 11 and 13, this volume). This is one of the main reasons why the advocates of indigenous land rights in Melanesia have been opposed to the registration of customary land titles, even under laws that prohibit the outright sale of customary land.

Even when customary land rights have somehow been converted into this peculiar form of ‘private collective property’, their privacy is no guarantee that the owner is internally coherent or clearly distinguished from others

6 This process of incorporation has been taken much further in PNG than it has in Solomon Islands or Vanuatu. In Solomon Islands, the corporate group is legally conceived as a collection of trustees and beneficiaries, rather than a collection of directors and shareholders. In Vanuatu, the creation of land trusts after Independence resulted in legal conflict that led to most of the trusts being disbanded.

of its kind, whether they be households or clans, incorporated land groups or private companies. People who argue that this type of property is an obstacle to economic development are not making a point about the privacy of the property right, but about the governance of the corporate body that owns it (Gosarevski et al. 2004; Hughes 2004; Lea and Curtin 2011). By representing the transformation of landed property as a set of gains and losses made by the parties to an unequal or asymmetrical relation of alienation or exclusion, we may be led to overlook the multiple forms of agency that exist on both sides of the fence. If the fence is construed as a denial of access, the social process by which it is built does not have to be construed as one that only contains two types of actor, the winners and the losers. Just as people now disown the right of some distant ancestor to sell customary land to white settlers or government officers, so they can contest the right of today's title holders and office holders to dispose of customary land in an un-customary manner. In this sense, a process of counter-exclusion is built into the process of incorporation that alienates some customary landowners from their customary rights, since the alienation is always incomplete.

The Gender of Tenure

It is easy enough to argue that land cannot be completely alienated from people or by people so long as the people in question are unable or unwilling to exclude themselves from customary social institutions. However, this does not entail that all such institutions are equally capable of sticking to the land that now constitutes the basis for land-based livelihoods or has acquired some kind of exchange value in a market economy. If we take the view that land *as such* had no market value in the pre-colonial economy, or that there was no pre-colonial 'economy' distinct from pre-colonial society, it is not even clear how any customary social institutions could retain their influence over economic transactions in land without being changed beyond recognition.

When transactions in land are embedded in the local and personal relations of kinship and marriage, the transformation of landed property relations becomes a transformation of gender relations and intergenerational relations. The social reconstruction of clans and lineages as corporate groups of customary landowners was often accompanied by an expectation (on the part of colonial authorities) that these should be what anthropologists call unilineal descent groups. In 'patrilineal societies',

people inherit membership of such groups from their fathers; in 'matrilineal societies', from their mothers. While the process of territorialisation was accompanied by a distinction between areas occupied by patrilineal and matrilineal 'tribes', and this distinction has since become part of the common sense of public discourse in the Spearhead states, the contrast between these two types of society makes more sense under Western laws of inheritance than it does in customary social practice (Goddard 2011).

To be sure, it was commonly the case that most people inherited membership of named social groups or categories from either their fathers or their mothers. Even in these cases, it was common practice for people to be adopted or incorporated into groups to which they had no 'right of membership' by birth. But there were many other cases in which the transmission of membership between generations did not follow such simple rules, or in which there were no such rules at all because 'descent groups' had no social or economic function (Ogan 1971; Wagner 1974; Guddemi 1997; Jorgensen 1997; Ernst 1999; Filer and Lowe 2011). And even where they did have a social or economic function, there is no reason to assume that this function was primarily defined by their collective ownership of exclusive property rights, rather than by the substance of the transactions that took place between the members of these groups. In all Melanesian societies, this was a thoroughly gendered substance, in the sense that all the people and things involved in such transactions had masculine or feminine properties (Strathern 1988).

If seen through the lens of 'property rights', this means that men and women had different types of rights in land and other types of property. But it does not necessarily mean that women in matrilineal societies had *more* rights in land than women in any other type of society. From a gender perspective, the difference between one society and another lay primarily in the means by which male and female rights and powers, like other male and female things, were transacted between people. And that included the means by which they were transmitted from one generation to the next. In the majority of communities where descent groups did perform some social or economic function, marriage was the customary social institution through which the groups 'leased' male or female bodies to each other for reproductive purposes. At the end of the day, when the bodies were no longer living, they were normally buried in the ground of their own group. On the other hand, insofar as these groups were the collective owners of both male and female land rights, funeral or mortuary ceremonies were the primary social institution through which such rights

could be transferred from one group to another (Rodman 1987; Damon and Wagner 1989; Foster 1995). No sense can be made of customary rules of descent and inheritance in abstraction from the transactions in reproductive capacities—the social relations of reproduction—that take shape through the human life cycle (Strathern 1972, 1988; Leach 2003; Hirsch and Strathern 2004).

