and attributes the tragedy to the nation's inability to overcome the
racial compartmentalization of land and politics that colonialism has
produced. As ethnic Fijians insist on a special relationship to land,
Indo-Fijians insist on justice. The dilemma is painful, and the future
offers only the continued out-migration of those Indo-Fijians who have
the means to emigrate.

CONCLUSION

This discussion of the individual chapters returns us to the ques­
tion of law as an actant, as Riles puts it, drawing on Latour—as a more
indeterminate and occasionally irrelevant frame of meaning than is
often assumed and perhaps more relevant as a technology of docu­
ments and papers than as a set of rules. It also shows the multiplicity of
manifestations of law, from identity and consciousness to modes of
asserting authority to divide land, to titles and rules about access to
them. These chapters show how law mediates identity by the way land is
allocated and political power delineated. This includes the arrange­
ments of political power that give some the rights to allocate land, as well
as notions of alien races and indigenous owners that confer legitimacy
on particular arrangements. Those who create laws claim authority to
regulate the distribution of resources and possess the combination of
symbolic authority and documentation technology that meet in this
moment of social creation. Law provides frames of meaning, ways of cre­
ating identities and connections. In conjunction with other processes,
law bridges the divide that has been created within anthropology
between symbolic and material forms of power. Finally, examining law
within the colonial process reveals the linkages between colonial and
anthropological forms of knowledge.

A Chief Does Not Rule Land; He Rules People
(Luganda Proverb)

Jane F. Collier

In this chapter, I briefly develop ideal-typical models of two political­
economic systems—chiefdoms and liberal capitalism—to suggest com­
monalities in how the people of Hawai'i and Fiji experienced the role
of law in transforming chiefs' rule over people into rule over land.1 Ideal­
typic models are necessarily abstract: "It is probably seldom if ever that
a real phenomenon can be found which corresponds exactly to one of
these ideally constructed pure types" (Weber 1947:110).2 Nevertheless,
models that suggest what "rational" people would do and say in identi­
fied circumstances "can be used to aid in the understanding of action" (Weber 1947:111).3 My project is, therefore, to develop brief
ideal-typical models of the two cultural traditions that encountered and
interacted with each other in eighteenth- and nineteenth-century Fiji
and Hawai'i. I supplement my model of chiefdoms with a model of lib­
eral capitalism for three reasons. First, the bearers of liberal capitalism
were important actors in the history of Polynesia. Second, most of the
knowledge we have about chiefdoms is filtered through lenses worn by
Westerners. Third, my own understanding of chiefdoms (and of liberal
capitalism) is shaped by the cultural conceptions available to me. I am,
after all, writing in English.
Although I follow Max Weber in developing models to understand what "rational" people might say and do, my models are neither equilibrium systems nor logically integrated. At their core are contradictions. Rather than take maximizing economic man as my prototype for rationality, I imagine an ordinary person who simply hopes for respect and attention from valued others. Following the analytic strategy Michelle Rosaldo and I (Collier and Rosaldo 1981) proposed for understanding similarities in the gender conceptions of people living in "simple" societies of foragers and hunter-horticulturalists, I focus on the organization of social inequality. I assume that "inequalities in status and privilege determine the goals people fight for, their motives for politics, and the conditions they seek to explain....People celebrate those very self-images that they use when creating relationships, promoting cooperation or conflict, articulating desires and claims" (Collier and Rosaldo 1981:276). I therefore explore the complex relationship between how elites justify their privileges and how people get ahead.

In this chapter, I use my models to understand conceptual oppositions, for example, the one between foreign conquerors and people of the land that recurs in descriptions of chiefdoms and the one between politics and law that people in liberal capitalist societies seem to assert continually, despite (or because of) the difficulty of maintaining it. Similarly, I use my models to make sense of reported behaviors, such as chiefs adopting Christianity but later backsliding and colonizers imposing law on conquered peoples even though their efforts produce the disorder that impositions of law are supposed to prevent. Finally, at the end of this chapter, I use the models to suggest critical turning points in the (never completed) process of turning chiefs who rule people into chiefs who rule land.

CHIEFDOMS

The cultural logic—and illogic—of a chiefdom political economy is best revealed by starting with an imaginary conical clan in which everyone is unequal and ranked on the basis of seniority. Parents outrank children, and within sibling sets, older siblings outrank younger ones. It is also best to imagine a male bias in which younger brothers found junior descent lines (fig. 2.1). This pyramidal ranking is justified by a religious ideology that posits a slowly dissipating power of the gods who created all life. Although this power disperses with each succeeding generation, it remains most concentrated in the senior line, slowly becoming less and less concentrated as genealogical distance from the senior line increases.

Next, one needs to imagine an economic system based on two types of estates, or relationships to land: usufruct and estates of administration (Gluckman 1965b). Usufruct is the right to take products from the land but not to grant similar rights to others. Estates of administration include the right to grant rights to others, and these typically occur in nested hierarchies in which all but the lowest-ranking estate include the right to grant estates of administration, as well as usufruct, to other people. This nested hierarchy of estates of administration correlates with the political-religious hierarchy because estate holders do not grant rights in the western sense but do provide fertility—the sacred power that makes land and people productive. The highest-ranking person, who concentrates the most godly power, bestows fertility on the largest amount of land by performing rituals for it—and so on down the line, as those with lesser power fertilize ever-smaller tracts. In return for these fertility rituals, subordinates obey their benefactors, typically through offering labor and foodstuffs. Ongoing exchanges of labor and agricultural products from inferiors to superiors, of fertility rituals from superiors to inferiors, and of manufactured items (often textiles) as status-appropriate offerings from inferiors to superiors and as status-
validating gifts from superiors to inferiors constitute the political-religious-economic hierarchy of chiefdoms.

