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INTRODUCTION

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Not uncommonly, human adaptation to the maritime environment is portrayed as one of the more extreme of human attainments. This is certainly true in some regions, but to generalize this notion worldwide is to overstate a case that has in large part been based on misconceptions. People whose livelihood derives either in part or entirely from maritime pursuits, and especially fishermen, are undeniably faced with a more hazardous environment compared with those who make their living by other occupations. Most of the physical hazards and biological uncertainties faced by fishermen are too familiar to require reiteration here, as, by and large, are the socio-economic adversities that confront them. Similarly, many formal and informal institutions and mechanisms that communities have devised to cope with such problems are also relatively well-known.

But the tenurial relationships of fishermen to the resource areas that they exploit and their rights to the resources themselves are not so well-known and deserve immediate, in-depth and interdisciplinary attention, since their uncertain, weak or contested tenurial status is one of the principal difficulties encountered by small-scale fishermen in many parts of the world, as two recent reviews demonstrate [ACHESON 1981; EMMERSON 1980]. The ways in which fishermen perceive, define, delimit, "own" and defend their rights to inshore fishing grounds—or their "sea tenure"—is one of the most significant "discoveries" to emerge from the last ten years of research in maritime anthropology.

Systems of sea tenure range in type from the ownership of specific sites by individuals, families, clans or other extended kin groups, through rural and urban peasant populations, to the complex legal constructs of societies such as Japan and the U.S.A., with a highly integrated, modern and industrial fisheries sector. Mixtures of ownership types are also common.

Although traditional systems of sea tenure constitute an exciting new field for social scientists and may provide viable alternative models for fisheries planners and administrators, clearly they are nothing new to fishermen, since, although sea tenure assumes many different guises, the functioning of at least minimal concepts of ownership is a near universal phenomenon in the wide range of societies in which people depend on the natural resources of inshore waters.

Hitherto, understanding of traditional systems of inshore sea tenure was hampered by the dominant Western theories of fish as a common property resource, that

was considered both everybody's and nobody's until after capture, whence it belonged to the captor. According to Western notions, marine resources are commonly regarded as the epitome of a common property natural resource, since no single user has the exclusive rights to them and others cannot be prevented from using them. Thus, it is postulated, fishermen's competitive social behavior arises, since it is in the best interests of the individual user to exploit the fishery to his maximum capability, because what he abstains from catching to conserve for himself tomorrow will be caught by a competitor today. In neo-classical economic terms over-fishing, and the eventual crash of the resource, is inevitable, as is over-capitalization in the industry through excessive investment in labor and gear beyond what is necessary to maximize profits from the industry as a whole, a consequence outlined by Christy and Scott [1965] in their influential book, *The Common Wealth in Ocean Fisheries*.

The intellectual underpinnings for the common property notion of marine resources were provided by Hugo Grotius, in 1609, and its converse by John Selden, in 1635. Subsequently, Grotius' work, *Mare Liberum (The Freedom of the Seas)* became the basis for the prevailing Western notion of the "Freedom of the Seas." Basically, his thesis was that because the sea was not amenable to occupation it could belong to nobody, occupation being the basis of property. Further, because of its inherent nature, the sea could be put to a common purpose with its simultaneous exploitation by individuals for specific but different ends. Thus "Freedom of the Seas" was the logical outcome. Grotius, of course, expounded his theory largely in support of the Netherlands' large and wide-ranging North Sea herring fleet, which had provoked British wrath by operating in waters where Britain was pursuing an exclusionary maritime policy.

That was countered by John Selden, writing 26 years later, who, generalizing from Roman laws that permitted the alienation of freshwaters for private use, pointed to certain constructs that enable boundaries to be fixed in maritime waters. Selden disagreed with Grotius' views that maritime waters could satisfy all users by pointing out that maritime (fishery) resources could be depleted by use, just as the earth's stock of minerals is reduced by mining. In conclusion, Selden advocated the licensing of foreigners who wished to exploit a nation's—particularly British—marine resources.