These considerations help to explain why two things that used to puzzle anthropologists no longer seem to be so puzzling. The first is the puzzle posed by the construction of women in matrilineal societies as the ‘landowners’ who could not convert their property rights into political power (Maetala 2008; Naupa and Simo 2008). The second is the puzzle posed by the failure of men to dispense with the custom of matrilineal inheritance in a legal and economic system suffused with the values of possessive individualism (Nash 1974, 1987; Lomas 1979; Sykes 2007; Bainton 2008; Eves 2011; Martin 2013). When there is a contest between the property rights of individuals and those of customary groups, there is no reason to suppose that a difference in the rules that govern membership of the customary groups—matrilineal, patrilineal, or otherwise—should make a difference to the outcome of the contest. On the other hand, the difference between the collective property rights exercised in ‘matrilineal’ and ‘patrilineal’ societies, if they are now to be conceived as ‘rights’ in the modern legal sense, cannot simply be taken to reflect the customary balance of power between women and men.

Regardless of the rules that determine membership of customary social groups, the incorporation of such groups as the legally recognised owners of customary land does seem to be a process in which the balance of rights and powers has been tipped in favour of the male members—or at least some of them. Melanesia seems to be fertile ground for the sort of triangular process in which male leaders seek to demonstrate their own personal authority over other group members by alienating collective land rights to outsiders (see Chapter 13, this volume). This propensity may well have been encouraged by the patriarchal bias of European outsiders who sought to acquire such rights during the colonial era, but it has not disappeared when other aspects of the colonial legacy have been rejected. If anything, it is more likely to be represented as a continuation of pre-colonial customary practice, even when the transactions in question have no traditional counterpart.

The right of male leaders to engage in this particular form of ‘intimate exclusion’ is commonly conflated with their right to make public speeches on those traditional social occasions, such as mortuary ceremonies, when people or things are transferred from one group to another (see Chapter 11, this volume). And yet there is a world of difference between the social process that encompasses this type of event and the one that is involved in a decision to dispose of rights to the use of customary land in return for some form of ‘development’. Women are routinely excluded from this type of decision-making process, even in those matrilineal societies where they are acknowledged as the ‘true landowners’, because they are not allowed to speak for the land (Naupa and Simo 2008; also Chapter 10, this volume). And what often follows is their further exclusion from the process in which the benefits of ‘development’—in the form of compensation, rental or royalty payments—are distributed by the decision makers (McDonnell 2013). Given that this is not a customary social process, governments can only use the power of the law to create a right for women to participate.

Power, Politics and Ideology

Hall, Hirsch and Li suggest that there are four ‘powers of exclusion’, which they call *regulation*, *force*, *the market* and *legitimation* (Hall et al. 2011: 4). They say that the separation of these four powers is an analytical device, but in practice they tend to be combined in one way or another in a range of more specific social processes (ibid.: 197). Their seven different *types* of exclusion may therefore be distinguished from each other, not only by reference to the types of people involved and the types of things they do, but also by reference to the types of power that are exercised in each case. What is not entirely clear is whether each of the four powers that they identify is understood to be a power that some people exercise over other people, or something more abstract and impersonal.

When someone is forcibly dispossessed or evicted from a piece of land, it is normally possible to identify someone else who is responsible for this use of force. It might be a landlord who has hired a group of thugs to evict a tenant whose rental payments have fallen in arrears, or it might be a judge who has ruled that the current occupant of the land has no right to be there and should therefore be removed by the police. In the first case, the power of the market may also be at work, since the tenant’s inability to pay the rent could result from his or her loss of income from

the sale of some commodity. In the second case, the power of regulation would seem to be at work, since there will normally be some law that justifies the ruling made by the judge. But the landlord does not exactly *use* the power of the market to evict the tenant, unless we say that his capacity to pay the thugs is itself a manifestation of this power, or unless it turns out that he was responsible for cutting off the tenant's income in the first place. In the same way, the judge does not exactly *use* the power of regulation to dispossess the illegal occupant, unless perhaps we assume that he or his associates have some personal interest in the achievement of this outcome. But if we say that the power of the market or the power of the law is something more abstract and impersonal, does it make sense to say that the 'power of force' is something of the same sort?

Consider this question from the point of view of a (male) person who wishes to exclude someone else from a piece of land. If he uses force, and is successful, then he will have exercised the sort of interpersonal power that political philosophers recognise when they say that person A has exercised power over person B if and when A has got B to do what A wants B to do (Lukes 2005). It is not force that has the power; it is the person who has used it. There may be several ways in which force can be applied in the exercise of power. In the present case, person A could hire a bunch of thugs to do the job, or he could take person B to court in the hope of securing a judgement that would lead the police to exercise force on his behalf. Or he could pay the police to be his bunch of thugs, or bribe the judge to make a ruling in his favour. But force might not need to be used at all. If a court instructs person B to vacate the property, the order itself may have the desired result. Or the money that person A might otherwise use to pay the police or bribe the judge could just as well be offered to person B as the price of compliance.

These might seem like fairly trivial examples in the wider scheme of things, but regardless of scale, any social process that involves the transformation of landed property relations is likely to be a political and legal process as well as an economic process. Interpersonal power is not only exercised in the context of local and personal relations; it is also exercised on a broader social stage, where groups or classes of people exhibit their power by making laws or policies or rules that serve to advance their own interests at the expense of other members of society. Hall, Hirsch and Li attribute a specific power of regulation to the set of (formal and informal) rules that govern access to land or exclusion from land, and thus create different forms of landed property or types of land use (Hall et al. 2011: 15).

