

FACING LAND CHALLENGES IN RAPA NUI (EASTER ISLAND)

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The ownership of land on Rapa Nui (Easter Island) has been contested for more than a century. Unlike in any other Pacific Island territory, the entire surface of the island has been claimed by the colonizing government (Chile) as state property, in blatant violation of the annexation agreement of 1888, which guaranteed native titles. Even though the Chilean government has over the years distributed a small fraction of the island to Rapanui as private property titles, it keeps claiming the rest as government property to this day. Many Rapanui, on the other hand, have never accepted either the land usurpation or the government-issued private titles emanating from it. Instead they continue to hold their land in traditional ways, often in open conflict with the Chilean government. This article describes the historical development of land tenure as well as the current situation, its underlying problems, and perspectives for future solutions.

Introduction

THE ISLAND that is known to its inhabitants as Rapa Nui, but is known to most Europeans as Easter Island or Isla de Pascua, forms the eastern tip of the Polynesian triangle, situated midway between Tahiti and South America, about 3,000 kilometers from both. The territory includes a tiny uninhabited satellite island, Motu Motiro Hiva (Sala y Gómez Island) about 400 kilometers to the east. Rapa Nui has a surface of 164 square kilometers and had a projected population of 4,888 in 2010, of which roughly half are native Rapanui and the other half immigrants from Chile.

The original inhabitants of Rapa Nui were people of Polynesian origin, but there may have been some admixture of people and cultural elements

from South America. Traditionally, Rapa Nui had a decentralized social structure, with several autonomous *mata* (tribal groups), grouped in two *hānau* (confederations), formally under the leadership of an *‘ariki mau* (paramount chief), but actually quite independent from one another (Fischer 2005: 22–23; 53–56). Over the centuries, these inhabitants built large numbers of *mo‘ai* (stone statues) and *ahu* (stone temples), which have in modern times become synonymous with the island.

The island first became known to Europeans when it was visited by the Dutch explorer, Jacob Roggeveen, on Easter Day, 1722, and named by him to commemorate that day. In 1770 the island was visited by a Spanish sea captain who claimed it for Spain, but this was not confirmed or followed up by the Spanish government. During the late eighteenth and early nineteenth century the island was visited briefly by European explorers of the South Pacific, such as Cook and La Perouse.

In 1862–1863, in systematic raids, Peruvian slavers murdered or kidnapped large parts of the population and annihilated almost the entire ruling class, leading to a social, political, and cultural collapse. The surviving population was still further depleted when some of the kidnapped islanders returned from South America with deadly infectious diseases, such as smallpox and tuberculosis, so that by the 1870s the population was only some 100–200 people (Fischer 2005: 87–92).

During the late 1860s, French missionaries came from Tahiti and Mangareva to establish Roman Catholic missions on the island. In the following two decades, the political system of the island was reconstructed under French and Tahitian influences, as a result of the presence of the missionaries as well as French and Anglo-Tahitian traders (di Castri 1999; Fischer 2005: 96–134).

Several attempts were made by the French settlers to persuade the French government to declare the island as a protectorate of France, as had been done in Tahiti, but the French government did not display much interest. Once it became clear that France had rejected these requests, Chile began to show interest in acquiring the island (Fischer 2005: 125, 132, 136–137). In 1887–1888, Chile acquired most of the Franco-Anglo-Tahitian property interests (Fischer 2005: 132, 139–40), and in 1888 Chile officially annexed the island through a controversial transaction involving a bilingual proclamation and document of cession signed by twelve Rapanui chiefs, presumably representing all the tribal groups.¹ While the Spanish version of the document stated a cession “forever and without reserve” of the “full and entire sovereignty” and guaranteed the chiefs’ titles, the Rapanui version was much more ambiguous and merely concedes to the Chilean government the privilege of being a “friend of the land”

(Government of Chile 2003, 329; Fischer 2005, 142). During the annexation ceremony, the Rapanui 'ariki gave the Chilean naval officer a bunch of grass while he put a handful of soil in his pocket, underlining his understanding of giving to Chile only the right to use the land, but not the land itself (Government of Chile 2003, 293; Fischer 2005, 142; Hito 2004, 27). It is also said that the Chilean flag was hoisted beneath the Rapanui flag on the same flagpole, thus acknowledging the sovereign status of the island's chiefs (Fischer 1999: 84–85; Government of Chile 2003, 293; Tuki et al. 2003, 452).

Following the taking of possession, in 1895, however, a Chilean company, which claimed to have acquired the island, sent a manager, who was also appointed by the Chilean government to be its representative (Fischer 2005, 150). Since the company claimed the entire island as a sheep ranch and wanted to prevent “thefts” of livestock, the Rapanui were forcefully relocated to the capital village, Hanga Roa, which was encircled by a wall, and the population prohibited from leaving it (Fischer 2005, 153). For the following six decades, the island was essentially run as a “company state” (Porteous 1981, 45ff). The native population lived in Hanga Roa as if in a concentration camp, without civil and political rights, in conditions close to slavery (di Castri 2003b, 129), while the bulk of the island was run as a sheep ranch, first run by private companies, and then from 1953 by the Chilean Navy. As Stephen Fischer wrote, Rapa Nui became “infamous as Pacific Islands’ worst administered colony” (2005, 178).

