

Submission
No 9

INQUIRY INTO COMMENCEMENT OF THE FISHERIES MANAGEMENT AMENDMENT ACT 2009

Organisation: University of Technology Sydney

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The Director
Portfolio Committee No. 4
Parliament House
Macquarie Street
Sydney NSW 2000

28 January 2022

Dear Director,

RE: Submission to Inquiry into the commencement of the Fisheries Management Amendment Act 2009

I am writing to make two comments pertinent to the Inquiry into the commencement of the *Fisheries Management Amendment Act 2009* concerning Aboriginal cultural fishing:

1. Failure to enable Aboriginal cultural fishing under the *Amendment Act* has **continued the damage done by colonial dispossession, which is not in the best interests of Aboriginal communities, or broader Australian society.** Cultural fishing should be developed with Aboriginal communities as a matter of urgency. (Relates to point (c) in the Terms of Reference for the Inquiry)
2. It is vital that the form 'cultural fishing' takes in New South Wales (NSW) be co-designed with relevant Aboriginal experts and representatives, rather than be imposed by government. In particular **we should seek to avoid the problems that have arisen with cultural fishing in Aotearoa/New Zealand, where a colonial construction of 'cultural' as not including reciprocity, trade or cash has divorced cultural fishing from the ongoing reality of culture for many Māori people, and continued problems with incarceration, diet, etc.** While 'cultural fishing' is not the same as 'commercial fishing' and a distinction between the two categories is needed for regulatory purposes, an element of trade is completely in line with cultural fishing and should be incorporated into the way the *Amendment Act* is implemented. Aboriginal experts and representatives are best placed to inform how reciprocity, trade and gifting should fit with a contemporary, appropriate definition of cultural fishing in NSW. (Relates to point (f) in the Terms of Reference)

From here I make some relevant points about my research background, and give a bit more information about the evidence upon which I base these comments.

I'm a fisheries social scientist at the University of Technology Sydney, and have been researching the social dimensions and governance of many different kinds of fishing in Australia, the Pacific islands and Asia since the late 1990s. My profile page on the University of Technology Sydney website shows the papers and books I have published on this topic, and the funded research projects I have conducted.

Point 1 – failure to implement Aboriginal cultural fishing has caused damage to Aboriginal communities

From 2014-2016 I worked with Associate Professor Stephan Schnierer and Dr Michelle Voyer on a large study funded by the Fisheries Research and Development Corporation (FRDC) to evaluate the social and economic benefits of commercial fishing in coastal NSW. The peer-reviewed project report is available here:

<https://www.frdc.com.au/project/2014-301>. We considered Aboriginal fishing as part of that, and looked at the benefits to individuals and communities when people are able to fish, as well as the damage done when they are not able to fish. Cultural fishing is an important part of this, and the lack of an agreed format for cultural fishing for all these years has prevented many people from fishing in the ways that would best enable them to catch food for themselves and community members, sharing their knowledge about Country, and so on. I paste some relevant passages from that work at Attachment A.

Point 2 – it is appropriate for cultural fishing to include an element of trade and reciprocity, including for cash

I have heard several Aboriginal fishing advocates over the years argue that cultural fishing in Australia should not be interpreted to mean that it no modern equipment should be used, nor that it can only involve 'pure' gifting, with no element of trade or cash. The notion that culture relates only to a static notion of what pre-colonial Aboriginal life was like is part of the colonial mindset, and is not an accurate picture of culture. No cultures are static and Aboriginal cultures (as with many other Indigenous cultures the world over) did and still do involve reciprocity and trade as well as gifting.

I base this comment on collaborative research writing I did in 2013, an edited volume called *Engaging with Capitalism: Cases from Oceania* (see at [https://www.emerald.com/insight/publication/doi/10.1108/S0190-1281\(2013\)33](https://www.emerald.com/insight/publication/doi/10.1108/S0190-1281(2013)33)). In this book the researchers looked at cultural responses to market economies among Pacific Island peoples. Co-author Dr Fiona McCormack from Waikato University, who has worked on Māori fishing for many years, wrote about the problems caused for Māori fishers by the official definition of 'customary' fishing, which excludes any form of barter or cash trade for fish. This definition did not fit the reality of how Māori people fish for cultural reasons, and left them at risk of prosecution for 'poaching'.

I have included Dr McCormack's 2013 paper comparing cultural fishing in New Zealand and Hawai'i at Attachment B. I hope the Inquiry will listen to representatives of Aboriginal coastal peoples of NSW about how cultural fishing should be defined and implemented in NSW. I offer this paper as corroboration from the international anthropological literature that

Indigenous cultural fishing does and should include trade and reciprocity as well as gifting. I hope in NSW we avoid the problems that have occurred with the definition used in New Zealand.

I am happy for my submission to be published in full on the website including my name.

Yours sincerely,

Kate Barclay

Attachment A

Selected extracts from Voyer, M., Barclay, K., McIlgorm, A. & Mazur, N. 2016. Valuing Coastal Fisheries: Social and Economic Evaluation of NSW Coastal Professional Wild-Catch Fisheries (FRDC 2014-301). Canberra, Australia, Fisheries Research and Development Corporation (FRDC). Available at: <https://www.frdc.com.au/project/2014-301>.

4.2.3 Contributions to Indigenous mental and physical health and wellbeing

The primary tools for investigating the contributions of the NSW wild-catch industry to Indigenous health and nutrition were fieldwork interviews and a literature review. Consideration of Indigenous health issues in relation to the NSW wildcatch industry falls into three main categories. The first is the health and wellbeing benefits of employment and engagement in traditional practices on Country. The second relates to the nutritional benefits provided to a generally low income group by access to a ready, cheap and healthy source of protein. Finally, there are health and wellbeing benefits associated with the community connections facilitated and grown through the act of fishing together and sharing the catch amongst the community.

Access to traditional lands has been recognised as a determinant of health in both remote and urban contexts, with evidence suggesting that connection to Country strengthens self-esteem, self-worth, pride, cultural and spiritual connections and positive states of wellbeing (Kingsley et al., 2013). In addition, Indigenous Australian adults who live on homelands/traditional country are more likely to have no current long-term health condition when compared with those who do not recognise homelands, and they are less likely to report having a high/very high level of psychological distress (Australian Institute of Health and Welfare, 2015). There are also significant health benefits to Indigenous people by their maintaining a connection with their ancestral lands, family and communities and working in areas of natural resource management and use that involves nurturing and maintaining these connections (Australian Institute of Health and Welfare, 2015, Hunt, 2010).

Our identity as human beings remains tied to our land, to our cultural practices, our systems of authority and social control, our intellectual traditions, our concepts of spirituality, and to our systems of resources ownership and exchange. Destroy this relationship and you damage – sometimes irrevocably – individual human beings and their health (Anderson, 1996 cited in Australian Institute of Health and Welfare, 2015 p. 152).

Another important contribution provided to the Indigenous community through involvement in the industry is through the notion of 'cultural contributions', whereby Indigenous fishers share a proportion of their catch with their local community. Schnierer and Egan (2012) found that 90% of Indigenous fishers they surveyed gave some of their catch to their local Indigenous communities. Estimates ranged from 5-20% of annual catch, or an average of 9.8%. Those that said they did not share were largely in the restricted hand-gathering endorsements where the community members were able to fulfil their own needs (Schnierer and Egan, 2012). These results were reflected in our own interviews when Indigenous fishers discussed their cultural obligations to share a portion of their catch with their community.

When we get an abundance of fish we take so much to the local community and share it with – around and then just drive around the mission and then back into town because there's so many Aboriginal relatives that live in town as well. We just go around to key family members that we know will pass it on to the rest of their families.

Indigenous fisher (061114_7) Great Lakes – Hunter

For those without a family or community member engaged in fishing, the non-Indigenous wild-catch industry provides ready access to a cheap, fresh food source of cultural significance and nutritional benefit. In particular, the cheaper,

less popular species of fish such as Mullet (*Mugil cephalus*) and Luderick (*Girella tricuspidata*) are widely preferred by many Indigenous people.

They love blackfish [Luderick] and Mullet... That's their bush tucker. But if they didn't have the access to come here and buy it, there is no way they've got any means to go and catch it themselves, because they don't know how to do that anymore. So they buy a lot of bush tucker here and oysters. They love their oysters.

