Mataqali of the Sea

— A Study of the Customary Right on Reef and Lagoon in Fiji, the South Pacific —

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Abstract

The focus of this monograph is neither for an analysis of the coastal fishing situation in Fiji nor does it entail for the understanding of the marine development policy for the island country, but rather to analyze the customary ownership of the traditional fishing grounds of the barrier reefs and lagoons. These being the areas most of the coastal fishery resources for the inhabitants are located.

The Fijians have uncodified fishing rights in their respective areas of the reefs and the fore-shore. This is however, only in connection with the legal land tenure system known as MATAQALI. It appears though that the former has more resource utilization potential than the latter. For these reason, more research on the socio-economic aspects of the system is required, especially for the development of artisanal fisheries in the country.

1. Mataqali as the Legal Ownership of Land Tenure

— A bibliographical study —

"Fijian villagers use communal land, that is land held by a traditional land-holding unit such as a mataqali or i tokatoka, to which there is no individual title of ownership. There are more than 6,600 recognized land-owning units. Any members of the unit is entitled to use a part of the land but the actual division is decided by local custom. Individual villagers work separate plots of land- the land is not farmed communally.\(^1\). In eastern Viti Levu, land were held in common by members of mataqali; but elsewhere the land-holding unit was the i tokatoka.

"Fijian land is registered in terms of patrineally organized social units which are conceived as lineages of the segmentary type. The unit of widest span is the yavusa, the members of which are supposed to trace patrineal descent to a common male ancetor called vu. Genealogical segments of the yavusa are called mataqali and similar segments of the mataqali are called i tokatoka. Most Fijian land is registered by mataqali, although some is registered in the name of i tokatoka, or of yavusa, or as belonging to the descendants of particular man or women"2).

"Ratu J. L. V. Sukuna, commissioner under the Native lands Trust Ordinance (1940)

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writes: Though for convenience and historical reasons the mataqali has been legalized as the proprietary unit for land, the *i tokatoka* is, on final analysis, the true basis of land ownership and is universally accepted by Fijians as such."³⁾

The law requires the native lands be held according to native custom as evidenced by usage and tradition, where:.... "native lands" means lands which are neither Crown lands nor the subject of a Crown grant (36 of 1921, s. 2) "native owners" means the mataqali or other division or subdivision of the natives having customary rights to occupy and use any native lands;... (Section 2, Native Lands Ordonance 1905, Cp. 114 of the Laws of Fiji, 1967 edition).

Native lands shall be held by native Fijians according to native custom as evidenced by usage and tradition. Subject to the provisions hereinafter contained such lands may be cultivated, alloted and dealt with by native Fijians as amongst themselves according to their native customs and subject to any regulations made by the Fijian Affairs Board and approved by the Legislative Council*, and in the event of any dispute arising for legal decision on which the question of the tenure of land amongst native Fijians courts of law shall decide such disputes according to such regulation or native customs and usage.... (Section 3. ditto).

"Fiji's total population exceeds 500,000, about fifty-two percent of whom are of Indian origin. These Fiji Indians grow some ninety percent of the country's sugar cane (the proportion varies from year to year), which accounts for nearly half of its external income, but they own a total of only 1.7 percent of the land. A very large proportion of cane land is therefore leased from Fijians, the Crown and other landowners. Among Fijians there are also problems of maldistribution of land, and some of the problems considered arise from these source."4)

2. Customary Right of Mataqali in Reef and Lagoon

"Mataqali tended to assume specialised roles within the community, and their attitudes, and relations with the land reflected the service performed: defence, building, fishing or farming and so on."5)

The first official report on the fisheries was made by James Hornell entitled "The report on the Fisheries of Fiji." (1940), which includes the following clarification of the Fishing rights of Fijian Mataqalis in their respective areas of reef and fore-shore:

"Prior to the voluntary cession of the Fiji to the British Crown, fishing in the rivers and in the sea was ruled by custom. The rights of the chiefs were paramount, and in practice the Chiefs were the distributing agency in the area which each controlled. Each tribal unit, the matanggali (mataqali), had its fishing area accurately defined; fishing within this area by people of another matanggali was resented, and the intruders treated as poachers.

