



Land Reform, Conflict and Local Development on “Grande Terre”

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Abstract

New Caledonia-Kanaky has operated customary and European models of land tenure in parallel for almost 170 years, since the early days of colonisation when francophone governance was imposed to enable settlement, and Kanak populations on prime agricultural were forcibly displaced onto “reserves”. This “historic dualism” has been at the heart of lengthy political discussion and the demands of the Kanak independence movement to reclaim its land and sovereignty. While debates about the development of customary land continue in times of political uncertainty, since the late 1970s re-allocation of land to Kanak clans by the state, latterly through the *Agence de développement rural et d'aménagement foncier* (ADRAF), has been substantial. We assess this process, offering two examples from the Northern Province where land conflicts remain and where “modern” development has taken place on customary land now controlled by clans, under their stewardship. This partial integration into the market economy has addressed many, but not all, of the problems of “historic dualism”.

Keywords

Land tenure · ADRAF · Customary land · Territory · Kanak · New Caledonia-Kanaky

10.1 Introduction

Land is crucial for Indigenous identities. It has deep spiritual, social, material and cultural importance across all of the Pacific’s Indigenous cultures. The Indigenous Kanak leader Jean-Marie Tjibaou, murdered in 1989, highlighted that for his people, land is more than material wealth or property: “A clan, which loses its land, loses its personality” (Tjibaou and Missotte 1976, p. 60). While it is difficult to make sweeping assumptions, he therefore identified a big difference with Western views of private property where “ownership” means land belongs to someone, others may be excluded from it (Cohen 1954) and it may also function as a commodity or an investment opportunity. While there may still be an intimate personal or familial attachment to privately held land or territory, Western norms place less emphasis on whole communities or the commons. Land as personality and land as property, in the modern history of New Caledonia-Kanaky, are two approaches that have rarely been reconciled and have caused untold conflict.

In the South Pacific, one estimate is that 83–97% of land remains under customary forms of tenure (Boydell 2010). Customary lands have been “a source of considerable debate for decades, and a philosophical and political struggle has ensued around the value of its development and the opportunities and constraints involved” (Scheyvens et al. 2020, p. 52). New Caledonia-Kanaky has been central to these differing perspectives because of its history of settlement, and it has operated customary and European models of land tenure in parallel for almost 170 years. Sourisseau et al. (2010) call this a unique form of “historic dualism”. While this duality has existed since the early days of colonisation, early efforts

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to establish European settlement and economic activities voided a large percentage of customary tenure. Part of the Indigenous population was forcibly displaced onto less “valuable” land. This was a key source of anguish for Kanak clans, and it became a major origin of their later uprisings against France. In recent times, land has been at the heart of political discussions and the demands of the Kanak independence movement to reclaim its sovereignty. In the period since the 1988 Matignon-Oudinot Accords, the balance has swung towards land restitution to Kanak peoples, across the three provinces, as we describe below. But debates about the development of customary land continue to this day and are highly topical given the strong spatial disparities that remain across the territory and uncertainties about the political future of the archipelago.

In this chapter, we focus on contemporary land reform (*réforme foncière*) – the process of re-allocating and restituting land – from its early origins in the 1970s. To illustrate these trends, we present two cases of reform in the North Province, around Baco and Poum, to illustrate the complexities of customary issues and conflicts over land allocation in societies that combine some modernist development aspirations and projects, including mining, with customary claims to land. We discuss three key questions: How to recognise the legitimacy of claims to land where re-allocation is complex? Secondly, how may socio-economic development and other projects emerging on customary land challenge the “historic dualism” still prevalent across the territory? And, has the contemporary land reform process led to the appeasement, or to the emergence, of more conflicts? We conclude with a discussion of land reform challenges and the role that customary land can play in “inclusive development”.

10.2 The History of Land Reform

The need for land reform in New Caledonia goes back to the declarations of Governor Du Bouzet in 1855, who applied imperial French law to assert government control over all land not occupied by the Indigenous population, deemed *tribus sauvages*, with an assumption that this land was “vacant” or unoccupied (Otis 2021; Ward 1982). This land would then constitute the domain of the state, referred to hereafter as state land or domain land. Land that was not actually vacant but used for hunting and as part of bush fallow cycles was also deemed vacant, and its allocation to settlers caused immediate conflict. Du Bouzet’s actions have sometimes been seen as affording at least some land to the original inhabitants of the islands, but in reality, subsequent events meant there was little difference from British colonial edicts elsewhere in the Pacific, which usually seized “all” land for the state. Britain and France’s colonial and trading operations both displaced and alienated Indigenous populations.

In New Caledonia in 1868, reserves were given legal authority by Governor Guillain in a process of “*cantonnement*” – these reserves were a place for Kanak clans displaced by land takeovers to reside without threats to their land ownership. But this was not always their original land, and French authorities misunderstood customary tenure, which is adjudicated and managed through “first occupant” inhabitants and clan heads, who command respect. Guillain instead allocated land to tribes, a mostly fictional, larger entity that was an approximation of a European concept of an administrative entity (Ward 1982). As “land thereby became a property owned collectively by the tribe”, led by “political” chiefs, rather than the customarily important clan, problems were bound to occur. The rebellion led by Chief Ataï in 1878 against France had much to do with the inequalities of land seizures and displacement (Wadrawane and Gravelat 2021). By that time, reserve boundaries could be modified by the state at any time.

The distinctive French governance system, consisting of hierarchical levels of authority linked to defined territories (i.e. reserves or communities/*tribus*), was fully instituted from 1898, with district chiefs appointed over village chiefs, again counter to customary norms on the main island Grande Terre although Wadrawane and Gravelat (2021, p. 168) argue that such arrangements were present in the Loyalty Islands. The district *Grands Chefs* were political appointments with officially assigned administrative duties. This coincided with the imposition of Governor Feillet’s strong, pro-settler politics from 1895, pushed forward with *cantonnement* and diminishing Indigenous rights. From 1887, the *Code de l’indigénat* was imposed on Indigenous people, which concretised restrictions on free movement, promoted head taxes to force Kanak into labour to pay them, and it allowed for imprisonment of Kanak without trial (Merle and Muckle 2019). By 1902, the reserves on Grande Terre made up less than one-tenth of the island, and clans were forced together on them (Ward 1982). The official *cantonnement* process finished in 1903, but reserves extended in size until the Second World War as mining and urban expansion continued (Batterbury et al. 2020). The *Code de l’indigénat* was not repealed until after the war, when Kanak later gradually obtained full citizenship and voting rights. After the war, reserves became less constraining and were considered by many Kanak as a bastion of their culture. But with rising populations and a shortage of land for traditional farming, demand grew for reserve expansion and also restitution of clan territories (Saussol 1979).

10.3 Enter Land Reform

Some 124 years after Bouzet’s declarations, in 1979, the Territorial Assembly adopted a proposal by Paul Dijoud, French Secretary of State for the Overseas Departments and

Territories, to set up a long-term economic and social development plan for New Caledonia (Fisher 2013). By this time, the “settler economy” was dominant, centered on Nouméa and across several other urban and rural areas, in numerous mining concessions and mineral processing and export facilities, and on the best agricultural land on the west coast of Grande Terre, where pastoralism had come to be more profitable than crop production. Djoud’s plan was elaborated in a difficult political and economic context, with the re-emergence of the Kanak independence movement, the polarisation of the political landscape and the end of the nickel boom leading to widespread unemployment (Tutugoro 2021). The plan was to encourage economic recovery, in particular to kickstart agricultural production (see Chap. 6 by Bouard et al. in this book). Another intention of the French government was to satisfy some of the identity claims of Kanak people, with the hope that the “land problem” could be eased by respecting the historical rights of Kanak communities that had been denied in previous decades.