Ironically, Grotius' views prevailed largely because they soon came to suit Britain's maritime-based imperial designs, and they have basically survived intact until their recent dismantlement by the *Law of the Sea Conference*. Further, most Western and Western-trained fisheries administrators have fully accepted the common property nature of fisheries.

Although plausible in deeper and more distant waters, the concept of an "Open Sea" becomes far less tenable in the relatively limited space available to small-scale, inshore, shallow-water fishermen, since, in reality, such areas represent a physical and biological transition zone between "ownable property" (land) on the one hand, and on the other a medium that inherently cannot be owned (marine waters). Further, the sociological and economic contexts in which such inshore fishermen

operate also render the free access concept less tenable. In the first place, inshore fishing communities in many parts of the tropics are small and, not uncommonly, both physically distant and socially removed by socio-economic status from the larger regional and national society. More often than not, they are composed of kin groups, clansmen and the like who must seek their livelihood in part from a restricted geographical area and from a potentially vulnerable biomass. They are thus more likely than the larger society to maintain concepts of "locally controlled inshore seas."

Further, perhaps the majority of small-scale fishermen worldwide are part-timers, in other words farmer-fishermen, although this is changing almost everywhere under the forces of modernization. This, of course, may be interpreted functionally as a risk-spreading device, but it also surely evolved from the need to secure dietary complements, although, as in many places, this could also be ensured via trading among occupational specialists. Regardless of the cause, viewing their occupation patterns holistically as being composed of sets of economically and nutritionally complementary activities, it would seem that such part-time fishermen are less likely to dichotomize their resource space into an "ownable land component" and an inherently "unownable marine component." Especially for communities in the tropics, where many coral reef fish stocks are relatively immobile, logic dictates that inshore waters are but an extension of the land to which they have tenure, nothing more and nothing less. This, however, cannot be argued so forcefully for seasonally migratory stocks.

At first sight to most Westerners "sea tenure" would appear to be a contradiction in terms, since the ownership of marine space or schools of migratory fish, for example, is inherently difficult and as such not embraced by conventional scientific and legal conceptions of what is "ownable." Thus it came as something of a surprise to Western fisheries administrators searching for a means to limit entry to fisheries to discover, and possibly find a blueprint in, not only the highly elaborate regulations controlling Japanese inshore fisheries but also the rather large number of Western and non-Western societies that have (or had, since many have succumbed to Western intrusion) some form of proprietary rights to places where fish habitually congregate. Whereas in some societies fishery resources are a common property resource in the true sense of the term, there is now widespread evidence in that many widely diverse societies scattered throughout the world access rights to fish are controlled and fishing territories are not available to all.

It is now widely appreciated that fishermen claim specific observable territories which can be defined by visual triangulation, landmarks, underwater topography, and such surface "seamarks" as the color of water, pattern of waves and other natural phenomena. Use rights may be granted to certain locations, specific seasons, particular species or specific gear. Other forms of sea tenure are less concrete but nevertheless functionally effective, and include such concepts as exclusion mechanisms, first-comer's rights, and the like.

Despite being binding on social behavior, traditional sea tenure is largely

unwritten, informal, illicit or covert. Certain systems of traditional law prevented over-fishing and promoted resource conservation and a stable fishery by limiting access to a particular fishing ground or by enforcing temporal restrictions of various kinds. Thus some preexisting systems have long since practised "limited entry," akin to the socially selective licensing programs that fishery administrators in many countries are just now striving to design or implement.