However, it is common knowledge that few, if any, chiefdoms conform to the model of a conical clan. Most observers comment that status is achieved rather than ascribed by birth. As a result, the conical clan is best imagined not as a structure but as a cultural model for the kinds of statuses a person can achieve and, most importantly, for how a person obtains these. In chiefdoms, people achieve a status by publicly fulfilling the obligations associated with it, which means obeying immediate superiors, “fertilizing” immediate inferiors, and exchanging status-appropriate manufactured items with both superiors and inferiors. Because the most important status-validating exchanges take place in public, chiefdoms appear to be “theatre states” in which ceremonies mobilizing vast numbers of people and great quantities of wealth objects are “not means to political ends, but...the ends themselves” (Geertz 1980:13). The “gift exchanges with rigid protocol” that occurred during the rare gathering of precolonial Fijian chiefs were political acts, despite France’s argument to the contrary, as quoted by Kelly in Chapter 3 (n. 11).

Genealogical manipulation is the primary means for mobilizing the people and goods needed for performing ceremonies (see Comaroff 1978). Chiefdom genealogies can always be manipulated because endogamy within the conical clan enables people to trace descent through females as well as males, a practice made easier by the fact that females also embody godly power. The imaginary conical clan of clear-cut descent lines thus contains a contradiction at its core. Moreover, marriage in chiefdoms is always ambiguous. It is not an event but a process. Marriages exist only to the extent that they are validated through ongoing exchanges, and they may be renegotiated even after the principals die. Moreover, the ambiguous quality of marriage is reinforced by the fact that stable pairings coexist with, and often blend into, practices that Westerners label as polygyny, concubinage, adultery, and fornication. Even generational distinctions within the conical clan can be overcome through adoption, ghost marriage, and the omission of ancestors. Because every individual enjoys several options for rewriting his or her genealogy, no one is without competitors for status, even as each person’s version of a genealogy affects the opportunities of others. As a result, those who are most successful at mobilizing the crowds and goods necessary to perform status-validating ceremonies tend to be those who can rewrite genealogies in such a way as to benefit more people than would be benefited by a rival’s genealogical manipulation. Typically, successful claimants for higher status produce family histories that raise the genealogical status of large and growing lineage segments and diminish the status of lineage segments that are losing population.

This brief description of how chiefdoms work suggests explanations for certain features of chiefdoms that have often been noted. First, chiefdoms commonly have three competing descent lines at the top of the system (for example, see Kaplan, Chapter 6, and Miyazaki, Chapter 9, this volume). This tripartite structure appears puzzling because the conical clan model posits but a single chief at the apex of the genealogical pyramid. The existence of both superior and inferior lines, however, is doubly determined. Within chiefdoms, three top lines are continually produced and reproduced because claimants to chiefly status are never without competitors and because claims to status are validated through exchanging goods and services with both superiors and inferiors. As a result, some person or group has to perform the ceremonies that confer chiefly status on a successful contender, even as some person or group must be the immediate recipient of chiefly fertility. Moreover, the cultural logic of chiefdoms encourages sitting chiefs to recognize someone as superior because this logic immobilizes the person who embodies the concentration of godly power. Were the embodiment of concentrated power to move, that power would appear dispersed rather than centered. By recognizing and immobilizing a superior, a chief acquires the ability to act. Frequently, a chief’s sister is cast in the role of sacred and immobilized superior, and the chief’s wife is cast as the immediate subordinate who receives his fertility. Because sisters and wives have—and create—kin, their descent lines can all too easily be mapped onto competing lineages of superior chief makers and inferior (but potentially competitive) chiefs’ allies.

Another commonly noted feature of chiefdoms is their tendency to celebrate conceptual oppositions, such as sacred-profane, male-female, superior-inferior, active-passive, or sea-land, as in Polynesia (Kaplan, Chapter 6, this volume). Chiefdoms provide a paradise for followers of
Levi-Strauss who enjoy analyzing dualistic ritual systems. That chiefdoms, which inevitably produce and reproduce three competing descent lines, should celebrate dualisms might seem strange. Again, such dualisms are multiply determined. The cultural logic of ever-dispersing godly power casts concentrating power, particularly through combining conceptual opposites, as a world-preserving act. Dualisms ripe for uniting must be continually reproduced, a process helped by the fact that the cultural logic of chiefdoms continually collapses tripartite divisions into dualisms through rendering centers invisible. Centers are both conceptual and practical voids because a person's status is publicly validated through exchanges of goods and services with superiors and inferiors rather than in terms of what that person is or does. It is also true that individuals in chiefdoms achieve higher status by collapsing two potentially opposing descent lines into one. People have good reason to talk about dualisms instead of tripartite divisions. Many writers who analyze chiefdoms observe that chiefs (or men who aspire to higher status) try to marry into the lines established by their father's siblings in order to collapse the distinction between sisters and wives. Although this strategy does have the effect of converting potential superiors (father's sisters' descendants) and competitors (father's brothers' descendants) into inferiors and allies (wife's kin), it also immobilizes potentially disloyal allies by "sacralizing" them and converting them into future chief makers. Similarly, both superiors and inferiors benefit by collapsing the center into one or the other side, converting three into two. Superiors secure their superiority by collapsing centers into inferiors, even as inferiors who collapse centers into superiors rise in status by reducing two superior lines to one.

A common conceptual opposition produced in chiefdoms is the one between conquering foreign chiefs and conquered people of the land, which was often imagined as a sea-land opposition in Polynesia. This widespread, foreign chiefs-local subordinates dualism is multiply determined. First, chiefs are often foreign conquerors because warfare is endemic. Chiefdoms are forever expanding and contracting as successful warriors conquer previously independent groups and as previously subordinate groups secede or rebel. However, chiefs have another reason to cast themselves as foreign conquerors. By doing so, they rid themselves of problematic superiors. Not only can a conquering chief portray himself as self-made, freeing himself from obligations to chief makers, but he can also recognize as superior someone who poses no threat, such as an unmarried sister. A chief's successors have even better reasons for maintaining the distinction between foreign and local because over time the distinction tends to blur. Conquering chiefs commonly marry women of the land, giving the women's kin an opportunity to define themselves as relatives and valued allies rather than as conquered slaves. Also, chiefs commonly marry at least some of their daughters into local lineages, giving daughters' husbands' kin an opportunity to cast themselves as chief makers to their mother's brothers' sons. As a result, successors to conquering chiefs who hope to keep local rivals at bay have good reason to stress the distinction between superior foreigners and inferior locals. At the same time, local people have good reason to stress their ties to the land, for by claiming to embody local sources of godly power, they not only establish themselves as allies and potential chief makers to foreign usurpers but also keep alive the possibility of secession (see Kaplan, Chapter 6, this volume, and 1995).

