9. Tensions of Tradition: Making and remaking claims to land in the Oecusse enclave

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Introduction: Changing relations and landholding practices

This chapter explores how rural residential and agricultural land claims in Timor-Leste's Oecusse (Ambeno) enclave are established, maintained and transferred through various means including warfare, agricultural use, allocation by customary leaders and government programs, and migration. Settlement narratives illuminate some basic principles of claim making and explain how local customary leaders and early settlers preserve their favourable positions in relation to land control. This account analyses how landownership is linked to agricultural land use and village (*suco*) membership; the conditions in which both landowners and non-landowners acquire, borrow and use land; and how landownership and authority are transformed through agricultural change. This discussion also demonstrates how state land-titling policies that do not account for the causes and widespread incidence of land borrowing could inadvertently misidentify landowners, and might formally deprive a significant portion of the rural population of agricultural land access.

Recent property scholarship focuses on the human-relational aspects of ownership and use of land alongside other forms of claims to physical, cultural and intellectual property. There has been much attention to how definitions of ownership reflect or exclude the relational and identity factors at the core of many land claims (Hann 1998; Kalinoe and Leach 2004; Peluso 2003; Roseman 1998; Shamir 1996; Strathern 1998, 1999; Tsing 2003; Weiner 1999; Zerner 2003b). Different actors usually have different forms and evidence of claim; rural people, urban people, migrants, the state, those with natural resource-intensive livelihoods, and others with property interests have distinct expectations about what types and expressions of resource claims are appropriate or valid (Zerner 2003a).

The stunning complexity of customary land and forest regulation—in which ownership norms can be specific to each resource, lineage or location—is

understandable when we consider that the bases of claims and the possibilities of ownership are embedded in social relationships and the identity of the would-be owner(s). Customary ownership norms are no longer viewed as a static 'tradition' (Hutchinson 1996), and specificity, mutability and responsiveness to social transformation are understood as intrinsic qualities in land use and tenure. Studying disembodied stated rights and practices is inadequate for understanding decision making regarding land if positions of relative power and relationships define the outcomes. Where 'claims rest on demonstrable relationships' (Strathern 2004:9), customary ownership is tailored to each case—better visualised as a constellation of practices or cases than as a single, coherent system. As 'ownership is a function of relations between persons with reference to things, and not between people and things' (Leach 2004a:43), this chapter examines how ownership is narrated and expressed in ever-changing modern land claims and use. Social relations in regard to land are often made visible through tales of relocation: settlement histories, accounts of moving towards roadsides and away from highlands to the coast during the years of Indonesian rule, as well as more recent shifts related to agricultural change.

Origins and Highland Settlement: Land claimed through warfare and agricultural use

The geographic focus of this discussion is on one roughly rectangular Oecusse¹ transect from the coastal lowlands to highland interior, here named Lekot, drawing on data collected during ethnographic fieldwork conducted throughout Oecusse from May 2002 to November 2004. It outlines the development of landholding and land-use patterns contained within one administrative village (*suco*), covering approximately 43 sq km and inhabited by 1370 residents in 2004. Rivers largely define Lekot's eastern and southern borders, while the western border follows streams and ridges. Residents live in three areas: a large, concentrated coastal settlement, several small inland lowland settlements and an extensive village area at an elevation of about 700 m, 7 km inland from the coast. Ascending a north–south path that transects the length of Lekot in the dry season, travellers follow flat lowlands by a rocky riverbed 2 km inland before reaching water in the river. At that point, the path climbs steeply through 2 km of closed-canopy, seasonally deciduous forest, spotted with betel groves and meticulously irrigated with ditches and bamboo pipes. The forest abruptly

1 The primary language spoken throughout Oecusse is Uab Meto (also known as Baiqueno), which is used throughout western Timor, alongside Bahasa Indonesia. Terms given throughout are in Meto unless otherwise noted.

ends, leaving travellers on a very steep, treeless switchback gravel trail, which ends near the highland settlement. The southern half of Lekot comprises rolling hills and short climbs.

Lekot had its major origin settlements in the mountainous interior rather than on the coast.² The story below narrates original land claims and links early settlement to local authorities' roles in land allocation and ongoing oversight. The myth relates how the principal customary authorities, the *tobe* (ritual figures with specific authority over matters of land and forests, including conducting agricultural rituals, approving swidden sites, influencing natural forces that affect agricultural outcomes, and regulating sandalwood harvest) and *naijuf* (political figures who act as village heads within the boundaries of a *suco*),³ came to be established by chasing out nearly all native inhabitants, with *tobe* domains named after warrior ancestors.⁴ It describes how residential precedence is one aspect of land authority: the old *naijuf* (*naijuf mnasi*) and great *tobe* (*tobe naek*) were two of the original (re-)settlers, and the minor *tobe* (*tobe ana*) was given that land because he was the lone survivor of the original inhabitants. This narrative also explains the major family groupings for landholding and ritual responsibilities that presently exist in Lekot. The possibility of landholding and (in part) the current location of swidden fields still reflect this settlement history and *tobe* divisions. This story is compiled from multiple tellings of the history of Lekot settlement by different families.

Long ago, there were only a few people in Lekot, but the Ambeno king [*usif*]⁵ told our *tobe-naijuf* ancestors to go attack the people who were then living in the area. So the *tobe* and *naijuf* and the people attacked these enemies and won, and the former inhabitants left because a lot of them had been killed.⁶ When they had all fled, there was still one person left hiding in a tree, who also cooked and ate up in the tree. After our

2 Reid (1997:61–2) proposes that for most of Timorese history, the island might have been ruled from the 'inside out', and ethnographies from Timor describe pre-colonial interior political systems and relatively recent relocations to the coast (Fox 1977:63; Francillon 1980; McWilliam 1996; Schulte Nordholt 1971; Traube 1986).

3 The changing roles of these figures and their interactions with modern state processes regarding land and forest regulation are discussed extensively elsewhere (Meitzner Yoder 2007a, 2007b). The named, bounded domains of each of the 18–24 Oecusse *suco* are delineated by the customary leadership structure referred to as *tobe-naijuf*. During the fieldwork period, each Oecusse *suco* had one or two *naijuf* whose control defined the domain, with each averaging three to four *tobe* responsible for named, bounded areas nested within the *naijuf* domains.

4 The name of Lekot's *suco* derives from the words for 'settlement' and the onomatopoeic 'to dice/chop (meat) into small pieces', which villagers say substantiates the importance of warfare in establishing the current residents in the region.

5 For further discussion of the Ambeno and part-Portuguese kings in Oecusse, see Meitzner Yoder (2005:65–8, 96–102, 112–24). *Suco*-level authorities make frequent reference to their legitimation from the Ambeno king. In this case, the king commanded the people to eliminate any existing inhabitants and to settle the region from scratch; a combination of strength and precedence bolsters the great *tobe*'s power, exercised in selecting and appointing additional *tobe*, including the sole native survivor.

6 Note that the current authorities (*tobe-naijuf*) won their authority and do not claim to be autochthonous.

ancestors won, they went back to report to the king that the area had been cleared of enemies, but at night the king himself looked up and saw a fire burning in a tree, and asked, 'Whose fire is that burning in the tree?' The people answered, 'We don't know.' So the king ordered the people to go again to find the person building the fire, and when they did it wasn't a person at all, but a civet cat [*makan*] making the fire. The people caught it to question it, but once it was captured, it was no longer a civet cat but a person, so he answered them: 'Do not kill me, because I guard and control this area [*au es atukus ma anonot bi kuan bale*].' So the people did not kill him, and he alone was left alive after the other enemies had been killed or fled from Lekot. So that person originated from the animal, from nature, and the people made him the minor *tobe* [*tobe ana*] because he knew how to communicate very well with the spirits in the area.⁷ However, our ancestors conducted rituals to ensure that he would not have many descendants who might chase us out in return; indeed, the minor *tobe* never has more than one son, usually born when he is already old.