The land reform programme therefore had the dual objective of first rebalancing spatial disparities created by colonisation, through the redistribution of land parcels bought back by the state from (mainly) European settlers to Kanak clans. Second, it imposed a normative goal: to support agricultural development on Kanak customary land. At the commencement of the reform in 1978, Kanak customary land on Grande Terre consisted of 176,000 ha of Indigenous Kanak reserves, increased from 126,614 ha in 1946. The area of land in private property had grown to 435,000 ha, and state domain land (including mines, mountainous terrain and reserves) had diminished but still extended over 1,020,000 ha (Fig. 10.1).

The land reform programme was launched, but no one could foresee the scale it would later achieve. Following the failure of various agricultural policies and poor market performance, the redistribution began on largely abandoned private settler agricultural land and to Kanak communities

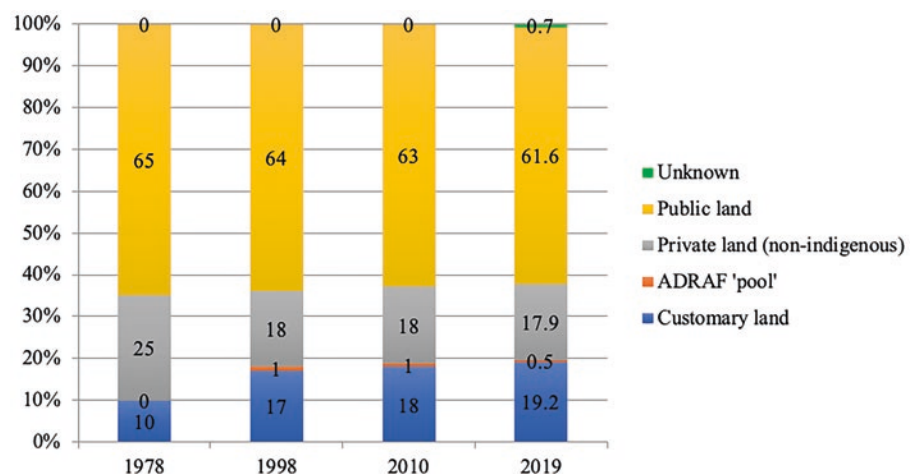
(*tribus* and *réserves*). Some administrators had mistakenly assumed that many clans had died out, thus limiting the number of claimants: this was not the case. On 22 December 1980, the French newspaper *Le Monde* (1980) noted that land reform was planned to last 10 years, with annual reallocations of 10,000 hectares. But the reality was different: it became a long-term initiative, redirected or accelerated by political events, resulting in profound territorial changes.

During the first period of the reform, from 1978 to 1988, land allocations were made mainly on the basis of economic criteria, combined with customary criteria such as the legitimacy of the applicant’s land claim. This was the period of specific arrangements for the development of economic sectors such as the “coffee project” (see Chap. 6 by Bouard et al. in this book). As this did not meet with great success and after the Nouméa Accord was signed, a second period, from 1989 onwards, saw customary claims gradually dominating the programme, and land redistribution became relatively disconnected from economic and agricultural development possibilities (Demmer 2010).

Generally, the reform process aims to allow farmers of all ethnic origins to settle on acquired land, and it gives Kanak communities the choice of the legal regime for the land allocated, by opting for either the common law or customary law regime. The choice of customary regime entails, depending on the local context, a transfer to the benefit of a community (known as a reserve expansion) or to one or more clans. The common law regime involves either a free or paid transfer, or a lease, to an individual or to a group dedicated usually to agricultural activity. In order to encourage the maintenance of farmland, the redistributed land was inalienable for 20 years.

To facilitate land allocations, the French National Assembly passed a law on 7 January 1981, on land development and rural settlement in New Caledonia-Kanaky. The territorial government was then given the rights of pre-emption or reclamation, against fair payment for

Fig. 10.1 Land distribution over time on Grande Terre. (Source: ADRAF 2019)



uncultivated or insufficiently developed private lands, basically sanctioning expropriation. The scheme was financed by New Caledonian credits from the land redemption fund, supplemented to a large extent by the State through FIDES (Investment Fund for Overseas Economic and Social Development).

Between 1978 and 1986, 40,000 hectares of land, divided into 150 properties, were purchased by the New Caledonian government and the “Land Office”, the New Caledonian agency charged to implement the land reform. During the same period, more than 35,000 ha were redistributed to clans and communities under customary law, with 40 allocations for the direct benefit of clans and 111 for the expansion of reserves, involving 63 reserves out of 139 on Grande Terre. These allocations concerned 24 municipalities of Grande Terre; 15 of them, the majority, were located in the current North Province. Among those with the most numerous and extensive allocations were the municipalities of Hienghène (6700 ha), Canala (4100 ha), Koné (3800 ha), Voh (2700 ha), Houailou and Poindimié (more than 2000 ha each) (see Fig. 10.2). In these municipalities, there were numerous private landowners dating from the colonial period. Beginning

in the early 1980s, they were confronted with land claims (or even occupation of their lands) organised by land committees created by the pro-independence political parties.

From 1982 to 1986, the Land Office took over from the New Caledonian government to continue these reforms. Management was directly carried out by the French state. Nearly 50,000 ha more properties, mostly located on the east coast, were acquired. But over the same period, only 2080 ha were allocated, mostly to clans. In a period when tensions between Kanak communities and European settlers had again become extreme and violent, the Land Office aimed to ensure the coexistence of a European land tenure system and a traditional customary system. Within locally defined boundaries, recognition of customary land rights can take several forms. One form, after the purchase of land by the Land Office, is a transfer of ownership to a *Groupement de droit particulier local* (GDPL), a legal entity with customary civil status. These were created in 1981, bringing together one or several clans or a community (see Kowasch et al. 2015). Second, there is the collection of a fee paid by the Land Office to the holders of customary land rights, when acquisition of the property for redistribution is not possible.