Another common conceptual opposition is the territorial one between centers and peripheries. Many observers have pointed out that people in chiefdoms frequently imagine political power as concentrated in ceremonial centers, gradually becoming weaker as distance from a center increases. Whereas chiefly centers tend to appear permanent, marked by palaces and temples, peripheries appear unclear and fluctuating as the diminishing power of one chiefly center gradually fades into the increasing power of a neighboring one. Not surprisingly, centers tend to be located in fertile valleys and the peripheries of mountainous or otherwise inhospitable regions. If peripheries are imagined as power vacuums, they are also experienced as locations where untamed powers can emerge. Chiefly centers are always trying to absorb the potentially disruptive powers of peripheries, commonly by seeking to concentrate people and deities in central locations. Chiefs who manage to expand their territorial control, for example, may move whole populations from peripheries to centers or, at least, move local deities into central temples. Such moves reflect practical, as well as conceptual, concerns. Conquering chiefs have good reason to fear peripheral powers because populations far from chiefly centers enjoy the best
opportunities for seceding, either to establish egalitarian relationships or to set up chiefly centers of their own.

Finally, observers commonly note that people in chiefdoms have a different understanding of the self than people raised in the western tradition. Whereas the West has long posited a distinction between I and Me, imagining the body or self as a resource that the will (or the I) may use for good or ill, people in chiefdoms are often portrayed as lacking this distinction. Rather than view the body as a bounded entity housing a soul or will, chiefdom peoples frequently perceive body boundaries as permeable and appear to lack a sense of personal responsibility. Because people in chiefdoms come to know the self through the ongoing exchanges that establish their relationships with others, they tend to think of themselves less in terms of who they are "inside" than in terms of the effects they produce on those around them. They aspire to concentrate in their persons the godly powers that attract gifts and services from others even as they fear that their powers will flow away, leaving chaos and confusion. Just as the western bounded self with a conscience reflects a religious tradition that has long imagined God as having granted humans the free will to seek or disdain His salvation, chiefdom peoples' efforts to concentrate godly powers reflect the religious ideology of gradually dispersing mana. For people living in chiefdoms, concentrations of power create peace and prosperity, and power vacuums are manifested in conflict and loss.9

LIBERAL CAPITALISM

The liberal-capitalist equivalent of the conical clan in chiefdoms is best imagined as the society envisioned by some of its founding fathers: Hobbes, Locke, and Rousseau. Despite differences among these political philosophers, they all imagined a society made up of equal men whose equality consisted of no man owing anything—either political submission or economic debts—to any other man. They owed nothing because each man was imagined as self-provisioning—able to provide all his own needs by working land that he himself had appropriated from Nature. This equality was justified by a religious ideology positing a creator God who gave the Earth and its resources to all men in common and who endowed all men with the reason necessary to subsist and to understand God's order.

Although all men are equal, they are also selfish and competitive. As a result, equal men must form a government if they are to forestall the warre of each against all. Each man must surrender a measure of his God-given independence to create a sovereign capable of guaranteeing the security of persons and property, for it is only by creating a sovereign capable of punishing those who infringe upon the rights of others that men can be assured of enjoying the fruits of their own labors. This imagined society of equal men also requires a free market. Because men inevitably need goods that they themselves cannot produce, they require a forum in which they can exchange products they do not need for ones they do need. Hobbes, Locke, and Rousseau imagined both the republican political system and the free market as based on contracts in which men freely consent to exchange some of their God-given independence and self-acquired products to obtain the security and goods they need to survive and prosper.

Everyone knows, of course, that this imagined society of equal, independent men never existed and can never exist. Privately held property creates a contradiction at the core of liberal capitalism, just as endogamy creates one within the conical clan.10 However, just as the conical clan provides people in chiefdoms with a cultural model for the kinds of statuses a person can occupy, the cultural model of social contract provides us (me included) with a model of what we can hope to achieve. We all want autonomy in the sense that we want to acquire enough private property to support ourselves and be able to recognize and honor only those debts and obligations we freely choose. We also want a world in which others fulfill their obligations toward us because they, like us, freely choose to do so. Even Marx embraced this ideal of liberal capitalism. He, too, wanted a society in which men were free from want and could decide for themselves which activities and affiliations to pursue.

Social contract theory also provides us with a model for how to go about achieving the desired status of autonomy. Just as the conical clan encourages people in chiefdoms to imagine that they realize desired statuses by publicly exchanging the goods and services that define their position in relation to superiors and inferiors, those of us who live within liberal capitalism typically believe that we realize valued autonomy by acquiring, through our own efforts, the human and material
capital that enables us to engage in equal and consensual exchanges with others. For most of us, our paychecks, along with receipts from sales, dividend checks, and profit margins, testify to our earning power. They symbolize our ability to pay our own way without having to accept handouts from anyone. Moreover, social contract theory suggests that the more human and material capital we acquire, the more contracts we can negotiate with others and the more pleasures we can enjoy.

Finally, the liberal-capitalist equivalent of genealogical manipulation in chiefdoms is the manipulation of exchanges to make them appear equal and consensual. Marx, of course, is famous for explaining how and why so many men became willing to sell their labor to capitalists in return for wages that were lower than the price capitalists received when selling laborers' products on the market. The spread of private property in land, which deprived many peasants of their means of subsistence, left them nothing to sell but their labor. The job market created by competition among these landless laborers ensured that workers (and those who employed them) understood workers' wages not only as freely chosen but also as achieved on the open market. As Marx's analysis reveals, the most effective strategy for casting unequal exchanges as equal is to limit the options of those who are disadvantaged, making it appear that they freely choose the obligations they assume.11 Land plays a crucial role in this process. Whereas people in chiefdoms get ahead by giving land and fertility to potential followers, people in liberal-capitalist societies get ahead by holding land as private property, depriving others of the right to use it, creating a pool of workers who own nothing but their labor power.12