In this war, the people of Lekot were successful in the struggle for land, so they settled it and made gardens [*swiddens*]. The great *tobe* [*tobe naek*] was chosen by the king and *naijuf* to control the largest land area, because he had a large family and they lost the most people during the battle.⁸ The old *naijuf* [*naijuf mnasi*] was also there before other people came. Later, it was the *naijuf* and the great *tobe* who chose the small *tobe* and gave him his domain. Then both *tobe* received more newcomers [*refugees*], and those people followed the activities of each *tobe* in his domain. Land belonged to the person who opened a garden there, and their descendants, who divided up the various locations they inherited from their father, until Lekot was filled with fallowed garden sites. Each family may own many *seimu* [*claimed land area used for agriculture*], but separated in different locations. All landowners also received land in the *tobe* domains.

The area of Lekot is divided into three domains [*sopu*]. The first is controlled by the great *tobe*. The second is controlled by the minor *tobe* and the other *tobe* [*tobe tonene* (*agriculture*) or *tobe ulan* (*rain*)], who were chosen later. The names for the domain areas are those of the ancestors of each *tobe*, who fought their enemies and gained power over the area.

7 Note here some of the basic features of *tobe* authority: autochthony, supernatural origins, facility with ritual communication, and selection by the (newcomer) local residents to be the *tobe*. Throughout Oecusse as elsewhere in the Asia-Pacific region, settlement histories often feature total or partial displacements of autochthones.

8 One key basis for land acquisition is sacrifice or loss in warfare—a theme repeated after 1999 with auto-compensation for wrongs committed by militia families and individuals.

The third [the region as a whole] is controlled by the old *naijuf* and young *naijuf*, but has no land of its own. Each domain has other families which belong to it, and have most of their land there. All *tobe* and *naijuf* chose assistants, who became the warriors and defenders [*meob*] of the realm.⁹

The agriculture *tobe* [*tobe tonene*] was chosen during the Japanese time when the young *naijuf* took a wife from Suni-Uf in western Oecusse and the *naijuf* learned of new agricultural rituals from that region that would improve the harvests in Lekot. Returning to Lekot with his wife, the *naijuf* discussed gaining and using these rituals with the Lekot elders. They agreed, and each family contributed *mutin* [bead necklaces] according to the groups that divide meat [*sispa'*]¹⁰ at the great *tobe's* ritual [*fua oel naek*]. They went there to learn these rituals and to buy seed,¹¹ giving a payment to the leaders there,¹² and the *naijuf*, great *tobe* and the people appointed one family as the *tobe tonene* to carry out these planting rituals henceforth.

This account illustrates some key principles of land authorities and land claims found throughout Oecusse. Amidst the wide variability present among Oecusse *suco*, in all cases a *tobe* with a defined land domain (for example, great *tobe* or minor *tobe*) is said to be of supernatural origin and/or among the earliest settlers to an area, which lends the requisite facility in communicating with ancestors and other spiritual elements in an area. This is not necessarily so for those *tobe* with ritual responsibilities but no domain (for example, *tobe tonene*). In these accounts, authority closely follows a pattern of precedence—

9 In Lekot, two sub-*kanaf* are known as the primary *meob* for the region. Their landholdings are concentrated in adjacent sections of a high mountain with a rock cliff base, originally chosen for settlement because of its inaccessibility and easy defence from approaching enemies. The *meob* kept their residence there long after other families settled the flat land where Lekot's highland settlement is today. That is where their first four generations are buried, and the *meob* families still take sacrifices or conduct prayers. Genealogies and oral histories from all Lekot *kanaf* agree that the *meob kanaf* were resident in Lekot before the *tobe-naijuf* structure described in this story came to be. The majority of their agricultural land borders an adjacent *suco*, in keeping with their roles as guardians. The warrior families have unique authority to call the people to warfare using a buffalo horn—a responsibility exercised during conflicts of 1987 and 1999.

10 See Meitzner Yoder (2005:339–40) on *sispa'*. Each family's ritual responsibilities are defined by groups visible in their participation at the great *tobe's* main ceremony that closes the agricultural season.

11 The phrase used is '*sos pin [fin] pena, fin ane*': to buy the maize seeds, the rice seeds. Like the 'civilizing influence' of the part-Portuguese kings (Meitzner Yoder 2005:113–17), this is another example of new ideas coming from the outside—in this case, connecting rituals and seed, knowledge and material, to the marriage transaction. This linkage of cultural and agricultural knowledge is similar to the effort of the Oecusse district Agriculture Department's intentions regarding the (agri)cultural associations and *tara bandu* ceremonies (Meitzner Yoder 2007b).

12 The price paid for this knowledge was one *mutin* bead necklace and one horse. Strathern (2004:6) noted that for some groups in Papua New Guinea, displaying the 'foreign, exogenous—sources from which they have purchased the rights to perform a piece of ritual' in a festival adds value to the event, as it demonstrates the advantageous external relationship they formed.

inherently relational:¹³ the first to arrive has the highest authority, followed by later arrivals. But settlers rarely encounter an uninhabited area; autochthones are eliminated or displaced to make way for the new settlers, and when they are permitted to remain (for example, in Lekot, the small *tobe* and the two warrior families), they only hold their present positions by virtue of the conquering settlers granting them those roles. In the story above, the remnant figure of the lone survivor who became the small *tobe* is feared, respected and controlled to avoid his rising to dominance.¹⁴ Superiority in warfare trumps autochthony—but never completely.¹⁵

Origins and migrations are important aspects of land-claim establishment. The current generation is the ninth or tenth since the ancestors of the two oldest-recognised resident lineages (or family names, *kanaf*) moved to Lekot from Biboki, West Timor. These two families are now the primary warrior (*meob*) lineages of Lekot. It is now the sixth or seventh generation since the great *tobe*'s ancestor moved from Manatuto, a district in the main body of Timor-Leste, to Lekot.¹⁶ When the great *tobe* lineage arrived, they gave the symbols of power that they brought with them from Manatuto (gongs and rattan) to the old *naijuf* lineage, because as *tobe* they were not permitted to keep those items.

Other settlers were accepted into the domains of the *tobe* and claimed land by opening gardens; the 11 landowning lineages present in Lekot all describe how their ancestors originally farmed the scattered areas now owned by members of the lineage.¹⁷ Taboos (*nuni*) sometimes serve as a mnemonic device for the history of family migration. Hence, asking the history of a family's *nuni* array can evoke their geographic journey through various points, where events occurred and which taboos were acquired along the way.¹⁸ The possibility of being included among the original—and thus current landholding—*kanaf* in highland Lekot was determined by at least the late 1800s or early 1900s. All *kanaf*¹⁹ who moved into Lekot after the 1912 war are still considered newcomers, and are not permitted heritable land rights in the transect.

13 Fox defines precedence as 'an oppositional notion based on the assertion of a relational asymmetry...a socially-asserted claim to difference that generally involves an affirmation of some form of "superiority" and/or "priority"...invariably applied recursively to create a concatenation of relationships' (1996:131).

14 Relating the origin myth of Tunbaba, just east of Oecusse, Schulte Nordholt (1971:287) also noted 'a certain ambivalence inherent in this story, as the two founders came with Sonba'i...while on the other hand they "were already there"'—again indicative of the importance of autochthony in claims to authority.