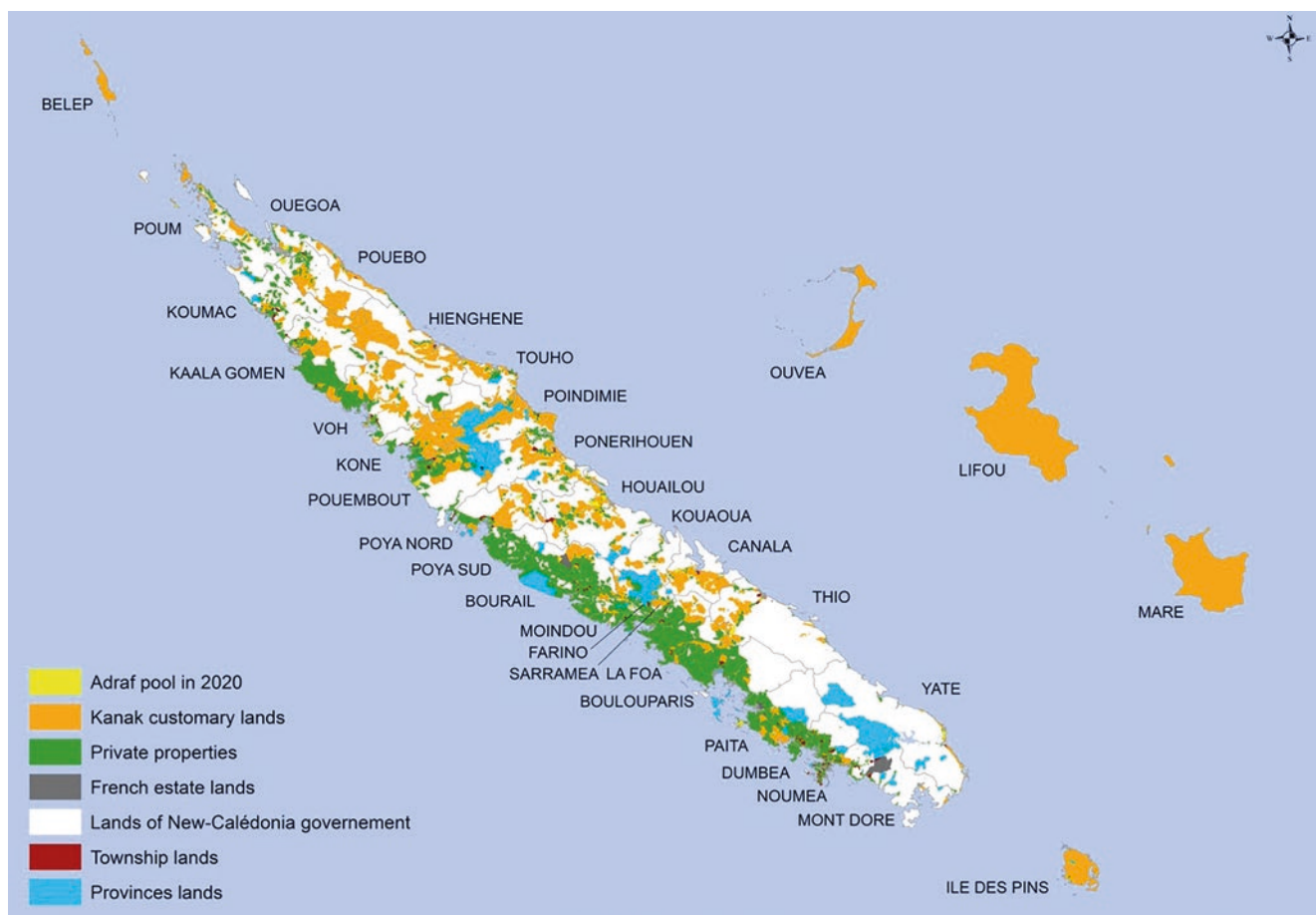


Fig. 10.2 Land distribution on Grande Terre in 2020. (Source: ADRAF 2011, 2021)

In 1986, the Land Office was replaced by the *Agence de développement rural et d'aménagement foncier* (Agency for Rural Development and Regional Planning) (ADRAF), aiming to continue the redistribution of lands and to promote the development of rural areas. The responsibility shifted from the French State to New Caledonia's territorial government, and a development discourse was asserted, again encouraging agricultural activities (cattle and deer breeding, rice and coffee growing, arboriculture, etc.). ADRAF agents were in charge of supporting programmes for agricultural development on lands allocated to Kanak clans and communities. As a result, the reform was no longer land-based but agrarian, in a political context that was still fragile and tense. Between 1986 and 1988, a certain number of properties, mainly located in Bourail, Moindou and Pouembout on the west coast (Fig. 10.2), were also allocated on a lease basis to non-Kanak individuals or enterprises, under the condition that they may be used and developed. These lands were legally not considered as customary but as belonging to common law land status (“classic” private property).

In 1988, the legal status of ADRAF was changed again and its missions were adapted to the changed political circumstances. The French State regained control of land reform. Economic development was now entrusted to the New Caledonian provinces, newly created by the Matignon-Oudinot Accords signed in 1988. ADRAF, for its part, focused on new land allocations, especially to clans and communities. The GDPL was chosen to become the main legal structure to receive land allocations, on the assumption that it seemed possible to combine customary life and economic development in such an arrangement. The GDPL composition allows it to traverse the “historical dualism” that has plagued the islands' political history: it must respect customary relationships between clans, even when some clan members reside elsewhere, as is common in New Caledonia. As a legal entity, listed in the commercial register, the GDPL is also adapted to economic activity and able to conduct tourism projects, agricultural development, industrial operations and other activities. GDPLs moved from operating a private property regime managed customarily to a fully customary ownership regime that is well established in Kanak communities. That important shift occurred in 1999, when the organic law resulting from the Nouméa Accord created the category of customary land, alongside private and public land.

The pressure of (peri-)urban development around the major urban centres on Grande Terre, and the fear that land could be sold to private investors has driven the more concrete status afforded to GDPLs. Land allocation to clans has been de-linked from demonstrable economic development outcomes, and ADRAF no longer allocates land according to

economic criteria. The political motivation eventually became to recognise the close relationships of Kanak clans to land, recognising customary land legitimacies. As described by Paul Néaoutyine (1993, p. 140), leader of the independence party PALIKA and president of the North Province: “(...) there is a relationship to the land and it is nuanced according to the historical context and the gestures that have been made”. This has been a long journey, however. Ward (1982) argued that France eventually did better at land reform than Anglophone Oceanic dependencies, but only because “they had at their disposal the category of *domaine* [state] land, ruthlessly acquired by their predecessors” (Ward 1982, p. 13).

Between 1988 and 2019, the work of reallocation continued. ADRAF made nearly 950 allocations, covering an area of more than 130,000 ha, of which 99,000 ha went to GDPLs. Statistically, the distribution of land on Grande Terre is currently around 19% customary land, 18% private property under common law and 63% state land (Figs. 10.1 and 10.2). Some balance has been achieved, although there are still disputes and unresolved claims. ADRAF still has a bank of around hundred properties to allocate, with a total area of about 7400 ha. Some of these date back to the early 1980s, when a lack of local consensus stymied reallocation. These plots often hold memories of disputes, and sometimes even violent conflicts, which must be managed and resolved in the long term.

Despite the historical forced displacements and the current voluntary mobility of the Kanak population, the main challenge of land reform remains to facilitate access to land for those who lack it. For some, land reform is now advanced or even complete, but not all agree. The division here is predictable: conservative politicians consider that the land reform ended with achieving a balance between customary and private land, but pro-independence leaders say more claims need consideration.

Certainly, a clarification of legitimate claims to ownership and control between clans, families and individuals on customary lands is incomplete. Land rights and legitimacies may never be “resolved” on land with complex histories, but there are examples where agreements have led to, for example, a GDPL allocating communal land for housing or commercial development, for the benefit of all in the community, as we describe below, and as certain Native American tribes have done in the United States. With the rapid arrival of more serious climate change, and the commitments being made by the territorial and French governments, environmental questions will join economic ones. Land is central to the development of renewable energy, currently underdeveloped, and there are possibilities for carbon sequestration and credit schemes as well as better biodiversity preservation. The continued efforts to address island food self-sufficiency could

involve some land restituted by ADRAF. These will be issues that all New Caledonians have to address over coming decades.

10.4 Case Study: Claims, Conflicts and Land Allocation in the Municipality of Poum

We now illustrate some of the practical complexities surrounding land allocation in and around Poum, an isolated municipality in the extreme north of Grande Terre. In 2019, Poum had 1435 inhabitants of whom 85% are Kanak, with a density of only three inhabitants/km² (ISEE 2019). The Kanak communities are part of two customary districts, Arama and Nénémas, which form – together with 11 other districts – the Hoot Ma Whaap customary area. Poum has a unique colonial history, and complex relations exist between small inhabited islands (Baaba, Yande, Taanlô and Yenghébane, all now with less than 20 inhabitants over the year, and Tie) (see Fig. 10.3). The capital Nouméa is more than 400 km to the south and connected by the national highway. There is a small administrative centre established in the colonial period, which houses a school, a post office, a police station, a church, a clinic, a new petrol station and store and the municipal offices. Economic activity is limited, although a nickel mine has increased production in recent years and there is limited fishing and tourism (Kowasch et al. 2015). The Boaouva clan in Titch have been affected by dirty runoff from nickel mine holding ponds, creating freshwater scarcity and conflict with the mine.

In Poum, a particular feature of land reform was that Guillain's historical misunderstanding of social relations was avoided (Rocheteau 1968). The pro-independence party *Union Calédonienne* (UC) is dominant in the region, and it advocated since its creation under the slogan *Deux couleurs, un peuple* (two colours, one people) the return of customary land directly to the clans and not to the more numerous communities (or *tribu*, the colonial legal construction). This was unlike other municipalities where clan and community claims were juxtaposed. The region formerly had several reserves located on the mainland and the islands. Under land reform, customary land in the municipality increased from 4,250 ha in 1978 to 8,040 ha in 2019 – 17% of the total land in Poum compared to 14% for private property. The rest is (New Caledonian) state land. In 2019, ADRAF's stock amounted to 680 hectares. These lands, most of which were acquired in the 1980s, are the subject of tensions between clans, each defending their legitimacy as “first occupants” or land owners. The itinerary of settlement history, disrupted during the colonial period, is very important in Kanak culture. Legitimacy conflicts often hide political, economic and

even religious differences that disrupt discussions and negotiations. In this case, conflicts still exist in terms of governance and management of land.