Because liberal capitalism works by making unequal exchanges appear equal, equality is a forever contested term. Actually, the contest is less often about equality—which can be a vacant term, much like the invisible center in chiefdoms—than about equality's presumed opposite: exploitation. Endless debates occur over whether the options of some person or group have been unfairly limited, forcing them to consent to contracts they would never have accepted if they had been free to do otherwise. This unending, and essentially irresolvable, debate over exploitation suggests explanations for certain recurring features of liberal-capitalist society, including the fact that Westerners who write about chiefdoms tend to spill vast amounts of ink trying to answer the question of why commoners work for and give their products to chiefs.13 The point, of course, is not that it is wrong to ask whether commoners in chiefdoms are exploited by their chiefs but rather to recognize that this question is ours, not theirs.14

This question is ours because answers to it have consequences for us (but not for people in chiefdoms, at least not until chiefs start to rule land instead of people). Within liberal-capitalist society, those who portray some person or group as forced by limited life chances to accept an exchange that benefits the other party are issuing a call for action. They want the exploiters punished and/or the laws changed to prevent such exploitation in the future. As a result, those who favor keeping things as they are must produce arguments that portray disadvantaged parties as freely choosing the exchange that harms them. Advocates of the status quo have a couple options. They can portray disadvantaged people as having a different hierarchy of values than those who argue that the exchange is unequal, continually reproducing the idea of cultural differences, or they can argue that the options of disadvantaged people are limited not by human action but by natural processes humans are powerless to change. As many authors have recognized, racism and sexism, which rely on assumptions of biological inferiority, are not antithetical to liberalism but are continually produced by it.

Many authors have also observed that the capitalist world system created by European expansion since the sixteenth century tended to foster regimes of coerced labor in peripheral regions at the same time that apparently free labor came to dominate in the core (for example, Wallerstein 1974; Wolf 1982). Whereas sixteenth-century European colonizers often justified coerced labor as reflecting conquerors' god-given right to extract labor and tribute from conquered peoples, later colonizers, particularly during the nineteenth and early twentieth centuries, preferred to imagine that conquered peoples consented to work for and/or pay taxes to their colonizers. On the one hand, colonizers used ideas of racial and cultural difference to justify educating "savages" to comply with contractual obligations. They passed laws creating customary jurisdictions, discouraging miscegenation and the movement of peoples, and limiting subject peoples' access to the linguistic and legal skills that would enable them to challenge coerced labor regimes in European courts (Mamdani 1996). On the other
hand, colonizers drew on ideas of human similarity, that is, acultural, "economic man," to justify imposing penal sanctions on debt peons, indentured laborers, and sharecroppers who failed to honor the contracts they (or their ancestors) had supposedly signed.

A commonly noted feature of liberal-capitalist societies is the conceptual distinction that people make between law and politics. Fitzpatrick (1992), for example, has observed that Westerners continue to imagine law as transcendental and unchanging, even though everyone knows that existing laws reflect the outcomes of particular political conflicts. This conceptual distinction between law and politics is multiply determined. First, law must be distinguished from politics if the pursuit of individual self-interest is to make sense. There have to be laws to define what may be achieved and how. Games must have rules that define prizes and permissible moves. More importantly, the unending and irresolvable debates over whether exchanges are forced or consensual cast the distinction between law and politics as both necessary and impossible to maintain. Both sides in the debate must treat law as if it could guarantee the equality that enables equal exchanges, even as they must argue over whether existing laws reflect unfair political maneuverings. Just as those who would maintain the status quo must portray cultural or natural differences, instead of law, as responsible for inequalities in wealth, power, and prestige, those who would argue that exchanges are exploitative must assert that existing laws unfairly limit the options of disadvantaged groups. They have to argue that those with political power have used their power unfairly, either to pass laws that benefit their own interests or to prevent the passage of laws that might allow disadvantaged persons and groups to compete on a more equal footing. Given that the distinction between law and politics must be maintained even as it is always contested, people in liberal-capitalist societies commonly try to immobilize law by writing it down in code books, constitutions, and forms and by establishing separate institutions—courts and document registries—to administer it. Nevertheless, the distinction keeps blurring, as should be obvious to those of us who watched the Supreme Court appoint a president in 2000.

Another commonly noted conceptual opposition of liberal-capitalist societies is that between nature and culture. Although Westerners seem to discover this opposition wherever they go, I believe that its imagined universalism owes more to the concerns of the observers than to those of the observed. Not only does the idea of man-made law inevitably construct its imagined opposite (laws not made by men), but also practical politics in liberal-capitalist societies continually reproduce the nature-culture opposition. As noted earlier, the most effective strategy available to those who support the status quo is to argue that apparently unequal exchanges are really equal because the limited options experienced by disadvantaged individuals and groups are imposed on them by Nature (or God) rather than by human action. Therefore, we are condemned to endless, and irresolvable, nature-nurture debates, along with endless scientific efforts to determine which differences among humans are due to our genes instead of our histories.

Practical politics in liberal-capitalist societies also tend to reproduce the supposedly universal opposition between private and public spheres, albeit less as a spatial one—between inside and outside or between encompassed and encompassing arenas—than as one between two forms of regulation. In liberal-capitalist societies, private spheres are supposedly regulated by natural laws, and public spheres are regulated by man-made ones. Given the unending debates over whether observed inequalities reflect natural or human laws, the distinction between private and public is forever contested, even as it must be constantly maintained. This distinction is particularly controversial when the private is imagined as the home or the economy, because both of these supposedly natural spheres are created and regulated by human laws. Continual vigilance and work are required to make homes and markets appear governed by laws beyond human control. Locke and Rousseau, for example, took special care to distinguish the domestic from the public, arguing that within the domestic sphere, natural differences of age, sex, ability, and situation foster mutual cooperation, whereas the public realm is regulated by the laws that equal, competitive men enact to protect their homes and private properties from encroachment by others. Similarly, we witness endless efforts to cast economics as a science—to discover the mathematical laws that govern the free market and therefore should be allowed to work their magic without interference from meddling humans.