All the fanfare that accompanied the passage of the *Law of the Sea* and the enforcement of extended maritime jurisdiction—international and national systems of sea tenure, respectively—which signalled the end of the common property concept of oceanic resources, has further obscured the preexisting and age-old "Fishermen's Law of the Sea," or traditional sea tenure. Implementation of the new legislation will have a major impact on inshore waters worldwide, zones for which law-makers in many countries are now considering major policy decisions that will determine the future allocation of fishing rights. Certainly, any such new legislation will have to take into account preexisting and time-honored systems of sea tenure. But because of the major misconceptions about the nature of small-scale fishermen, mentioned above, reinforced by weaknesses in the scientific literature, the future of the tenurial status of traditional small-scale fishermen is in jeopardy worldwide. This is because that literature and those misconceptions generally form the basis on which policies are formulated and programs implemented and administered.

In the Western Pacific Basin, in which for convenience we include northern Australia, the marginal seas ranging from Japan to Indonesia, and Micronesia as well as Melanesia, systems of sea tenure and their closely related conservation ethic probably attained historically a higher level of development than elsewhere. Whereas in Micronesia, particularly, these traditional systems have largely disappeared under the impact of Western marine management concepts [JOHANNES 1978], Japan has retained a variety of local systems of sea tenure. Although not without problems, Japan provides the world's best example of how traditional systems have continuously been adapted to changing circumstances and to fulfill modern functions.

Fisheries planners in developing nations might be tempted by current fads and attempt to transfer the Japanese model to a wide range of local situations. Quite apart from the well-known problems involved in such an undertaking, a major difficulty is that so little of substance is known to outsiders about the history and ecological and social bases of Japanese sea tenure systems. (This is only to be expected since sea tenure is a relatively new field of anthropological inquiry in the West, where such systems have largely been seen as rarities, whereas in Japan it is commonplace and generally not considered "exotic" enough to merit study.) It would therefore seem imperative that the Japanese and related systems in the Western Pacific be urgently studied, using the latest methodological tools available, and applying to the task the most relevant theoretical concepts.

Yet this is only another facet of the general lack of social science material concerning small-scale fishermen. Compared with the large literature on agricultural societies there are far fewer anthropological and related studies of fishing com-

munities. And, more importantly, most such studies of fishermen concern their activities on *land* and not at sea! In part this can be attributed to the methodological and operational problems inherent in studying such societies and partly it is a sociological difficulty. In large part, too, it is also a function of national priorities where developing countries, for very cogent reasons of the large constituency, have directed their national development efforts mainly at agriculturalists. This, in turn, has had an impact on the topics studied by scholars.

This dearth of fishing community studies is to be regretted for two reasons. First, from the narrower academic point of view, the contribution of studies of fishing communities to the theoretical development of rural studies and more particularly to "peasant studies" has been little, and this despite the pioneering leadership of Firth's [1946] classic study of a Malay peasant fishing village in which he showed forcefully that fishermen are quintessential peasants. The scant literature supports this contention in such important respects as their elaborate risk-sharing institutions, competitive factionalism, multiple and complex client-patron relationships, and dependence on and vulnerability to uncontrollable external factors of the larger society, and in particular their dependence on external markets [ALEXANDER 1982]. The exclusion of fishing communities from one widely accepted definition of peasant societies [SHANIN 1973] is all the more unacceptable when it is realized that part-time fishermen—*i.e.*, farmer-fishermen—constitute the majority of those engaged in fishing in most developing countries.

Of equal importance, is that this relative lack of anthropological studies of fishing communities has fundamental policy implications, particularly since the declaration of 200 nm jurisdictional limits under the *Law of the Sea* has renewed interest in marine affairs. In the rush to exploit national advantages mandated under the Law in the international arena, there is the likelihood that governments in their ignorance of true conditions in—as opposed to distorted pictures based on a few days haphazard survey "research" rather than in-depth study—and lack of empathy with fishing communities, will bargain away the patrimony of the small-scale fishermen to obtain favorable conditions in other areas. The result of that, combined with the single-minded pursuit of economic solutions to local fisheries problems, is that, in all likelihood, already poor fishing communities will become further impoverished in the absence of in-depth and thorough studies of such basic institutions as, *inter alia*, traditional concepts of sea tenure, resource ownership and conservation and catch distribution, as well as a thorough understanding of the extremely complex linkages between fishing communities and other users of resources and space, both in the marine environment and onshore.