Figure 10.3 reveals that the largest customary land is located in the south of the Arama customary district. There was also a large ADRAF stock. Since the re-establishment of the great chieftaincy of Arama, customary leaders have clarified the place of their clans in the region, resulting in sizeable allocations of land being agreed over the last few years. By 2021, some 70% of the 680 ha in stock was allocated to GDPLs designated by the customary leaders. The appeasement of economic conflicts has encouraged the solution of customary land questions. Out of three conflicts areas in the region (Fig. 10.3), there is one that is appeased (Titch – Mouac). The two other ones still continue: while one opposes two clans (conflict area Dahote – Dahma), the other concerns economic activities in the Boatpass area.

10.5 Case Study: Economic Development on Customary Lands of the Baco Community

The Baco community is located about four kilometres from the town of Koné, the capital of the North Province. Located on the west coast, the three neighbouring municipalities of Voh, Koné and Pouembout (VKP) include a growing urban area fuelled by mining and the administrative and service functions of the small conurbation. The proximity to Koné gives Baco a peri-urban character (Kowasch 2012a). Baco has approximately 600 inhabitants, belonging to 22 clans (Poady 2021; Kowasch 2010). Since the beginning of the twentieth century, the 22 clans have grouped themselves into 4 larger ones (Wabealo, Baco, Poawidaphthia and Poaxu) to restructure the customary organisation in the former reserve and to help create an amalgamated community that did not exist before the colonial era (see also Naepels (1998)). This grouping into four bigger clans also helps to cope better with administrative requirements, facilitating various development projects situated on customary land (Kowasch 2010).

The land situation of the community is particularly interesting. Customary land covers a total area of 4739 ha, of which 230 ha represents the former reserve. Reserve extensions during the land reform were made in 1980 (5 ha) and in 1984, 1990 and 2014 (560 ha). In addition, there are 1980 ha for the four clan-based GDPLs, 1510 ha for the community GDPL of Tiaoué-Pouembout and 480 ha for the community GDPL Vai-Koohnê (Fig. 10.4). There are four clan-based GDPLs: the Wabealo GDPL for the Wabealo clan, the Babo GDPL for the Baco clan, the Poavidaphthia GDPL for the Poavidaphthia clan and the Poadjane GDPL for the Poaxu clan. Because of its relatively abundant landholding and its

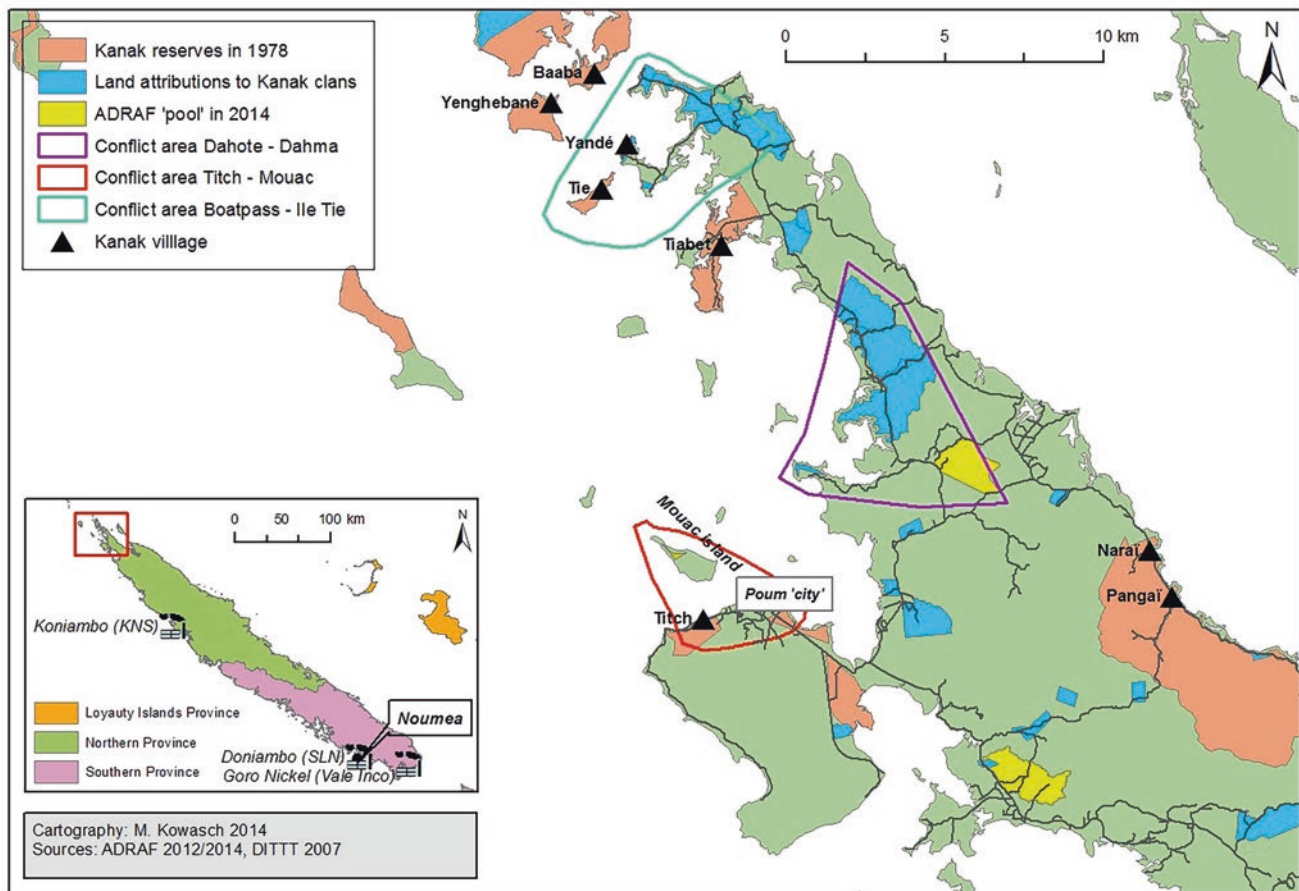


Fig. 10.3 Land distribution and conflicts in Poum municipality. (Sources: ADRAF 2012/2014, DITTT 2007, in: Kowasch et al. 2015)

location close to the provincial capital, the Baco community enjoys good conditions for the integration of customary lands into the socio-economic development of the area.

The Baco community has engaged, as the architects of the first Dijoud land reforms in the 1970s had hoped Kanak communities would, in several urban and economic development projects. One is on the lands of the GDPL Baco clan, where a development plan exists for a 48 ha section of the GDPL area comprising three zones: housing, other facilities and socio-economic activities. According to Patricia Goa, a member of the North Province Assembly and member of the GDPL Baco clan, “the cultural notion is as important as the economic notion” (Communication at a meeting on 26 September 2008), which means that the cultural heritage and current cultural elements should be represented in the design of the development plan. By the end of 2020, a three-screen cinema, a school of arts, a branch of the University of New Caledonia, a petrol station, a bank, a shopping centre and several restaurants and cafés had already been opened, in addition to rental housing (see Fig. 10.5a, b). For each of the facilities, a lease has been signed between the developer and the real estate civil company, including the GDPL members and the president of the clan council of Baco. The land is

leased for a fixed period of time, except for the school of arts and a future Lapita museum. As these are projects representing Kanak culture, the Baco clan ceded the land free of charge for these two projects. In return, the clan demanded that the GDPL should be consulted concerning the maintenance of the buildings. In addition, the clan asked for local craftsmen to be prioritised for construction.