Finally, people engaged in practical pursuits continually reproduce
the I/Me distinction that is central to the self in western thought. Market capitalism requires that subjects be differentiated from objects—that humans who transact be distinguished from the properties they own and exchange—even though this distinction is impossible to maintain. This liberal-capitalist I/Me distinction differs slightly from the religious distinction between soul and body that Europeans inherited from the past. Because the laws of liberal capitalism supposedly make all men equal, people tend to experience the Me less as flesh to be mortified in the hope of heavenly bliss than as a resource to be used for achieving success on Earth in this life. Differences in bodily equipment and material circumstances, which supposedly have little effect on a soul’s chance of salvation, take on special meaning. Our bodies are ourselves (as a feminist classic proclaims), even as our genetic and cultural heritages become resources to be deployed for advantage (or used to explain why others unfairly discriminate against us). The I/Me distinction is so central to our thinking and so inscribed in the English language that we have a hard time imagining other ways of experiencing the self.

**CHIEFDOMS IN THE COLONIAL ENCOUNTER**

The encounter between chiefdoms and western imperialism commonly produced a novel dilemma for chiefdoms: the coincidence of concentrated power and declining fertility. Within the cultural logic of chiefdoms, such a coincidence cannot occur because concentrations of power are supposed to have the effect of promoting peace and prosperity among the population. The existence of peace and prosperity testifies to the existence of concentrated power. However, western imperialism brought both political centralization and demographic disaster. Western guns encouraged political centralization by enabling one chief to defeat many rivals. Guns, along with newly introduced diseases, also decimated local populations (Merry, Chapter 5, this volume). People living in chiefdoms faced the breakdown of their conceptual system even as their bodies suffered. Their familiar conceptual system offered no explanation or understanding of what was happening to them. Western imperialists, in contrast, did not experience a similar conceptual breakdown. Although they inevitably argued over whether they were responsible for the terrible fate that overtook colonized peoples, Westerners could do so by drawing on familiar conceptual oppositions between natural and humanly imposed disasters.

Many of those who write the history of chiefdoms have noted that chiefs often converted to Christianity before their subjects did, as occurred in both Fiji and Hawai'i (see Kaplan, Chapter 6, and Merry, Chapter 5, this volume). Chiefly conversion may seem surprising, given that chiefs appear to benefit from maintaining the pagan religion that legitimates their power, but conversion makes good sense within the cultural logic of chiefdoms. As already discussed, chiefs are supposed to concentrate power within their persons. They usually take over the deities of peoples they conquer. It makes sense that Fijian and Hawaiian chiefs ingested the Christian God, whose "body and blood" the missionaries so generously offered, and gave missionaries land on which to construct Christian churches and schools. Moreover, chiefs have to encompass rival deities if they are to avoid the dispersal of power that causes conflict and death. The demographic disasters experienced by newly encountered chiefdoms must have propelled chiefs to embrace Christianity. Even though chiefs eagerly converted, they inevitably backslid. In contrast to Christian missionaries, who could maintain the fiction of a unitary God because they lived in societies where inequalities were negotiated in terms of unequal opportunities instead of competing deities, chiefs (and their people) had to keep reproducing multiple deities for incorporation into single power centers. Chiefs who converted to Christianity had to honor the old gods even as they joined missionaries in worshiping the One God of Christianity.

The cultural logic of chiefdoms also required chiefs to obtain other items Westerners valued. Although it may be true that chiefs competed with one another through conspicuous consumption, as some observers have suggested, chiefs—at least newly encountered ones—were not the possessive individuals imagined by neoclassical economists. Rather than acquire goods to compete with rivals for market advantage or political power, chiefs sought goods to incorporate sources of power they did not yet embody. The cultural logic of chiefdoms suggests that if Westerners valued items such as gold, fine cloth, or mahogany furniture, these items must be powerful. As a result, a chief who aspired to concentrate power in his person had to bring
such items into his domain. Chiefs who succeeded in acquiring large quantities of western luxury goods may have triumphed over potential rivals, but not because they controlled more economic resources than their competitors. They triumphed because they appeared to concentrate more power in their persons. As several authors have recognized, the acquisition of luxury items was not a means to an end, but the end itself.

Finally, the cultural logic of chiefdoms suggests a different interpretation for chiefs’ apparent exploitation of commoners’ labor condemned by many western observers. When chiefs in Hawai‘i, for example, sent commoners out to collect the sandalwood that chiefs needed to trade for western luxury items, both the commoners and their chiefs may well have had a different understanding of what they were doing than western missionaries and traders. Given that the people of Hawai‘i were experiencing a demographic disaster, commoners may well have wanted their chiefs to acquire all the western powers chiefs could buy. As long as Westerners controlled powerful items such as ships, books, and furniture, power would remain dispersed and people would suffer. Only by incorporating western powers could chiefs concentrate power and bring prosperity again. This strategy, of course, failed. Westerners continued to arrive, and their supply of valuables was inexhaustible. As a result, the people of Hawai‘i finally changed strategies. Rather than urge chiefs to incorporate western powers, they urged chiefs to throw out the foreigners (Sahlin 1992:129; Osorio, Chapter 8, this volume). This switch in strategy, however, probably signaled people’s abandonment of chiefdom cultural logic. Westerners are the ones who think that power accrues to those who collect things while disposing of people. Cargo cults are a product of the western imagination, not of the peoples Westerners conquered (Kaplan 1995).

THE IMPOSITION OF LAW

When Westerners encountered and conquered chiefdoms, they commonly overlooked the chiefdom equivalent of western law. They misunderstood how people resolved their conflicts. They failed to see the social processes and cultural concepts through which people in chiefdoms negotiated their obligations to one another. Because genealogical relations supposedly determine obligations in chiefdoms, the crucial question facing those involved in a conflict is not whether someone violated a rule but how the conflicting parties are related to one another. Also, because people in chiefdoms live in a world where relationships are known by the exchanges that constitute them, people refer to past gifts of goods and services to determine the relationship between parties and their future obligations to one another (Gluckman 1965a). For example, when people in chiefdoms face a problem that Westerners might view as theft, they are often less concerned with who took what or whether the object belonged to the victim than with discussing past exchanges to decide whether the relationship between the parties is one in which the person who suffered the loss has the obligation to provide the taker with the object. If discussion of past exchanges convinces people that the victim has no kinship obligations to the thief, people might punish the thief by showering that person with goods (and ridicule). Such an outcome—which Westerners would interpret as rewarding rather than punishing a thief—makes sense, given the cultural logic of chiefdoms. Because people demonstrate concentrated power (and high rank) by giving things to inferiors, a person who is forced to accept goods from another becomes a genealogical subordinate who owes obedience in return. 16