15 There is no *terra nullius* in Oecusse settlement stories (cf. Griffiths and Robin 1997).

16 Several members of this lineage can name the male line extending back to the individual who left Manatuto to move to Lekot, but no further. Manatuto–Oecusse linkages of governance and military service are found in Portuguese sources as well (Silva 1897; Vaquinhas 1884).

17 Once claimed, land owned bears little relation to land farmed, as described further below.

18 Fox (1997:8) describes topogeny as 'the recitation of an ordered sequence of place names', which is used to transmit social knowledge and to preserve memory.

19 After this time, even in-migrants with the same *kanaf* name as an existing family were excluded from full membership and landownership. For example, there are multiple branches of two Lekot *kanaf* bearing the same name and distinguishable only by their taboos, which reflect their settlement histories; one branch of

The lineages' landholdings were established by various means: in a few cases, the *tobe* relegated areas to individuals or families to cultivate, but most accounts state that the *tobe* did not divide the land. The land became divided and claimed through the process of cultivation, without intervention or direction from any higher authority; a family selected, cleared and farmed a garden location, and, since that point, that land has been claimed by descendants of the original farmers.²⁰ Mechanisms of inheritance and land transfer²¹ vary by *kanaf* and region, but this accounts for the island-like, patchwork pattern of land claims present today across the Lekot landscape. Clearly, the *usif* (ruler) and *naijuf* were not involved directly in dividing up large tracts of land to family groups or to individuals.

Land Transactions and the Perpetual Landlessness of Outsiders

In most of Oecusse,²² upon marriage a woman leaves her birth *kanaf* to join that of her husband. Accordingly, *seimu* land is inherited by sons and remains largely within the *kanaf*.²³ Widows retain land rights to their husband's *kanaf* land, but for an older widow the land may pass directly to her sons. Unmarried daughters retain rights to their father's *kanaf* land. Women (regardless of their marital status) frequently inherit individually owned parcels of flooded rice land. In some areas of Oecusse (but not Lekot; this seems to occur in *suco* with more recent and numerous in-migration), a man who marries into a landowning *kanaf* and fully transfers his *suco* membership²⁴ to his wife's *suco* of residence

each *kanaf* may not own land, while the others may.

20 This is the most common means of establishing land claims (Rodman 1987; Vargas 1985; Ward and Kingdom 1995a; Zerner 2003a).

21 In general, male children inherit land, and a father's land is divided among all sons. The father determines the pattern of equal or unequal land division; while all sons often receive equal shares of subdivided land or equal rights to use undivided land, some fathers designate a larger share of land to the eldest son or the son responsible for maintaining the family's ritual house. Daughters rarely inherit swidden land; land from a couple without sons will be inherited by male relatives of the father.

22 An exception is the central flooded rice-growing region of Padiæ (*suco* Cunha and Lalisuk), settled by Savunese and Rotinese in-migrants still called *kaes metan* (black foreigners/strangers) by Oecusse highlanders, in which most land is held and passed from mother to daughter. Until about 30 years ago, a new couple's residence was exclusively uxorial, and the wife's family took responsibility for providing the new family with land. Unlike other parts of Oecusse, Padiæ inheritance frequently favours the youngest child with a larger share of family land and eventual ownership of the parents' house.

23 It is worth comment that the subject of land tenure has been barely mentioned in the vast and detailed ethnographic literature analysing marriage, bride-wealth and kinship alliances around Timor, perhaps influenced by van Wouden's (1968) influential study (Fox 1980).

24 In these cases, it is essential for the man to contribute animals to local ritual events, and sometimes give the local land authorities gifts of animals.

may be able to acquire heritable²⁵ rights to a strictly limited portion of his wife's *kanaf* land after multiple years of farming a plot and subject to approval by the *tobe* and/or *naijuf* with some payment to both figures.

Land access by male in-migrants is often problematic.²⁶ Before the new household of an external husband (not native to that *suco*) and local wife is allowed to settle in the *suco*, the local leaders and members of each landowning *kanaf* (*atoin kua tuaf*) meet to consider how the land requirements of the new family can be met. As land is almost never permanently transferred to in-migrants (referred to as *atoin anaomnemmat*, wandering people), the new couple may be guaranteed rights to borrow—but never to own—land, sometimes for a specified number of generations (cf. McWilliam 2002:162–7).²⁷ As this disadvantages the couple's children, the new pair is encouraged to move back to the husband's home *suco*, where future land rights are secured.²⁸ When a couple does move to the husband's land, the wife's relatives might express relief that the couple and their children are 'freed' from their demeaning status as landless borrowers.

If the couple remains in the wife's *suco*, even for a generation, it is possible that their children or grandchildren might not be received as landowning 'kanaf insiders' when trying to relocate to the father's home *suco*. This creates the most socially undesirable status with regards to land: a perpetual borrower—rejected as a *kanaf* landowner in one's paternal landowning *suco* and unable to acquire heritable land rights in one's *suco* of residence. Some villagers describe this state as '*atoin matustanab*', meaning someone being sent back and forth in the middle (as in a ball game), without a definitive home or stopping place. In 2004, 14 of highland Lekot's 120 households (12 per cent) were in these circumstances.²⁹ Twelve of these families (in two *kanaf*, each now with six households) are descendants of people who relocated (as 'political refugees') to Lekot during the 1912 and 1975 conflicts. They have attempted to return to their former *suco*

25 Even in these cases, the land retains links to the wife's *kanaf*.

26 Customary restrictions on outsiders' landownership have long been amply documented in Timor (Castro 1867; Metzner 1977; Sousa Xavier 1997; Vaquinhas 1883). Even access to unclaimed or common land can be unequal (Baumann 1997).

27 The wife's *kanaf* takes responsibility for ensuring that the couple will have access to enough land to meet their housing and subsistence needs, and the couple will participate in the same system of swidden land borrowing as *suco* members.

28 The difficulty of outsider men obtaining land is reflected in the numbers of local and outsider marriages even in coastal, peri-urban Lekot: 57 per cent of couples have both husband and wife from the same *suco*; 33 per cent are a local husband and an in-migrant wife; and just 9 per cent represent a local wife and an in-migrant husband, classified as *atoin anaomnemmat*.

29 In addition to these 14 households, in 2004 highland Lekot had three cases pending since 2001–02. This is indicative of the villagers' reluctance to accept in-migrant males—called 'the seeds of land borrowing'—as members of their settlement. In one pending case of outside people being rejected, a widowed mother of a local married woman (now with her husband's *kanaf*) was not permitted to move in because she was accompanied by an orphaned grandson; village leaders said the woman's move would have been unproblematic if the orphaned child had been a granddaughter or if the woman had been alone, but a landless boy must not be permitted to settle in Lekot. Village authorities, including the hamlet head and *tobe*, served as gatekeepers to *suco* land access.

without success, and are now permitted to remain in Lekot only because they have intermarried with local women, but they still may not make permanent claims to any land. They have no swidden garden land (*seimu*) of their own. They do gain permanent rights to their house yards, even if local *kanaf* are reluctant to give them land.

The accepted disparity between *de facto* and *de jure* land availability is important in supporting the livelihoods of these landless people. With unlimited access to free borrowing of land for swidden agriculture in the present system, '*atoin matustanab*' are no more economically vulnerable³⁰ than their landowning neighbours. If, however, landholding formalisation through state-based regulatory reform or agricultural change reduced their access to land borrowing, this group would be economically disadvantaged.

