CONCLUSION

What are the lessons to be learned from the *rahui* and legal pluralism? The political and environmental efficacy of legal pluralism

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Our analysis of the *rahui* owes much to the theoretical and methodological contribution to the study of legal pluralism in common law and in Germano-Roman contexts, the conditions that encourage the preservation of the *rahui* in various contemporary situations, and the authors' contributions to the research on the legal pluralism theory combined with anthropologically informed fieldwork.

This collection makes two major contributions to legal pluralism theory on both conceptual and methodological levels. First, all authors demonstrate that legal pluralism can and does occur without the presence of a modern centralised state, and that it fulfils a need and does so effectively. In Polynesia, Rigo; Torrente; Ottino-Garanger, Ottino-Garanger, Rigo and Tetahiotupa; and myself show, precisely, the profound pluralistic nature of Polynesian societies, in diverse fields related to the *rahui*. As such, the social order within activities (Rigo) and the coexistence of distinct legal orders depending on one's status and territorial category (Bambridge) account for traditional pluralism. Polynesian people recognise norms or even differentiated legal orders that rely on the communities' and their chiefs' autonomy (Torrente; Ottino-Garanger et al.). As a matter of fact, Ottino-Garanger et al.;

Rigo; and Torrente emphasise the pluralistic nature of pre-European societies in the Tuamotu and the Marquesas archipaelagos from the point of view of religion and social organisation. Even institutions are plural. *Tapu* and *rahui* cannot be treated as synonymous nor can they be analysed along a continuum between gods, man and nature. *Tapu* is a sacred prohibition by nature; *rahui* is a sacred prohibition through the medium of social organisation and status. The conclusions go beyond recognising the importance of this difference.

Torrente's and my own findings demonstrate that, notwithstanding their status, all people can implement a *rahui* on his territory or a specific resource. Pluralism crosses all social statuses. Indeed, Chapter 6 demonstrates that the status of *ari'i* (political leaders) is not the only status that justifies the establishment of a *rahui*; *manahune* (common people) can also control their territory, whether it be terrestrial or maritime in nature. This, with the fact that all societies studied in this book were not centralised societies, provides a pluralistic view of society pre-European contact. Even most of the anthropoly of law theories do not go so far when theorising about the pluralistic nature of societies, with the notable exception of Vanderlinden (2013), who considers that societies are plural because individuals create and generate norms at different levels according to the realm of their activities.

As far as state and customary institutions are concerned, Ghasarian, Thorax, Chambers, and Ruru and Wheen all note and describe local political hybridisation processes. State institutions are sometimes diverted from their primary goals, reorganised, or even reappropriated by local people, in order to create a new form of *rahui*. Thus, whatever the historical periods studied, one can find not only one but several types of legal pluralisms that vary between contexts.

Lastly, on a methodological level, Rigo, Ghasarian, Dixon and myself provide tools to analyse these legal pluralisms. From an anthropological viewpoint, one must study society in terms of ideology as well as social organisation (Conte). In the same perspective, Ghasarian, Torrente and Ottino-Garanger et al. stress the relevance of ethnographic principles when describing an institution. They do not, however, subscribe to the (somewhat static and institution-focused) principles used from the beginning of the twentieth century, which consisted in the recording of customs before their disappearance (see for example the Bishop Museum Expeditions, 1920–30) but to those that support a debated description and which take into account the aims of individuals to

preserve or rehabilitate the *rahui*.[1] Conte suggests that legal pluralism can modify its nature, not because of a law or a belief, but because of a change in the fishing techniques used by the islanders. This represents a major contribution to legal pluralism theory which has largely neglected the relationships between the changes in techniques and the legal anthropological processes within Oceanic societies. Thorax and Mawyer's chapters help to place legal pluralism — associated with the tradition of the *rahui* — within new contexts, since they conduct their analysis on a micro-political scale and convincingly demonstrate how individual ambivalences are omnipresent in daily life. This is one of the main reasons why societies remain pluralistic: the state legal order has not managed to wholly impose itself and has produced some intrastate rights established by local people. Lastly, Ruru and Wheen assert that contradictions can be found not only in the state–custom connection but also within the internal dimensions of the state.

The resulting comparative analysis of *rahui* within French-speaking and English-speaking contexts influenced by different legal traditions are invaluable. The numerous case studies show that the underlying logic of the creation of a legal pluralism — after the emergence of a state — lead, in various ways, to the same outcome: an attempt by the states to control granted autonomies, that is to say a legal pluralism that is as minimal as possible.[5] This book's anthropological approach to the law enhances analysis that is based solely on legal traditions fixed in Eastern Polynesia since the colonial period. These different legal traditions matter less than power relationships for the state, and between indigenous communities and the state. Both relationships determine the leeway for legal pluralism. As noted, the legal pluralisms established after colonial settlements are ambivalent and problematic, for the modern state has revealed little capacity to concede sovereignty to local communities on some territories.

Moreover, we may wonder to what extent the claimed legitimacies appear to be different? On territorial control, the state seems to advocate environmental protection, whereas local communities insist on the preservation of their cultural heritage. Of course, the situation is never straightforward, with most authors in this book portraying this dichotomy as largely ambivalent.

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1 Ghasarian, C., 2007. 'Art oratoire et citoyenneté participative à Rapa (Polynésie française)'. In Catherine Neveu (ed.), *Cultures et pratiques participatives. Perspective comparatives*. Coll. Logiques Politiques, Paris: L'Harmattan, pp. 135–53.

Another contribution that this book makes to the literature is in better outlining the conditions allowing a more cooperative and harmonious legal pluralism between state law and customary law. The lessons learned from the various works go beyond the instances located in Eastern Polynesia. Indeed, Ghasarian in Rapa, Friedlander, Shackeroff and Kittinger in Hawai'i and Dixon in Mangaia describe the conditions along which customary law leads to reluctance or willingness to acknowledge state law. Local social organisation has more impact on the establishment of a form of pluralism than the acknowledgement of the *rahui* by the state. The collective nature of property and sometimes the isolation of some communities from the state (Ghasarian, Chambers and Dixon), constitute discriminating factors in the preservation of a pluralistic society.

In these perspectives related to the *rahui* (Friedlander, Shackeroff and Kittinger, Ghasarian, Dixon, Bambridge), one can identify a certain degree of continuity between traditional pluralism and modern pluralism. The *rahui* operates when the relationships between the structure of collective property and family ties are identified and preserved, and when traditional values linked to the *rahui* have adapted to changing contexts. These observations are part of the political field rather than the environmental field. Thus, can we talk about some new forms of acknowledgement of a property right which is *sui generis*? Neither the states nor the local communities involved seem to have an answer, for now.

But the traditional pluralistic nature of society may also face profound breakages due to the monopolisation of power by modern states in Polynesia. Friedlander, Shackeroff and Kittinger describe situations where the *rahui* does not operate any longer. Mawyer emphasises the confusion of legitimacies, which develop in the minds of each individual. This collection of case studies has implications for legal pluralism in Eastern Polynesia. If many authors consider Eastern Polynesia as including the most colonised societies within Oceania, we also have to recognise that legal pluralism is the norm and is effective as a means of political empowerment and consensus-based environmental management in the context of multiple stakeholders. Traditional Eastern Polynesian ways have endured and continue to have efficacy.

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