Fish retailer (081014_3) Mid North Coast

The most recent 'Closing the Gap' report found life expectancy for Indigenous Australians remains stubbornly low at 69.1 years for males and 73.7 years for females, a gap of 10.6 years for males and 9.5 years for females between Indigenous and non-Indigenous citizens (Commonwealth of Australia, 2016). Indigenous people living in coastal areas often report a decline in seafood consumption as being a critical factor in poor health. Indigenous professional fishers are therefore seen as important contributor to the health of local Indigenous communities through their provision of fresh seafood (Voyer et al., 2014)

That is the most healthiest thing that we've had, that we've got, because it's our natural food source. The Mullet and everything else that's in there, you just check with the doctors and everything what vitamins and everything in it, the oils and everything that it provides for, and they're only just finding out the vitamins or whatever are needed for the people, from the fish sources.

Indigenous fisher (260315_2) South Coast

There are complex family and cultural connections existing around food provision, preparation and consumption within Indigenous communities and these have strong relationships with health and wellbeing outcomes. For example, a study by Thompson and Gifford (2000) into the cultural and social influences on managing diabetes within a Melbourne Indigenous community found that a reduction in opportunities for men to contribute to the family meal decreased the strength of their family and cultural connections and made them more likely to avoid or ignore diagnoses of diabetes. This study also highlighted the importance placed on eating family food and participating in sport or other activities with family and community as activities that connect the community and protect individuals from illness. However, these same factors also resulted in increased stresses as family members struggled with the pressure of fulfilling their obligations to their families and communities (Thompson and Gifford, 2000). All these findings are consistent with the stories of many Indigenous communities living on the NSW coast. The act of fishing plays a role not just in providing fish to eat, but it also maintains and strengthens family connections. There are strong expectations that catches will be shared amongst family and kin.

But it's part of our wellbeing, as well... I suppose it's like a lot of people meditate. To us, it's, I suppose, to some degree, our meditation. Getting out there with nature. Looking and seeing and observing, taking it in and learning. And it's about, you know, not just individuals, it's about the family. You come back with fish or what have you. Your family have got fish, and your extended family, they come around and you share it out.

Indigenous fisher (170215_1) Far North Coast

Community and family connections are also built and maintained by the act of going fishing. Traditionally the act of fishing – particularly beach haul fishing – was a community activity involving multiple generations and extended family groups. Current regulations restrict the ability of unlicensed fishers to participate in beach haul operations and are the source of additional pressure and stress of Indigenous professional fishers.

The other ones don't come down the beach so much, I think they're losing touch with their culture a little bit. A matter of fact, I think they see us as more of a link to their culture than some of their own people because we've had – well from when the Aboriginal people used to work in the crews on the beach, you know, quite a lot of them. There was an Aboriginal fellow that taught me how to fish, so they look at me as one of them. They're probably partially right.

Fisher (non-Indigenous)(041114_3) Mid North Coast

In addition, licences were often shared amongst family groups with multiple

generations, brothers, cousins and uncles all involved in the fishing business in some capacity. A number of Indigenous fishers have stories of family breakdown and disputes between brothers or fathers and sons as the results of regulatory systems that require licences be held by individuals rather than shared. The role of Indigenous professional fishers in NSW therefore appears to be a highly valued, but also highly stressful vocation for those involved, particularly given the decline in the numbers of active fishers.

It's a community thing, and it is there for the community. Right?... It's a thing that I've missed, because, like I said, with all these regulations and rules and everything, I've missed that connection with my people... the thing of it is, these arseholes, these government departments... they don't know what they're doing... They're really screwing our lives up... That's the truth.
Indigenous fisher (260315_2) South Coast

...

4.6.1.1 Historical role of fishing in Indigenous communities

Since the earliest records of the colony of NSW, Indigenous people have played a role in professional fishing. Prior to that, trade and barter of seafood is likely to have also been common. As the new colony struggled to produce enough food to feed itself in the early 1790s, Indigenous women provided seafood to both the white colonists and the ailing Indigenous population struggling with new European diseases. Early records show that during that time Indigenous people began to 'come in' to the settlements physically (by taking up residence on the streets) and economically, by bartering their fish and game to settlers. The Botany Bay area, in particular, became known as a fishing community. This community was made up of both resident Indigenous communities and European fishers drawn to the area for its fishing and for the expertise provided by Indigenous people. This is one of the first examples of Indigenous and non-Indigenous people forming working and personal relationships and building communities together following colonisation (Goodall and Cadzow, 2009).

From a historical perspective, professional fishing has played a crucial role in supporting Indigenous communities along the NSW coast, not only as a source of employment and income for their fishers but also as a means of supplementing meagre rations provided by the Aboriginal Protection Board in missions or reserve communities, and later as high-quality food for people on very low incomes (Goodall, 1996, Bennett, 2007, NSW Office of Environment and Heritage, 2012, Schnierer and Egan, 2012). As colonial control over Indigenous people in NSW increased it was not uncommon for the Aboriginal Protection Board to provide boats and fishing gear to Indigenous communities and individuals to encourage both active participation in the NSW economy and the use of seafood products as an alternative food source to supplement government-issued rations (Goodall, 1996, Goodall and Cadzow, 2009, Egloff, 1981, NSW Office of Environment and Heritage, 2012, Feary and Donaldson, 2015). In the late 1800s Indigenous people in Moruya were described in Census information as "remarkably well off and can earn the same wages as Europeans" on account of the income earned through fishing operations (Feary and Donaldson, 2015). A number of reserves established around the turn of the 20th century on the South Coast were established by Aboriginal people as a base from which fishing operations could be conducted (Feary and Donaldson, 2015, Goodall, 1996). As a result, a number of NSW Indigenous communities have built up a strong cultural connection to the tradition of professional fishing (Schnierer and Egan, 2012, NSW Office of Environment and Heritage, 2012). Fishing played a critical role in the survival of many Indigenous families and communities on the coast of NSW and is inextricably linked to many personal histories as well as the histories of many of their settlements. See Box 8 for one such example in Wreck Bay on the South Coast of NSW.

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Box 8 Wreck Bay Fishing Community

Wreck Bay is located south of Jervis Bay on the NSW South Coast. European settlers moved into the South Coast area, establishing farms and timber harvesting operations around the Shoalhaven River in the early 1800s. Disease, dislocation and conflict led to a decline in the Indigenous population in the area, with only small camps remaining by the 1840s. Towards the end of the 19th century it was common practice for the Office of

Protector of the Aborigines to supply these encampments with fishing boats and gear, intended to be a means of subsistence and income. A small, intermittent encampment of Indigenous people was established in Wreck Bay sometime after 1914. The new community was made up of families closely linked through marriage and blood ties to people in nearby reserve communities and the waterway was regularly fished by Indigenous crews travelling along the coast. A 1922 census of the now permanent community at Wreck Bay counted 25 residents and all the males in the community were listed as 'fisherman', illustrating a strong economic reliance on fishing. Seven or eight crews operated out of Wreck Bay during the peak fishing season, between Christmas and Easter. During the 1950s this was managed via rotation, each crew had the rights for 24 hours or until shooting its net, when it was the turn of the next crew. During the off months the men went to the timber mills or picked vegetables. During the Depression the lack of rations meant community members needed to provide alternative income and food sources. This included gathering Abalone which were bought for 'sixpence a pound' from 'a Chinaman who came down from Sydney'. Prominent Wreck Bay fisher, Charlie Ardler, earned the equivalent of \$1.50 for a half day taking guests at a nearby guest house the fishing. Government reports in 1963 indicated the high standard of housekeeping and low levels of unemployment in the area. In 1965 control of Wreck Bay transferred from the Welfare Board to the Department of Interior and the community became an 'open village' (i.e. open to non-Indigenous people). Despite this the community remains closely linked to its Indigenous and fishing heritage. The very existence of the Wreck Bay community today owes much to its involvement in professional fishing (Egloff, 1981, NSW Office of Environment and Heritage, 2012).

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COMMODITIES AND GIFTS IN NEW ZEALAND AND HAWAIIAN FISHERIES

Fiona McCormack

ABSTRACT

Purpose – The chapter compares gift and market exchange in Hawaiian and New Zealand fisheries.

Methodology/approach – The chapter draws upon a combination of original ethnographic fieldwork and literature pertaining to fisheries in both New Zealand and Hawaii.

Findings – The privatization of fishing rights in New Zealand, in conjunction with a social policy directed toward Maori addressing colonial dispossession, has resulted in the dominance of market exchange, the creation of a purified version of indigenous gift exchange, and the attempted elimination of any hybrid activities. This has not been a positive outcome for the majority of coastal Maori. Fisheries development in Hawai'i has taken a different path. The flexibility that inheres in Hawaiian fisheries enables ongoing participation in both gift and cash economies.

Originality/value – Over the last few decades western economies have witnessed a rapid extension of market approaches to many commonly

owned environmental goods, a movement which has been entrenched as global policy orthodoxy. The social consequences of this development have been under researched. This chapter challenges the neoliberal model of using market mechanisms and property rights as “the way to do” natural resource management.