Westerners who encountered chiefdoms also “found” law where it did not exist. They frequently misinterpreted the taboos chiefs put on resources (to reserve these for ceremonies) as instances of law. Why this occurred is easy to understand. For Westerners, chiefly taboos were the closest thing in their experience to the western idea of law as rules imposed by a sovereign. This misinterpretation, however, had at least two serious consequences. First, it enabled Westerners to cast chiefs as exploiters of their peoples, as fickle tyrants who appropriated public resources for private gain. Gordon, for example, apparently thought that Fijian chiefs sometimes imposed levies “merely to gratify idle longings” (Kelly, Chapter 3, this volume). Second, Westerners who interpreted taboos as laws expected chiefs to have the power (and legitimacy) to impose other laws, such as laws banning adultery or imposing house taxes. As a result, when Westerners began to rule through chiefs—which they usually did, given the practicalities of maintaining order—Westerners expected chiefs to pass laws and see that they were enforced. To the degree that Westerners succeeded in
turning fertile chiefs into law-giving sovereigns, they transformed the social world of chiefdom peoples.

Among the first laws western colonizers pressed chiefs to pass and enforce were laws designed to facilitate the expansion of liberal capitalism by creating responsible individuals and private properties. Almost immediately, for example, the colonizers required chiefs to regulate family relationships and sexual affairs (Merry, Chapter 5, this volume, and 2000; Kelly, Chapter 3, this volume; Silva, Chapter 4, this volume; Osorio, Chapter 8, this volume). Although observers of the colonial process often blame Christian missionaries for laws banning polygyny, adultery, and fornication, colonial officials and traders also had a stake in distinguishing legal marriage from other sexual liaisons. Colonizers wanted to distinguish legitimate heirs from illegitimate contenders to ensure the orderly transmission of property and office that Westerners treat as the basis of social order. Colonizers, for example, had a vested interest in replacing lengthy interregnums—during which contenders for chiefly status vied with one another by sponsoring lavish ceremonies—with the orderly and immediate inheritance of chiefly authority (and responsibilities). Colonizers also wanted to take over the role of appointing chiefs, replacing former chief makers. Ironically, colonizers often recognized as chiefs people who would not have been contenders without colonial interference. For example, colonizers often took chiefly hierarchies at face value and treated the most sacred person as the highest chief, thus conferring chiefly status on women or children whose role had been to embody the concentrated but immobilized power that enabled chiefs to act. (It is also true, of course, that Westerners may have preferred appointing women and children because it was the superior who appointed the successor by conferring the estate on the winning contender. Westerners often misinterpreted this practice, however, assuming that voracious and unprincipled superiors appropriated the property of deceased subordinates to pass it on to their cronies and allies, depriving legitimate heirs in the process. To ensure the orderly transmission of property (and contractual obligations), Westerners tended to require that estates be inventoried so that legitimate heirs could be assured of receiving all the property they were due. Although lists of the goods and lands held by important people serve as invaluable resources for historians of chiefdoms under colonialism, such lists mark the disruption of a chiefdom cultural order. When heirs fought in western courts using written documents (inventories, wills, deeds, certificates of marriage and birth), they created a social world in which wealth and power accrued to people who denied, rather than fulfilled, their obligations to others. Greed replaced generosity as the route to social and economic success.

In addition to laws creating identifiable subjects and fungible objects, colonizers also required chiefs to pass laws allowing the collection of taxes. After all, if people in the colonizers' home countries had to pay for the government services they received, colonized peoples should do the same. Moreover, chiefdoms already appeared to have taxation systems in place. As previously noted, chiefs received regular gifts from subordinates because subordinates validated their claims to genealogical status by continually fulfilling obligations to superiors and inferiors. Subordinates' gifts to chiefs could easily be misperceived as taxes imposed by rulers on their subjects. As a result, colonizers had few qualms about requiring chiefs to regularize the collection of taxes, both to prevent chiefs from exploiting their hapless subjects and to ensure an orderly source of revenue for financing government functions. In situations of indirect rule, colonial officials often required chiefs to turn over tax revenues to representatives of the colonial government, who then paid chiefs a salary for their work. Such a practice, of course, broke the bonds uniting chiefs with their people, by making chiefs dependent on the good will of colonial officials rather than on the good will of their subordinates. The transformation of gifts into taxes also marked the transformation of chiefs who ruled people into chiefs who ruled land, because colonial officials commonly delimited
the territories within which chiefs were required to collect taxes and enforce laws. As Kaplan (Chapter 6, this volume) describes for Fiji, colonial officials installed chiefs as rulers of districts, creating a top-down system of rule over territories.

Although colonizers who required chiefs to collect taxes were often surprised when commoners showered their chiefs with gifts without asking for favors in return (because what Westerner would pay more taxes than required by law), colonizers and tax-collecting chiefs more often faced resistance from commoners. Commoners had many reasons to resent the transformation of gifts into taxes. Not least was the fact that taxes, unlike gifts, were no longer used to put on the ceremonies that ensured fertility for people and land. Rather than restore the fertility of people whose numbers were rapidly declining because of guns and new diseases, colonizers and their client chiefs tended to use taxes for things that harmed commoners, such as salaries for chiefs, judges, and policemen. At a time of demographic disaster, commoners particularly resented the policemen who were with enforcing tax laws and with bringing criminals to justice.