They connect the power of regulation to the ‘power of force’ by pointing out that regulations generally entail sanctions, one of which may be the use (or threat) of force, usually state force (ibid.: 16).

They recognise that force is not always used in the service of regulation, and might even be used to oppose it, but it is also important to recognise that regulations are not always enforced, even by the people who are responsible for their production. If regulation is conceived as a process comparable to the one that Peluso and Lund (2011) call ‘legalisation’ or ‘institutionalisation’, then it is easier to see that the power to make laws or policies or rules that relate to the ownership and use of land may be matched or countered by the power to ignore such things and find another way to deny access. In very simple terms, the power to *break* the rules may be no less important than the power to make them. Indeed, the powers to make, enforce, bend, break or contest a body of rules may all be applied quite differently, either in the process of excluding people from land or in the alternative process that Hall, Hirsch and Li call ‘counter-exclusion’. The exercise of such powers may or may not involve the use of force, and it is hard to see why they should be represented as examples of one type of political and legal process that deserves the name of ‘regulation’.

So what about the power of the market? When Hall, Hirsch and Li describe the market as a ‘power of exclusion’, they are not only talking about the market in land or land rights, but also the market in other things like agricultural outputs or inputs. The operation of these markets can easily lead to the loss of land rights on the part of smallholders who can no longer afford to keep hold of them, while the accumulation of capital in the form of landed property can proceed on the basis of multiple forms of unequal exchange. However, land markets do not emerge spontaneously in societies where other things already have an exchange value; they must first be established and maintained through the application of state power. That is why Marx (1976: 871) described the ‘so-called primitive accumulation’ as a myth. Marx developed a complex theory of ‘ground rent’ in what proved to be an unsuccessful attempt to show that his labour theory of value could be applied to the price of commodities like land and other natural resources that are not the products of human labour. Polanyi (2001) called such things ‘fictitious commodities’ because they are not produced for the purpose of exchange, and argued that the markets in such things are more unstable than normal commodity markets, even when they are central to the operation of a capitalist economy. From his point of view, land markets are not simply created by acts of ‘so-called primitive accumulation’, but remain the sites of an enduring contest

between people who use the power of the state to keep them in operation and other people who use the same power to limit the negative effect of their operation on social relations and the natural environment (Kelly and Peluso 2015: 474). The commodification of land or land rights is therefore subject to what Polanyi called a 'double movement', in which different actors are continually attempting to remove or reassert political limits on market transactions (Cotula 2013).

This type of contest is all the more likely to take place in states where the majority of people have what we call land-based livelihoods, and have not yet been subject to a process of accumulation by dispossession. In these circumstances, other kinds of power get applied to the operation of a land market, and if one of these is to be defined as the power of 'market forces', it is best understood as the use of money or other commodities (aside from land) to secure some change in the distribution of landed property. Rather than talk about the 'power of the market' as an abstract and impersonal force, we might instead consider the ways in which some political actors use their existing wealth to secure the transformation of landed property relations, whether or not they use it in combination with the use of force.

And where does this leave our fourth and final 'power of exclusion'? Hall, Hirsch and Li define the power of legitimation as the power of arguments about what is right or wrong (or fair or reasonable) in the distribution (or denial) of access to land. Legitimation can also be understood as the social or political process through which the transformation of landed property relations is justified. But if it is conceived as an instrument in the exercise of interpersonal power, comparable to the use of force or money, then words like 'authority' or 'persuasion' could be adopted to describe it. And if it is conceived as the articulation of ideas that confuse the current state of affairs with moral judgements about the way that land or land rights ought to be transacted or distributed, then we could equate it with the power of ideology. Hall, Hirsch and Li do not have a great deal to say about ideology. Their book is notable for the absence of terms like nationalism, populism, socialism, or other 'isms' that are the conventional labels for such things. However, they do make several references to neoliberalism, which they clearly regard as the dominant ideology in the countries of Southeast Asia. Maybe six of their seven specific forms of exclusion are justified by reference to neoliberal principles, but the process of 'counter-exclusion' must surely be justified in some other way.

In his account of the transition from feudalism to capitalism, Polanyi recognised that the landed aristocracy had sometimes used its political power to defend the interests of the emergent working class against the capitalists who exploited them. This observation formed the basis of his argument that markets in ‘fictitious commodities’, including the land market and the labour market, are subject to an ongoing political and ideological contest between free market principles and what he called the principle of ‘social protection’ in all capitalist economies and societies. Liberal and neoliberal ideologies have largely retained the argument of classical political economy that landowners are little more than parasites if their incomes are largely derived from the rental value of a natural resource, whether it be undeveloped land or native forests or subsurface mineral resources. The removal of political constraints on the market in such things is therefore justified by the profits and wages that can be earned when ‘developers’ are free to invest capital and labour in the transformation of natural spaces or resources into genuine commodities, and in so doing, reduce the economic significance of ‘unearned’ rental incomes and the political influence of the rent collectors, whether they be private landlords or government agencies.