While an earlier revolt in 1914 had failed to achieve substantial improvement (Fischer 1999: 121–133), a massive resistance movement in 1964 forced the Chilean government to end arbitrary military rule and established a civil administration (McCall 1997: 117–118; Tuki et al. 2003: 463–465). In 1966 the Chilean Congress passed the *Ley Pascua* (Easter Island Law), which incorporated the island into the region of Valparaíso on the Chilean continent, granted Chilean citizenship to the inhabitants, and created a municipal government with a locally elected mayor and municipal council, as well as a local court with an appointed judge as a branch of the Chilean judiciary. The governor remained an appointed Chilean official.² Besides assimilating Rapa Nui into the Chilean administrative system, the law also created some special provisions, including the exemption from taxes, the prohibition of land alienation to non-Rapanui, and more lenient criminal sentences than on the continent.³ The wall around Hanga Roa was torn down, and the islanders could move freely, both on the island and to Chile.

From 1973 to 1990, Rapa Nui, like the rest of Chile, lived under the harsh military dictatorship of General Augusto Pinochet, who appointed

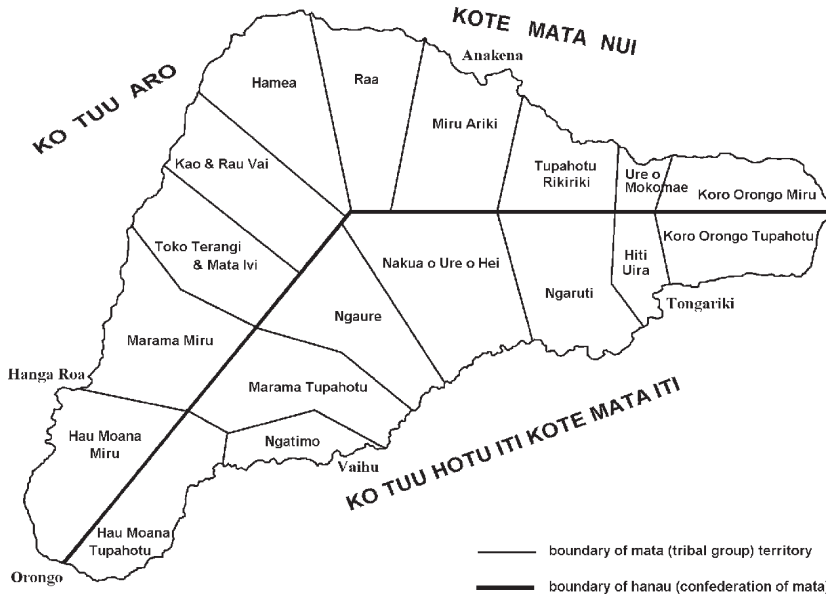
all government officials at his whim (Fischer 2005: 225, 232). While the appointed governors have been native Rapanui since 1984, substantial improvements of rights and freedoms happened after full democracy was restored on the island in 1992 (Fischer 2005: 231; 236–238). After intensive lobbying by the Rapanui Council of Elders, which led the local resistance against the Pinochet regime in the 1980s (Fischer 2005, 231), Congress enacted the *Ley Indígena* (Indigenous Law) in 1993, which recognizes eight ethnic groups, including the Rapanui, as the indigenous peoples of Chile, and protects their remaining lands from alienation to nonnatives.⁴ The law initiated processes of land restoration to the indigenous groups and contained provisions to keep all land titles created in those processes in indigenous possession. Specifically for Rapa Nui, the law created the fifteen-member *Comisión de Desarrollo de la Isla de Pascua* (CODEIPA, Easter Island Development Commission), composed of seven representatives of Chilean government agencies, the governor, the mayor, the president of the Council of Elders, and five elected Rapanui representatives. The main responsibilities of this commission are in the promotion of cultural and economic development of the indigenous population of the island, the protection of its archaeological heritage, and, most importantly, the distribution of land parcels to landless Rapanui families.⁵

Most recently, the Chilean constitution was amended in 2007 in order to transform Rapa Nui, as well as the Juan Fernández archipelago, into special territories outside the regular Chilean system of administration.⁶ An organic law to specify the future special political status of the island is currently under preparation.⁷ There is also a growing political movement that challenges Chilean authority altogether and demands political independence (Di Castri 2003b: 129–130; Fischer 2005, 262; Gomez 2010).

Early Forms of Land Ownership

Like elsewhere in Polynesia, individual private land ownership was unknown in pre-Western Rapanui society, and even more unknown was the idea of selling and buying land. Each of the mata, however, had its distinct territory delimited with boundary markers such as rocks or other features of the landscape (see Map 1) (Hotus et al. 1998: 25–26).