Economic development on customary land such as this is supported by the North Province government. At the beginning, a public body, the SAEML Grand Projet VKP, was mandated to oversee management and to support the GDPL in creating real estate entities. The projects themselves are part of the “rebalancing” policy determined by the Matignon-Oudinot Accords in 1988 and renewed by the Nouméa Accord in 1998, as other Chaps. 14, 18, 20 in this book describe (Wadrawane; Fisher; Robertson). The political authorities of the North Province believe it is important to involve Kanak communities in the broader urban development of the VKP area, seeing this as lying between clan and national priorities in terms of scale, as well as being of mutual benefit (Kowasch 2012b). Back in 1995, Winslow explained that Kanak leaders were “opposed to the idea of individual profit” (Winslow 1995, p. 9). Social-economic

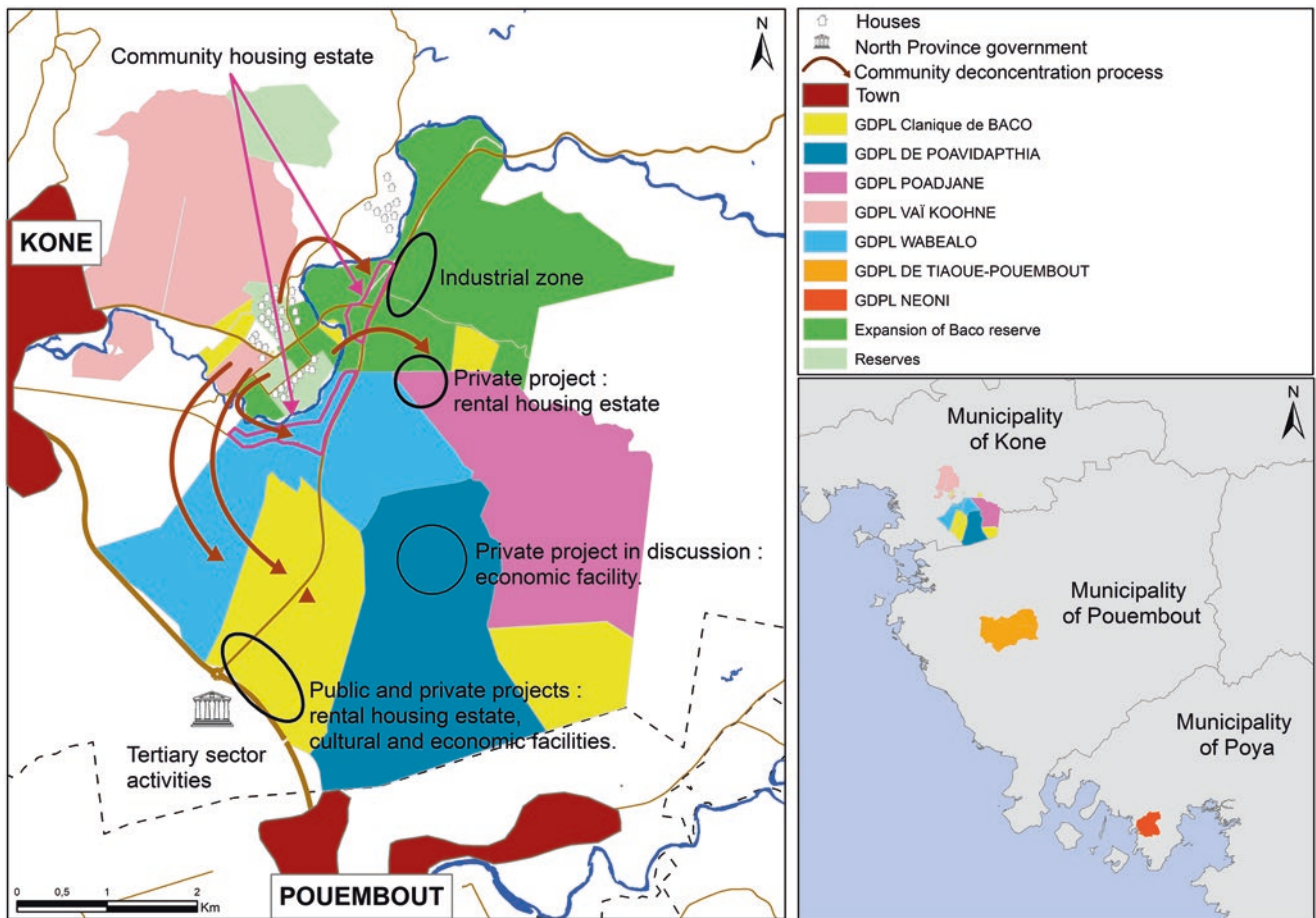


Fig. 10.4 Map of customary lands of Baco community (Sources: ADRAF 2021, <https://georep.nc/>. Cartography: Kowasch & Arroyas 2022. See also Kowasch 2012b)

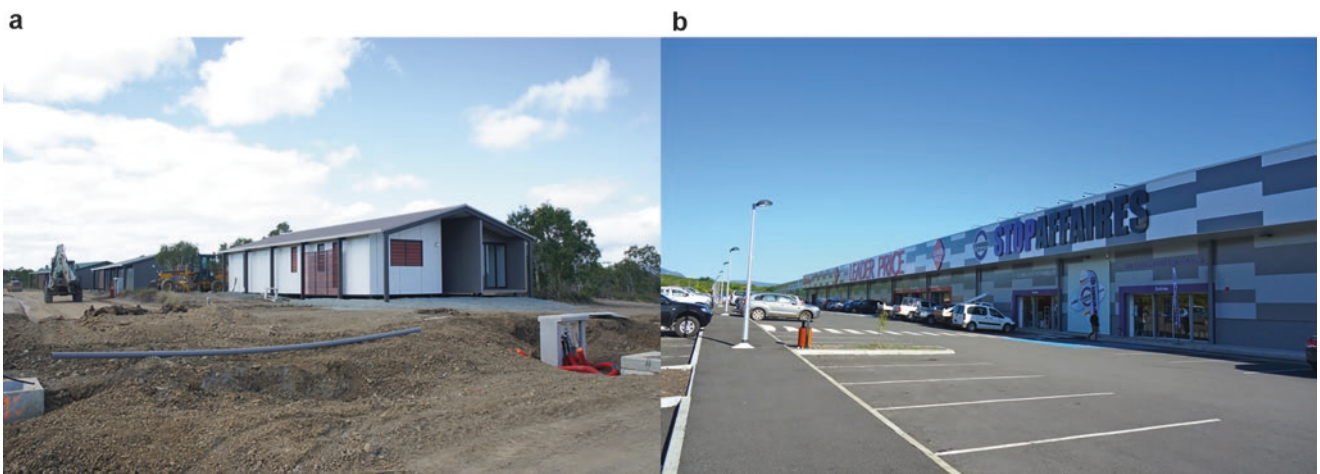


Fig. 10.5 (a, b) Economic projects on customary land in Baco: rental housing and shopping centre. (Credit: Kowasch 2011, 2017)

projects on customary land in Baco straddle the line between collective and individual profit, as business managers benefit individually while paying rent to the GDPL, a collective clan entity. The sheer scale of the multiple projects on customary lands in Baco have made it a “flagship” project for New Caledonian political authorities, as communicated in the media (Kowasch 2010, 2012b).

In sum, clear clan structures of the community, and its situation next to a growing urban area, have facilitated these modern development activities, very much in accord with the economic designs of the North Province, which wants to increase economic activity in the VKP area to provide local jobs and services for Kanak even if full independence is never achieved from France. Governance structures have been put in place to manage the appearance of “historic dualism” at the local scale.

10.6 Discussion: What Future for the Land Reform?

10.6.1 Recognising Land Legitimacy without Land Allocation?

Today, as an overall balance has been achieved between customary land and private property, the land reform process seems to be winding down viewed against its objectives as set over 40 years ago. Political actors, especially anti-independence leaders, are less and less inclined to pursue land reform in its current form. However, the land claims that emerged in the 1960s and that were the origin of the reform process could not be concluded abruptly. New responses are now being sought, involving cases of economic development on customary land and the extensive involvement of Kanak clans in the mining industry (through subcontracting, employment, shareholding, etc.).

To return to our first question, has the establishment of economic projects managed or co-managed by Kanak clans or communities now recognised and validated their legitimacy? As the case of Baco shows, this can happen.