Keywords: Fisheries; exchange; gift; Maori; Hawaiian; neoliberalism

INTRODUCTION

In this chapter I trace the recent evolution of commercial fisheries in New Zealand as a lens through which to investigate the particular types of engagement with capitalism this has engendered in Maori fisheries. I compare this with fisheries development in Hawai'i where a very different type of engagement has emerged. Maori fisheries have been subject to three kinds of neoliberal policy reforms over the last few decades: first, the institution of private property rights in fisheries; second, an audit culture of strong monitoring and control; and third, the introduction of social policy regarding settling colonial dispossession. Furthermore, this combination of policies has been based on an ill-formed vision of what Maori fishing activities should be, reifying a dualism of ideal types of economic activity as being either commercial (commodity) or “customary” (gift). In practice, economic activities are not so purely either one or the other and forcing this duality through regulations has had negative social consequences for many Maori, particularly coastal Maori fishers. I argue that neoliberalism works not just to blur market and gift economies, and individual and communal property relations but also to rigidify their opposition on its own terms and thereby make their coexistence impossible. In Hawai'i, by contrast, there has been little neoliberal reform of fisheries and as a result Hawaiians are freer to pursue fishing in ways that suit their efforts to sustain their cultural and economic lives.

The chapter is divided into four parts. In the first section I outline the development of Maori fisheries in the context of the restructuring of the fisheries sector in New Zealand as part of a package of broader neoliberal political, economic, and social reforms. I then describe two types of economic practices (categorized as commercial or customary) that have been enabled by this particular reparation process. In the third section I compare

this with fisheries development in Hawai'i, a similarly post-colonial settler state yet one in which there has been no formal indigenous reparation of fisheries and a much more limited adoption of neoliberal principles of fisheries management. In the fourth section I discuss anthropological theory of exchange as way of explicating the potential opportunities and constraints that inhere in these two different versions of capitalism.

THE REPARATION OF MAORI FISHERIES

One of the striking features of the Indigenous reparation process in New Zealand is that although New Zealand in the last few decades has implemented some of the most progressive, sustained, and successful policies for rendering reparative justice found anywhere in the developed world, this has had little effect on the comparative rate of Maori poverty (see van Meijl, 2013). A closer look at the settlement of Maori claims to Fisheries provides a plausible reason for this paradox. It is necessary to situate these claims within the context of the restructuring of New Zealand's commercial fisheries, the implementation of a quota management system (QMS) in 1986, and the broader political and economic climate. It will be argued here that although local and diverse systems of ownership and exchange undoubtedly exist it is important to remember that they do so in the shadow of the constraints and also opportunities inherent in exogenously conceived dominant structures and institutions (legal systems, markets, property tenure regimes, political systems, etc.).

The principle of using market mechanisms and property rights in natural resource management emerged out of resource economics. In fisheries this model arose as an alternative to biologically based, centralized forms of management in which tools such as net and gear restrictions, closed seasons, and fishing licenses are used. New Zealand, Iceland, and Australia were the first countries to take up the new economics-influenced model, and New Zealand in particular is renowned as the site in which the most comprehensive version of the system was adopted. The neoliberal model of using market mechanisms and property rights as "the way to do" natural resource management has since been entrenched as global policy orthodoxy in "The Future We Want" report with the notion of the Green Economy (this arose out of the UN Rio+20 summit in June 2012, see Barclay & Kinch, 2013).¹

The financialization of environmental management reflects a new understanding of sustainability; the term is increasingly associated with

formerly perceived extractive industries (fisheries, forestry, agriculture, pulp and paper production, biotechnology, and energy) now recreated as “bioeconomic” enterprises whose growth is synonymous with a burgeoning bioeconomy. Social distributional concerns and intergenerational envisaging have largely been obscured. Brockington and Duffy (2010) trace how a “conservationist mode of production” is emerging alongside a systemic revisioning of environmental sustainability as a new frontier for capital expansion and revenue growth, and the envisioning of markets as the channel through which environmental damage can be best mediated, mitigated, and governed. Quota, in this synopsis, signifies the creation of what Sullivan calls “increasingly derived tradable products through the addition of layers of abstraction to commoditized signifiers of nature, health and degradation” (2011, p. 9). This process is augmented by the construction of tradable equivalence between once nonexchangeable entities (such as fishing rights and the knowledge and local “ownership” previously tied up in such rights) and distant localities. Trade within this framework encourages and even demands the creation of socially abstracted leasing arrangements.

New Zealand’s QMS was implemented ostensibly for sustainable management purposes, but perhaps more accurately to increase the profitability of what was considered a hyper regulated, overly capitalized, somewhat chaotic, and under developed market, particularly in terms of its export potential.² This reform effectively created a new property right, an individual transferable quota (ITQ). ITQs bear all the characteristics and core ideology of the neoclassical private property model, and indeed the governing legislation equates these new virtual property rights with registerable interests in “real property,” provisions for which were simply lifted from the New Zealand Land Transfers Act 1952 (Boast, 1999). The holding of ITQs gives to individuals, or increasingly corporations, the right to harvest fish from a given stock and the ability to trade fishing rights in a “free market” system.³ ITQs are freely transferable, divisible, and give to the owner a long-term interest in resource management (in contrast to the supposed over exploitation inherent in common property resources, promulgated by Hardin [1968]). Ownership is presumed to flow to those who value the property most highly. Three main roles are available to quota system participants: as a quota owner who fishes their own quota; as a quota owner who leases out the property right for others to fish, and as a fisher who leases quota from a quota owner.⁴ These roles can be combined in various configurations (e.g., a fisher who owns some quota but who also leases some quota; as a quota owner who leases some quota and who fishes

some quota and so on). Nonquota owning fishers must therefore purchase quota in order to fish and fish must, in all cases, be sold by a licensed fish receiver (LFR).⁵ In most cases LFRs are also quota owners and processors who contract fishers to fish on their behalf.

The implementation of the quota system provoked an era of struggle for those whose rights had been abrogated, predominantly Maori. The QMS system obliged the new owners of that quota allocated in the initial round to sustain the economic viability of the new property. Thus a threshold, based on full-time fishing activity and capital investment was stipulated, a threshold which substantially excluded Maori fishers, particularly those in Northland (Fairgray, 1985, 1986) for whom fishing had been part of a mixed economy and a means of fulfilling subsistence, ceremonial, and cash needs.⁶ Subsequent Maori protests against the legislation and challenges based on rights flowing from the Treaty of Waitangi⁷ led to an interim agreement embodied in the Maori Fisheries Act 1989 and later a full and final settlement which is laid out in the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (popularly known as the Sealords Deal). Fundamental to the negotiations was the space opened by the creation of new property forms (ITQs) which in the final instance were used to resolve Maori indigenous claims to their fisheries. The settlement did two main things: it provided “capital” in the form of cash, quota, and shares to enable Maori participation in the “business of fishing” and it created a legislative space for the development of Customary Fisheries Regulations, a process which partnered Crown and Maori groups in a long and drawn out series of negotiations.

As well as the institutionalization of private property rights in resources, neoliberalism in resource management includes a type of re-regulation as opposed to a “rolling back of the state.” The enforcement of an audit culture of strong monitoring and control is apparent in New Zealand fisheries. In New Zealand the state’s role in fisheries has increasingly shifted from traditional enforcement practices to that of monitoring quota/product flows (Nielander & Sullivan, 2000). The Ministry of Fisheries has recruited a new category of enforcement officers, drawn from the Police and Customs services, whose work is primarily land-based and is geared ultimately toward the surveillance, detection, and investigation of quota-fraud, “poaching,” and “black-market” activities (selling fish without having the necessary quota to fish commercially, and receiving fish without an LFR license), in effect, protecting the income streams of private investors. The Seafood Industry Council (SeaFIC), a company established in 1997 to work on behalf of “commercial interests,” that is quota holders, echoes the

broader ethos of resource economics whereby management is devolved away from central government toward those market participants who hold property rights. The company, whose shares are owned by Commercial Stakeholder Organizations, is responsible for monitoring and compliance costs, shaping policy and regulatory frameworks through advocacy and research.

A third strand of neoliberalism is apparent in the close correlation between neoliberal governance in New Zealand and social liberal identity politics. Edwards and Moore (2009) point to the simultaneous implementation in New Zealand in the mid-1980s of a socially liberal ideology with a radical agenda of neoliberal economic reform. The former includes the acknowledgment in 1985 of Maori land grievances, a recognition which was made effective by the extension of the Waitangi Tribunal's⁸ terms of reference back to colonization in 1840. Thus, Maori claims to fisheries both arose and were resolved within a particular ideological, social, and economic framework, and the consequences of this reparation must also be understood within this paradigm. Arguably the most consequential aspect of the settlement process in terms of local engagements with capitalism was the institutionalization of a rigid separation of commercial and "customary" fishing practices, a division which I suggest led to a reification of market and gift exchange in the Maori economy as separate and incompatible.