Nowadays, the defence of such political constraints is justified in two different ways. First, there is the long-standing argument against the alienation of land from people, or labour from land, that now tends to be framed by the discourse of human rights. Second, there is a more recent argument against the logic of ‘resource development’ that relies on environmental values, like the protection of biological diversity or the sustainability of ecosystem services. To update Polanyi’s terminology, we could therefore say that the other side of the double movement is represented by a combination of social *and environmental* protectionism. The relative importance of these two aspects of the counter-movement is then likely to depend on the relative significance of land-based livelihoods in each national economy. As the alienation of land from people proceeds apace, the alienation of land from nature, or natural resources from the natural environment, becomes a bigger political issue.

Let us now consider how these reflections on the relationship between power, politics and ideology apply to current arguments about land rights in Melanesia.

The Dominant Ideology Thesis

The world of Melanesian politics is sometimes described as a world without ideology because it is hard to distinguish between the policies and programs of different political parties (Rich et al. 2006). This could be taken to mean that all elected politicians subscribe to a single (dominant) ideology, or that ideologies are not distinguished from each other in a way that makes it possible for politicians in parliament to align themselves with one side or the other, or that assemblies of elected politicians do not constitute the sort of space where major political choices are made. We can certainly allow for the existence of multiple ideologies in one political space without having to treat each of them as the exclusive property of one political party or one social class. Indeed, we might even allow that different ideologies can be espoused by one individual in different political contexts.

There is a neoliberal argument which states that economic growth in Melanesia has been obstructed by the prevalence of customary land rights (Gosarevski et al. 2004; Hughes 2004; Curtin and Lea 2006; Lea and Curtin 2011). Elements of neoliberalism can also be detected in the policy prescriptions of international financial institutions and bilateral aid agencies, but their interest in the privatisation of state-owned enterprises has not been matched by a comparable level of interest in the privatisation of landed property. That is partly because the aid industry has a parallel interest in the protection of human rights and the natural environment, and partly because neoliberal economic policies are not popular with regional politicians or members of the general public (Kavanamur 1998; Fingleton 2005).

What seems rather more popular is an ‘ideology of development’ that supposedly takes inspiration from the experience of the Asian ‘tiger’ economies, since it is partly concerned to favour the interests of a national business elite in their dealings with foreign investors, and partly concerned to protect small business owners from foreign competition. While foreign investors dominate some sectors of each national economy, they do not share a common interest in the privatisation of landed property. Property developers may seek to secure the permanent expropriation and dispossession of customary landowners in order to turn a profit, but mining and logging companies only need to gain specific use rights for the time it takes to conduct the business of resource extraction.

Different groups of foreign investors also have quite different levels of public commitment to the principles of social and environmental justice, or what some companies now describe as their 'social licence to operate'.

Many national politicians might seem to have a common interest in the 'mobilisation' of customary land for so-called 'impact projects' in rural areas (see Chapter 8, this volume), but most of the people who vote them into (and out of) office have land-based livelihoods that depend on the maintenance of customary rights. If these people also subscribe to an 'ideology of development', it is not because they favour the accumulation of capital at their own expense, but because they believe (rightly or wrongly) that 'developers' will provide them with rental incomes, business opportunities, or even some of the public goods and services, from roads to scholarships, that cannot be obtained from their governments (see Chapter 7, this volume). Their aspirations should not be confused with those of the smaller class of people with wage-based livelihoods, mostly living in urban and peri-urban areas, who want the price of land to be reduced to the point at which they can afford to buy their own homes. When regional politicians talk about 'land reform', it is this second constituency to which they often seem to be appealing.

Hall, Hirsch and Li use the phrase 'land reform' to describe a social and political process in which land is taken away from its current legal owners and granted to people who previously owned little or no land. The redistribution of land rights through such a process is virtually unknown in Melanesia. Instead, the phrase is generally used to refer to a policy process that is either concerned with the formalisation or registration of customary land rights, or else with the adoption of legal measures to prevent the misappropriation of customary land or public land, or to restore such land to its rightful owners.⁷ Both of these activities can be represented as forms of counter-exclusion that are meant to challenge the abuse of political or bureaucratic power to bend or break the formal or informal rules that already apply to the allocation of landed property. Both can therefore be justified by reference to the principles of human rights and good governance, and both are therefore likely to win support from the donor community and some of the more enlightened members of the business community. However, both need broad public support in

7 It is the second of these aims that has dominated the recent land reform agenda in Vanuatu, where it has been pursued by the *Graon mo Jastis* (Land and Justice) party led by Ralph Regenvanu.

order to overcome the symbiotic relationships formed between politicians and less scrupulous investors with an interest in land speculation or other forms of resource extraction (see Chapter 9, this volume).

If neoliberalism does not exactly count as the dominant ideology in this region, it might still be counted as one of the several variants of a capitalist or 'pro-business' ideology that dominates the land policy domain. Other variants include the economic nationalism or economic populism that both seek to exclude foreigners from the ownership of some types of property or the conduct of certain types of business. They also include the sort of possessive individualism that is espoused by wage-earners or small business owners who wish to secure their own possession of the small areas of land on which they live or work. There are even forms of social and environmental protectionism that operate in partnership with the 'right' sort of business against the 'wrong' sort of business. However, those forms of social and environmental protectionism that are actively supported by the donor community and some members of the business community do not constitute the strongest form of opposition to the neoliberal agenda. That honour could be reserved for Christianity, which has a pervasive influence on all aspects of social life in Melanesia, but few of its many denominations have a distinctive outlook on the land question. The strongest form of counter-movement is a form of cultural conservatism that defends all customary institutions, including customary land rights, as components of what we propose to call a 'neo-traditional social order' that is partly accommodated by the institutions of the nation-state but partly opposed to them.