More broadly, however, the question of legitimacy refers to the clans’ historical itinerary. The social identity and legitimacy of clans are established through an itinerary, as a series of places through which they have passed (Naepels 1998, 2006). This history is often disputed, and “official” land restitution though ADRAF has found addressing the complexities of historical claims and counter-claims to be difficult (ADRAF 2000). The identity of a clan is constantly constructed through social change, as on Mouac Island in the case above. The histories of occupation are transmitted orally to younger generations and at customary ceremonies

(speeches and dances at marriages, funerals, etc.). Land can also be given or exchanged with another clan for cultivation or housing, creating mutual customary relations – the host clan and the clan that is welcomed. Traditionally, social ascent takes place in a consensual way through the recognition of a clan in a certain place and the consequent modification of territorial boundaries (Herrenschmidt 2003). In this way, land claims are part of a game of influence: power relations that aim to change the territory for the benefit of one’s own group (Kowasch 2012a). Amin (2004) identifies this process as a “politics of place”.

A recognition of the clan and a reshaping of the territory can thus take place without (legalised) allocation but through customary agreements. An active participation in, or a joint decision on, the implementation of a cultural or social-economic project on a plot of customary land can also represent, for the clan concerned, a certain recognition of its land legitimacy.

It is also important to remember that an allocation of land and property rights does not necessarily mean that people have the capacity to derive any material benefit from them. The quality of (customary) land impacts the ability to valorise or benefit from it, and varies across the different municipalities. Here, Lund and Sikor (2009) distinguish between “property” and “access”. “Property” is about land claims considered to be legitimate, according to the Western definition linked to ownership, while access is about the ability to benefit from land and property. For the Boaouva clan access to land, clean water and the economic benefits from a mine situated above the Titch community next to the Poum administrative centre are still pressing issues, despite their rights to the land (Kowasch et al. 2015).

10.6.2 Conflict Appeasement or the Emergence of Conflicts?

Before land reform began, tensions were localised at the interface between the customary and the European or Western world. Such tensions were rendered more visible through land claims, which had to be publicly adjudicated. Today, many of the remaining conflicts have reverted to the customary sphere, requiring the redefinition of clan rights and legitimacies over newly allocated spaces.

The beginning of GDPL allocations resulted in the creation of new customary authorities in parallel to the existing community authorities (the clan council and chieftaincy arrangements). Decision-making power in these cases was transferred from the clan council of Kanak communities to the representatives of the clans constituting a GDPL. By allocating land to clans and families, some GDPLs have deviated from their community chieftaincy roles. A more

developmental vision of land, particularly in the VKP area and illustrated by Baco, has emerged. Socio-economic development actions have temporarily supplanted customary social organisational activities, although there are checks and balances to legitimate these decisions locally.

Several cases in New Caledonia-Kanaky have shown that starting a project with economic gain on customary land can lead to different kinds of conflict: financial, customary or land based, as seen in Poum. The majority of socio-economic projects are not individual ones but with the clan, or tribal. A financial conflict can easily emerge in the distribution of project benefits to the members of the GDPL or the village. The GDPL's proxy is often the only person with access to the bank account. This can lead to tensions between GDPL members. Different ideas and visions regarding the implementation of the project and the distribution of benefits can in some cases reawaken old customary conflicts between families or clans, as occurred in the distribution of benefits from tourism on Mouac island. These conflicts, which we should stress are not unique to Melanesian societies, are then juxtaposed with the sharing of financial benefits. Finally, the land conflict reveals tensions around land legitimacies, with remnants of "reserves" now existing alongside newly founded territories with different legal status.

10.6.3 Assessment of Socio-economic Development on Customary Land

In 1993, the influential Kanak independence leader Paul Néaoutyne stated that the land may change its function over time, to support activities that guarantee a fulfilling life for those who live on it (Néaoutyne 1993). According to ADRAF (2014), the future of development projects on customary land will rely on using the rights acquired by Kanak clans and communities to secure external investment: an economic consideration.

Development projects on customary land are certainly an opportunity for the integration of Kanak clans into the market economy, should they wish it. Baco's "flagship" status has shown that socio-economic development on customary lands is possible, including decision-making by clan members and financial benefits that are accruing for future generations. Cultural functions and ceremonies are still practised in the community despite the leasing of land and several "modern" development projects.

Another "dualist" transition concerns the opening up of the country to renewable energy as part of the NC Energy Transition Scheme,¹ established by the territorial govern-

ment in 2016. The Energy Transition Scheme offers development prospects on customary land through the establishment of solar energy.² Kanak clans contribute to the capital of the operating companies by providing land for the installations. They are integrated as shareholders. These economic associations were widely supported by the provincial administration as the regional capital of the North, Koné, has expanded linked to the construction of the Koniambo smelter and mine.

Our assessment is that despite 40 years of land reform, the establishment of a specific legal structure, the GDPL and positive examples such as the projects realised in Baco, the integration of customary land into economic development remains marginal. There are several aspects to this. First, the former reserves, in which the Kanak clans were displaced and grouped at the end of the nineteenth century, were naturally the locations not deemed useful to Europeans: often mountainous, far from urban centres and often with less fertile soils. Bouard et al. (2020, p. 8) note that before 1988, "European cattle farming on large farms occupied over 90% of the UAA (Useful Agricultural Area), leaving the Kanaks with a food production agriculture that was, at best 'improved'".

This situation has barely changed. Figure 10.6 shows the agronomic quality of customary land in the South Province in 2015 (the most recent data) and reveals that only Yaté in the south has good quality soils on customary land. Except for Yaté, Païta and Boulouparis (good or moderate quality), the agronomic quality of soils is mostly poor in the 12 municipalities of the province examined. In the North Province (Fig. 10.7), the situation is slightly better, even if only three municipalities have a majority of good soil quality on customary land. In 8 out of 17 municipalities, moderate or good agronomic quality is predominant or characterises at least the half of customary lands in 2012. However, a general census of agriculture in 2012 showed that 62% of farms in New Caledonia-Kanaky are located on customary land, and they concern barely 18% of the useful agricultural area (Bouard et al. 2020).

Land reform has improved the overall situation of customary land, except in the south of the west coast where large agricultural plains have been excluded from redistribution, because of high land costs. But, apart from some local shops and farming projects supported by communities, few individual initiatives have developed on customary land. The lack of security of land tenure (in terms of land claims and conflicts) and the impossibility of securing finance (loans, mortgages, etc.) are issues, justifying the poor representation

¹https://gouv.nc/sites/default/files/atoms/files/2016.06.23_schema_transition_energetique_stenc.pdf

²<https://la1ere.francetvinfo.fr/nouvellecaledonie/province-sud/paita/ferme-solaire-kotabore-ete-inauguree-746353.html>

<https://www.afd.fr/fr/la-premiere-centrale-solaire-en-terre-coutumiere>

Fig. 10.6 Agronomic quality of customary land in the South Province. (Source: ADRAF 2015)