In some areas, systems of sea tenure are fast disappearing under the pressures that are increasingly impinging on the world's nearshore waters and fisheries. If not intensively studied soon, the opportunity to examine on a worldwide basis a phenomenon that is still scarcely known will be irretrievably lost. Increasingly, it is now being asked if the norms and institutions developed by systems of traditional sea tenure to control access and fishing procedures could form a practical basis for

planning resource management elsewhere. As of now this question cannot be properly answered since comparative information on sea tenure and territoriality has never been presented in a way that would be useful to fisheries planners. Thus the applied anthropological importance of studying traditional systems of sea tenure is to enable policy-makers and planners to make better informed choices and to avoid repetition of past and often needless and tragic failures. Such research is obviously an interdisciplinary task and must, at the very least, embrace both the anthropological and biological approaches [EMMERSON 1980].

This symposium was organized to bring together an interdisciplinary group of scholars—which included a marine biologist, an aquatic ecologist, two fisheries economists as well as anthropologists and geographers—to examine the state of knowledge of sea tenure in the Western Pacific region, and through its interactions to stimulate further research on sea tenure in the region and to inject new perspectives and methodologies into on-going research, in an attempt to fill some of the lacunae discussed above. Through this publication the symposium also aimed to provide a more comprehensive introduction to Western audiences of the hitherto little-known Japanese systems of sea tenure, as well as to complement work on sea tenure, small-scale fisheries institutions and traditional systems of coastal zone management being done in other parts of the world [cf. CORDELL (ed.) n.d.; RUDDLE and JOHANNES (eds.) n.d.].

The first six papers in this volume examine various aspects of Japanese sea tenure, a complex system which evolved from deep historical roots that in some parts of the country antedate the feudal era, or Edo Period (1603–1867). Formalization and codification of sea tenure by the Edo Government provided the bases for later national fisheries legislation, during the twentieth century, and centuries-old, village-based customary rights to fisheries have persisted forcefully up to the present day [RUDDLE and AKIMICHI n.d.].

Thus no examination of Japanese sea tenure can overlook that long history. In his paper, Kalland deals exclusively with the feudal era, and through an examination of contemporary documents provides a vivid illustration of the development of fishing territories and fisheries rights and licenses in Fukuoka Domain, on the island of Kyūshū. Major inland water bodies in Japan have been regarded legally as *ko-umi* (lit. “small sea”). Based on her examination of a wealth of contemporary documents, Kada traces the evolution of “sea” tenure in Lake Biwa fishing communities, which in some instances dates from the 11th century. She complements this by presenting the results of a recent field survey of village fishery associations. This blending of fieldwork and archival analysis provides a concise picture of the continuity of village fisheries traditions and administration.

Whereas analysis of contemporary documents permits a detailed reconstruction of the formal aspects of Japanese small-scale fisheries, and particularly of inter-village rights, regulations and territories, as well as of relationships between fishermen and government, it reveals little about intra-village problems, decision-making and

interpersonal behavior among fishermen. Akimichi's detailed study of *ambushi* net fishermen in the Naha area of Okinawa Prefecture is an attempt to overcome this problem. It assumes that the strong continuity in the formal elements of fisheries tradition is mirrored in present-day intra-community decision-making processes and problem-solving, as well as in the fishermen's territorial and interpersonal behavior, and thus will reflect fairly closely its historical counterparts.