"1881: —At a meeting of a Native Council held at Nailanga (Nailaga) 5th November, 1881, the Governor, Sir George William de Voeux, in his opening address said: —

! Chiefs of Fiji.... I now return to the Queen's letter, and as I have to tell you, with regard to your representation on the subject of the reefs, that the matter

will be carefully investigated, and that it is Her Majesty's desire that neither you nor your people should be deprived of any rights in those reefs which have enjoyed under your own laws and customs; and I may tell you, on my own part, that measures will be taken for securing to each matanggali the reefs that properly belong to it, exactly in the same way as the rest of their land will be secured to them....!

References have been frequent in Government documents to what are termed the 'Natives customary fishing right'. What these are appears never to have been defined except in the Birds, Game fish Protection Ordinance of 1923 where it is stated that it shall be unlawful for any person to fish on any reef or on any kai (cockle) or other shellfish bed in any water forming part of the ancient customary fishing ground of any mataqali unless he shall be a member of such mataqali or shall first have obtained a licence so to do under the hand of the Colonial Secretary.... All dispute between mataqalis as to the limits of their customary rights shall be referred to the Governor in Council whose decision thereupon after inquiry shall be final.... The customary fishing rights of native Fijian in the reefs and shellfish beds being thus recognized, the present is an appropriate time to clarify the position further, and to have the limits of the reefs and shellfish beds belonging to the different Mataqalis defined and properly recorded."6)

"At present the landward limits of customary fishing rights areas, not surprisingly, are extentions of the land boundaries of the rights holding group. Fishing rights area boundaries are not simple extentions of land boundaries, however. They link readily identifiable marine physical features such as patch reefs, reef holes and reefs passages and are bounded at their seaward ends by the outer limit of that portion of the barrier reef which is exposed at mean low water. Boundaries reflect traditional marine resource in 1874. It is understood that no use was than made of resources seaward of the barrier reef (egg fish stock exploitable through trolling or by deep lining on 'the 100 fathom shelf')."

There are no written regulations on Mataqali fishing practices because of differences in culture and tradition at each Mataqali level. Each Mataqali has its own identity which has been passed from generation to generation. The government fisheries regulations are enforced by the Native Land and Fisheries Commission, Ministry of Fijian Affairs and Rural Development (hereafter refered to as the Fisheries Commission). The commission is responsible for the division of fishing boundaries and enforcing regulations.

The customary fishing right are divided into Yavusa. This may contain about 3 to 4 Mataqalis. The fishing rights are issued in Vanua to the Yavusa. The Vanuas represents the ancestral fishing rights.

It is difficult to record each Mataqali regulation as it changes according to such things as season, area, and village social organization.

The rules regarding the fishing grounds in rural villages is decided by local Administration. The fishing ground are only adjusted after the Mataqalis concerned have approved. It has to go to the Roko who is the head of the Mataqali (appointed by the government), to the Fisheries Commission, and then to the Ministry of Fijian Affairs and Rural Development.

The Mataqalis normally do not change fishing grounds. They would fish in a particular area and move temporarily to another site before returning to the original

fishing grounds. In the most cases, they either acquire new fishing grounds or receive permission to fish in another Mataqalis's fishing area. If they have to move to other territories they have perform traditional ritual such a Yagona involving the traditional national drink of Fiji, made from the pounded roots (the piper mathysticum plant), and others things. In concern with above, Licences issued by Licencing officers are:

For the purpose of avoiding doubt, it is hereby declared that a licence under the last preceding regulation does not permit the holder to take fish on any kai (cockle) or other shellfish bed in any area in respect which the right of any Mataqali or other division or subdivision of the Fijian people have been registered by the Native Fisheries Commission in the register native customary fishing rights, unless he shall first have obtained a permit to do so under section 11 of the Fisheries Ordinance from the Commissioner of Division in which such area is situated... (Section 8, Fisheries Ordinance, Cap. 135 of the Laws of Fiji, 1967 edition).

Question on the official interpretation regarding ownership and usage of the coast-line and the intertidal zone were addressed by Mrs. Padma Lal, staff of Fisheries Division, Suva:

Question 1: Which agencies or organizations decide the use of coastal and near-shore resources in your area?