EXCHANGE IN MAORI FISHERIES

Market Exchange

Maori participate in commercial fisheries in five main ways: (1) as owners of fishing companies; (2) as recipients of quota dividends; (3) as holders and leasers of quota; (4) as individual fishers; and (5) as fish process workers. These areas correspond, albeit loosely, to different levels of Maori social organization.

On the most general level, the commercial settlement has led to a significant Maori presence in the New Zealand Fishing industry. In 2009 the New Zealand total estimated commercial fish resource value was 4 billion dollars. Commercial fishing is New Zealand's fifth largest export earner, about 90% of fish by value are exported and since 2000 the yearly export earnings have been on average 1.3 billion NZ dollars. Maori control up to 37% of domestic fishing quota (New Zealand Ministry for the Environment, 2009).

Of the five largest seafood companies in New Zealand three are Maori owned.⁹ The largest of those, Aotearoa Fisheries Limited (AFL), was created in 1989 as part of an interim settlement to Maori fisheries claims. Its role as the commercial arm of the newly established Maori Fisheries Commission was a means by which the political aspect of the settlement (the contentious issue as to how quota was to be divided among *Iwi*¹⁰) was separated from commercial goals. The 1989 Act initially awarded 10% of existing quota to AFL, the percentage of which increased after the 1992 settlement, and from the beginning AFL established a policy of leasing out quota and using the accrued profits to purchase more quota and fishing companies. AFL and the Maori Fisheries Commission (now termed Te Ohu Kaimona) were recreated in the 2004 Maori Fisheries Act – a pan-*Iwi* agreement that took twelve years of negotiations, including High Court cases, centering on the most equitable means of distributing fisheries settlement assets (capital, quota, and shares in Sealords Fishing Company¹¹). While Te Ohu Kaimoana acts as a governance body for Maori “interests” in marine environments AFL remains a commercial enterprise, owned by Te Ohu Kaimoana, whose primary aim is to maximize the value of Maori fisheries assets for the benefit of its *Iwi* shareholders. AFL has acquired five companies whose interests include fishing, processing, and marketing, and aquaculture and it is the Maori shareholder in Sealords. In 2008 AFL had a net profit of \$19 million and in 2009, as legislated by the 2004 Act, it began paying an annual dividend (40% of net profits) to qualifying *Iwi*. AFL outlines its objectives as follows “Our vision is to be the key investment vehicle of choice for *Iwi* in the fishing industry, to maximize the value of Maori fisheries assets and to ensure that we are a strong seafood business delivering growth in shareholder wealth” (Aotearoa Fisheries Limited, n.d.). Investment here translates as quota, currently 14 *Iwi* lease ACE to AFL under long-term leasing arrangements, and other *Iwi* do so on a year-by-year basis.

The 2004 legislation established a method through which the quota secured in the 1989 and 1992 settlements was allocated to Maori and in the next few years quota was divided among 57 *Iwi* organizations.¹² In order to qualify *Iwi* organizations must set up a Mandated *Iwi* Organization and one or more asset-holding companies (as outlined in the 2004 legislation), the combination of which results in a corporatized charitable trust fund complex. Hence to access quota assets, rather than as prior to the 2004 Act to receive dividends from fisheries investments, *Iwi* management must now restructure along mandated corporatized lines. These new bodies can sell,¹³ lease, or fish quota to generate tribal wealth which then must be channeled

into charitable works for the benefit of the *Iwi*, collectively perceived, irrespective of whether or not members are living in their tribal territories. Such community development initiatives work primarily at the *hapu* level and include grants for *Marae* (meeting house complex) (e.g., to cover electricity bills and structural maintenance), sporting and educational sponsorships (most often tertiary), grants to support community festivals and to promote cultural activities such as museum exhibits. Following the Christchurch earthquake in 2011, there were donations to the south island *Iwi* organization, Ngai Tahu Charitable Trust Fund, to support earthquake relief efforts. Such initiatives exemplify the third strand of neoliberalism present in Maori fisheries and although they can have a socially cohesive effect, they have done little to alleviate the incidence of Maori poverty (see van Meijl, 2013).

The institutionalization of property rights in fisheries initiated the emergence of a new form of commodity trading. The tradability of the property right is a defining feature of Maori settlement quota and this type of participation in financial markets occurs at a corporatized *Iwi* level. A large proportion of Maori quota is leased to foreign charter vessels employing foreign workers. There are a number of interconnected reasons why *Iwi* are likely to lease ACE to foreign charter vessels. First, given the regulatory requirement that the sale of *Iwi* settlement quota be supported by 75% of adult *Iwi* members, leasing rather than selling may be the least contestable option. Second, while some Maori settlement quota is owned as part of a more diversified set of asset holdings (e.g., that owned by Ngai Tahu and Tanui as a result of comprehensive Treaty of Waitangi settlements) for many *Iwi* fishing quota is their only significant asset, and thus reducing risks and reaping the highest profit from the least amount of capital input may appear to be the only rational economic choice. Third many *Iwi* groups do not have the technology, the capital (boats and equipment), or the knowledge to harvest deep sea fish. Fourth, the tonnage of quota held for a particular species is often too small to sustain a local fishing venture, hence quota is leased to companies who then consolidate quota. Fifth, *Iwi*-owned quota packages contain a disproportionate amount of high volume species on the lower end of the commercially valuable spectrum; thus, in order to be economically viable it is necessary to harvest by the least expensive means possible and finally, the use of foreign charter vessels may be invisible as quota management arrangements go through a maze of brokers – quota is channeled (or solicited) through quota traders who then lease to either Foreign Charter Vessels or New Zealand vessels. This “quota maze” is part of an international commodity chain: foreign

charter vessels typically process fish at sea, pass it on to a New Zealand LFR, which exports it for secondary processing to China, Thailand, or Vietnam, before the fish is marketed internationally by lead-buying firms (Stringer, Simmons, & Rees, 2011). Most of New Zealand's largest seafood processing companies now process fish in China (Stringer et al., 2011).

Recently, a number of interrelated controversies have surfaced in the commercial fisheries sector concerning the leasing of quota to foreign charter vessels,¹⁴ the exploitative employment conditions of foreign deck hands on these vessels, and the processing of this "sustainable New Zealand fish" in foreign ports. Quota is leased to foreign charter vessels by New Zealand fisheries companies (including Maori-owned companies) although the majority of quota is leased by the *Iwi* quota holders. The sinking of a Korean ship and the death of six Indonesian workers in August 2010 initiated both a moral outrage and a ministerial inquiry that has particularly focused on Maori involvement – Ngati Porou Seafoods leased the quota to the ill-fated ship. There are about 2,500 foreign fishers working on 26 boats that harvest fish outside New Zealand's 12 mile limit, and they are mostly from Indonesia, Burma, the Philippines, Korea, Kiribati, and Eastern European countries. A law change in 1996 required that foreign fishers receive a work permit and be paid according to New Zealand minimum wage laws for 42 hours of work a week, but these stipulations are easily circumvented. Boat owners, for instance, deduct pay for food, accommodation, medical services, and transportation; crew members work on average 84 hours per week (Department of Labour in Talley's Group Limited 15b, 2011); the actual payment made to the crew is calculated at the pay rate negotiated in the host country (even though the crewing cost is calculated by an agent in accordance with New Zealand employment law); crew typically are paid between US \$350 and US \$850 per month¹⁵ and working and living conditions are most often substandard, resulting in the desertion of approximately 32 foreign workers per year (Talley's Group limited 15b, 2011). A report by the University of Auckland's Business school highlights the extreme conditions under which such fishers work; "serious physical, mental, sexual and contract abuse is commonplace with many crew aboard FCVs forced to work in substandard and often inhumane conditions" (Stringer, Simmons, Coulston, & Whittaker, 2012, p. 14).

The leasing of Maori settlement quota and the institutionalization of transferability can be understood within the context of the financialization of environmental management (discussed above). Trade within this framework supports socially abstracted leasing arrangements. My argument here is slightly at odds with the work of Rata (2000) who attests to the pivotal

role of a Maori elite in the creation of a corporatized tribal capitalism, and more recent work by De Alessi on the fisheries settlement. De Alessi (2012) links the asset maximization strategy of AFL to key Maori players within the fisheries settlement, their subsequent positioning within the Maori Fisheries Commission and Sealords company, and a program of aggressive expansion which subsumed other more distributional forms of tribal capitalism to its own accumulative goals. Although, De Alessi refers to the constraining bent of capitalist oriented *Iwi* structures, such that Maori “articulation” with capitalist modes of production results in a transformation of Maori identity (2012, p. 391), too little emphasis is paid to the political economy of neoliberalism, and by extension the QMS regime, in funneling economic activities toward a particular type of capitalist engagement.