The Neo-Traditional Social Order

There has been a long debate about the extent to which Melanesian 'custom' or 'tradition' has been modified by the introduction of new concepts, institutions and practices by the colonial authorities and the agents of post-colonial 'development' (Keesing and Tonkinson 1982; Keesing 1989; Jolly 1992; Otto and Pedersen 2005; Filer 2006). Much of this debate fails to take account of the full range of meanings ascribed to 'custom' (*kastom* or *kastam*) or the variety of institutions or practices that are said to be 'customary'. These things are defined in various ways in the national legislation of different Melanesian countries, but legal definitions of 'custom' do not exhaust the range of meanings found in public debate. We do not propose that there is a single 'ideology of custom' at work in

Melanesia, nor do we propose that every form of cultural conservatism has been exclusively concerned with the promotion or defence of customary land rights, even if that is our main concern in the current context. Some links might be drawn between the growing prominence of this issue in Melanesian politics and the growth of international concern with the rights of indigenous peoples, but these links still seem quite tenuous in regional political debates because of a widespread perception that ‘customary landowners’ have a higher social status and greater political power than people who are merely ‘indigenous’.⁸

In our view, the neo-traditional social order is a set of social institutions whose justification lies in the combination of the twin ideologies of *landownership* and *chieftainship*. These are not exactly two sides of the same coin, since their mutual relationship varies between Spearhead states in ways that reflect the distinctive features of their economic and political trajectories. But both have their roots in a segmentary mental model of traditional social organisation derived from the process of territorialisation we have already described. The veracity of this model is not the point at issue here. What matters is the process by which these twin ideologies have been legalised or institutionalised as part of the process of state formation, and the manner in which they have been applied to the transformation of landed property relations.

The fundamental tenet of the ideology of landownership is that every automatic (or indigenous) citizen counts as a ‘customary landowner’ by virtue of his or her membership in one of the multitude of customary social groups (tribes or clans or lineages) that supposedly have exclusive customary rights over land. Even land that was alienated during the colonial period can still be represented as the subject of these customary claims, and no land anywhere is wholly free of them (Filer 2014). In this conception of the world, it is these customary groups that constitute the ‘real’ units of social and political organisation within the nation-state, and not those ‘modern’ groups whose members have the right to vote for individuals to represent them in a national parliament, provincial assembly, local council, or civil association (Anderson and Lee 2010).

8 In New Caledonia, Kanak political parties have been wary of the idea that Kanaks belong to separate ‘indigenous communities’ in case this weakens the political case for independence from France.

The fundamental tenet of the ideology of chieftainship is that ‘politics’ (or political conflict) reflects the corruption by alien values and institutions of a traditional social system in which the authority of chiefs is the only legitimate form of personal power. In the post-colonial era, the institution of chieftainship has been granted various forms of legal recognition, but this has necessarily created some tension in the distribution of power between elected politicians and unelected chiefs (White 1992; White and Lindstrom 1997). This tension cannot be resolved unless these two classes of people can somehow be merged into one, which has not been the case in any part of Melanesia, even if some individuals have managed to perform both roles at once. If chiefs are understood to be the representatives of groups of customary landowners, and hence to have a specific form of traditional authority over the allocation of customary land rights, it is then a moot point whether bodies of elected politicians can interfere with this allocation without recognising that authority.

Both ideologies may be understood as forms of nationalism insofar as they construct the idea of ‘the nation’ in specific ways (as a nation of customary landowners or a nation represented by traditional chiefs), but they do not resemble the nationalisms of European history because they do not treat state institutions (including modern legal codes) as legitimate expressions of this cultural identity. Both can be used to legitimate or justify the exclusion of outsiders at any level of political organisation—not just at the level of the nation-state but at various levels below it—and can therefore be expressed in forms which some observers have described as ‘micro-nationalism’ (May 1982). Both can therefore be mobilised to make what Hall, Hirsch and Li call ‘ethno-territorial claims’ within the boundaries of any jurisdiction, and hence to justify the exclusion of outsiders, including other indigenous citizens, from specific areas of customary land.

The neo-traditional social order was an integral component of British colonial rule in Fiji (Macnaught 1982). However, the government of Frank Bainimarama has distinguished itself from all previous regimes by dismantling these customary institutions on the grounds that they are obstacles to national unity and economic development (Lawson 2012). Bainimarama’s version of economic nationalism is shared by some of the political leaders in other Spearhead states, but there is less enthusiasm for his attack on the ideologies of landownership and chieftainship since these have not been so deeply entrenched in their political systems for such

a long period of time, nor have they been used to counter the economic interests of such a large population of citizens as the Fijian population of Indian descent.