Answer

- a) Fishing resources utilization of these for subsistence is determined by the Mataqali chief. For commercial exploitation the Fisheries Division issues licences. Before the licence is issued approval of the Mataqali owner's is needed. This applies to fishing within coastal area.
- b) Physical resources utilization of these belong to the Ministry of lands and Minerals Resources. Before any dredging, mining and foreshore reclamation is permitted, the possible impact on the fishery resources has to be estimated. This only to compensate the Mataqali owners for the loss in fishing resources of fishing rights. This is usually rather subjective and the final decision is usually based upon arbitration.
- Question 2: What is the pattern of ownership, leasing and access to the coastline and the intertidal zone, including reef and mangrove areas as well as beaches?

Answer: Land below spring tide (HWM) belong to the Crown. The concept of ownership is similar to that of British Law. However, the right to use belongs to the Mataqali chief. This right seems to be for fishing only, however this is not clear. Each Mataqali owner (s) has customary fishing rights over the water mass extending from high water mark to the seaward side of the reef system. Beyond this point the resources belong to the Crown (i. e Government of Fiji). The seabed and minerals are also in the ownership of the Crown.⁸⁾

Whenever there are conflicts or problems arising inside villages relating to fishing right, the Fisheries Commission consults with the Fisheries Division, Ministry of Agriculture and Fisheries.

The Fisheries Division would survey the problem and make recommendations to the Fisheries Commission. Problems relating to the fish resources such as changes in the boundaries due to the reclamation of land etc. are settled by the Fisheries Division according to the fisheries laws. The Fisheries Division does not have any administrative powers relating to Fijian fishing rights. The only role it plays is in carrying out surveys to asses conflicts at the request of the Fisheries Commission or other authorities.

If there are problems between villages, then Government appointed provincial administraters try to settle the matter by traditional methods with chiefs and elders offering Yagona and Tabas (whales tooth) to each other. The Government has provisions in its legislations to settle matters relating to fishing rights conflicts by traditional mean.

There has been an attempt to map Matagali fishing rights boundaries but only a small area so far has been mapped around the country. Such projects are difficult and time consuming as there are no clear boundaries to determine each Matagali or Yavusa. These projects are also expensive to carry out as well as a sensitive political issue (since there are not clear distinctions, the people are proposing to the Government to have ownership of their boundaries). In some area all the Matagali or Yavusa operate together for fishing purposes and so their fishing area extends to the Yavusa boundaries. In other areas a Matagali alone would operate on its own fishing area.

3. Communal Activities of Matagali Fishing

The Fijian fishing industry has traditionally been on a subsistence basis, employing small flat-bottomed craft which operate close to the shore and use small gillnets or hand lines. Ample resources are located in the rivers, estuaries, mangrove areas and reefs, notably the Great Sea Reef, which form an arc 300 miles long around the northwest side of the archipelago and encloses 3,000 sq. miles of water.

According to the study of Dr. L. P. Zann, USP, Fiji's fisheries can be divided into three categories:

Subsistence fishery: non-profit, with most of the catch consumed by the fisher-men's extended family.

Small-scale commercial fishery: Licenced commercial, operated from small boats, owner operated or artisanal, supplying fresh fish through markets to the urban and agricultural communities.

Export oriented large-scale fishery: company owned (IKA-Corporation, a joint Fijian/Japanese venture) vessels based at the PAFCO cannery in Levuka.

The situation of each category except Export-oriented enterprise fisheries is briefed by the Fisheries Division as follows: 9)

The registration of fishing vessels and licencing of fishermen are required for fishing within customary right areas, which genereally correspond with those areas inside fringing or barrier reefs. These regulation provide a means of protecting both the stock of fish within these areas from excessive exploitation, and the rights of those individuals traditionally entitled to fish in these areas. During 1980, 1184 licences were issued for

fishing activities, some of these granting access to certain traditional fishing right areas (demarcated areas) with the agreement of the owners of these rights. There were 1224 registered vessels in 1980 as opposed to 1118 in 1979.