Occasionally, people lose land due to debt incurred in emergency situations, and may regain land only by inflated repayments.³¹ Families borrowing maize during hungry times might pay a high price in land lost that might take decades to regain—a debt they work steadily to cancel. In rare cases, landownership is not entirely place based, but might be linked to the actual *soil* of claimed land. Annual flooding rearranges landholding alongside seasonal rivers. Flooding might remove tens of metres of riverbank land for stretches of 100 m or more; where that soil is deposited further downstream, the upstream person who lost land may claim the 'new' land created, even on the other side of the river. This permits the highly unusual phenomenon of people owning land in an adjacent *suco*, when literal land transfer occurs on rivers that mark *suco* boundaries.

Local Authorities and Land-Use Regulation

Settlement narratives and subsequent land relations influence local political and ritual authorities' control over land parcels. The *naijuf* political authorities often were selected to serve as village head (*chefe do suco*) under the Portuguese colonial regime and much of their preferential landholdings were acquired in that role. There are two *naijuf* lineages in Lekot: one 'old', originally from Manatuto in eastern Timor, charged with oversight of traditional ceremonies; and the other 'young', which came later from neighbouring Manamas, West Timor, which is

30 On occasion, however, the *atoin matustanab* alone will clear the most marginal patch of unclaimed land (*naija sona*) in highland Lekot to plant low-yielding root crops—without converting that land to heritable *seimu* as a local *kanaf* would—when unable to get sufficient space in a group garden. Vargas (1985:18) demonstrated that non-landowning 'newcomers to the village made smaller fields [than other residents], indicating that they were not free to borrow as much land as long-term village residents were able to borrow'.

31 For example, during the 1960s, one man needed immediate assistance to fulfil his tax obligation: in exchange for about 2 kg of rice, he traded 1 ha of irrigated rice land, which was regained by his son only in 2003 for the price of two large cows (US\$300).

concerned with *suco* governance including *suco* boundary conflicts. Regarding the *naijuf* landholdings, as an original settler, the old *naijuf* has landholdings, as do the other village member *kanaf*, and the lineage's land is treated the same as any other family's. The young *naijuf*, however, has very little land as a relative newcomer and, in most discussions about land, Lekot residents state that the young *naijuf* has no land, other than that taken from the people,³² or other than what people gave to his lineage.³³

As narrated above, the great *tobe* came to control the entire region, and subsequently divided the land with the (autochthonous) minor *tobe*. As the primary land authority, the great *tobe* maintains a level of control over the entire domain—for example, in 2003 the great *tobe* denied a farming group permission to open a garden in part of a claimed agricultural region (*seimu*) of the minor *tobe* area, on the grounds that the area was too steep and should be allowed to revert to forest.³⁴ Precedence confers special status: as a 'landholding *tobe*' with defined areas, individuals in these positions occupy them by virtue of their early residence; as such, people emphasise that they cannot be replaced with another lineage, unlike the *tobe*, who is responsible only for agricultural rituals concerning planting and rain/wind regulation.³⁵

While precedence and the ordered hierarchy *usif-naijuf-tobe* hold for most cases, on matters relating to land and forests or within the ritual sphere, the *tobe* has more authority than the *naijuf*. Their landholding, however, reflects levels and spheres of their authority too: the *naijuf* may appropriate land from the people, while the *tobe* may not. Many say that the *tobe* had all the land and then distributed it to others, while the *naijuf* originally had no land but accumulated holdings from others. The *tobe* is clearly the primary land-use authority, but the *naijuf*'s political power enables him to usurp land and to keep it (Schulte Nordholt 1971).

32 Various young *naijuf* have appropriated some of the choicest land in Lekot, taking advantage of Portuguese labour practices and Indonesian land formalisation to acquire exclusive and permanent private rights to some of the most valuable land. This included declaring the largest-existing irrigated rice field owned by several local families, stone-fenced with village labour, to be his own during the Portuguese era; acquiring a private Indonesian title (while village head) to a large coconut grove planted with community labour while he was the Portuguese-era village head; and personally claiming a former public recreation beach site after 1999 by having his resident assistant construct a fence around the area.

33 The phenomenon of the landless *naijuf* is heard sporadically throughout Oecusse: in four other *suco*, the *naijuf* does retain a domain of his own, though small. *Naijuf* sometimes state that they have no land because they divided it all out to the *tobe*. One *naijuf* gleefully tells of how his lineage gave out all the meat and was left with only the bones, handing out all the land to the *tobe* and the population, except a sacred mountain adjacent to his house. This is a paradoxical display of power: owning it all so he does not need to own any.

34 When the group disobeyed this prohibition and opened gardens in that location anyway, mistakenly burning a portion of a betel grove, the great *tobe* assessed a fine subsequently paid jointly by all members of the group.

35 Since the ritual *tobe* do not have particular precedence in settlement legitimating their positions of authority, their places are more tenuous and they may be subject to removal if seen to commit ritual errors that cause calamity or fail to protect harvests.

There is a fundamental difference between the *tobe* and the *naijuf* with respect to landowning: while the *tobe*'s own land is treated just like that of other villagers, the *naijuf* reserves preferential tenure rights. In a 2001 example of land-tenure rearrangement when converting a swidden area to a new flooded rice field (see Meitzner Yoder 2005:218–20), land from the original landowners was redistributed in equal parts to the people who worked to build the irrigation and terraces. By contributing labour to the project, individuals previously without land in that area acquired heritable individual rights to a defined plot of land, equal in area to the land now held by the original landowners in the rice field. In this case and others, the *naijuf*, alone of all the original landowners (including the *tobe*) involved in this scheme, was exempt from dividing his land with contributing labourers. Seven people who joined the project late approached the *naijuf* and were granted rights to develop a given portion of the *naijuf*'s land, and in exchange for their labour were allowed to farm their plots for three planting seasons without any payment to the *naijuf*. In subsequent years they should give 10 per cent of their harvest as payment for use of the *naijuf*'s land.³⁶ Unlike all other farmers in the rice field, those planting on the *naijuf*'s land do not have heritable rights to the land, and should they discontinue using the land, it will revert to full control by the *naijuf*.

Irrigation development, and subsequent conversion to fruit-tree and/or flooded rice land use, inserts the layer of *cabo-oel* (literally, 'water chief/head') into the land authority framework. A *cabo-oel* is not an inherited position in the traditional hierarchy, but simply any person who proposes, originates and oversees an irrigation plan for a given flooded rice field or a fruit-tree grove. Importantly, the *cabo-oel* is not necessarily the landowner or even a *suco* resident, but secures broad, long-term use rights for the duration of an irrigated system.³⁷ Irrigation impacts on tenure in giving a measure of authority over land distribution to the *cabo-oel*, and in giving other non-landowners enduring rights to use the land for as long as the irrigation scheme is actively maintained and productive.³⁸ The *cabo-oel* obtains use of the land closest to the water source, followed (downstream) by the landowner. Beyond that, anyone interested in joining the irrigation scheme may be given space, subject to approval by the *cabo-oel* (not the landowner). Significantly, for land-use decisions in irrigated areas, the *cabo-oel*'s authority supersedes that of the customary landowner and the *tobe*.

36 Villagers note that his exceptional landholding status permits flexibility in cultivating these rice fields, allowing those without land or those with extra requirements to use his land under reasonable conditions.

37 In Oecusse, individual springs not used for agricultural purposes fall under the authority of the *tobe* rather than a *cabo-oel*, differentiating the *cabo-oel* from the Tetun *cabo-be'e* (*oel* = *be'e* = water) in other districts of Timor-Leste.