The demographic and social collapse of the 1860s created a power vacuum, which was filled by foreigners who acquired large tracts of land and claimed these as their private property (Porteus 1981, 24). During the late 1860s and 1870s, the French adventurer Jean-Baptiste Dutrou-Bornier acquired control over the vast majority of the island's surface, by means of



MAP 1. Traditional Tribal Territories (Redrawn by the author, after Hotus et al. 1988, 6; Government of Chile 2003, 279).

mostly fraudulent “sales” or seizure by force (Fischer 2005: 116–120, 123–124). Another large part of the island was acquired by the Catholic mission, apparently in a more consensual way. By 1871, only a small fraction of land remained unclaimed by these two foreign entities.⁸

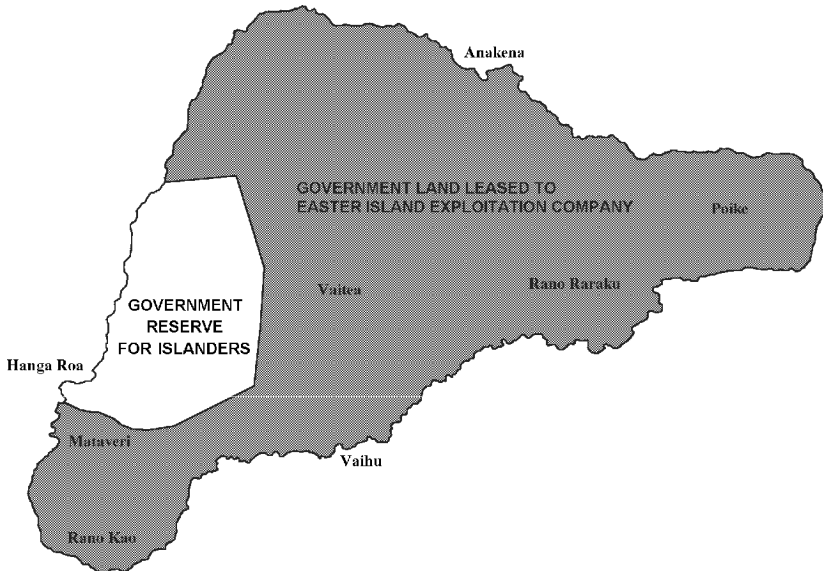
After Dutrou-Bornier was assassinated in 1876 in an act of resistance by the Rapanui, legal disputes about his land claims arose between members of the family of his business partner John Brander in Tahiti, the Catholic mission, and Dutrou-Bornier’s heirs in France (Fischer 2005, 120, 128). Another land claim filed by a group of Rapanui was rejected by a French court in Papeete in 1879, because they could not produce written proof of ownership (Hotus et al. 1988, 293; Makihara 1999, 60).

When the island was to be annexed by Chile, Chilean navy captain Policarpo Toro traveled to Tahiti in 1887 and in 1888 and bought out all the Catholic mission interests as well as some other properties for the Chilean State. The Dutrou-Bornier/Brander claims, however, were still in litigation at the time. Confusion thus prevails over what exactly Toro bought. The litigation about the Dutrou-Bornier/Brander claims went on in French courts until a court of appeal in Bordeaux ruled in favor of John Brander’s son in 1893, but the dispute about these land claims was never fully resolved

(Vergara 1939: 39–69; Fischer 1999: 89–96). As late as 1997 a legal scholar argued in favor of ongoing French property claims (Raybaud 1997).

Subsequent to the 1888 annexation, the Chilean State claimed all the land as government property but leased it in 1895 to the company of Chilean businessman Enrique Merlet. Merlet, meanwhile, bought John Brander's claims. After Merlet's bankruptcy, the lease was transferred to the Scottish company Williamson, Balfour & Co. and twice renewed in 1916 and 1936 (Fischer 2005: 156–164, 176–177, 191). The area around the village was kept as government land to serve as a reservation for the islanders and administered since 1917 by the Chilean navy, while the entire rest of the island was used by the company, officially called *Compañía Explotadora de la Isla de Pascua* (Easter Island Exploitation Company) for sheep ranching (see Map 2). The Rapanui were fenced in their village and prohibited from accessing the company land without special permission (Fischer 2005: 152, 201).

In 1933, the Chilean government formally inscribed the entire island as state property in the Land Registry of Valparaíso, without informing the population.⁹ In 1935, Easter Island was declared a national park. This implied at that time only the protection of natural and historical sites,



MAP 2. Land Holdings 1895–1966 (Redrawn by the author, after Vergara 1939, I; Porteous 1981, 71; Rochna-Ramirez 1992, 50).

not yet a separate property delimited from other state land (Vergara 1939: 73–76). In 1953, the lease to the company expired and was not renewed. In consequence, the navy took over the ranch and was now in total control of the island.

From 1926 on, the naval authorities granted land lots of five hectares each to islanders within the reservation (Makihara 1999, 73; Government of Chile 2004: 2–3). Altogether, there were 241 such provisional titles granted by the navy, totaling 1,150 hectares (Rochna-Ramirez 1996, 45). The grants were inheritable following Rapanui customary practices, but they were not registered as permanent titles, so that the land remained state property under Chilean law (Government of Chile 2004, 5).