During 1981, 1283 fishing licences were issued to commercial fishermen as opposed to 1184 in 1980. The figure showed an increase of 8.4% increases in the number of licences for ODA/IDA during 1981 increased by about 10% for all the divisions. Of the 1391 fishing vessels were registered in 1981, 185 were inboard launches, 224 half cabin launches with outboard motors, 673 outboard punts, and 285 were punts. This is an increase of 13.6% was from 1980. There is no record of the number of non-licenced punts, but it is estimated that there are about 3 to 5 times more than licenced craft of about 2700 to 4500.

The local fisheries (subsistence and small-scale commercial fisheries), caught 9312.58 tonnes of fish in 1981 valued at \$ 11.32 milion and 1,352.53 tonnes of non-fish products valued at \$ 1.2 million. Previous work by the Division estimated the subsistence fish catch to be about 14,000 tonnes annually, In addition to this, longliners landed 3,219.30 tonnes of fish mainly from outside Fiji waters at PAFCO.

The subsistence fishery remains essential in coastal communities. Dr. L. P. Zann has observed that there is an overlap of subsistence and commercial fisheries. Excess fish to a family's immediate needs may be sold or traded. There also exists competition between the subsistence and commercial fisheries with the latter frequently infringing upon traditional mataqali fishing grounds. Some subsistence fishermen also complain of IKA (fisheries) corporation live-bait fishing in their waters.

Most of the villages on the coastal areas or river banks engage in subsistence fishing since the island's resources include a great ranges of shellfish, crabs, mollusks, and fish. Most of these are gathered either by women on the reefs at low tide or by men and women using hand lines, hand nets or gillnets; Frequently small boats are used at night with benzene lanterns.

Reef collection is generally practiced regularly by the women, who go out on the reef flats at low tides and dig for mussels and other shellfish, and collect crabs and crayfish. Several edible kinds of seaweed are also gathered. The seafood may be cooked and served with dalo (taro: a root crop) and others roots, or is frequently mixed with green dalo leaves and coconut cream to serve as the basis for an evening meal.

Netting is also done by the women. There are two or three kind of nets commonly used by the women, one large enough to be handled by the women, one large enough to be handle by two persons, and another another small enough for one. The former net is about fourteen feet long and six or eight feet wide, with an inch and a half mesh. On either end, a pole is affixed by which the net is slung, and which enables the women work to handle the net convinietly. Usually, six or eight pairs of women work together, but there may be as a twenty or thirty pairs. They wade waist-deep in the shallows. Each pair holding their net horizontally between them. As they stand in line, no one should overlap or touch another. And so, holding the nets somewhat below the surface of the water, the women gradually sweep the sea, enclosing in the operation a circular piece of water, and of cource, the fish which happen to be swimming there. But the women are too quick for them, and as soon as they appear darting above the meshes, the net is swiftly raised and the haul tumbles and splaches into the centre as it sags down. The sides of the net are quickly closed aboved the leaping

fish to prevent a possible escape. The rest is easy: for the women take them out one by one, and bite their heads to kill them..."

10)

"An interesting form of communal fishing in Beqa island is the fish drive, or qoli kubu. It generally involves the entire village, both men and women, and is under the direction of a gonedau (a master fishermen). It is usually held for specieal occasions and not every village practices this form of fishing, since some lack the necessary equipment (at least two large boats are required, as well as one or more smaller boats). The catch is usually consumed locally, but sometimes part of it is marketed.

"One of the small punts carried the gonedau who directed the proceedings. He first gathered all the boats in one spot and offered words of encourangement and a prayer. The boats carrying the walai (a strong liana-type vine) separated by about 350 metres and moved to with ini about 110 metres of the reef. The men and the women in these boats (about 12 in each) began getting into the water (which was generally shallow enough to stand in) at intervals along the vine, working toward a meeting point between the two boats. The objective was to form a semi-circle, using the vine for helping to maintain the semi-circle, which also freed on hand, in which each person carried a long stick. When the vines were joined, the people began moving back toward the shore, gradually tightening the semi-circle and pounding their sticks on the bottom in order to scare the fish toward the net, which had been woven from magimagi or coconut fibre, and lay open in front of them. Although there were wide spaces between each person along the vine, fish are apparently terrified by the pounding of the sticks and splashing of the villagers, and flee, thus being driven toward the waiting net.