In Vanuatu, the ideology of chieftainship has acquired a problematic relationship with the ideology of landownership. This is partly because of the extent to which the native population was both decimated and dispossessed during the colonial era, and partly because of the way that some 'chiefs', acting as if they were individual 'landowners', have more recently been involved in acts of 'intimate exclusion' that have alienated the land of the customary social groups they are supposed to represent. McDonnell (2013) calls these men 'masters of modernity', rather than 'masters of tradition' (Rodman 1987), because of the way that they have used the power of the state, as well as their claims to customary authority, to authorise their own dealings with foreign or non-indigenous real estate developers. Claims to chiefly status have thus defied the ideology of landownership and the 'power of custom' because they have been used to justify the alienation of customary land. However, these activities have given rise to a form of 'counter-exclusion', and a process of land reform, in which the ideology of landownership and some of the institutions of the neo-traditional social order, including the National Council of Chiefs, have been mobilised against this process of alienation.

In PNG and Solomon Islands, by contrast, the ideologies of landownership and chieftainship have both acquired most of their contemporary force from the extent of foreign investment in the extraction of natural resources from customary land. In PNG, the legal incorporation of more than 13,000 'landowning clans' over the past 25 years has clearly been tied to specific legal and political processes through which customary land rights have been partially alienated to the government in return for the prospect of some kind of 'resource development' (Filer 2007). In those parts of the countryside where the social relations of 'resource compensation' have come to the fore, either in reality or in local people's expectations, land group chairmen, landowner company directors and political office holders have struggled to establish themselves as 'chiefs' who can claim some traditional right to control the distribution (or misappropriation) of 'landowner benefits' (May 1997). This is even true of areas where anthropologists could only identify 'big men' or 'great men', not 'chiefs', as traditional figures of political authority (Keesing 1968; Golub 2007; Martin 2013).

Landed Property and State Formation

The ideological forces that have already been discussed may be sufficient to account for the specific nature of the legal and political processes involved in the transformation of landed property relations in the four Spearhead states. Yet we still need to consider the extent to which the ‘power of the state’ is (or is not) applied to these processes, or the extent to which the exercise of interpersonal power by ‘state actors’ *and other actors* in the transformation of landed property relations *is also* part of the broader process of state formation. That broader process appears to be constrained by the existence of a neo-traditional social order whose inhabitants regard the state as a large but illegitimate tenant from which everyone is entitled to extract as much rent as they can, by whatever means are available to them. Indeed, the wealth owned by the state is the magnetic force that impels so many citizens to compete for election to public offices from which they can dispose of it. Those who succeed can make the institutions of the state look weak when they either break existing rules or make up new ones that enable them to consolidate their own personal power through the allocation of public wealth, including public land. But the state looks even weaker when their interpersonal rivalries prevent them from consolidating their collective power as a political class from which new members are excluded. And in countries where the institutions of the modern democratic state can still be cast as foreign impositions, this form of exclusion is not easily achieved.

In some respects, the Melanesian countries are comparable to the Asian ‘frontier regions’ that Hall, Hirsch and Li characterise as areas of traditionally low population density, occupied by ethnic minority or indigenous groups of shifting cultivators (or even hunter-gatherers), which have been subject to colonisation by migrants from densely settled areas of permanent rice cultivation over the course of the last 60 years (Hall et al. 2011: 28–9). The whole of West Papua (or what the Indonesian government now calls the provinces of Papua and West Papua) would count as a frontier in this sense. The Spearhead states have not been subject to colonisation by migrants from densely settled areas of permanent rice cultivation, but their largely uncharted rural areas are still occupied by indigenous groups of shifting cultivators with population densities that are still low by Asian standards. And even if the ideology of landownership resists the very idea that anyone has a right to colonise anyone else’s customary land, it is still the case that foreign investors have obtained the right to exploit much of

this land in one way or another. In these circumstances, we should not be surprised if the application of state power to the business of rural or resource development has distinctive limitations.

Three of the four Spearhead states possess a severely truncated form of territoriality in which the distribution of customary land rights between customary social groups was only partially documented by the colonial authorities and remains a bone of deep contention whenever anyone proposes to formalise or legalise such rights for the purpose of public or private investment. As we have seen, the colonial authorities made some efforts to demarcate the physical boundaries between tribal territories in order to limit the incidence of territorial disputes, but the delineation of land boundaries by means of cadastral surveys was mostly confined to those areas of land that were alienated from customary tenure. What the colonial authorities bequeathed to their successors was a set of procedures to be followed by government officers in the acquisition of rights to customary land that had not already been alienated. These typically involved the physical inspection of land boundaries in the company of leading men from neighbouring customary groups and the negotiation of a price or compensation package that would persuade the owners to part with their rights. This aspect of the colonial legacy was transformed in somewhat different ways in each of the newly independent states of the region. However, the institution of legal procedures for the alienation of customary land rights has generally not been matched by any effective capacity to regulate the subsequent distribution of 'landowner benefits' between the people who purport to represent the original owners.