Even though the 1966 Easter Island Law provides for the granting of titles to Rapanui individuals in the urban and rural areas previously part of the native reserve, no such titles were granted until 1979, and a 1971 plan by President Allende for the granting of land titles in Hanga Roa was rejected by the community (Rochna-Ramirez 1996: 51–52). The former company ranch, the vast majority of the island, remained Chilean State property, managed by the state agencies Corporación de Fomento de la Producción (CORFO; Corporation for the Promotion of Production)¹⁰ and, since 1980, Sociedad Agrícola y de Servicios Isla de Pascua (SASIPA; Easter Island Agriculture and Services Company), as the Vaitea State Farm, while the coastal parts of it were formally declared a national park for tourism. From 1972, the national park has been a separate land unit administered by CONAF (Corporación Nacional Forestal [National Forestry Corporation]), to which were added some important historical sites in the former native reserve. Between 1967 and 1992 small sections of hitherto state-controlled lands, in the periphery of Hanga Roa but outside the former reserve, were parceled and granted to Rapanui in the form of provisional titles (Government of Chile 2004: 5–6).

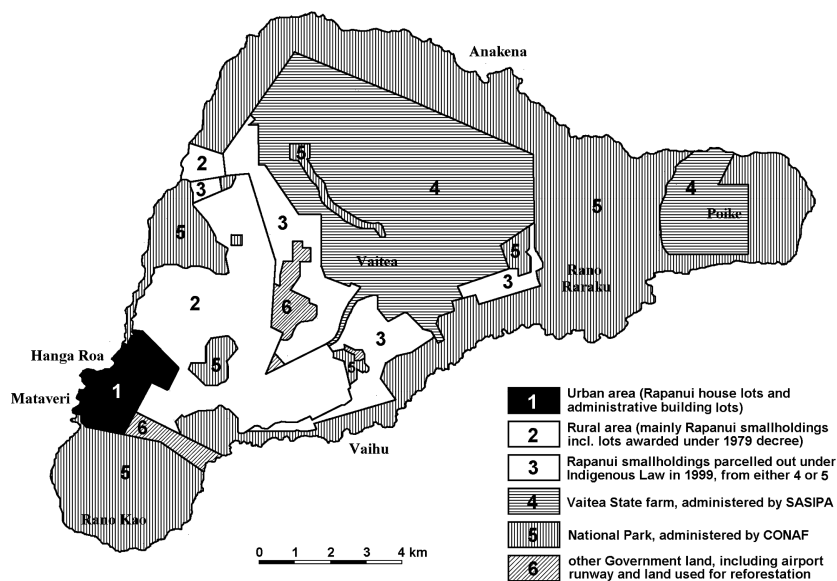
In 1979, Pinochet's junta imposed a decree that specified procedures for the granting of permanent individual titles to native islanders in the urban area and the rural perimeter of Hanga Roa but still did not affect the government estates of Vaitea and the national park.¹¹ Because this process presumes original title by the Chilean government, the decree met with sharp protests from many Rapanui. In reaction, the Rapanui Council of Elders filed lawsuits against the usurpation of lands by the Chilean state in 1888 (Makihara 1999, 139).¹² However, under strong pressure from the regime, about one-third of the Rapanui landholders accepted the titles (Rochna-Ramirez 1992: 53, 56), and since the law came into effect, 1,058 individual titles have been granted under its provisions (Government of Chile 2004, 9).

The 1993 Indigenous Law finally provided for the granting of parcels from the former company land to hitherto landless Rapanui individuals, to be carried out by the Easter Island Development Commission, which consists partly of elected Rapanui representatives.¹³ In addition, the Indigenous Law defines all privately owned land on Rapa Nui as indigenous land, subject to special protections against alienation to nonnatives. In 1999, for the first time, former Vaitea Ranch and national park lands were parceled out (Fischer 2005, 243), and by 2009, 1,646 hectares had been granted to 613 Rapanui individuals or families, while 1,161 further requests had been filed (*El Mercurio* 2010). However, these land grants are still based on the 1979 decree, and the controversies surrounding this process are continuing to this day.

As a result of the historic development hitherto described, in Rapanui today, as in most island counties of the South Pacific, there are two basic kinds of ownership of land: ownership of land by private persons and ownership of land by the government. Unlike most island countries of the South Pacific today, however, the amount of land owned by the government is very significant, probably about 75% of the island, and is greater than the amount owned by private persons. Also, unlike many island countries of the South Pacific, a significant amount of the land that is owned by private persons is not owned collectively by kinship groups, families, or clans of people regulated by rules of custom, but is owned on the basis of land titles issued by the state, but there are also lands occupied by private persons and claimed to be owned by the occupiers, but not based on titles issued by the state, as will be seen below.

Land Ownership Today (see Map 3)

Land tenure today reflects the strong influence of western contact. Increasingly Rapanui land is held under private titles. In the urbanized zones of Hanga Roa and Mataveru, where land is primarily used for private residences, as well as tourism-related private businesses such as hotels, bed-and-breakfasts, car rentals, and souvenir shops, there are several hundred urban house lots (zone 1 on Map 3, approximately 420 hectares). Some lots were titled to Rapanui individuals under the 1979 land decree, usually going back to earlier temporary grants by the military administration. In the rural perimeter of Hanga Roa (zone 2 on Map 3; 4,311 hectares), there are hundreds of smallholdings, also distributed first as temporary grants and then titles under the 1979 land decree. These are mainly used as farms for agriculture and ranching, both subsistence and commercial. Many of those lots are occupied without formal title, since their occupants