The virtual characteristic of the new property regime is apparent in the actual production of fish. Very few *Iwi* actually fish their quota and there is a glaring absence of Maori *fishers* in the industry. This is a great irony given the relatively large amount of Maori “business interest” in the industry and the disproportionate level of Maori unemployment.¹⁶ Commercial fishing for most Maori, at least at the *hapu* level, is largely synonymous with receiving annual *marae* dividends from quota investments. For many Maori fishers, whose expertise is generationally validated and whose identification with a particular seascape is ancestral, this exclusion causes a profound social suffering that cannot be underestimated (see McCormack, 2011). This exclusion is likely to intensify as quota transference, production, and post-production patterns shift toward offshore outsourcing and a globalized fisheries value chain. Further, the current introduction of a tradable carbon emission scheme (the Emissions Trading Scheme), mooted as a solution to climate change that works to internalize “externalities,” is likely to disproportionately negatively affect Maori employment in fish processing (Karamea Insley & Mead, 2007).¹⁷

Gift Exchange

Private property is typically associated with market exchange and is placed in opposition to common property, which is associated with gift exchange. Yet, there is no *necessary* relationship between individual ownership and commodity exchange and collective or communal ownership and gift exchange. Rather, the private property market exchange complex, envisaged as antithetical to common property and gift exchange, is a product of recent

history. The institutionalization of private property rights to defend “the market economy” is critiqued by Servet who argues that it is a politically conservative justification “for inherited inequalities in fortune that ignores destruction of the environment and of established ways of life” (2009, p. 80). Busse points out the corollaries of this justification: customary land tenure is presumed to be exclusively communal; the significance of emotional attachments to land for individual and group identity are discounted and; “the neoliberal position ignores the way in which systems of customary land ownership are themselves a product of the expansion of capitalism and state structures, the very institutions with which they are contrasted” (2012, p. 5).

In the New Zealand reparation process Maori “customary” fisheries were recreated in opposition to the commodification and privatization of commercial fisheries. Customary fishing, as defined in the regulations, is restricted to production for ceremonial occasions, specifically *hui* (meetings) and *tangi* (funerals). Three main conditions structure customary fishing under the *Fisheries (Kaimoana Customary Fishing) Regulations 1998*. First, Maori must establish a pseudo common property structure.¹⁸ Second, fish can only be exchanged in a system of “pure gifting.” Third management tools are directed toward conservational (as opposed to livelihood) ends. Exchanges are governed by a legislative misappropriation of the Maori concept of *koha* (gifting), in which the absence of a return is the most prominent feature. This idealization of Maori gifting as nonreciprocal is at odds with traditional understandings and practices, and arguably exemplifies how ill-informed imaginaries of Maori culture form the basis of the regulations. Customary food gathering is interpreted by the legislation as “... the taking of fish, aquatic life or seaweed or managing of fisheries resource, for a purpose authorized by Tangata Kaitiaki/Tiaki, including *koha*, to the extent that such purpose is consistent with *Tikanga* Maori and is neither commercial in any way nor for pecuniary gain or trade.” In my fieldwork (2000–2003) with a Northern Maori group, the Confederation of Tribes, this reductive interpretation of *koha* was challenged by fishers who continually tested the boundaries between “commercial” and “noncommercial” exchange. For instance, fish was sold as “*koha* priced fish” from a stall at a *marae* (meeting house complex) fund-raiser and was exchanged for oranges, *kumara* (sweet potatoes), and sometimes cash. Subsequent prosecution at a series of court cases ruled that such exchanges constituted “pecuniary gain or trade,” that barter and the recuperation of fishing costs were included in this definition, and that therefore any form of reciprocation was disallowed under Customary Regulations. The “illegal” sale of fish

continues in New Zealand and if caught such “poachers” and the individuals who buy from them face severe consequences (fines up to \$250,000 and forfeiture of property, including vessels, vehicles, and equipment). There are undoubtedly instances where such “black marketing” is decidedly opportunistic and when it can have a negative impact on fish stocks, yet its persistence can also be perceived as a livelihood struggle, or an ongoing resistance to the rigid recategorization of a resource into commercial or customary spheres, and private or common relations of ownership.

Fisheries Development in Hawai'i

In comparing Maori and Hawaiian fisheries two major differences are immediately apparent.¹⁹ First, in Hawai'i there has been no comprehensive indigenous reparation process associated with fisheries. Although indigenous claims and various compensatory actions have long existed in respect to lands, there is no equivalent to the systematization of indigenous claims generated by the establishment of the Waitangi Tribunal process in New Zealand. Second, there has been no privatization of fishing rights, rather since Hawai'i was annexed in 1898 (see Kaiser & Roumasset, 2004) policy decisions have created an open access regime out of what was in effect a commonly managed resource. Although a QMS (termed catch shares) has been mooted for the Hawai'i-based long-line fishery this has not been implemented to date. The introduction of catch shares in the United States has been extensively debated and scientists, policy makers, academics, and fisheries managers have on the whole adopted a cautious approach, for instance, a moratorium was instated from 1996 to 2004 which restricted the implementation of the program, and to date a minimal 15 fisheries are managed under this regime (National Oceanic and Atmospheric Administration, n.d.). Neoliberal fisheries management has not been widely implemented in the United States in general. Fisheries legislation in Hawai'i is based on a limited entry program for the long-line commercial fishery and otherwise regulations, which stipulate, for instance, gear, net and species size. These regulations are part of a preneoliberal conventional fisheries management toolkit that has been replaced in New Zealand.

The absence of a comprehensive tradable quota regime in Hawai'i fisheries is likely due to a number of factors including: (1) the reluctance of States in the United States to employ tradable quotas as a fisheries management tool; (2) the perceived economic importance of the fisheries resource compared to New Zealand, particularly the perception in Hawai'i that commercial fishing does not make a substantial contribution to export-oriented economic

growth²⁰; (3) the absence of a large commercial fleet exerting pressure to privatize; (4) resistance exerted by the regional fisheries management council, local fishers, and the State of Hawai'i; (5) the ongoing recognition by both the academic and the policy making communities of the importance of small-scale fishing in fulfilling local market, subsistence, reciprocal, and cash needs (Glazier, 2007; Hospital, Bruce, & Pan, 2011; Pooley, 1993); and (6) the uneven development of neoliberalism on a global scale.

In Hawai'i fishers are categorized as either commercial or recreational, with sports fishing, a popular tourist attraction, being a subcategory of recreational fishing. Recreational fishing does not require a permit though fishers are subject to various regulations, which are variably interpreted (or ignored), governing catch size and gear restrictions. In order to sell fish Hawai'i residents must purchase a \$50 commercial license (though in practice this is often overlooked) and submit monthly reports to the Department of Aquatic Resources (DAR) detailing the catch for that month and the type of bait used. Fishers sell directly through a multitude of venues including whole fish purchasers, fish buyers/brokers, local fish shops, supermarkets, restaurants, car boots, stalls at the side of the road, and through established social networks.

A defining feature of small-scale fishing in Hawai'i is that it defies codification. The categories of commercial and recreational are considered arbitrary and the decision to sell on the market, gift, or consume at the household level is often made only after fish have been caught (Aloua, 2011; Hospital et al., 2011). Bigger pelagic fish are often sold to restaurants or whole fish purchasers, whereas reef-caught fish are often consumed at the household level, and/or gifted. Yet the opposite is also the case. Glazier observes that fishing is a "circular and opportunistic arrangement in which natural resources are components of systems of reciprocity or are sold to support subsequent harvest and consumption of resources" (2007, p. 109). At the policy level there is a growing recognition of the importance of fish in community exchange networks. The Western Pacific Fishery Management Council²¹ has commissioned research on the link between "customary exchange" and cultural continuity and highlights the significance of this "generalized reciprocity...to people's health...sense of sharing and common identity" (Severance, 2010, p. 1). Severance also points out that commercial fishers share a significant portion of their catch (2010). The fluidity between gifting and market exchange may be associated with the open access status of Hawaiian waters (subject to state legislation up to 3 nm) and an absence of institutionalized private and common property rights in marine resources.