38 If the scheme fails or falls into disuse, all users' rights are fully relinquished to the original owner.

Coastward Migrations and Agricultural Change

Lekot, like much of Timor-Leste, has undergone dramatic demographic shifts during recent decades. Before World War II, most people in Lekot lived in dispersed sub-*kanaf* clusters in the highlands; only four households lived on the coast, including the great *tobe*. From 1945 to 1975, the Portuguese administration encouraged people to move to the coast for the purposes of schooling, but most were reluctant to do so for fear of physical punishments and additional labour demands made on coastal residents. A few families moved to the coast during the 1960s, but by 1975 the majority of the population was still living in family clusters in the highlands or inland lowland settlements. From 1976 to 1981, the Indonesian planned development of settlements, roads and schools attracted a few families, and there has been a steady trickle of migration to the lowlands since the mid-1980s. After every house but one in Lekot was burned during the post-referendum violence of September–October 1999, most people returned to their same places of residence to rebuild homes. By 2004, Lekot had 1370 residents, just more than half of them now in the lowlands: 120 households (640 residents) in an inland settlement at an elevation of 700 m, and 140 households (730 residents) in one peri-urban coastal and three inland lowland settlements.

Lowland Lekot residents still consider themselves mountain people who happen to live on the coast; few have lived there for more than a generation. Although some now rarely visit their former settlement area, many still regularly farm and worship in the highlands, and make weekly trips uphill to see family. Lowland land practices replicate the upland models in which the *tobe* and *naijuf* play key roles relating to land—at times unbeknownst to state authorities. In Lekot, the first hamlet head in 1976 was the minor *tobe*,³⁹ and although he was illiterate and from the mountains, he was responsible for an extensive lowland land allocation program, designating each highland family grouping a specified plot of land, which very few families took as their principal residence. Ten years later, the *naijuf* reallocated many of these plots to outsiders, including Indonesian civil servants and church workers, following the pattern of land allocation, in the form of grants (not sale) to outsiders. Methods of claiming uncultivated land (*naija sona*) and restrictions on landownership in the lowlands closely resemble these practices in the highlands.

39 Villagers joked that the Indonesian Government did not know that the man they selected as hamlet head was a *tobe*—an appropriate person to serve as overseer for the state-sponsored land-distribution program.

Ownership, Land Use and Changing Patterns of Rural Landholdings in Lekot

Land-use patterns are significant because they shape initial ownership claims, and are of broader significance through village membership that permits a family to become landowners. But for already claimed swidden agricultural land, ongoing use can be surprisingly unrelated to ownership or membership. This overview of everyday land-claim assertion and validation highlights how family (*kanaf*) identity, neighbourly relations, individual initiative, group membership and land authorities' permission circumscribe the possibilities for different forms of ownership in Lekot's varied agricultural landscape.

Lekot has both mountain and lowland inland settlements and peri-urban coastal areas. Land and resource tenure vary according to location and land use; each land-use category has specific patterns and norms of acquisition, purchase or temporary use, and levels of ownership and authority on decision making about that land.⁴⁰ Lekot's coast was almost unpopulated until the 1980s, leaving it with the uncommon phenomenon of unclaimed land even today. Much land has been converted from unclaimed land to individual holdings from the late 1990s onward. The significant, recent coastward migration demonstrates land claims that resemble upland patterns. As the growing coastal population addresses food needs and preferences by converting dry land to flooded rice fields, there is also conversion of land from periodic swidden to annual irrigated cultivation, with accompanying changes in landholding structures.

Much South-East Asian historiography posits a sharp divide between highland swiddening animists and lowland paddy-rice farmers who adhere to world religions, often implying a unidirectional move towards lowland livelihoods and identity (Burling 1965; Leach 1954, 1960; Wolters 1999). Scott (2009), however, notes that the migration moves in both directions—from hill to valley and valley to hill—and that there are intermediate cultural-ecological categories. Throughout this section, I highlight some of these factors that transgress these standard categories—that is, swidden farmers who start flooded rice cultivation on their own; highlanders who move to the lowlands and take their systems and norms of land claims with them, or live in the lowlands but still farm in the uplands; and how farmers' attempts to apply new land-division schemes can function or fail based in part on prior norms of land tenure. People in Oecusse use a range of classifications for land, described below.

40 Published land and tree tenure information for rural Timor-Leste is scant (for example, Metzner 1977; Saldanha and Guterres 2002; Sousa Xavier 1997; Susanto 1994–95; Ubbe 1995–96), and few accounts indicate the effects of migration and infrastructure development on changes in tenure patterns (Aditjondro 1994; Fitzpatrick 2002).

House Yards

In both mountain and coastal settlements, the land or yard closest to the house (*poa ume*, *uem balef*) is used for seasonal mixed gardens of root crops, maize and vegetables, as well as for fruit trees and animal pens. Individuals hold the house yard, and fenced border perimeters constructed of stone, branches, palm ribs or living fences are precisely maintained.

In highland areas (past and present), building a house and planting trees⁴¹ associated with the house form one of the most enduring possible claims. Land and its planted trees remain *kanaf* property for several generations where one's ancestors were known to have lived on a given plot of land (*uem balef*). This convention applies even when descendants move to another *suco*—an action that normally diminishes claims to other (agricultural) types of land.⁴² Allowing members of another *kanaf* to build a house on one's land usually permanently forfeits one's claims to that land, which then transfers to the new residents' *kanaf*.⁴³ Even when the new resident moves from that site, the former owner usually has no right to reclaim the land, and any other household subsequently wishing to build a house on that land would negotiate with the most recent residents (or their *kanaf* descendants).⁴⁴ In past times, *kanaf* clusters moved frequently, so there are many such residential sites for each *kanaf* across a *suco* landscape; frequent localised migration contributes to the patchwork nature of landownership in rural regions. The permanent nature of these land transfers makes landowners reluctant to release fertile or well-situated land to another *kanaf*, but requests for agriculturally marginal land for house building are usually still granted.

Despite the strength of the land claim resulting from residence, highland dwellers show no preference for living on their own *kanaf*'s land over asking for better-situated land from another *kanaf*. Until 1975, highland Lekot residents lived in widely scattered sub-*kanaf* clusters. During 1975–99, most families moved their houses two to four times to comply with changing government

41 Generally, trees remain the property of their planter (or descendants) for the life of the tree. In urban and rural land transfers, the original tree/landowner may choose to retain harvesting rights to the trees or to sell the trees, separately from the land, to the new landowner. Trees and land are always transacted separately, whether land is purchased or borrowed (cf. Peluso 2003; Rodman 1987; Van Trease 1987:11; Vargas 1985).

42 Over time, *kanaf* members remaining in the former *suco* will absorb the rights to the house land, but rights to the trees remain with the original owner (or descendants) even after that point.

43 In more densely populated rural areas (for example, southern Oecusse), such land grants for residential use are reportedly becoming less common, sometimes now replaced with outright sale as practised in urban areas.

44 There are exceptions, as happened in Lekot during 2003 when *Kanaf A* wanted to reclaim their hillside land below a spring that had been settled in the 1930s by *Kanaf B*, by now home to 30 households, in order to develop a nearby water source into flooded rice fields. The decision, mediated by elders from each *kanaf* and the hamlet head, involved *Kanaf A* giving an equivalent land area just above the water source for *Kanaf B* to relocate their houses, as well as a share in the new rice field. This was permitted because *Kanaf B*'s relocation was necessary for the irrigation development that would benefit all Lekot *kanaf*.

requirements for proximity to roads (twice rerouted) and schools (relocated three times), creating a mixed-*kanaf* settlement. After independence in 2002, the hamlet head initiated a program to again relocate all residents adjacent to a new road and piped water system, mandating that each family select a 25 sq m plot on which to build a house along a stretch of road that primarily runs through land of four sub-*kanaf*.⁴⁵ As a result, most households are again relocating to another *kanaf*'s land. Transfers of residential land are made without any form of payment or ritual debt.