As Akimichi demonstrates, consideration of the formal elements yields only a partial understanding of a system of sea tenure. Fuller elucidation requires that it be complemented by analysis of the territorial and related behavior of the individual fishing units. The detailed study of *ambushi* fishery thus in this sense complements the paper by Akimichi and Ruddle on the historical development of territorial rights and fishery regulations in Okinawa. Again making use of the wealth of historical documents available to the student of Japanese fisheries, Akimichi and Ruddle trace the history of Okinawan fisheries regulations and fishing territories from feudal times until 1974. They also demonstrate the administration of fisheries by national and prefectural governments as well as by the local Fisheries Cooperative Association. A third paper, that by Ohtsuka and Kuchikura, also examines fisheries in the Ryūkyū Islands and compares the subsistence fishery of the isolated Tokara Islands, in the north of the chain, with the commercial fisheries in the Yaeyama archipelago, in the southern part of Okinawa Prefecture, and with Kudaka Island, off the coast of the Okinawa Island. The authors hypothesize that systems of sea tenure emerge from pressures introduced by the commercialization of a fishery.

The paper by Matsuda and Kaneda completes the group on Japan. Drawing on a large number of detailed case studies published in Japanese by Kaneda, the authors discuss the so-called "Seven Greatest Fisheries Incidents" in Japanese coastal waters. Although many of these incidents originated in feudal times, this paper basically sheds light on the processes of conflict resolution, reconciliation and management in modern Japanese fisheries.

Whereas in Japan the poverty of small-scale fishermen and their exploitative relationships with middlemen and other intermediaries is now mostly a thing of the past and modernization of the fishing fleets is now basically complete nationwide, the fisheries sector in Southeast Asia is reminiscent of former times in Japanese fisheries. Although conditions differ according to country, throughout much of the region fisheries are still in the throes of modernization, and formal institutions for their governance remain in the formative stage. Further, extremely little is known about traditional systems of sea tenure in Southeast Asia, since virtually no research has been done there on the topic. Largely as a consequence of inter-sectoral incompatibilities and over-exploitation of fish resources by the modernized sub-sector, small-scale, traditional fishermen in Southeast Asia are now in a serious socio-economic situation. The paper by Sakiyama analyses the causes of this condition and discusses the role that fisheries cooperative institutions can play in ameliorating it.

In distinct contrast to Southeast Asia, maritime institutions in Oceania, especially sea tenure and traditional maritime knowledge, are relatively well-documented.

Micronesia exhibits many types of sea tenure. In his paper Sudo distinguishes four, based on the relationship between categories of social group and marine resources, in nine island societies.

In some pre-industrial societies the entire physical, economic and spiritual life of communities is centered on the sea. Davis demonstrates this for the Yolngu tribe of Arnhem Land, Northern Australia. Since the Yolngu believe that their spirit comes from the sea at birth, whence it returns at the time of death, they ensure that the boundaries of clan estates encompass tracts of sea. Access rights in this case are strictly enforced, for religious reasons, on pain of death. Davis also discusses the conflict between aboriginal tenurial concepts and those of the Euro-Australian population, and the need for resolution through legal channels. The discussion of Australian aboriginal sea tenure, its decline and recent reemergence, is continued by Johannes and MacFarlane, who examine the subject in the Torres Strait.

Much research on the use of renewable natural resources by tribal societies has advanced the notion of a widespread traditional conservation ethic. Polunin challenges that idea in a provocative paper on traditional marine resources in Indonesia and Papua New Guinea. Polunin observes that in those countries greater attention was traditionally given to the land than to the sea, and that this might in part account for the patchy distribution of systems of sea tenure. He contends that systems of sea tenure probably arose as a consequence of conflict that intensified as resources became economically valuable.

The problems peculiar to research on fishing communities and sea tenure are discussed by Pollnac. He suggests techniques that can be applied to overcome the ecological constraints inherent in conducting field research on sea tenure.

Throughout the Western Pacific many formerly isolated fisheries are becoming both commercialized and assimilated into larger national and regional management schemes. As a result, many traditional rights of small-scale fishermen are being eroded. A paper by Cordell on the defense of customary inshore rights concludes this volume, by considering comparatively the nature and status of sea rights in Melanesia, Japan, Alaska and the Pacific Northwest of the U.S.A.

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