The ethnographic existence of a continuum between these modes of exchange, however, is questioned by Palsson who argues that, “In all societies, there exist cultural rules as to what can be bought and sold and under what conditions; some things, items, or services are singular or unexchangeable, while others are easily saleable – ‘perfect’ commodities being those which are exchangeable with everything else” (1998, p. 277). Similarly, Linnekin’s (1985) ethnography of the community of Keanae on the island of Maui suggests that these rules can be translated into physical space. She describes a Hawaiian community bounded in opposition to a larger plural society (“inside” versus “outside”), and whereas a gift economy and kinship are the major structuring forces inside, the world of money dominates the outside. Based on my own research on the Big Island of Hawai‘i, I suggest that although there are limits to the exchange continuum, predominantly in terms of a discourse in which a moral evaluation is used to demarcate gifts and commodities, this opposition is hard to maintain and the presence or absence of money cannot be used as delineator (although it is possible that a distinction between “moral” and “market realms” was more pronounced at the time of Linnekin’s research). Fish also represent an interesting case of a product of labor which are potentially both commodity and gift, as noted above, fishers can opportunistically sell fish through more impersonal channels of commercial exchange. Further, it is locally recognized that the sale of fish by small-scale fishers is a current economic necessity (both to cover costs and for purposes of livelihood), and indeed “right,” though selling fish is largely not viewed as engaging in “commercial” activity; fishers who occasionally sell fish and otherwise gift fish typically do not consider themselves to be commercial fishers.

The decision to sell or gift fish in coastal communities on the Big Island (Hawai‘i) is not simply objectified in terms of inside–outside distinctions; it is dependent on a multitude of factors. Gifting is more common when the partner to the exchange is from an “old family” and/or is already involved in a reciprocal relationship with the donor; to older community members or those perceived of as “in need”; or when fish, on request, has been produced for a *lu‘au* (Hawaiian party/feast). Selling is more likely when a reciprocal relationship has broken down, to newcomers, to those who are more socially distant (such as work colleagues) or when fishers or their family are in need of extra cash. The latter type of sale is often termed a “fund-raiser” and these are instigated, for example, to raise money for a Community Association or school, to provide extra cash for a trip overseas, to offset Christmas expenses or to send a child to another island for a sport

tournament or educational program. Small-scale fishers who regularly sell a proportion of their catch may create more formal processes – for instance establishing a spot for weekend vending at the side of the road or selling door to door through a network of contacts (including businesses and homes).

The Universality of Exchange

My underlying argument is that the privatization of fishing rights in New Zealand has resulted in the dominance of a particular mode of market exchange, alongside the creation of a purified version of indigenous gift exchange, and the attempted suppression of all other types of exchange. Importantly, this dualism was created through political and economic processes and, as such, was not inevitable as is evidenced by fisheries development in Hawai'i. In what follows I engage with anthropological discussions concerning exchange and question the utility of dualistic models as, arguably, they obscure and in some cases deny the entanglement of gift and market economies and they have manifest weaknesses as a way of modeling the economy, writ large.

Drawing on the work of Mauss and Polanyi, Hart (2008) argues that all forms of exchange (and I would suggest ways of owning) are simultaneously present, it is a matter of articulation. In this view there is no absolute ethnographic or historical distinction between gifts and commodities, exploitation and reciprocity and, I would add, private and common property. For Mauss this plurality of economic forms is an expression of the human propensity for merging both self-reliance and social connectedness in a multitude of complex social relationships (in Hart, 2008). However, at any particular time and place economic diversity may be colored by the existence of a dominant organizational form (for instance capitalism or communism). For Mauss, the attempt to create a society structured around an idealization of the archaic gift as ultimately altruistic is as ill-advised as its antithesis; the attempt in modern capitalism to create a free market for private contracts. Hart's (2007, 2008, 2009) extensive research into the life and work of Mauss draws attention to this pervasive, though not necessarily always coherent, economic critique: Mauss advocated the universal foundations of human exchange; argued that capitalism worked to obscure other types of exchange, and that to reveal alternatives was both a political and an intellectual task that in the end would make a new ethical direction plausible in economic and legal life. This thesis calls into question the existence of separate realms in our subjectivities and in our theoretical models. Importantly, it also questions the creation of such a dualism through

political and economic processes. I will address these three separations in the following subsections.

Dualisms in Our Subjectivities

Hart points out that “Much of modern ideology emphasizes how problematic it is to be both self-interested and mutual. Yet the two sides are often inseparable in practice and some societies, by encouraging private and public interests to coincide, have managed to integrate them more effectively than ours” (2008, p. 2). This integration, the convergence of self-reliance and collectivity, is apparent in the “traditional” Maori economy as described by Raymond Firth in his monograph, *Economics of the New Zealand Maori* (1959 [1929]).²² Firth illustrates the complex coexistence of individual and communal property rights, that individual rights, in the final instance, were subjected to a degree of social control and that this was, in essence, a recognition of the rights of other community members to utilize individually owned things for their own purposes, if the need arose. Thus, personal ownership was qualified or accompanied by the overarching need of the community (1959, p. 356). Different types of ownership rights existed at different levels of social organization (individual, *whanau* (extended family), *hapu* and *iwi*) and yet these were mutually compatible. For instance commonly owned items also embraced a dense mesh of individual rights, privileges and obligations. Firth’s thesis also points to the simultaneous existence of individual and group exchanges and self-interest and mutuality. He gives accounts of extra-community exchanges, an example of what Mauss theorizes as money exchanges, thus, what is also implied is the coexistence of gift and more impersonal market exchanges. While the relationship between individual and communal is more clearly stipulated in Firth’s analyses of property, the same mechanisms operate in Maori exchange.

Firth identified the underlying mechanism of all Maori exchange as the “principle of *utu* or compensation” (1959, p. 413); the understanding that for “*every gift another of at least equal value should be returned*” (1959, pp. 412–413). Firth argues that *utu* permeates a much wider range of social contexts than economics and is in fact “one of the fundamental drives to action” (1959, p. 413). He distinguishes exchanges which were primarily economic in motive, the objective being to acquire something of practical utility from another, from those which were ceremonial and served a wider social purpose than simply the acquisition of goods. However, he recognized

that this categorization while conceptually convenient did not reflect the interconnectedness on the ground “for every affair of the first type involves elements that are not purely economic, while the ceremonial exchange of gifts has at times a distinctly economic tinge” (1959, p. 402).

The trajectory of the Maori institutions of property rights and exchange are inseparable from the group’s experience of colonial capitalism. Firth’s conceptualization of this transition has been much critiqued for its overtly functionalist approach (see van Meijl, 1995; Webster, 1998). For the purposes of my argument, however, most problematic is the introduction of a dualistic account of economic behavior and the implied evolutionary superiority of individualistic exchange and private forms of ownership. For instance, in his penultimate chapter “The Economic Aspect of Culture Change” Firth’s analysis of four transitional stages is predicated on the inevitability of assimilation to capitalism glossed in his text as European civilization, and the use of a binary model of primitive and civilized. Webster (1998) points out that it is the insistence on conceptualizing societies as functional wholes that leads to the dichotomization between traditionalism and capitalism, and given the explicit assimilationist ideologies of the time, the forecasting of the demise of traditional Maori economic systems, and more broadly, their way of life. In Firth’s account this transition is relatively smooth, despite the hiccup of war and a subsequent natavistic revival, and this progression is idealistically accounted for by the seeds of individualism, hypothesized as a nascent capitalist spirit, already existing in the native psyche. Hence, colonization merely provided the stimulus for the full expression of this spirit of capitalism. Yet, this is at variance with at least three critical, though under theorized, insights embedded in Firth’s ethnographic material: first private property does not necessarily correspond neatly with market exchange (aka neoclassical economic theories); second, commonly owned property is not situated antithetically in a context of pure gift giving and third, Maori exchange, which neither contained a semblance of barter nor mechanisms ensuring equivalence in value, cannot easily be conceived of as a precursor to capitalist exchange (see Sharp, 2013; Mosko, 2013, who critique the supposed tradition to modernity/capitalism model as empirically inaccurate and Yang (2013), who points out that it is also a chauvinist discourse).

Arguably, “traditional” Maori society enabled the co-existence of public and private interests and diverse forms of exchange and ownership. To suggest that the more individualistic end of the economic spectrum (private ownership/individual exchange) is a precursor to modern forms of Maori market behavior (for instance quota trading) is reductive and denies

the historical engagement with colonial capitalism (see Webster, 1998) and more recent neoliberal politics. Conversely, to suggest that the communal end of the spectrum (common ownership, altruistic gift exchange) somehow corresponds to the structure of today's repatriated resource rights (as in customary fisheries) is equally flawed.