The colonizers who promoted western-style courts probably thought that they were offering native peoples the most important benefit of civilization. Sir Arthur Gordon, for example, told Fijians that "you must know that laws are necessary; a country without laws would be in a pitiable condition" (quoted by Kelly, Chapter 3, this volume). However, people in chiefdoms suffered when courts became punitive instead of conciliatory. Because Westerners misunderstood the rewards that accrue to problem solvers in chiefdoms (where those who help others to settle their disputes validate the genealogical relationships that determine people's obligations to one another), colonizers required judges and policemen to be paid for their services. In the western imagination, law enforcement is a thankless task no one would perform unless paid to do so. As a result, the western-style courts established by colonizers usually required payments from those who used them, such as filing fees from litigants and fines from wrongdoers. Western-style courts thus appeared to emphasize punitive sanctions instead of the restitutive ones common in chiefdoms, in which exchanges of gifts affirm the relationship between the parties established by the hearing. Moreover, the western belief that people who violate the law must be punished—both to reform the wrongdoer and to serve as an example to others—led colonizers to establish jails for punishing offenders. Prisons had a particularly devastating effect on the chiefdom peoples confined to them, because wrongdoers who were locked away could not engage in the exchanges of goods and services that established them as social beings. When imprisoned "natives" languished and died, colonial officials had a hard time understanding why their prisons failed to have the salutary effect expected by Westerners, whose understanding of the I/Me distinction led them to believe that prisons should encourage offenders to assume personal responsibility for their actions.

Observers of the colonizing process in chiefdoms have noted that as courts became more punitive, the number of cases brought by individuals declined and the number of cases brought by policemen increased. Once started on the route to punitiveness, courts became more punitive, confined to handling cases in which individuals were accused of breaking laws passed and enforced governing authorities. The courts' increasing punitiveness, however, had an unintended and ironic effect. As ordinary people found that their leaders had been transformed from mediators promoting reconciliation into judges imposing fines and prison sentences, they began settling their interpersonal conflicts in family conclaves, where respected elders could help disputants sort out and repair their kinship relations (Merry, Chapter 5, this volume). The imposition of western courts, paradoxically, encouraged the creation of forums in which the cultural logic of chiefdoms could survive and flourish. As Merry and Brenneis observe in the introduction, the absence of formal authority led to the creation of forums in which the cultural logic of chiefdoms could develop and flourish. As Merry and Brenneis observe in the introduction, the absence of formal authority, whether caused by a lack of state oversight, as in Indo-Fijian communities, or by people's avoidance of punitive courts, can have a powerful effect on local life by encouraging people to create their own ways of handling conflicts.

In colonized chiefdoms, the respected elders who presided over family conclaves commonly handled disputes by analyzing genealogies to determine how people were related to one another and what their mutual obligations should therefore be. By appearing to focus on family matters, such conclaves tended to avoid interference from colonizing officials, who, as Westerners, imagined that private homes should be regulated by natural bonds of obligation rather than by man-made
laws. The private nature of family conclaves, however, had another effect. Because the family conclave-punitive court contrast meshed so well with the liberal-capitalist conceptual opposition between private and public spheres, the existence of family conclaves tended to reinforce visions of the ethnic contrast between the colonized and the colonizers as one between nature and culture. Depending on who was speaking for what purpose, colonized peoples could be cast either as animalistic and childlike in contrast to civilized and rational colonizers or as helpful, generous, and cooperative in contrast to selfish, greedy, and competitive Westerners (see Osorio, Chapter 8, and Merry, Chapter 5, this volume).

I suspect that legal histories of the colonial encounter between liberal capitalism and chiefdoms can be written in terms of the expansion and contraction of family conclaves. Over time, most high chiefs either died out or merged into the class of western property owners, but lesser folk in chiefdoms commonly contracted and expanded their sphere of influence as pressures from the capitalist world system waxed and waned. When western pressure is extreme, family conclaves are probably small affairs, but when western pressures relax—as they do during world economic recessions or when investment opportunities are more promising elsewhere—family-type conclaves can expand to encompass whole communities. In the latter situation, people often take back their local courts, converting them from primarily punitive forums into forums where people can negotiate their relationships with one another. Westerners commonly understand such forums as applying customary law, reinforcing the distinction between positive and customary law that anthropologists have helped to reify.

Finally, people’s resort to family conclaves to handle interpersonal disputes has the unintended consequence of preserving chiefdom religious beliefs in the face of considerable pressure from monotheistic world religions such as Christianity. To the degree that genealogical relationships determine people’s obligations, ceremonies (and the exchange of gifts and services necessary to put on these ceremonies) appear to be less about people’s individual relationship with God than about their relationships with one another. Christian pastors, for example, are often horrified to discover that chiefdom peoples continue to worship ancestor gods and local deities simultaneously with Jesus and the saints, as occurs in Fiji (see Kaplan, Chapter 6, this volume, and 1995). Similarly, pastors who view souls as distinct from bodies are often appalled to realize that supposedly Christian people perceive baptism not as a rite to ensure the salvation of a human soul but as a rite to center and concentrate the weak and dispersed power of a newborn.

CONCLUSION

In summary, colonizers from liberal-capitalist societies may have succeeded in transforming chiefs who ruled people into chiefs who rule land, but they simultaneously encouraged the creation of a realm where customary beliefs and practices could survive and flourish. Such customary realms, however, may be disappearing today as the latest wave of capitalist expansion fosters land-titling schemes and literacy. When people find their life chances determined more by the written documents they possess than by the gifts they exchange with kin, the cultural logic of chiefdoms may fade from people’s memories. Lest I be too gloomy, however, I should end by noting that chiefdom cultural logic has revealed a remarkable capacity for survival. The people who invoke it may yet give those of us who live within liberal capitalism an alternative vision of human possibilities.

Acknowledgments

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The generalizations I make about chiefdoms are primarily based on readings about “native kingdoms” in Africa, Southeast Asia, the Americas, and the Pacific, which I did in the 1980s when co-teaching two graduate seminars on chiefdoms, first with Michelle Z. Rosaldo, then with Donald Donham. These readings included a fascinating paper on the Tikopia by Allison Tom. My speculations about conflict management procedures in chiefdoms are also based on my own research among the highland Maya of Chiapas, Mexico (Collier 1973), although my understanding of what I observed in Chiapas has been enriched by reading Max Gluckman’s (1955, 1965a and b) analysis of Barotse legal concepts and procedures.
JANE F. COLLIER

Notes

1. The idea that chiefs rule land rather than people is drawn from a Luganda proverb quoted in Fallers 1969: "A chief does not rule land; he rules people."

2. Ideal-typic models are, of course, fictional constructs, but they can be useful if they illuminate historical relationships and processes that previously appeared problematic. Ironically, they can be even more useful if they are wrong, for only by raising previously unasked questions do new answers become possible. This spirit of exploration animates my offering of the two ideal-typic models presented in this chapter.