MAP 3. Land Holdings in 2003 (Redrawn by the author, after Miguel 2000, 47; Government of Chile 2003, 323).

have refused to acknowledge the Chilean state's claim to original title, and therefore reject titles emanating from the government. A 1988 report lists 217 titled and 428 untitled urban properties (30.4 and 59.7 percent of the urban area, respectively); among rural properties 24.3 percent are titled and 75.7 percent are untitled. As more titles have been issued, the percentage of titled lands has since increased (Rochna-Ramirez 1996: 56–57). Since 1999, parts of the two big government estates have been parceled out to Rapanui individuals as well under the 1993 Indigenous Law (zone 3 on Map 3, about 1,500 hectares), thereby increasing the rural sector of smallholdings.

The Chilean government controls various building lots in urban Hanga Roa, including the governor's and mayor's office, the hospital, the museum, schools, and various other offices. Government-held properties also include the Mataveru International Airport, as well as housing areas for expatriate Chilean government employees, which are predominantly situated in Mataveru, south of the runway. Government entities such as the fire service, the state bank, and the postal service own the land on which their buildings are located, and the municipal government owns the land on which the mayor's office and other municipal offices are built. Altogether, about 10 percent of the urban area is government held.

Besides these smaller properties within the urban zone (1 on Map 3), the government controls the two major parts of the island's rural area, namely, the national park and the Vaitea State Farm. The national park (zone 5 on Map 3), administered by the state corporation CONAF, is the largest single property, taking up 7,150.88 hectares or 43.5 percent of the island's surface.¹⁴ It covers mainly the coastal perimeter of the island, as well as several other sections of land that contain important landmarks, historic monuments, or archaeological sites. The area is intended by the government to be conserved in its natural state and not used for any direct economic purposes. The most important historic monuments and archaeological sites are carefully maintained, since they constitute the basis for the all-important tourism industry.¹⁵

Vaitea State Farm (4,723 hectares; zone 4 on Map 3), centered on the very fertile area of Vaitea, covers the center of the island, as well as the western half of the Poike peninsula, and constitutes the remnant of the former company ranch. It is administered by the government service corporation SASIPA¹⁶ and partly used as a cattle ranch, while other parts are currently unexploited or have been planted with eucalyptus trees for reforestation.¹⁷ Reforestation is also being done on some lands retained by the government in areas otherwise parceled out in 1999 (zone 6 on Map 3).

Aside from the two large estates, the government land also includes the airport runway (160 hectares), public roadways and facilities (800 hectares), and several lots retained for reforestation (zones 6 on Map 3). Altogether, the government controls about 75 percent of the island.

Despite the growth of private title and state-owned land, besides formally recognized titles in the urban and rural smallholding zones, many Rapanui families occupy land under customary claims without government-recognized titles, not only in the zones officially assigned for individual ownership, but also within both the national park and the Vaitea State Farm. Based on the traditional land divisions (see Map 1) and family genealogies, they trace their title claims to the lands they occupy to the time before the questionable Western land acquisitions of the nineteenth century. Based on the author's personal observations, there are dozens of dwellings and subsistence farms, scattered over many parts of the Vaitea and national park estates, as well as cattle and horses owned by Rapanui grazing in these areas. In many cases, the occupation of these lands is being tacitly permitted or at least factually unopposed by the government (di Castri 2003a, 45), while in other, more controversial, cases government forces have forcefully evicted occupants, mistreated them, and destroyed their houses (Hito 2004, 31; Fischer 2005, 251).¹⁸

Land and Development

The transfer of private ownership of land is legally restricted to ethnic Rapanui. This was implicitly defined in the 1979 land decree.¹⁹ Any ambiguities were clarified in the 1993 Indigenous Law, specifically its 1998 amendment,²⁰ which defines Rapanui people as lineal descendants (bilinial and inclusive, i.e., anyone with at least one Rapanui parent counts as Rapanui) and limits private land ownership to members of this ethnicity.²¹ Private land titles may be bought and sold between ethnic Rapanui. Property claimed by the state is not purchasable but can be parceled out and awarded free of charge to individual Rapanui, as has been provided for in the urban and suburban areas in the 1979 decree and in former Vaitea and national park land following the 1993 Indigenous Law. Since the implementation of that law on Rapa Nui in 1999, the Easter Island Development Commission (CODEIPA) intends to resolve the ongoing land dispute between the government and the Rapanui people by redistributing state-controlled lands to Rapanui. This process of redistribution is supposed to be in accord with Rapanui tradition,²² but in practice this has not really been followed. The entire process of land redistribution remains highly controversial because it presupposes legal title by the Chilean government, which many Rapanui refuse to acknowledge because the purported government title is based on historical usurpation, not consensual acquisition.