"Throughout, the gonedau, in his small boat near the net, continued to shout and wave (even using a policeman's whistle) directions and encourangement. Finally, the men with the ends of the vines reached the end of the net and the circle was complete. The villagers, joined by a few others from the small boats, continued to close the circle and pound their sticks until the fish were driven into the net. As the net hauled aboard one of the punts with its load of fish, several villagers continued to fish the area with spearguns. The entire process took about an hour.

"Traditionally, fishing was the role of the gonedau who were highly knowledgeable about fish species, their seasonal movement and breeding habits, as well as being highly skilled in various fishing techniques. Todays, all village members engage in fishing, but the gonedau are still called upon to organize major fish drives." 11)

There are a number of rural fishing groups in Fiji. These groups may not necessarily be traditional fishing groups nor do the members of which belong to the same mataqali. Sometimes the members may be from neighbouring villages. Only a few such groups seek government assistance.

The Fisheries Division has reported that twenty-four rural fishing groups were in operation in 1981. Landing 79.04 tonnes of fish valued at \$ 104,993.00. A 97.1% increase by weight and 157.8% in value over 1980. Of the 17 fishing groups established in 1980, seven survived. Another 17 fishing groups were formed, 6 in the Central Division, 1 in the Northern Division and 10 in the Western Division.

These fishing groups operate in cooperatives in which the members have to pay fees to join and a chairman, secretary, and treasurer, etc. are appointed. A village chief may be the head of the cooperative or just an ordinary member. Anybody in the

village or the Mataqali concerned can join the cooperative.

In villages with such cooperatives it soon becomes the main source of cash inflow. It is able to support all financial undertakings in the village such as construction of houses, ceremonial functions, farming clearing land. It also becomes a source of credit for the village.

The cooperative appoints a member to seek licence for commercial fishing so that there is one fishing licence for the group. Sometimes the holder of the fishing licence organizes a group under his licence.

Some group that operate on a larger scale or have some difficultty in management may seeks government assistance. They either approach the Native Affairs Board or go directly to the Fisheries Division. The assistance give by the Fisheries Division can be in the form of fishing gear, subsidized fishing equipment, training of villagers, technical assistance as well as setting up loans through the Development Bank. It also provides transport to outer islands and markets for their fish.

4. Fact Finding on the Matagali Fisheries

— A case study on the village of Kalokalevu —

Description of the village.

The village is situated close to the coast a long the Queens road about 20 kilometers from Suva. Part of the village open area is reclaimed land. There are about 35 houses and population of about 100 people. The douses are wooden with corrugated iron roofs, some are thatched with bamboo and grass. The village is significant in terms of land ownership. Its land area extends to Waimanu river and is lined by Veisari river and Nandamale creek. However, most of the land is hilly and undulating and covered with shrubs.

Land use.

There are six Mataqalis operating on the village land. (a Mataqali consist of several households known as i tokatokas). These six mataqalis make up the Butivudi Yavusa. It is a communal type of land ownership. Some village land is leased to the government for the Naboro Prison complex and thus generates income for the people of the village.

Most of the land, however, is shrub and bush. Each Mataqali plants crop such as taro, yams, bananas, and cassava for subsistence use and sometimes for sale at the market. The type of agriculture practiced is cultivating a piece of land for a period of 3-5 years and then leaving it fallow. The Mataqali then move ento another area to plant.

A survey of the Bativuda Yavusa.

The Bativuda Yavusa consist of six Mataqalis operating together for fishing. In practice the villagers of the Bativuda Yavusa still adopt their ancestoral boundary which extends approximately 200 yards beyond the reef. There are no clear boundaries to identify the area other than such land-marks as reefs and the channels through the reefs. Most of the village have a similar criteria for identifying their fishing rights area. They do not have buoys for this purpose. Each person is aware of his and his neighbour's area through oral tradition.

The only recorded maps are for the Vanua and in some cases the Yavusa fishing

areas made by the Fisheries Commission. At present there are no maps for the individual Mataqalis fishing rights area. The fishing rights only authorize a person to fish in a given area and does not give the person ownership of the area in legal terms. Fishing Activities.

Fish is the major source of protein for the villages as well as the major source of income. All members of the Yavusa have the right to fish for subsistence use. The women generally, collect sea-food from mangrove swamps. In fine weather they go out to the reefs, and collect sea-shells, mud-crabs, and lobster. They also use nets to catch fish on the reefs. The men use spears, nets and hooks and lines. They usually fish from the reef but sometimes from boats.