The Indonesian Government created Lekot's coastal peri-urban housing settlements on unsettled, densely forested land in the early 1980s. As products of state planning, they were subject to some formalisation.⁴⁶ Although the state oversaw the land allocation, people frequently selected a Lekot *tobe* to witness their formal land acquisition or subsequent transactions (following the *tobe*'s highland role). After the initial allocation, land that is sold follows state land administration conventions of permanent transfer. Residential land borrowing rarely happens in this region, with the exception of land used (rent free) by outside settlers during the Indonesian era that reverted to former claimants when vacated in 1999.

Swidden Fields

Seimu (land, *seimu*; actively swiddened fields, *lele*) refers to any land that has been used for swidden gardens, and therefore subject to enduring claim by a given lineage (or, as with first-generation swidden cultivation, an individual). Swidden gardens (*lele*) are the central food source for both highland and lowland residents; most Oecusse swiddens are cultivated for only one season, and are then left to fallow.⁴⁷ *Seimu* land can be left fallow for years or even decades, and returned to forest, without losing its status as claimed land of a given *kanaf*.⁴⁸

45 The village head felt that formally limiting the plot size would reduce any potential complaints the original landowners would have about losing so much of their land, and the resettlement proceeded smoothly as all families received permission from the *kanaf* landowners for their proposed house site.

46 Of 67 households living in the coastal Lekot settlements since 1992, only 33 (48 per cent) reportedly held Indonesian land certificates, although most households (94 per cent) paid land tax annually from 1992 to 1997. Lekot highland residents report that there have never been land sales, land titling or surveying there.

47 Swidden agriculture is more prevalent in Oecusse than elsewhere on Timor. There are very detailed descriptions (cf. Conklin 1954, 1957; Dove 1981, 1985; Weinstock 1979) to complement overviews of swidden agriculture on Timor (Metzner 1977; Ormeling 1956; Panão 1915; Schulte Nordholt 1971).

48 Farmers usually establish original land claims through cultivation and maintain those claims through repeated cultivation, periodic maintenance of fallows, visits to the fallow site, establishing markers or fencing, and speaking about claimed land (or trees). The actual procedures, time to claim establishment or disappearance, and relative strength of claims are dependent on vegetation types, the status of the claimant and agricultural practices, as discussed further below (Conklin 1954, 1957; Dove 1981:88–101, 1985; Ormeling 1956; Vargas 1985; Ward and Kingdom 1995b). In Lekot, the largest contiguous forested area of *kanaf*-level land runs 2 km between the highland and coastal settlements, adjacent to a river. Individuals from seven *kanaf* farmed that land (that is, claimed and converted it to *seimu*) during Portuguese times, but early in the Indonesian administration the Forestry Department prohibited agricultural use by declaring the land

As the land underpinning the subsistence livelihoods in Oecusse, a large percentage of Oecusse's land area—approaching 90 per cent—is recognised as *seimu* (including both irrigated and dryland agricultural fields, fallowed and cultivated).

People usually make contiguous gardens, sharing a common perimeter fence with neighbouring farmers to reduce fencing labour.⁴⁹ Making the sturdy 1.5 m-high wood/stone fences required to protect gardens from free-ranging livestock is one of the most labour-consuming activities in creating a new garden (cf. Fox 1977:34).⁵⁰ Group gardening also confers yield benefits as neighbours assist in guarding ripening crops from birds and monkeys.⁵¹ Throughout Oecusse, sometimes an entire village will plant on one small mountain in a given year, on contiguous land owned by several different *kanaf*, with a single fence constructed around the mountain's base. Each year, farmers form different groups that clear vegetation and burn, fence and plant a chosen area. Anyone may join a farming group, regardless of one's status as landowner or a kin relationship to others in the group. A household may have one large or several smaller garden locations per year.

Groups form when a landowner decides that a given area is appropriate for cropping and indicates this decision by chipping the tree bark along paths near the chosen area (*tae pait*), usually by May. This step is usually taken only after informing the *tobe* with jurisdiction over that land and receiving his assent. Seeing this sign of intention to open a swidden, others approach the landowner and may join the group until the planned area is full. Farming groups of 15–40 households are common throughout Oecusse. The landowner allocates

protected forest. The area was largely left to return to closed-canopy forest after the 1970s, but despite its return to forest, the *kanaf* maintain their respective claims and can still indicate the boundary markers of planted and non-planted trees, rocks or ravines between *kanaf* sections. In some families, land claimed by the *kanaf* bears some measure of internal, individualised, heritable division among family members over a given land area. With today's dense forest cover, the high population of monkeys makes agriculture difficult, so many family heads discourage family members who want to make swiddens in this region. In 2003, a customary authority (*tobe*) enforced the ban on farming in this area, stating that it should remain forested since gardens there were unlikely to meet with good harvests.

49 Those who do make gardens individually often take the unusual step of planting there for two or more years, to make the fencing labour worthwhile.

50 Mathematically, the labour savings in group fencing are substantial—for example, 10 people farming together must each build only 32 per cent as much fence when compared with farming (and fencing) the same land area alone. This strong preference for having a common perimeter fence contrasts with situations in which households prefer having separate, if nearby, gardens (see, for example, Dove (1981:113 ff.).

51 Other potential benefits of group gardening include pest saturation and labour exchange, as in shared fencing. Labour exchange for planting and harvesting is, however, minimal in Lekot (cf. Dove 1981:117; Vargas 1985:19, 112). In general, the planters are fully responsible for all aspects of land preparation, planting and harvesting within their own boundaries. Schulte Nordholt (1971) reported a greater degree of labour sharing in western Timor.

internal boundaries for each farmer, which the farmers mark in four ways.⁵² Each household is then responsible for managing the crops within its plot, from clearing to harvest.

While new internal boundaries on swidden fields are created and marked each time people use land, *seimu* ownership boundaries between *kanaf* are permanent and usually follow landscape features, such as ravines, streams, paths or lines between prominent stones/trees. Individually owned fields, such as those surrounding the coastal settlement, are often farmed in shorter rotations of three years' fallow (using leguminous trees—for example, *Sesbania* sp., *galagala*, to improve soil fertility); these plots usually have constructed (palm rib) or planted (with living fence tree species—for example, *reo*) boundaries that owners maintain even while the fields are fallow.

Initial land acquisition is based on agricultural use, but on land with established *kanaf* claims, making a swidden garden on borrowed land confers no rights to the land user beyond that season's harvest (cf. Vargas 1985:74 ff.). With the labour advantages of this system, people more frequently join a group and plant on borrowed land than on their own; during fieldwork, about 30 per cent of highland swidden fields were farmed by the landowners.⁵³ There is no preference for planting annual swiddens on one's own land over planting on someone else's land.⁵⁴ Even individuals with extensive *kanaf*-level landholdings borrow land for swiddens if they favour a certain location (for example, proximity to another field or their home). It is common for groups to farm land even without the landowner as a member of the group. Group composition changes annually, but during the growing season the group members have responsibility to each other—for example, if one group member clears or burns a protected area, the entire group must assist in paying any fine assessed by the *tobe* and/or *naijuf*.

52 First, when clearing the land, vegetation along the boundaries is cut to 1 m high, while all other vegetation is cleared to ground level; second, after burning the field, farmers place wood or rock lines around their areas; third, farmers plant a row of maize or sorghum (different from the irregular spacing inside their plots) along the boundaries; and fourth, farmers might plant a short-season variety of maize along the borders of their area.