Dualism in Theoretical Models

The ubiquity of both communal and individualistic types of exchange can be explained by way of different value realms, as for instance Palsson's cultural rules, designating things as either unexchangeable or perfect commodities and Linnekin's inside/gift exchange vs. outside/monetary exchange opposition, suggest. Gudeman (2009, p. 18) argues that all economies, which are simultaneously embedded and disembedded, contain two realms, mutuality and market²³ (or community and impersonal trade) and that the two realms are dialectically connected. Thus, in every ethnographic and historical situation individuals live on the trade of goods and services that are "alienated" from enduring social relationships and at the same time this is variously balanced with individuals living on goods and services that mediate and reaffirm social relations (see Mosko, 2013). The allocation of goods through ties of mutuality is guided by locally established customs and social values based on, for instance, age, gender, merit, or need and these are essentially contested, negotiated, individually interpreted, and changed (Gudeman, 2009, p. 18). It is out of this mutual domain, which itself contains impersonal exchange that the conditions for trade emerge. In this sense, market economies are always embedded in social relations.

For Gudeman, the dialectic between the mutual and the market realm, although it differs in time and space, is moving in a certain direction; competitive trade reverberates in markets, expands into new spaces creating new competitive areas, and stimulates changes in calculative reason, in practices and in discourse; thus, "As the market realm expands it colonizes and debases the mutual one on which it relies" (2009, p. 19). Gudeman emphasizes that this transformation, which mystifies and veils the mutuality on which market expansion is built, occurs not just in political and economic spheres but also in everyday behavior, ethnographic contexts, and cognition. I concur with Gudeman's critique of standard economic models and their inability to understand let alone contest wealth disparities between and within economies and environmental devastation and escalating and unsustainable consumption patterns. I am not, however, convinced that a

model of society rooted in a dialectical, yet nevertheless dual value realm is the best tool for understanding the social consequences of capitalism at this juncture. Further, although dualistic models are important as a heuristic device they have a tendency to dichotomize and essentialize market and nonmarket behavior and in this sense miss the more progressive contribution of Mauss's social theory. In the case of Maori fisheries, dualistic imaginaries which have been implemented as policies have had damaging social consequences.

Yet, getting rid of dualistic models may also be problematic. Keane disputes the existence of distinct value realms and argues that such domains are always vulnerable to slippage and retrospective recategorization. For Keane this is a consequence of both the semiotic ambiguity internal to material objects and the temporality of any type of exchange that extends beyond barter for immediate use (2008, p. 33); a loan from a relative or a close friend that remains unpaid translates into a gift or a theft; a gift that was given in a spirit of brotherhood that goes unreciprocated may lead to implicit or explicit account taking. Transactions are thus events in which the control over future definitions and outcomes is at stake, and in which inheres a particular hegemonic metalanguage of action. Appadurai (1986) also emphasizes the permeability of value realms, and shows how objects pass between different spheres and cultures in a pattern controlled by social knowledge and ideas of good taste. Models of value that stress "slippage" between supposedly distinct realms and exchange as process are important for understanding subjective experiences of economic transactions; however, they tend to overemphasize individual preference or agency and do not pay sufficient attention to material constraints. Importantly, what is missing in much of the work that discounts dualistic models is an analysis of the effects of the organization of economic systems on society.

The same can be said of the recent use of the concept of embeddedness in the social sciences which suggests that it is a constitutive element in all societies. This focus on the structural similarities of both nonmarket and market economies breaks down the duality and essentialization which is problematic in dualistic models. For instance, Foster's research into commodity networks, consumer agency, and branding uses the concept of embeddedness to analyze ideas about person-product relationships current in business circles in America. For Foster economic action is always embedded in shifting networks or assemblages of peoples and things (2007, p. 709). Barber, in a review of the "career" of the concept argues that all types of economies are embedded in complex larger social systems (1995, p. 408). Embeddedness, thus, cannot be used to distinguish between

capitalist and noncapitalist economies. Drawing on Polanyi's double movement, social change may be seen to occur by way of oscillations between embedding, disembedding, and reembedding. However, a theory of embeddedness that emphasizes continuity ethnographically and historically runs the risk of being unable to address the specific structural changes taking place with the development of modern capitalism, and the effect of these changes on social groups. For instance, the social consequences for Maori of privatizing fishing rights, and the subsequent very different types of embeddedness embodied in commercial and "customary" fishing regulations. Beckert (2009) points out that this broader social reformist interest is paramount in Polanyi's *Great transformation*, but is often overlooked in much recent work.

Dualism and the Political Economy

Neoliberalism, as a contemporary variant of capitalism, differentially affects society in new ways. Narotzky's (2008) critique of contemporary capitalism and dualistic explanatory models acknowledges Marx and Polanyi's methodological insights into the ambiguity of social processes. Rather than distinct value realms she proposes an ambivalent value realm that is itself constructed from the ambiguity of simultaneously experiencing domains of social interaction (nonmarket and market relations) that people previously saw as differentiated (2008, p. 14). What is distinctive about neoliberalism is that, on the one hand, it opens spaces for once marginalized social relations, "allowing agents a greater degree of flexibility and opportunism, and a wider scope for reconfiguring relations according to tactical needs, a value realm highly arbitrary and morally shifting and contradictory" (2008, pp. 14–15), while on the other hand, it is characterized by the invasion of audit cultures into almost all aspects of life. Narotzky sees this apparent paradox as central to the "fuzziness" resulting from neoliberal penetration so that "social and subjective suffering takes place at the point of ambiguity where value gets extracted and governance acts through the blurring of incommensurable moral domains" (2008, p. 15). However, although I agree with Narotzky's assessment (and those of many other commentators including, Brown, 2003; Larner, 2000; Shore, 2008; Speed & Sierra, 2005) about the insidiousness of neoliberal governance and its cooption of the mutual realm, which Merlan astutely describes as a "relation of schismatic complementarity, a working against and within" (2009, p. 320), this is not the full picture. In my analysis of Maori fisheries (above) I have shown that

neoliberalism works not just to blur market and gift economies, individual and communal property relations, and mutual and market realms, but also to rigidify their opposition on its own terms and thereby make their coexistence impossible; neoliberalism, thus, creates on one hand a fuzziness, and on the other, a clear duality.

To argue against a dualistic heuristic model of the economy is not to collapse the distinctiveness of gift and commodity exchanges, nor common and private property rights, rather it is to acknowledge their complementarity in human practice. This then raises the question of when and how the market, society, nature, and property came to be seen as oppositional in any particular context. The reasons are multiple and complex although they are undoubtedly intertwined with the processes of capitalist accumulation. At the level of governance the prevailing political economy of neoliberalism in New Zealand creates a fuzziness in which the market and the mutual become entangled in new ways. This fuzziness is apparent in the creation of a corporatized *Iwi*. An *Iwi* body structured on corporate lines is a prerequisite for receiving quota, yet, irrespective of the virtual characteristic of the regime, commercial fishing does provide revenue which can then be used to finance intra-tribal social programs. More markedly, however, the particular type of capitalist engagement this enables creates a dualism which is expressed in new modes of exploitation, tribal class divisions (see Rata, 2011), and dispossessions which are often overlooked. Customary Fishing regulations can be seen as an effort to balance these excesses and an attempt to create a “pure” indigenous space. Li points out that endeavors to manage dispossession (whether these arise internally from indigenous peoples or externally from outside experts and authorities) are rooted in an account of cultural difference, vulnerability, and that the group to be protected has a unique and intrinsic attachment to place (2010). Further, “these attempts work by imagining collective landholding to be the natural state that protection serves merely to consolidate or perhaps to restore” (2010, p. 386). That indigenous peoples are assumed to be the perfect candidates for this type of protection, which I would argue embraces not simply communal ownership but also communistic exchange, suggests it is a continuation of paternalistic colonial policies on the one hand, though this category now also includes experts and authorities who decide which groups are suitable for engaging in the risks and opportunities afforded by capitalism, and on the other, an attempt by indigenous groups to carve out alternative spaces. The restructuring of commercial and customary fisheries in New Zealand is rooted in a model of humanity in which people (though also selected groups) are required to operate in divorced realities – either possessively

individualistic or excessively communal. The flexibility with regard to the exchange of fish in Hawai'i stands in sharp contrast to the rigidity that characterizes these transactions in New Zealand fisheries.