According to the Indigenous Law, indigenous land (as all private land on Rapa Nui is defined²³) can be leased or mortgaged only to members of the same indigenous group, and even in this case, house sites and land for subsistence cannot be leased or charged at all. However, leases or charges with duration of less than five years are possible outside of this restriction, and with special permit from the government, other arrangements are possible as well.²⁴ There are relatively few leases in that category, however. In 2006, a controversial plan to build a casino on leased Rapanui land failed because of a conflict between the Chilean gambling legislation and the five-year limitation of leases in the Indigenous Law.²⁵ On the other hand, land retained by the government for public purposes in the urban or rural sectors can be leased or conceded to individuals and companies for twenty-year periods.²⁶ Altogether, few lands are possessed by individual non-Rapanui under either of these lease regimes. Most Chileans and other expatriates who live on the island are either married to Rapanui and live on their spouses' land, or they are state employees who live in government housing in Mataverí, or they rent residences from Rapanui.

In order to facilitate land dealings, the 1966 Easter Island Law established a Land Registry in Hanga Roa as part of the *Juzgado de Letras y*

Garantía in Hanga Roa, a regular lower court in the Chilean judicial system,²⁷ with the secretary of the court performing also the role of registrar *ex officio*.²⁸ The controversial inscription of the entire island as state property was then transferred to this office from the Land Registry in Valparaíso (Government of Chile 2004, 5). Subsequent private titles granted under the 1979 land decree and the 1993 Indigenous Law, and any further changes in their ownership, are registered there in order to be legally valid.²⁹ In addition, according to the Indigenous Law, all indigenous lands are registered with the National Corporation for Indigenous Development (CONADI), which has an office on Rapa Nui.³⁰

In recent years, an increasing number of land disputes have been brought before the local court, the decisions of which are then sometimes appealed in the Appellate Court in Valparaíso. However, judicial procedures necessitate providing proof based on written land titles issued by the Chilean government, which many Rapanui landholders refuse to have, for reasons stated above.

Current Land Issues in Rapa Nui

The core issue about land matters on Rapa Nui has been for the last few decades, and will be for the near future, the conflicting claims to ultimate title, and the resulting uncertainty of any land claim or title. While Chile claims the entire island's land, this claim ultimately derives not from cession to, or purchase by, the Chilean government but from the questionable land acquisition by Dutrou-Bornier, a private citizen of France, before the 1888 annexation. While the validity of the annexation itself is contested today by Rapanui activists and scholars (Tuki et al. 2003; Hito 2004), and a movement to decolonize the island is on the rise, the annexation document, even in its Spanish version, transfers only sovereignty, but clearly not property titles, to Chile. Basing claims to land title on the arbitrary acts of an adventurer was odd enough during the nineteenth and twentieth centuries, but it seems entirely out of line with the increasing trend to respect the land rights of first peoples in the twenty-first century.

Based on this historic uncertainty, virtually all land titles are in dispute today in one way or another, and this underlying problem frequently surfaces in the form of land protests. As mentioned before, many Rapanui have been occupying land within the zones currently claimed by SASIPA or the national park, and they have built improvised buildings for habitation near historic monuments to which the occupying families have ancestral connections. Protest actions of this kind first became notable in the mid-1990s (Makihara 1999, 148; Fischer 2005: 240–242, 247) and continue to this day.

Even in the urban area, many properties are disputed. Most recently, in August 2010, activists of the Rapanui Parliament, an umbrella group that supports political independence from Chile (Trachtman 2002, 7), occupied the properties of the main government offices, schools, and the museum, as well as the Hotel Hanga Roa, all of which were expropriated for public purposes in the 1960s from Rapanui families without ever paying them the promised compensation (Pereyra-Uhrle 2005, 137). The Hotel Hanga Roa represents a particularly abusive case of land usurpation because this hotel was transferred by the Pinochet regime to a private Chilean company—unlike all the other tourist accommodation facilities, which are native owned—in clear violation of the legal prohibition of private landholding by non-Rapanui.³¹ The occupations precipitated a local political crisis, leading to the first ever case of a governor's resignation, and unprecedented acts of violence by Chilean security forces in attempts to evict the occupants in December 2010, which lead to international media attention and protests by international human rights organizations.³²

In summary, there is a conflict between three contradicting land tenure systems, the latter two imposed through colonialism on top of the first: (1) customary titles in traditional tribal territories; (2) titles in Hanga Roa based upon the provisional land grants by the navy, which have come to be regarded as “neo-traditional”; and (3) registered land titles under Chilean civil law, including the original government title for the entire island, and private titles granted under the 1979 decree and 1993 Indigenous Law. Even though the Chilean government officially recognizes only the third system, it has acknowledged titles of the second category and apparently admitted the legitimacy of at least some Rapanui titles of the first category by not evicting the occupants. In that sense, I would argue that the actual situation can be most appropriately called one of “legal pluralism,” a term by which Tamatoa Bambridge aptly describes a similar situation of land law in neighboring French Polynesia (Bambridge 2006). Since this creates confusion as to the validity of title and thereby impedes the island's development, a resolution needs to be found to reconcile these conflicting systems.

For the last few decades, the tendency has been to slowly decrease government property by the parceling out of lots to Rapanui by the government. This is likely to continue with the draft special territory statute, which intends to increase Rapanui participation in public land administration but still continues to identify these lands as government property. In the current bill, the CODEIPA would be dissolved and replaced with a Land Commission, consisting of five elected ethnic Rapanui representatives, the president of the Council of Elders, the mayor, and the governor, plus one representative of the Chilean Ministry of national properties, thus

giving Rapanui representatives a clear majority, unlike in the current CODEIPA.³³ With a Rapanui majority, the decision-making process about land restitution might become accelerated.