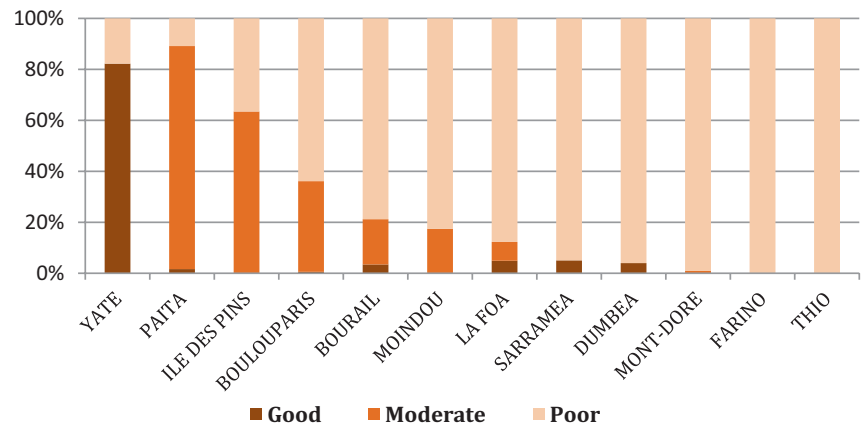
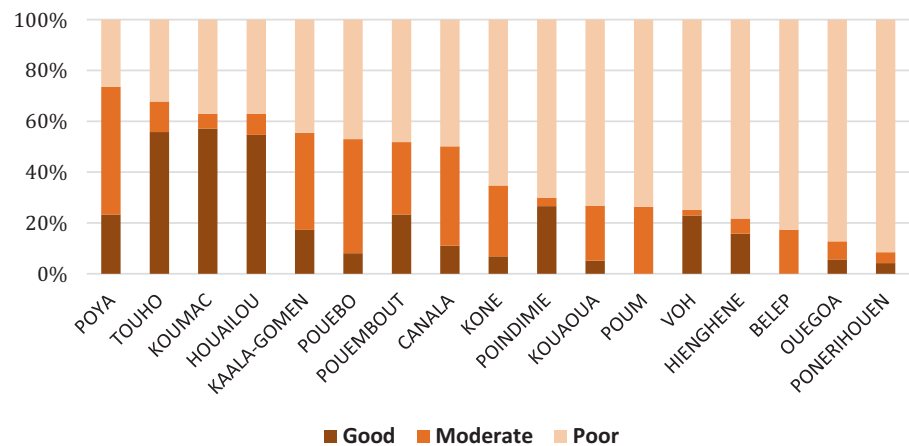


Fig. 10.7 Agronomic quality of customary land in the North Province. (Source: ADRAF 2012)



of activities on customary land to market-oriented economic development. In Baco, this problem was solved by long-term leases and by creating a real estate company managed by clan members supported by the provincial government that co-financed (up to 70%) the establishment of business parks (an industrial zone, rental housing, a shopping mall, a small university branch campus, etc.). In general, customary lands are inalienable, unseizable, incommutable and non-transferable.

Second, beneficiaries can be hard to identify, given the complex history of land seizures, displacements and upheavals associated with colonisation. Customary authorities empowered to enunciate land rights and legitimacy are sometimes lacking or inefficient, and their members come and go. There are also legal ambiguities between customary and common rights.

Lastly, customary authorities that manage land rights sometimes show limited efficiency, according to ADRAF (2014). These are not problems unique to New Caledonia-Kanaky. Family or clan obligations can cut across the reinvestment of profits (Purcell and Scheyvens 2015). This means that customary practices appear as a constraint to economic development based on property ownership. Duncan (2018, p. 1) using the example of Papua New Guinea notes: “Around 95% of land in PNG is held by clans under custom-

ary ownership [meaning] that individuals from within the clan or outside entities could not gain secure title to portions of clan land. Thus, there was no scope for individuals to express their innovative abilities and entrepreneurship through having complete control over the use of the land... Hence, customary land, which provides a livelihood for around 85% of the PNG population of approximately eight million, has been much less productive than it could be”.

Of course, this is a Western interpretation of the requirements for entrepreneurship: individualised development is considered “modern” viewed against customary norms (Jayaraman 1999, p. 9). The contemporary efforts of ADRAF, and provincial governments, try to step around pure neoliberal paradigms of economic growth and capital accumulation, recognising the chequered environmental and labour history of mining, in particular. Ecosystems and reef quality fared badly in the mining boom, before more controls were put in place. Epeli Hau’ofa (1993, p. 16) claims that the peoples of the South Pacific must “overturn all hegemonic views that aim ultimately to confine us again, physically and psychologically. It is time to create things for ourselves, to create established standards of excellence that match those of our ancestors”. This argument is in line with more distributive economies, partly based on the efficient use of common

goods and natural and social resources that people manage themselves. Local communities take care that natural resources and ecosystems are not degraded, in a form of “inclusive development”, rather than leaving these to be controlled by governments or market forces (Raworth 2017, p. 82).

Scheyvens et al. (2020) demonstrated, using examples from PNG, Fiji and Samoa, that projects on customary land can be more viable and environmentally friendly and contribute to development adapted to the needs of populations: “Customary land ownership is not necessarily a barrier to economic development but, rather, an asset that can support culture, the environment and socio-economic needs of Indigenous people”. Local development could indeed better meet the needs of Kanak families and clans than neoliberal economic projects set up by foreign investors who exist within an economic growth dynamic.

Fishing or agricultural projects, for example, have the advantage that they can combine commercial and non-commercial (subsistence) dimensions (Bouard et al. 2020; see also Chap. 6 by Bouard et al. in this book). Producers thus have the possibility of selling part of their harvest on local markets or in Nouméa but can also keep part for their own consumption or for cultural and customary ceremonies. A large survey of 1786 Kanak households representing 12.5% of the population living in Kanak communities conducted in 2011 (Bouard et al. 2020; Guyard et al. 2013) revealed that almost all families have at least one field and that 12% of the products are being sold. In this way, more “traditional” tubers and vegetables are planted, which supports greater biodiversity threatened by industrial agriculture and monocultures. The embeddedness of economic activities into the social life of the clan and the community seems to be an important aspect for the success of a project. Participatory communication and distribution of benefits, if agreed, can help to meet expectations and obligations towards the clan and the community.

Socio-economic development on customary land in Baco involves projects that are often seen as a means of generating financial income through rents by combining collective (clan) management and individualised investment (e.g. the petrol station operated by the Dutch company Shell). However, the economic zone is generally perceived as a “business corner” (Interview, 4 December 2008), even if it has transformed the habits and behaviours of the community. The result is an overlapping and amalgamation of different approaches and perspectives to “economic development”. Most of the community’s inhabitants do not want major changes to land use on customary areas. The “business corner” is perceived as “elsewhere”, on GDPL land. The mes-

sage here is that culture of sharing, and harmony with, and preservation of, the natural world, can come into conflict with increasing accumulation and production. Decisions have to be made after wide debate and agreement. Not all projects on customary land in Baco are commercial, but these shared perceptions of human-environment relations could partly explain why economic projects such as petrol stations, banks, etc. are always located outside the community living space.

10.7 Conclusion

Land reform was one of the main claims made by political independence leaders at the beginning of the decolonisation process in New Caledonia-Kanaky. The reform that was undertaken was extensive, and the attribution of land back to Kanak clans supports many elements of the “material” decolonisation agenda famously called for by Tuck and Yang (2012) involving the actual return of stolen land, as well as mental and symbolic decolonisation (Batterbury et al. 2020). In New Caledonia-Kanaky, priorities have gradually changed over time from a simple restitution of land to following development priorities, with partial economic integration of some customary land into an economy that still remains “dualist” in many ways. We have identified some of the challenges that remain, particularly around the extent to which customary arrangements can allow property to form a basis for investment, and a guarantee of that investment.

New Caledonia has many unique features given its undecolonised status, but we know that alternative economic models are already applied elsewhere in the South Pacific where economic projects on customary land are integrated into the social environment of the clan and the community (Scheyvens et al. 2020). Alternative approaches distribute benefits, for example, from fishing or agricultural sales across the community, sometimes through sports clubs or religious institutions. This can be done where commercial profit is not the (main) objective but rather community well-being.

Land reallocation has played a major role in economic change in the archipelago, particularly on Grande Terre, where land was taken from its original inhabitants. Land grabbing without discussion or compensation for mining or for settlement no longer occurs. But since decolonisation has not been achieved as of 2024 (Kowasch et al. 2022) and “historic dualism” remains across much of the territory, we argue that both economic models described here – an individualised profit-oriented neoliberal paradigm and a collec-

tive, more “inclusive” economy approach – will continue to endure and overlap on customary land in New Caledonia-Kanaky. New forms of economic models are evolving as socio-economic projects are established on customary lands involving different clans and families. But we should not forget Jean-Marie Tjibaou’s reminder that land is more than material wealth or property.