The truncated form of territoriality in these three countries could either be taken as evidence of popular resistance to the exercise of state power or as evidence of a fundamental lack of capacity on the part of relevant government agencies. On one hand, the 'illegibility' of national and subnational landscapes has created more opportunities for people to engage in illegal or fraudulent land transactions and protracted legal disputes. On the other hand, it has motivated foreign aid agencies to try and fill the capacity gap by funding the production of new policies and laws that aim to limit such opportunities. The efforts of the World Bank and other aid agencies to strengthen the administration of the forestry, mining and petroleum sectors in PNG would be a case in point. Yet these efforts to enhance the 'power of regulation' commonly fail because they are based on an assumption of 'national ownership' that proves to be false. That is one reason why the architects of the recent land reform process in PNG,

which resulted in the legislation that now allows incorporated land groups to register titles to their own land, insisted on keeping foreign aid agencies and consultants at arm's length (see Chapter 6, this volume). What is not so clear is whether such assertions of national sovereignty can serve to prevent the sort of irregular behaviour that has come to be associated with the alienation of customary land rights in all three countries.

In these three countries, the 'rule of law' seems to be seriously compromised because of widespread ignorance of what the law says, wilful misinterpretation of the law by politicians and public servants engaged in a 'culture of complicity' (see Chapter 9, this volume), and a basic lack of enforcement capacity on the part of the courts and the police. When big companies end up behaving like proxy states in their dealings with representatives of the neo-traditional social order, this is not because of any great desire to assume such responsibilities, nor because governments have been persuaded to adopt a neoliberal policy agenda, but rather because politicians themselves have a habit of turning into 'chiefs' or 'landowners' when making their own demands on these companies, while public servants sit in their offices, read the newspapers, and possibly dream of their own election. In these circumstances, the 'power of regulation' will always be problematic. When the production of new laws seems almost like a way of compensating for the inability to make them work in practice, there is no reason to suppose that a change in the rules will effect a change in the balance of power between different groups of political actors. But if legal reform can only be one part of the solution to a political problem, there may be no solution without it. Whatever the means by which actors evade or subvert the rules at different levels of political organisation, a change in their legal identities can still effect some change in the ways that land is transacted.

Two Points about Scale

If Weber's ideal type of bureaucratic authority makes little sense in these circumstances, we need to ask what other qualities—apart from the occupation of neo-traditional leadership roles or the possession of personal charisma—enable individual actors or characters to exercise authority in land matters. Rebecca Monson (Chapter 13, this volume) echoes Sikor and Lund (2009) in arguing that (landed) property and (political) authority are 'mutually constitutive', by which she means that people who can demonstrate a capacity to transform landed property relations,

often to their own personal advantage, acquire additional authority by doing so. On the other hand, Michelle Rooney (Chapter 4, this volume) suggests that 'big people' (men or women) may gain additional authority over land matters because of their level of education or the nature of their employment in the formal economy, and may use this authority to resist the expropriation or dispossession of other, 'smaller' people. But all the stories told by the contributors to this volume should serve as a reminder that any analysis of the exercise of authority over the distribution of land rights is liable to vary with the geographical and political scale at which the analysis is undertaken, regardless of differences in the laws and policies that belong to specific jurisdictions. One of our reasons to question what is meant by the 'powers of exclusion' in a Melanesian context is that Melanesian jurisdictions are so small by comparison to those of Southeast Asia, however large they might appear in a Pacific Island context. The smaller the jurisdiction, the harder it is to distinguish social and economic relations from interpersonal relations, and the greater the scope for individual actors to exercise or modify the 'powers of regulation'. This may be one reason why the Lands Minister in Vanuatu seems to have more political power and personal authority than his counterpart in PNG (see Chapter 9, this volume).

Hall, Hirsch and Li allow that individuals or organisations or even 'social movements' may be actors in the transformation of landed property relations, depending on the scale at which the process is analysed. Since they are mainly concerned with large groups or classes of social actors, they do not make the conventional distinction between actors and the roles they perform or the characters they play in a social process. Yet this distinction can be helpful in the analysis of social processes in which actors are able to represent themselves in different ways. Thus, for example, a (male) public servant involved in approving some process of exclusion or expropriation may subsequently get elected to parliament and then use his position as a politician to try and reverse the process that he formerly endorsed. To say that he is simply continuing to operate as a 'state actor' does not encapsulate such a change of character. In Melanesian countries, it is also quite common for actors to swap roles or characters without the need for any change in their material circumstances, as when politicians (or public servants) represent themselves as customary landowners (or landowner representatives) even while they act in the interests of foreign investors who are seeking to exclude customary landowners from their land. That is why people sometimes say that 'conflict of interest' is a concept unknown

in Melanesian politics. But perhaps it also counts as evidence that the political process in Melanesia has elements of flexibility or instability that are less prominent in other countries.

While Hall, Hirsch and Li are clearly aware of the possibility that different ‘powers of exclusion’ can be exercised in different ways at different geographical scales or levels of political organisation, they do not seem to entertain the alternative understanding of scale as a social and political construct in its own right (Leitner et al. 2008). The emergence of the ‘landowning group’ as the fundamental unit of social and political organisation within the nation-state, and the changing balance of power between ‘customary landowners’ and government bodies in the negotiation of benefit-sharing agreements, are examples of the scale-making powers of extractive industry projects in resource frontiers or resource-dependent economies (Tsing 2005). While the flow of revenues from such projects has not induced the same degree of political fragmentation in PNG and Solomon Islands as has been documented in Nigeria (Watts 2004), it has still induced an escalation of ethno-territorial claims by representatives of the neo-traditional social order (Allen 2013).