53 As population density increases, ease and frequency of land borrowing decrease. With 32 people/sq km (and 3.2 ha/person), Lekot's population density was less than half the average for Oecusse. In populous southern highland Oecusse, rotating swiddens are slowly giving way to the annual cultivation of settled agriculture, including tilling, not yet practised anywhere in Lekot outside some house yards. Swidden, permanent dryland and irrigated practices coexist throughout the region (Dove 1984).

54 This point becomes important when landholdings are subject to titling. For example, Ward (1995:219) noted how this problem arose in Fiji with the Government's 'assumption that the registered owners of the land would also be the users', when 'in fact ownership and use were often not in accord'. Since most Lekot farmers practice similar land preparation and none carries out improved fallow management, landowners do not identify soil problems or damage to their fields resulting from other people's use of the land; at this stage, no farmers were considered better than others regarding knowledge or skill in soil improvement.

When borrowing land for swiddens, residents of the landowner's *suco* pay no rent or harvest share to the landowner.⁵⁵ Where a swidden area is close to the *suco* border, members of the neighbouring *suco* are (reluctantly) permitted to join the farming group as they will contribute to the fence construction and help protect the swidden from grazing animals. In these cases, neighbouring *suco* members must pay a negotiated amount (for example, one small basket of rice and 120 ears of maize) to the landowner, even if they are members of the landowners' own sub-*kanaf*;⁵⁶ *suco* boundaries are stronger than any lineage affiliation. Multiple land-use or rental arrangements commonly exist within one fence. All farmers must participate in the harvest rituals of the *tobe* in whose domain they make gardens; contribution to this ritual activity depends on the physical location of one's garden, not one's residence or belonging to a given *tobe* or *naijuf* domain.⁵⁷

A *seimu* may be owned at a variety of social levels—by single households, among siblings or at the sub-*kanaf* or *kanaf* levels⁵⁸—according to the nature and frequency of its use. These classifications are not absolute, however, and no local language terms distinguish these levels. There are very few household-held *seimu* in highland Lekot, other than flooded rice fields. Household-held *seimu* in coastal Lekot include most land outside house fences but still near settlements, which are planted to maize, dryland rice and root crops in (minimally) three-year rotations, as well as flooded rice fields. *Seimu* held among siblings are usually planted to maize and rice in rotations of three years (with green manures planted) or more (bush fallow), and include fields further away from settlements than household-held land. Both household and sibling-held *seimu* are usually farmed by the landowners themselves and are rarely borrowed by others. Much *seimu* held at the sub-*kanaf* or *kanaf* level is farmed with rotations of 10 years or more. When *kanafseimu* are farmed, it is almost always as part of a multi-*kanaf* farming group.

Initial claims result in household ownership of a given plot of land, which the next generation may inherit and hold as sibling-level ownership, and with the increase of descendants after several generations may be recognised as *kanaf*-wide land. The prevalence of individual-level ownership near the recently

55 At most, each local resident in a group will contribute a small animal towards the planting and post-harvest feasts, but a land borrower's contribution is the same as a landowner's contribution in these events.

56 A sub-*kanaf* is a subset of a large *kanaf* that shares additional specific taboos (*nuni*), described above, and is distinguishable by an additional name, appended to the *kanaf* name, which refers to the taboo. Full sub-*kanaf* names, with the appendix, are not normally used in everyday settings.

57 As members of a neighbouring *suco* frequently farm part of Lekot, the number of participants in Lekot's primary harvest ritual usually exceeds the number of Lekot households.

58 In small families, sometimes all members of a *kanaf* or sub-*kanaf* are also siblings. *Kanaf* are small, well-defined units, limited to members of a group. It could be misleading to call this land 'communally owned', as all claims are within one (extended) family. See Fox (1999) for more on the intricacies of different ways to gain membership in a given *kanaf*. It is extremely complex for outsiders to correctly identify the socially relevant level of landownership (cf. Geertz 1972; Ward 1995; West 1998; West and Kloeck-Jenson 1999; Zerner 1994).

settled coast links to debates over whether this indicates an individualising trend in landholding, which has received much attention in ethnographies and land administration elsewhere (Healy 1971; Lea 1997; Martin 2004; Simpson 1971; ter Haar 1948; Ward and Kingdon 1995b). Observers have long reported, and legislated, a move away from (presumed) communal towards individual landholdings in Timor (Anon. 1924; Gonçalves 1937; Martinho 1943, 1945; Sumardjono et al. 1994–95; Suryosuwarno 1993; Ubbe 1995–96). In contrast, some lowland Lekot residents point out that individual claims are always the necessary first step to creating *kanaf*-level landholdings out of unclaimed land, and they expect that today's first-generation coastal household claims will over time evolve—communalising—into the sibling or *kanaf*-level claims that fill the highlands. The earliest residents of lowland Lekot have more *kanaf*-level claims than recent settlers, as an individual's claim is shared among his sons. Most Lekot people describe a *communalising–individualising cycle* in landownership, resulting from changes through inheritance, migration and other factors (cf. Hooper and Ward 1995; O'Meara 1995:113).

On sibling-held and *kanaf seimu*, different members may have unequal levels of authority over using land (for access to trees, cf. Peluso 2003). There are informal gradations of rights according to residential proximity to a given plot of land. For example, with coastward migration over the past three decades, people now living on the coast will usually ask permission or inform their highland-dwelling siblings before planning a garden on highland *kanaf* land. This would not necessarily be done among siblings who all live in the highlands. Land claims can diminish over time when an individual moves away from the settlement and there is competing use by other members of one's own *kanaf* who live closer to the land. An individual who voluntarily moves to another *suco* would not expect to return to reclaim full land rights after one generation of absence; that land⁵⁹ would have become controlled by the remaining members of the *kanaf*. *Seimu* held at the *kanaf* level are very rarely sold; most people take extensive measures to prevent land from leaving their *kanaf*.

Flooded Rice Fields

Irrigated rice fields (*aen oek*) are one class of *seimu*, but their tenure and use arrangements are quite different from unirrigated fields. Flooded rice fields (*ane* = rice, *oek* = water/wet) are not widespread throughout Oecusse, as most of the district highlands do not have sufficient water to support this use. There are extensive fields along the lowland rivers, especially in the centre of Oecusse's north coast, where the main crop grown is flooded rice.⁶⁰ These primary flooded

59 Planted trees, however, do not transfer to fellow *kanaf* members.

60 Significant rice-field development occurred using forced labour during the Japanese wartime occupation, with continued expansion to the present day.

rice fields occur in areas not previously settled by Oecusse natives, and in these regions the *tobe-naijuf* authorities are not as well defined as in the highlands. As these fields are always individually owned, people from distant *suco* may purchase or sharecrop land in these areas. Irrigated rice fields are surrounded by constructed wood/stone fences as for swidden gardens; internal borders are clear with the low irrigation ridges that bound each plot.