3. Benedict Anderson (1972:1-2), in his influential article "The Idea of Power in Javanese Culture," justifies his attempt to provide a systematic analysis of traditional Javanese political conceptions by observing that the absence of a systematic exposition has "hampered the analysis and evaluation of the influence of such conceptions on contemporary political behavior. The tendency has been to select discrete elements from traditional culture and correlate them in an arbitrary and ad hoc manner with particular aspects of present day politics." Because anthropologists have already developed sophisticated analyses of chiefdoms (Adams 1966; Fried 1967; Goldman 1970; Service 1975; Ortner 1981), I cannot borrow Anderson's principal justification for the systematic analyses I develop in this chapter. However, I do follow him in recognizing that systematic analyses provide useful tools for helping us to understand historical and contemporary behavior.

4. Sacred chiefs, for example, are frequently depicted on monuments as sitting immobilized in the lotus position.

5. Anderson (1972:15), writing about the "idea of power in Javanese culture," describes this as the "unity-in-opposites formula of Power."

6. The cultural logic of concentrating ever-dispersing power also casts brother-sister marriage as a prestigious act, for it reunites the dispersing godly power of parents. By this logic, the marriage of brother-sister twins is even more potent.

7. Chiefdoms commonly occur in bands of big and little chiefdoms, with no man's land and some apparently "egalitarian" groups in between.

8. Anderson (1972:8-29) contrasts the meaning of frontiers in traditional Southeast Asian kingdoms with that in modern states, observing that for the modern state, sovereignty is even across the entire territory but ends abruptly at the frontier, where the (supposedly) complete sovereignty of another state begins.

9. Westerners, such as I, find it difficult to talk or write about the concept of self in chiefdoms because English requires active subjects of verbs. I find it hard to imagine—and to describe—a social world in which people are experienced not in terms of their actions but in terms of the effects they produce.

10. Not only does privately held property inevitably create inequality among supposedly equal men, but also, obviously, no human society can be composed solely of healthy adult men. The equal male property owners imagined by Hobbes, Locke, and Rousseau had wives (or mothers or sisters) to keep their homes, children to obey their commands, and servants to take care of their properties.

11. For example, many people experience the marriage contract as an equal exchange of female services for masculine support because women's lack of access to land, along with the reluctance of capitalist employers to hire mothers who must bring their young children to work with them, cast female homemakers as condemned by Nature to need the support of male breadwinners.

12. Within liberal-capitalist societies, land plays a political role as well as an economic one. Those who aspire to self-government must control a territory to govern. They must be able to exclude aliens from the territory (even if they must resort to ethnic cleansing to do so).

13. For example, the archaeologists and social anthropologists who attended the 1988 School of American Research advanced seminar on chiefdoms asked the question, What do the bosses do to gain and extend power (Earle 1991:5)? Not surprisingly, seminar participants came up with three strategies bosses could use to deprive people of the resources they need to survive, putting commoners in the position of having to obey chiefly commands or suffer dire consequences.

14. My earlier discussion of how chiefdoms work also suggests an answer to the question of why commoners work for and give gifts to chiefs. My answer, however, evades (hopefully) the issue of exploitation.

15. This modern myth of law as transcendental has a historical origin. Under the absolute monarchies that social contract philosophers sought to overthrow, law was transcendental: It reflected the will of God, who appointed kings to enforce His laws on Earth. When social contract theorists argued that equal men must pass the laws that govern them, they blured the formerly clear (if always problematic) distinction between divine law and human desire. People living within liberal-capitalist societies had to find another way to maintain the crucial distinction between law and politics. This they commonly did by producing constitutions and law codes that supposedly reflected the common good and were (somewhat) immune to self-interested political maneuvering.
16. This conceptual opposition between man-made laws and laws not made by men existed under absolute monarchies but was not very important. All the laws that mattered emanated from the Mind of God. When men wrested from God the right to make their own laws, they left God in charge of all that humans did not regulate. Latour (1993) observed that man-made laws and the scientific method were created together. When Hobbes argued that men of reason must make the laws that govern them, Boyle simultaneously argued that men of reason, through coming together to observe an experiment, could ascertain the laws God established to regulate natural processes.

17. Children provide a good example of the difficulty in maintaining the subject/object distinction required by capitalist markets. Children belong to the parents who produced them, even as they are subjects in their own right.

18. Westerners frequently portray chiefdoms as recognizing collective instead of individual liability, as holding an entire kin group responsible for the harm done by one of its members. Such a portrayal misses the fact that conflicts between kin groups provide opportunities for (re)ordering relationships within kin groups. The kin group member who takes responsibility for providing the goods required to compensate the victim of a wrong establishes superiority over, and the right to demand services from, the person who committed the wrong. Exchanges of compensation, like exchanges of gifts, give people opportunities to (re)negotiate genealogical relationships.

Gordon Was No Amateur

Imperial Legal Strategies
in the Colonization of Fiji

John D. Kelly

Grumblers might construe into tyranny and injustice the course Her Majesty's Government has determined to pursue.

—Sir Arthur Gordon, speech to settlers, September 2, 1875

In Fiji, colonial inheritances have been nurtured into sad new flowers possible orenly in the soils of postcolonial predicament. Voting rights are “racialy” demarcated and unevenly distributed. Almost all land is reserved as the inalienable property of legally demarcated clans of one ethnic group, the ethnic Fijians. Ethnic Fijians also monopolize the military. In Fiji, a Great Council of Chiefs wields a strange form of paramountcy, not only over ethnic Fijians but also, increasingly, over everyone else, across multiple coups and constitutions. The constitutive nature of law and some particular problems posed by inherited colonial legal schemes for ex-colony nation-states can be illuminated by study of Fiji.

Nation-states have different architectural problems when built amid the ruins of empire, and with imperial materials. However, there is more to the omnipresence of colonial legal legacy in Fiji's current crisis than uncleared detritus, more than old codes ill-fit to new circumstances, old devices ill-suited to new applications. In postcolonial Fiji, active efforts have been made to sustain and enhance colonial legal legacies. These legacies include specific legal instruments, a field of