However, distribution of parcels of land to individuals has been heavily criticized as a perpetuation of colonialism, and it is not the only possible process of land restitution. An alternative vision was suggested more than 20 years ago by the Council of Elders under the leadership of Alberto Hotus, Juan Teave, and Juan Haoa. Over several years the council thoroughly researched genealogies and traditional land titles linked to them, which it published in a comprehensive 1988 book (Hotus et al. 1988). Using this book (or the oral traditions that it is based on) and the included map (Map 1), every Rapanui can trace his or her genealogy to one of the precontact mata and thereby situate his or her family's ancestral land on the island (McCall 1994: 70–71). The current opposition group, Rapanui Parliament, advocates the reorganization of land tenure in that way (Trachtman 2002, 7).

Yet another plan, favored in the early 2000s by then mayor Petero Edmunds, would leave the population concentrated around Hangaroa and turn over the government estates to a Rapanui-controlled trust as collective property of the community without dividing them at all. In Edmunds' opinion this would be more appropriate in order to conserve the island's fragile environmental and cultural resources (Trachtman 2002: 5, 9).

Of all the state-controlled land, the government is most reluctant to give up the national park (for reasons of national prestige, since in 1995 the park became the first Chilean site to be inscribed as World Heritage by the United Nations Educational, Scientific, and Cultural Organization). Parceling the park lands might also be problematic because of the impact on the archaeological sites and monuments, which constitute, as sights for tourists, the primary economic resource of the island. On the other hand, advocates of park land redistribution argue that the monuments are, after all, the images of their ancestors, and point to various other examples in the world where historic monuments coexist with modern residences, e.g., medieval churches in European cities (Trachtman 2002: 5–6). The land currently held by the Vaitea State Farm, on the other hand, will most likely be restored to Rapanui control in some way or another in the near future (Porteous and Shephard-Toomey 2005, 11). It has already been mainly Vaitea land that was used for the land distributions since 1999.

Conclusion

In the long run, the Chilean government will hopefully give up all its usurped land claims, and the entire island will once again be under Rapanui

control. The question, however, will be how the land can be most efficiently used, in order to both maximize its productivity and protect the island's fragile environment and historical monuments.

Since tourism is likely to remain the principal economic resource in the near future, more and more lands in the urban and suburban area are likely to be used for tourism-related businesses, either by their occupants themselves or leased to third persons for that purpose. However, with 64,495 tourists in 2008,³⁴ which already constitutes the highest number of visitors per capita of any Pacific Island entity and is far beyond an earlier estimated carrying capacity (Campbell 2008, 52), the sustainability of this type of economy is questionable, and eventually its growth will need to be severely limited (di Castri 2003a, 45; Campbell 2008, 48).

Adequate food production, on the other hand, essential for an island thousands of kilometers away from any food import sources, has been totally neglected, and most food today is imported from Chile (Hito 2004: 30). With its fertile volcanic soils, the island has the potential to be self-sufficient in food production, if all arable land is cultivated. However, this would necessitate a restitution of the fertile lands of Vaitea and a more equal spreading out of the population in order to work these lands. This converges with the desire of many Rapanui to resettle the whole island, since remaining concentrated in Hanga Roa reminds many of them of the traumatic colonial experience of having been imprisoned there for generations (Porteous and Shephard-Toomey 2005, 11). Whether the Vaitea and national park lands should be parceled out to individuals, divided according to historical clan territories, or managed as a cooperative farm and park by the entire community will require serious deliberations (Trachtman 2002: 7–9; Porteous and Shephard-Toomey 2005: 11–12).

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NOTES

1. Vaai Honga Kaina/Cesion (Cession) and Proclamacion/Vananga Haaki (Proclamation), September 9, 1888. Archives of Grant McCall, University of New South Wales, Australia. Reprinted in Government of Chile (2003, 327). Presumably, the twelve signatories represented all of the island's tribal groups. Unlike, for example, the New Zealand treaty of Waitangi, there have never been claims that one or more Rapanui tribal groups did not sign the document. However, according to Pakarati Novoa (2009, 197), the authenticity of this document is disputed.