The unusually abundant water in Lekot allowed flooded rice expansion near both mountain and coastal settlements. Irrigation was initiated in one unterraced highland site during the 1960s, with the first irrigated terraced rice field constructed in 1975. In 1975, one highland Lekot farmer who observed methods of rice production in lowland central Oecusse decided to terrace a tiny plot adjacent to a spring. Despite ridicule from other villagers, he persisted and planted that area three years in a row, by which time others believed it was possible and began to make small terraces for flooding on their own land. The technology caught on and the community slowly converted several areas into flooded rice fields over the past decades.⁶¹

All of the flooded rice fields in Lekot were conceived and constructed entirely with farmer initiative; none has ever received outside financial or technical assistance.⁶² By 1999, there had been many hectares of rice fields constructed in six locations in Lekot, but more than half of that area was not in use, as the terraced land or the irrigation systems had been made unusable by landslides.⁶³ Anticipating food shortages from 2000–02 onwards, existing sites were expanded and three new sites were opened; in 2004, a major new scheme was under construction in the highlands, with plans to convert more than 200 ha of former swidden areas to flooded rice fields, encompassing land held by all 11 of the landowning Lekot *kanaf*. People in Lekot expect that this will transform their farming systems and reduce dependency on swidden fields, which many view as more subject to the vagaries of weather that destroys their crops (especially drought and lodging in high winds). While irrigation construction and initial field terracing are labour intensive, subsequent cultivation is considered much easier—and more productive—than making swidden gardens.

61 Lekot villagers insist that they are still unskilled wet rice cultivators, and that their planting style is slow and cumbersome. They say that when working side-by-side with people from primary rice-growing areas of central Oecusse, their relative lack of familiar dexterity in transplanting the rice is humorously obvious. To them, it is still largely an outsider, lowlander (*kaes metan*) technology.

62 Oecusse Agriculture Department staff never visited Lekot during Indonesian times, and they were amazed to learn after independence of such extensive flooded rice development in the highlands. This lack of government intervention is notable, given Indonesia's many programs—from transmigration to agricultural subsidies and farmer incentives—designed to promote wet rice cultivation in places with swidden cultivation or other crop staples (Aditjondro 1994; Li 1999).

63 There are many abandoned terraces in highland Lekot—by some estimates, twice as many abandoned terraces as productive terraces. One farmer likened Lekot people's treatment of terraces to swiddens that, without purchased fertiliser, needed to be left fallow.

Highland and lowland flooded rice fields are individually owned and may be sold for cash.⁶⁴ In the extensive rice fields of central Oecusse (but not Lekot), there are no restrictions on ownership or transaction by outside-*suco* residents or natives of other *suco*. Flooded rice fields also have unique gender representation among owners: many individual Lekot women have their own plots in Lekot and in the rice-growing *suco* of central Oecusse.

Village Commons or Unclaimed Land

Unclaimed land (*naija sona*) is that which has not yet been claimed by any *kanaf*.⁶⁵ Land remains *naija sona* only if it is bare, grassland, inaccessible, infertile, landslide prone or otherwise unsuitable for farming; even steep ravines, if forested, are always claimed by a *kanaf*. There is very little *naija sona* in the Oecusse highlands—mostly small landslide areas or useless patches of infertile soil. Since Oecusse's coast was sparsely settled before the Indonesian era, some *naija sona* persists on mountain ridges near the coast—a relic of the former interior-centric settlement pattern, which left distant coastal lands unused while fully occupying the highlands. *Naija sona* is not necessarily distant from settlements. On the coast, *naija sona* land can be adjacent to houses, where it is gradually claimed by individuals (via farming, planting trees, building structures or fencing) and converted to *seimu*. In coastal Lekot itself, more than 2 sq km of *naija sona* has been converted to individually held *seimu* since 1985. Along the Oecusse coast, *naija sona* is receding inland as lowland settlers continue agricultural expansion. Some *naija sona* areas are considered dangerous—home to troublesome spirits and best left undisturbed.

Members of the *suco* use *naija sona* as common land for grazing animals and gathering firewood or construction materials; one *naija sona* patch in highland Lekot cannot grow annual crops but is the source for a hardwood (*tas tasi*) preferred in house construction. Non-village residents may not use *naija sona* or its products without explicit permission from local government or customary authorities. All this land requires a local authority to approve its use by those outside the village, or its conversion to *seimu* by village members. Aware that Timorese planting trees would later consider the planted land as their own, the Portuguese administration forbade villagers' unauthorised tree planting along coastal areas of Lekot until the late 1960s in an effort to reduce people's claims to lowlands areas the state wanted for plantations or other purposes. Once land has been claimed through use and thus gained the status of *seimu*, it does not revert to *naija sona*, even if left uncultivated for many years.

⁶⁴ More detail on changing tenure for flooded rice fields can be found in Meitzner Yoder (2005:214–25).

⁶⁵ This term is sometimes also used for infertile, unused claimed land that is left bare, so ownership status must be clarified with more detailed questions.

Conclusion: Customary rural landholding in the modern policy context

The customary features governing land claims and resource management in most of contemporary Oecusse remain more influential in everyday land-use decisions than state designations of land areas for different purposes. State land-administration efforts that do not account for existing land claims and ownership systems risk enacting programs or legislation that bear little relevance to the local situation. Recent policy studies highlight the dangers of de-contextualised land policy, and emphasise the need for land-administration structures and policies that reflect, rather than seek to supplant, existing customary patterns (Meinzen-Dick and Mwangi 2008; Mwangi 2006).

Customary landownership is inextricably linked to social identity, place, historical ties and ritual connections. These factors are not fixed, but are constantly redefined in tandem with migration and changing circumstances. Agricultural developments, including irrigation or tree planting, are significant factors in rural landholding transformations. Intra-village claims to authority and agricultural patterns have shaped landownership and land-use relationships among residents within a domain.

The layering of political and ritual authorities, in evolving forms responsive to agricultural change, is a central feature of land access and use. All rural land—claimed or unclaimed through agriculture—is under the responsibility of at least two customary and/or state authorities who mediate land use and acquisition. The *tobe* and/or *naijuf*, other members of a *kanaf* and irrigation overseer (*cabo-oel*) might all need to be included in making land-management decisions, in addition to local government officials. Even today in peri-urban areas, formal land transactions usually involve the approval and legitimation of the relevant *tobe* and/or *naijuf*. New customary authorities, whether for rituals or irrigation, are designated as needed to give oversight to land use.

Persistent land claims are established through agriculture, settlement and labour. While initial landholding patterns are determined by agricultural use, landownership is subsequently rearranged through investments such as house building and installing irrigation or planting trees. Migration histories can help distinguish whether individually held areas are individuating, or merely newly claimed and evolving towards group ownership. The validity of a given claim is contingent on evidence of a wide range of factors: the claimants' past acquisition and inheritance, recent use, customary or government positions, political allegiances during recent conflicts, skills, initiative and labour contribution to group projects.

In Oecusse, highland land use reflects current agricultural practices more than landownership. Early settlers have favourable landowning status, and there are ownership restrictions on in-migrants. Farming in groups that form to fence swidden gardens means that landowners often do not plant on their own land, and that non-landowners presently enjoy unproblematic borrowing of land for annual cropping. The ease and frequency of temporary land borrowing contrast sharply with the near-impossible permanent acquisition of land by outsiders. Early settlers became established as eligible landowners, but the range of eligible landowning *kanaf* has closed. Newcomers—defined as people not native to the local *naijuf*'s domain—can be excluded from acquiring heritable rights to land even after four generations of residence. State land policies must account for such features: a modern land-administration program that titles land based on agricultural *use* at a given point in time would frequently misidentify the locally acknowledged customary landowner, and a program that simply formalises existing customary claims would exclude a significant portion of the population from ever owning land.

This case illustrates how land tenure and concepts of ownership are responsive to agricultural and demographic change. As people moved closer to urban areas and developed irrigation, they modified underlying land tenure and practices to accommodate the different requirements of permanent settlements and settled agriculture. Increasing population density also leads to agricultural change, which in turn further modifies land use and tenure across this diverse landscape. Nascent land-administration programs must be able to accommodate the substantial changes that occur if they are to have relevance among a dynamic population.

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