The village also have five commercial fishermen and five boats, These fishermen have to apply to the government for commercial fishing licences. After consultation with the *Mataqalis* and the village chief, the chief would recomend to commissioner in charge to issue a licence through the Ministry of Agriculture and Fisheries. The licence has to be renewed each year by paying afee.

In the village of Kolokolevu, the fishermen go out to fish every day of the week in fine weather and in bad weather they may go once or twice a week. Sometimes if there are extremely rough seas they may not go at all for weeks. Thus, the fishing activities depend heavily upon weather conditions.

The quantity of fish caught also varies according to the season. In cold season, there are a catches of octopus, crayfish and a fish called Salala. In the rainy season species of fish such as Kaikai and Kanace are plentiful. From March to November, they catch turtles. The movement of the moon is carefully watched by the fishermen as it signifies the type of tides. The only regulations are that all species of fish are to be more than four inches long and there are to be no use of poisonous seaweeds or dynamite.

Daylight fishing is prefered by both the commercial fishermen and the villagers. However, in fine weather, they use lamp at night and fishermen stay overnight in boats at sea. The villages are adopting such modern techniques of fishing such as nylon nets and bait to increase their efficiency. However traditional techniques are still used on special occassions such as ceremonial fishing. Most of the village people participate including children and women. The catches are then distributed equally to each Matagali.

Income from fishing.

The income depends upon the amount of fish caught which in turn depends upon the weather and season. Thus, there are no fixed income for the fishermen. In fine weather if fishing is possible every day for a whole week or a fisherman has at least two days with a good catch, then he may sell his fish for \$300 to \$500, but it must be remembered that the fishermen may go for weeks without any income.

The price is determined by the species of fish and size. Reef fish are more expensive. Smaller fish are sold in bundles and larger fish are sold by weight. The cost of a bundle of fish may range from \$3 to \$10. Nearly all of the fish from the village are sold at Suva markets because it is easily accesable by both road and punts. Sometimes fish are also sold along the Queens road to people commuting to Suva for work. The fishermen himself generally sells his product. The expences for the fishermen are fuel for the boat, licence fees, and wages to the hired laborers. These hired laborers

(about 3-4) are usually people from the village, either friends or relatives and they are paid in fish or cash. Their income are not fixed and it depends upon catch. Non-Fijian and other Mtagalis.

If a Mataqali want to fish in the waters of a different Mataqali, then he has to obtain approval in the traditional manner from the village chief (Turaga ni Mataqali), usually by offering Yagona (Kava), money, and or food items. If the village head approves he will give formal approval in writing to the person then applies to the Fisheries Division. A similar procedur is followed for non-Fijian fishermen who want to fish in a mataqalis fishing area.

From our study of Kolokolevu we found out that village on Bativuda Yavusa is not sure of its own boundary of fishing rights. Their boundary extends straight out to sea from the village but they are claiming a larger area which therefore conflicts with the fishing area of village.

5. Summary

"Many governments make all land and sea below high water mark public property. But traditionally in most of the Pacific this is not the case and in some places the rights of local individuals and groups are still recognized.

Traditionally, there was good reason to divide water rights in this way, but todays it is begining to cause problems. It is usually more difficult and more expensive to mark boundaries on water than on land. Increased movement by power-boat and increased use of water for recreation, and more productive ways of fishing area usually help up when water rights are in private hands. The problems are not so serious with lakes, rivers, and other inland waters, but similar problems will arise. Public rights over water are almost certain to increase."

Traditional fishing rights on the reefs and lagoons are still found in the South Pacific. These customs have helped maintain harmony between coastal resources and inhabitants, as well as between inhabitants. However details of these regulations have not been analyzed scientifically because the rule are mostly uncodified.

On Fiji, however, traditional Mataqali ownership has been codified as a national law on land tenure for many years and at the same time communal utility of Mataqali of the sea has been increasing lately. In order to emphasize local fisheries in island countries self-control and adjustment systems of coastal resources should be organized based on such traditional and well maintained rules as Mataqali.

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