2. Ley 16.441: Crea el departamento de Isla de Pascua (Law 16.441: Creates the department of Easter Island), March 1, 1966. Posted on Chilean National Congress Library web site, <http://www.leychile.cl/Navegar?idNorma=28472>. Accessed August 12, 2010 (hereafter Law 16.441).
3. Ley Pascua, Articles 13, 41, 47; cited in Government of Chile (2003, 314); Fischer (2005, 215).
4. Ley 19.253: Establece normas sobre protección, fomento y desarrollo de los indígenas, y crea la corporación nacional de desarrollo indígena (Law 19.253: Establishes norms about the protection, promotion, and development of the indigenous people and creates the National Corporation for Indigenous Development), September 28, 1993. Posted on Chilean National Congress Library web site, <http://www.leychile.cl/Navegar?idNorma=30620>. Accessed August 12, 2010 (hereafter Law 19.253).
5. Law 19.253, Articles 67–70.
6. Ley 20.193: Reforma Constitucional que establece los territorios especiales de Isla de Pascua y Archipiélago Juan Fernández (Law 20.193: Constitutional Reform that establishes the Special Territories of Easter Island and Juan Fernández Archipelago), June 27, 2007. Posted on Chilean National Congress Library web site, <http://www.leychile.cl/Navegar?idNorma=263040&tipoVersion=0>. Accessed August 12, 2010.
7. Mensaje No. 350-356: Mensaje de S.E. La Presidenta de la República con el que se inicia un proyecto de ley que establece el estatuto especiales de gobierno y administración para el territorio de Isla de Pascua (Message No. 350-366: Message of H.E. the President of the Republic through which is initiated a law project that establishes the special statute of government and administration for the territory of Easter Island). Document dated June 4, 2008. Formal entry to Congress dated July 2, 2008. Posted on Chilean Congress web site, http://sil.congreso.cl/cgi-bin/sil_abredocumentos.pl?1,6325. Accessed July 10, 2010 (hereafter Bill 350-356).
8. See map in Vergara (1939, 101).
9. Fojas 2400. No. 2424. Copia de inscripción de posesión, November 11, 1933. Reprinted in Vergara (1939, 191). Cited in Government of Chile (2003, 303); Tuki et al. (2003, 455).
10. Law No. 16.441, Article 38.
11. Decreto Ley No. 2.885: Establece normas sobre el otorgamiento de títulos de dominio y administracion de terrenos fiscales en la Isla de Pascua. (Decree-Law No. 2.885: Establishes Norms for the granting of titles of ownership and the administration of state lands on Easter Island), November 7, 1979. Posted on Easter Island Provincial Governor's office web site, <http://www.gobernacionisladepascua.gov.cl/filesapp/DL2885.pdf> (hereafter Decree-Law 2.885); Makihara (1999, 138); Fischer (2005, 234).
12. Makihara (1999, 139). According to Hito (2004, 30), the lawsuits were won in principle but had no direct beneficial effect other than precipitating the creation of the Indigenous Law in 1993.

13. Law No. 19.252, Article 69. While it is mentioned therein that Rapanui who do not own land can receive land titles through the CODEIPA process, the exact circumstances what kind of “landlessness” this is supposed to refer to are not exactly clear to me. It probably refers to people who did not obtain a title under the 1979 land decree, or who gave away their title to another Rapanui individual.
14. Rapa Nui National Park web site, http://www.conaf.cl/parques/ficha-parque_nacional_rapa_nui-60.html. Accessed July 28, 2010.
15. Porteous and Shephard-Toomey (2005, 11). Since the island has virtually no beaches or other landscape features corresponding to the “South Seas” imagery, Rapa Nui could not otherwise compete with other South Pacific Islands as a tourist destination.
16. Since SASIPA is a public service agency, the Vaitea lands are purportedly administered in trust for the community. However, in reality SASIPA is run by government-appointed bureaucrats and not elected community representatives, so it is rather doubtful whether the community gains any benefits out of it.
17. Porteous and Shephard-Toomey (2005, 11).
18. As far as I know, there is no process of acquisitive prescription by individuals against the government, which would make these lands the legally recognized property of the occupants after a certain time.
19. Decree-Law 2.885, Article 1.
20. Ley 19.587: Modifica la ley No. 19.253, respecto de la constitución del dominio en Isla de Pascua para los miembros de la comunidad Rapa Nui (Law 19.587: Modifies Law No. 19.253, respective the constitution of the domain on Easter Island for the members of the Rapanui community). October 23, 1998. Posted on Chilean senate web site. <http://www.leychile.cl/Navegar?idNorma=127078>. Accessed August 13, 2010.
21. Law No. 19.253, Articles 2, 13.
22. Law 19.253, Article 69. It is not entirely clear what “traditional” is supposed to mean in terms of genealogy, land tenure, and succession. In ancient times, Polynesian genealogies and land rights inheritance patterns were bilineal with patrilineal dominance, but French mission and Chilean colonial influences changed them to more clearly patrilineal, since the French and Chilean naming systems are patrilineal. Modern Rapanui tend to see this colonially modified system, based on family names inherited in a Spanish pattern, as “traditional” (McCall 1997, 114).
23. Law No. 19.253, Article 69.
24. Pereyra-Uhrle (2005, 139).
25. Noticias de Rapa Nui (2006).
26. Decree-Law No. 2.885, Article 4.

27. See web site of the Chilean Judiciary (2010), http://www.poderjudicial.cl/modulos/TribunalesPais/TRI_tribunales_primera.php?opc_menu=2&opc_item=3 Accessed September 13, 2010.
28. Law No. 16.441, Article 10.
29. Decree-Law No. 2.885, Article 10.
30. Law No. 19.253, Article 15.
31. Most recently, a Chilean judge ruled that members of the Hito family cannot be charged with trespassing as long as the claim of the hotel company to the property is disputed (*The Santiago Times*, February 9, 2011).
32. See various articles in *El Mercurio*, August 2010 to February 2011.
33. Bill 350-356, Articles 53–58.
34. *The Santiago Times*, August 25, 2009.

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