The instances of violent conflict that erupted on the island of Bougainville in 1988, and on the island of Guadalcanal 10 years later, both serve to illustrate the way in which struggles over the distribution of the benefits and costs of large-scale resource development become struggles over the scale at which ethno-territorial claims should be made, customary property rights should be recognised, and new political settlements should be forged. From these examples, it would seem to be the scale of customary land rights that is most productive of violent conflict in Melanesia, and hence responsible for the realignment or ‘re-scaling’ of political boundaries, as the ideology of landownership insinuates itself into the national imagination as a shifting bundle of claims to exclude other citizens from the benefits of large-scale resource development. The question we can then pose, but not so readily answer, is whether the relationship between this type of scale-making activity and the process of state formation (or deformation) varies between the four Spearhead states as a function of their relative dependency on large-scale resource development, or as a function of some other factor, like the relative size of their national populations.

Exclusion Reviewed

The concept of exclusion, as expounded by Hall, Hirsch and Li, is undoubtedly a useful addition to the vocabulary that is required for an understanding of all the social processes entailed in the transformation of landed property relations, and this is just as true of Melanesia as it is of Southeast Asia. That is mainly because the loss or denial of access to land is not invariably coupled with a process of dispossession or expropriation, but has sometimes been accomplished by means of another kind of social process, like the process of territorialisation in which Melanesian 'clans' have been reconstituted as the collective and exclusive owners of customary land rights. Yet this example suggests that we should not simply abandon the idea that a process of exclusion may be countered by a process of *inclusion*, rather than the process that Hall, Hirsch and Li call 'counter-exclusion', since clans are still capable of including or incorporating people who do not have an automatic right of membership by virtue of descent from some founding ancestor.

We do not believe that the concept of exclusion is sufficiently powerful or comprehensive to displace the concepts of dispossession and expropriation from the vocabulary that is needed. Indeed, we find that the concept of exclusion tends to elide the distinction between the physical and legal forms of social process that is entailed in the distinction we have drawn between acts of possession, dispossession and repossession on the one hand, and acts of appropriation, expropriation and reappropriation on the other. Furthermore, the opposition of a generic process of 'counter-exclusion' to several specific types of exclusion does not appear to us to encompass the full range of possibilities encompassed in Polanyi's concept of a 'double movement', once this is conceived as an oscillation or alternation in both physical and legal transformations of landed property relations, and not just as a contest between opposing ideologies. We would certainly argue that the reassertion of customary land rights has been a more powerful and diverse social (and political) process in Melanesia than it has been in Southeast Asia. On the other hand, there are some aspects of the long-term, large-scale process of alienation and territorialisation that do not seem to be reversible, but constitute aspects of a process of state formation and capital accumulation that constitutes the stage on which different actors perform their double movements.

When we come to consider the six different types of exclusion (excluding counter-exclusion) that Hall, Hirsch and Li have chosen to highlight in their own discussion of the agrarian transition, we find that such highlights are liable to vary from one region to another, as they themselves concede. For example, this volume contains no discussion of the process they call ‘self-exclusion’, and very little discussion of the process they call ‘ambient exclusion’, because these forms of exclusion are relatively insignificant in Melanesia. Although there have been a number of donor-funded nature conservation projects whose proponents have tried to change customary land use practices, they have not had much success because the creation of new protected areas has not been taken as a valid pretext for the alienation of customary land rights (Filer 2012). National governments have sometimes used their legal powers to alienate customary land for the construction of public infrastructure, but have rarely been able to do so without protracted arguments about the identity of the customary owners and the contents of their compensation package (Manning and Hughes 2008). On the other hand, the chapters in this volume illustrate a variety of different forms of ‘intimate exclusion’ on the part of men posing as the representatives of customary land groups, and it is not clear that their actions are coherent enough to warrant the adoption of a single label for what they do.

Finally, we find that the four ‘powers’ distinguished by Hall, Hirsch and Li are not really things of the same general type, and this becomes apparent when we ask how individual actors exercise power in settings where it is not only the actions of ordinary people that can be subject to detailed scrutiny at a purely local scale, but also the actions of foreign investors, government ministers, public servants, and so forth. In the Melanesian context, we find that the distinction that Hall, Hirsch and Li make between the powers of ‘regulation’ and ‘legitimation’ fails to take account of the importance of the sort of ideological contest that Polanyi highlighted in his own version of the double movement. In this context, we do not find it helpful to assume that ‘neoliberalism’ is the dominant ideology, or the dominant form of political economy, but find it more helpful to think of power through the lens of legal pluralism (Merry 1988). Instead of opposing the power of ‘the market’ to that of ‘the state’, we find that it makes more sense to see how the power of ‘custom’ has entered into a complex and dynamic relationship with the power of ‘the law’ in the regulation of a variety of economic transactions in this fictitious commodity.

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