References

- ADRAF (2000) La réforme foncière en Nouvelle-Calédonie : 1978–1998
- ADRAF (2011) Le bilan chiffré de la réforme foncière
- ADRAF (2012) Recensement des espaces valorisables – Terres Coutumières – Province Nord
- ADRAF (2014) Étude sur le bail et les mises à disposition de terres coutumières en Nouvelle-Calédonie
- ADRAF (2015) Recensement des espaces valorisables – Terres Coutumières – Province Sud
- ADRAF (2019) Répartition foncière par statut. 31/12/2019. ADRAF, Nouméa.
- ADRAF (2021) Statuts fonciers Nouvelle-Calédonie. Available online at: <https://www.adraf.nc/component/cartographie/?zone=generale&type=TP>
- Amin A (2004) Regions unbound: towards a new politics of place. *Geogr Ann Ser B Hum Geogr* 86(1):33–44
- Batterbury SPJ, Kowasch M, Bouard S (2020) The geopolitical ecology of New Caledonia: territorial re-ordering, mining, and Indigenous economic development. *J Polit Ecol* 27:594–611. <https://doi.org/10.2458/v27i1.23812>
- Bouard S, Sourisseau J-M, Zenou B (2020) Integration and segregation evolution of agricultural development policies in New Caledonia. *Pac Geogr* 54:4–14. <https://doi.org/10.23791/540414>
- Boydell S (2010) South Pacific land: an alternative perspective on tenure traditions, business, and conflict. *Georgetown J Int Aff* 11(1):17–25
- Cohen FS (1954) Dialogue on private property. *Rutgers Law Rev* IX(2):370–371
- Demmer C (2010) Nouveaux enjeux fonciers et évolution du nationalisme kanak après l’accord de Nouméa, Nouvelle-Calédonie. Un éclairage sur des projets de société successifs. In: Jacob J-P, Le Meur P-Y (eds) *Politique de la terre et de l’appartenance. Droits fonciers et citoyenneté locale dans les sociétés du Sud*. Karthala, Paris, pp 375–402
- Duncan R (2018) Land reform in Papua New Guinea: securing individual title to customary-owned land. *Policy* 34(1):15–20
- Fisher D (2013) *France in the South Pacific*. Australian National University/ANU Press, Canberra
- Guyard S, Apithy A, Bouard S, Sourisseau J-M (2013) Revenus des familles résidant en tribu en Nouvelle-Calédonie: la ressource non monétaire en question. *Revue Juridique, Politique, Économique et Sociale de Nouvelle-Calédonie* 21:100–110
- Hau’ofa E (1993) Our sea of Islands. In: Hau’ofa E, Waddell E, Naidu V (eds) *A New Oceania: rediscovering our sea of islands*. School of Social and Economic Development. The University of the South Pacific, Suva, in association with Beake House, pp 1–16
- Herrenschmidt J-B (2003) Territorialité et identités en Mélanésie. In: Guillaud D, Huetz de Lempis C, Sevin O (eds) *Îles rêvées – territoires et identités en crise dans le Pacifique insulaire*. Presses de l’Université de Paris-Sorbonne, publié avec la collaboration de l’IRD, Paris, pp 291–324
- ISEE (2019). Résultats du recensement 2019. Available online at: <https://www.isee.nc/population/recensement>
- Jayaraman TK (1999) Private sector development and competition in the South Pacific: a case study of Vanuatu. *South Pac Study* 19(1–2):32–49
- Kowasch M (2010) *Les populations kanak face au développement de l’industrie du nickel en Nouvelle-Calédonie*. PhD thesis in Geography. University Montpellier III/University of Heidelberg, Montpellier/Heidelberg
- Kowasch M (2012a) Le développement de l’industrie du nickel et la transformation de la valeur de l’environnement en Nouvelle Calédonie. *J Polit Ecol* 19:202–220
- Kowasch M (2012b) La zone Voh-Koné-Pouembout. In: Bonvallot J, Gay J-C (eds) *Atlas de la Nouvelle-Calédonie*. IRD Editions, Montpellier, pp 231–234
- Kowasch M, Batterbury SPJ, Neumann M (2015) Social arena and strategic logics – a case study in Poum, northern New Caledonia. *Settl Colon Stud* 5(4):302–316
- Kowasch M, Batterbury SPJ, Bouard S, Wadrawane EW (2022) The third independence referendum in New Caledonia – a fallback to colonialism? *Pac Geogr* 57:11–15. <https://doi.org/10.23791/571115>
- Le Monde (1980). La réforme foncière en Nouvelle-Calédonie. https://www.lemonde.fr/archives/article/1980/12/22/la-reforme-fonciere-en-nouvelle-caledonie_2807497_1819218.html
- Lund C, Sikor T (2009) The politics of possession. In: Lund C, Sikor T (eds) *Access and property: a question of power and authority*. Wiley-Blackwell, Oxford, pp 1–22
- Merle I, Muckle A (2019) *L’indigénat. Genèses dans l’empire français, pratiques en Nouvelle-Calédonie*. CNRS Éditions, Paris
- Naepels M (1998) *Histoires de terres kanakes. Conflits fonciers et rapports sociaux dans la région de Houaïlou (Nouvelle-Calédonie)*. Socio-histoires, Paris/Belin
- Naepels M (2006) Réforme foncière et propriété dans la région de Houaïlou (Nouvelle-Calédonie). *Études Rurales* 177:43–54
- Néaoutyine P (1993) Droits fonciers et développement économique ne Kanaky, Mwa Vée, n°1, *ADCK*:29–32
- Otis G (2021) “On a oublié les promesses premières”: les droits des Kanak sur la terre ancestrale. In: Giraudeau G (ed) *Les enjeux territoriaux du Pacifique*. University Presses of New Caledonia, Nouméa, pp 159–195
- Poady A (2021) Statement in the frame of HEUREKA research project proposal. https://www.simonbatterbury.net/HEUREKA_introduction_video.mp4
- Purcell G, Scheyvens R (2015) International business mentoring and development: importance of local context and culture. *Int J Train Dev* 19:211–222
- Raworth K (2017) *Doughnut economics: 7 ways to think like a 21st century economist*. Chelsea Green Publishing
- Rocheteau G (1968) Le nord de la Nouvelle Calédonie : région économique. *Mémoires ORSTOM* 32. ORSTOM, Paris. https://horizon.documentation.ird.fr/exl-doc/pleins_textes/pleins_textes_2/memoires/13447.pdf
- Saussol A (1979) *L’héritage: Essai sur le problème foncier mélanésien en Nouvelle-Calédonie*. Société des Océanistes
- Scheyvens R, Banks G, Vunibola S, Steven H, Meo-Sewabu L (2020) Business serves society: successful locally-driven development on customary land in the South Pacific. *Geoforum* 112:52–62
- Sourisseau J-M, Pestaña G, Géronimi V, Schembri P (2010) Public policies and sustainable development in the new Caledonian rural world. *Économie Rurale* 320(6):9–23
- Tjibaou J-M, Missotte P (1976) *Kanaké, Mélanésien de Nouvelle-Calédonie*. Editions du Pacifique, Papeete
- Tuck E, Yang KW (2012) Decolonization is not a metaphor. *Decolonization: indigeneity*. *Educ Soc* 1(1):1–40
- Tutugoro A (2021) The demand for independence in New Caledonia: an historical and social approach. In: Gravelat C (ed) *Understanding*

- New Caledonia. University Presses of New Caledonia, Nouméa, pp 136–158. <https://unc.nc/understanding-new-caledonia/>
- Wadrawane E W, Gravelat C (2021) Kanak custom: “a way of words and actions that makes a homeland”. In: Gravelat C (ed) Understanding New Caledonia. University Presses of New Caledonia, Nouméa, pp 161–173. <https://unc.nc/understanding-new-caledonia/>
- Ward A (1982) Land and politics in New Caledonia. Political and social change monograph 2. Australian National University. https://openresearch-repository.anu.edu.au/bitstream/1885/132901/1/PSC_02.pdf
- Winslow D (1995) Indépendance, savoir aborigène et environnement en Nouvelle-Calédonie. *J Polit Ecol* 2:1–19

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