CONCLUSION

One of the latent dangers of dualist models is that one of the two models being compared is often assumed to be superior, more advanced, more rational, etc., than the other. In the case of proponents of capitalism, and its newer variant, neoliberalism, the model may be identified with the logic of history or seen as the culmination of human progress. Thus, there is an assumption about the inevitability and even desirability of the transition to the newly dominant model. It follows that an evolutionary hypothesis is imported into the analysis together with claims about the hegemonic status of the new order. Many present-day academics, not all of whom by any means favor the development of neoliberalism, attest to its inevitability. This position, however, has been powerfully critiqued by a growing number of scholars (see Kingfisher & Maskovsky, 2008; Morgan & Gonzales, 2008; St Martin, 2008; Williams & Round, 2010). For instance, Williams and Round mount a withering attack against the narrative of impending capitalist hegemony in both Eastern and Central Europe (2010). Their research in post-Soviet Moscow highlights the persistence of multiple economic practices and the shallow and uneven permeation of a wholly monetized economy. The penetration of the formal market economy varies spatially. Those living in more affluent districts more commonly use the formal market economy than those in the deprived districts, who are more reliant on community exchanges between close social relations. Both deprived and affluent populations, however, use other economic practices and different combinations of economic practices to secure a livelihood. Yet, and this is an important distinction, affluent populations engage in a wider variety of economic practices, tending toward those that are market oriented and wholly monetized in particular, and they do so out of choice, whereas deprived populations engage in a narrower range of practices and tend to do so out of necessity (2010, p. 67). To close off these alternatives and/or penetrate them with a neoliberal logic, as has been attempted in the case of New Zealand fisheries, while it can never be wholly successful, will penalize most heavily those who are already disenfranchised. New Zealand Maori are increasingly prevented from fishing themselves, with economic as well as social consequences. The flexibility that inheres in Hawaiian fisheries

enables ongoing participation in both gift and cash economies, alternates which are important in terms of current livelihood struggles.

It has been argued in this chapter that different forms of economic exchange are ubiquitous in human society and that an attempt to create an artificial dualistic system ignores how economic life is organized in everyday experience. Two things may be deduced: first, the economy is not an autonomous sphere of activity but requires articulation with the social, cultural, and political domains and second, the neoliberal approach to natural resource management, now entrenched as global policy orthodoxy, must be questioned. The need to theorize new directions in economic development is not simply an intellectual challenge but a social necessity.

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NOTES

1. UN System Task Team on the Post-2015 UN Development Agenda, 2012. *Realizing the Future We Want for All: Report to the Secretary-General*, http://www.un.org/millenniumgoals/pdf/Post_2015_UNTTreport.pdf

2. Roughly 90% of all New Zealand seafood by value is now exported, predominantly to Australia, Hong Kong, China, the United States, and Japan (Seafood Industry Council, <http://www.seafoodindustry.co.nz/factfile>). Seafood is the fifth-largest export product. The high price of seafood in New Zealand’s domestic market means that it is increasingly becoming a luxury food item. The price of fish increased by 18.6% in the four years up to 2010 and in the five-year period from 2005 to 2010 consumption dropped from 34, 337 tonnes to 28, 539 tonnes.

3. ITQs were created as a perpetual right to a part of the fish harvest for a particular species or species group, to be taken annually from a specified quota management area. They allocate to an individual operator or a company an exclusive share of the total allowable catch (a catch limit set for a particular fishery on a yearly basis) (Deweese, 2008, p. 36) which since 1990 has been calculated as a percentage of the total allowable catch (TAC) rather than as a specific tonnage.

4. Quota holders may sell quota as they wish and there is no limit on the number of times that quota can be sold (Lock & Leslie, 2007). Quota is also divisible, so individuals can trade part of their quota or sell it as a package. In addition, quota owners can sell their current harvesting entitlement (Annual Catch Entitlement, ACE) while

retaining their long-term ownership in the fishery. Annual Catch Entitlements (ACE) are assigned to quota holders based on the share of total quota they hold and the total allowable commercial catch (TACC). Once the TACC for a given year has been decided, the kilogram equivalent of each quota share is calculated. This is transferred at the beginning of the fishing year as ACE to the quota owner and determines the tonnage of fish that the owner is able to catch (or alternatively sell or hold) within the fishing year.

5. The establishment of Licensed Fish Receivers and the prohibition against commercial fishers selling fish to unlicensed people is an essential component of the QMS. Although there is no limit to the number of LFRs issued, statutory and regulatory requirements effectively play a prohibitive role. There are approximately 220 LFRs in New Zealand.

6. See McCormack (2010) for a fuller description of Maori fisheries before the introduction of the quota management system. Also, Firth (1959) gives an account of traditional Maori fisheries in his book *Economics of the New Zealand Maori*.

7. The Treaty of Waitangi, signed in 1840, consists of three articles and records an agreement between Maori and the British Crown. It provides the Crown with rights to govern and to continue settling the country with British immigrants. The Crown guaranteed Maori full protection of, and tribal authority over their lands, fisheries, forests, villages, culture, and treasures, and extends to Maori the full status and rights of British citizenship.

8. The Tribunal, established in 1975, is a permanent commission of inquiry charged with making recommendations on claims brought by Maori relating to actions or omissions of the Crown that breach the promises made in the Treaty of Waitangi.

9. Aotearoa Fisheries Ltd. (AFL) is the largest Maori owned and second largest New Zealand fishing company. AFL holds a 50% interest in Sealord Ltd. (the third largest fishing company in New Zealand), the other half is owned by the Japanese company Nissui. Ngai Tahu Fisheries Settlement Ltd. is 100% Maori owned, a subsidiary company of Ngai Tahu Holding, and the fifth largest fishing company in New Zealand.

10. Joan Metge points out that *Iwi* and *hapu* are commonly translated as tribe and subtribe; however, anthropologists (Sissons, 1991; Webster, 1998) and historians (Ballara, 1998) note that this translation is a misrepresentation as “*iwi* and *hapu* were and are descendant based political groups and that in the late 18th and early 19th centuries *hapu* were largely self-governing and independent under their chiefs, not sub-divisions of a larger entity. *Iwi* were typically alliances of *hapu* held together by common interests and strong leadership but liable to break up and reform” (Metge, 2002, footnote 6). *Iwi* have more recently acquired an elevated status largely as a consequence of colonialization, and as a pre-requirement for entering into negotiations with the Crown regarding indigenous repatriations.

11. The settlement in 1992, known as the Sealord deal, granted Maori a 50% share in Sealord Products, New Zealand’s largest fishing company.

12. Inshore quota was allocated to *Iwi* based on a coastline formula. Deep water quota was allocated to *Iwi* using a 75% *Iwi* population: 25% *Iwi* coastline formula. A number of *Iwi* are awaiting receipt of this quota, to date.

13. The decision to sell must be agreed to by 75% of tribal adult members.

14. There is a current New Zealand Ministry of Fisheries inquiry into foreign charter vessels. The objectives of the inquiry are: (1) to protect New Zealand’s

international reputation and trade access; (2) to maximize the economic return to New Zealand from our fisheries resources; and (3) to ensure acceptable and equitable New Zealand labor standards (including safe working environments) on all fishing vessels operating in New Zealand's fisheries waters within the Exclusive Economic Zone. <http://www.fish.govt.nz/en-nz/Consultations/Ministerial+Inquiry+into+Foreign+Charter+Vessels/default.htm>, January 24, 2012.

15. The annual income for a New Zealand A Grade sailor is NZ\$82,315, for a B Grade Sailor it is NZ\$66,595.

16. Maori have the highest unemployment rate of all ethnic groups in New Zealand, a higher proportion of Maori are on low incomes, they have a lower net worth than Pakeha, a higher incidence of household overcrowding, and a lower life-expectancy (<http://www.mfe.govt.nz/publications/climate/maori-impacts-analysis-conclusions-jan08/html/page5.html>).

17. Maori have disproportionately higher interests in the fishing sector than non-Maori. The authors surmise that as fish processing is unlikely to qualify for free New Zealand Units (introduced by the government to mitigate the impacts of higher electricity costs on processing competitiveness) Maori workers within this industry will be negatively impacted.

18. The establishment of a *rohe moana* requires acquiesce from all interested groups (other *Iwi*, the local community, commercial fishers, etc.) and ultimately, the Ministry of Fisheries. The overriding right to regulate in a particular *rohe moana* sits with the Ministry of Fisheries while Maori have a much reduced advisory role.

19. This discussion is based on research in three fishing communities on the Big Island (Hawai'i) from 2010 to 2012.

20. Based on average annual consumption from 2000 to 2009 it is estimated that residents in Hawaii consume 1.8 times more seafood than is consumed in the entire U.S. (Geslani, Loke, Takenaka, & Leung, 2012). Approximately 51% of the seafood eaten in Hawaii is produced in Hawaii and of this non-commercial catch contributes approximately 39% (Geslani et al, 2012).

21. The Western Pacific Regional Fishery Management Council is one of eight regional fishery management councils established by the U.S. government under the *Magnuson-Stevens Fishery Conservation and Management Act* (1976, amended 1996). Its purpose is to develop management policies for fishery resources governed by the United States in the Western Pacific, which includes American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and Hawai'i.

22. Firth draws heavily on the ethnographic research of Elsdon Best.

23. Gudeman makes a distinction between the "market realm" which is universal and can perhaps best be described as "economically motivated exchange," and the "market economy" which emerges in particular contexts when certain conditions are present.

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