Secure Land Tenure in the South Pacific Region – Developing the Toolkit

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Land Management, USP

Whosland

At dawn one morn
After eight weeks of sailing
The Europeans landed
On the gold, sandy beach.

After praying
They made their way
Inland,
With their flags in their hands
And an empire on their minds.

Soon they came across a small village,
All the people came out to see them,
The villagers thought they had come with great knowledge
And wisdom from afar.
Having never seen Europeans before
This was new and exciting.

When the captain of the ship
Met the elder of the village
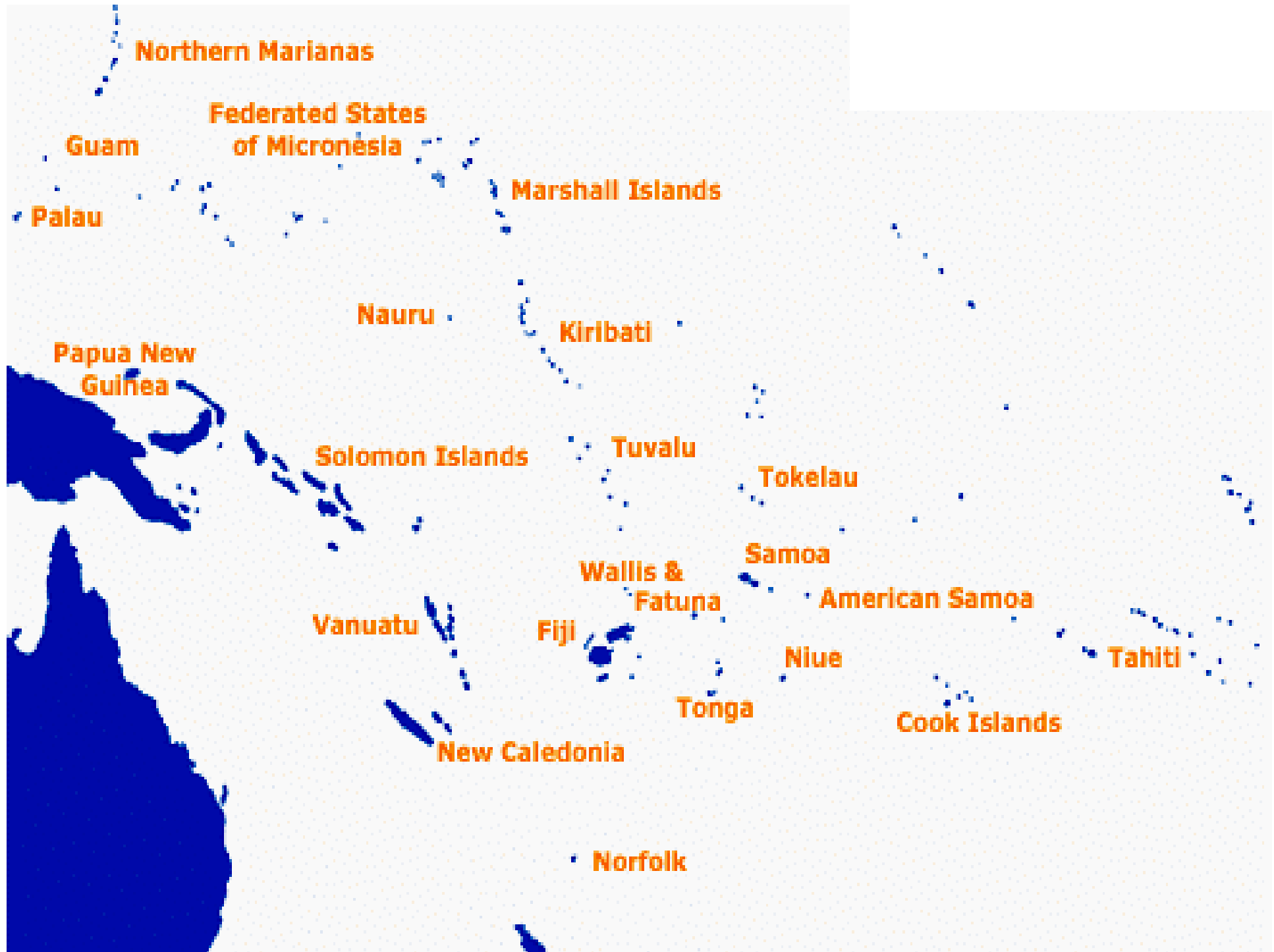He still had a flag in his hand
And an empire on his mind.

'What did you call this land before we arrived?'
said the captain.

'Ours'
said the village elder,

'Ours'.

© Benjamin Zephaniah, 2000

Pacific Island Nations in context

- 12 nations – 22 nations
- Unique (geographic, biological, sociological & economic)
- 30 million km^2 ocean
- 550,000 km^2 land & 7.5 million pop.
- *(87,587 km^2 land & 2.7 million pop.)*
- 2,000 languages

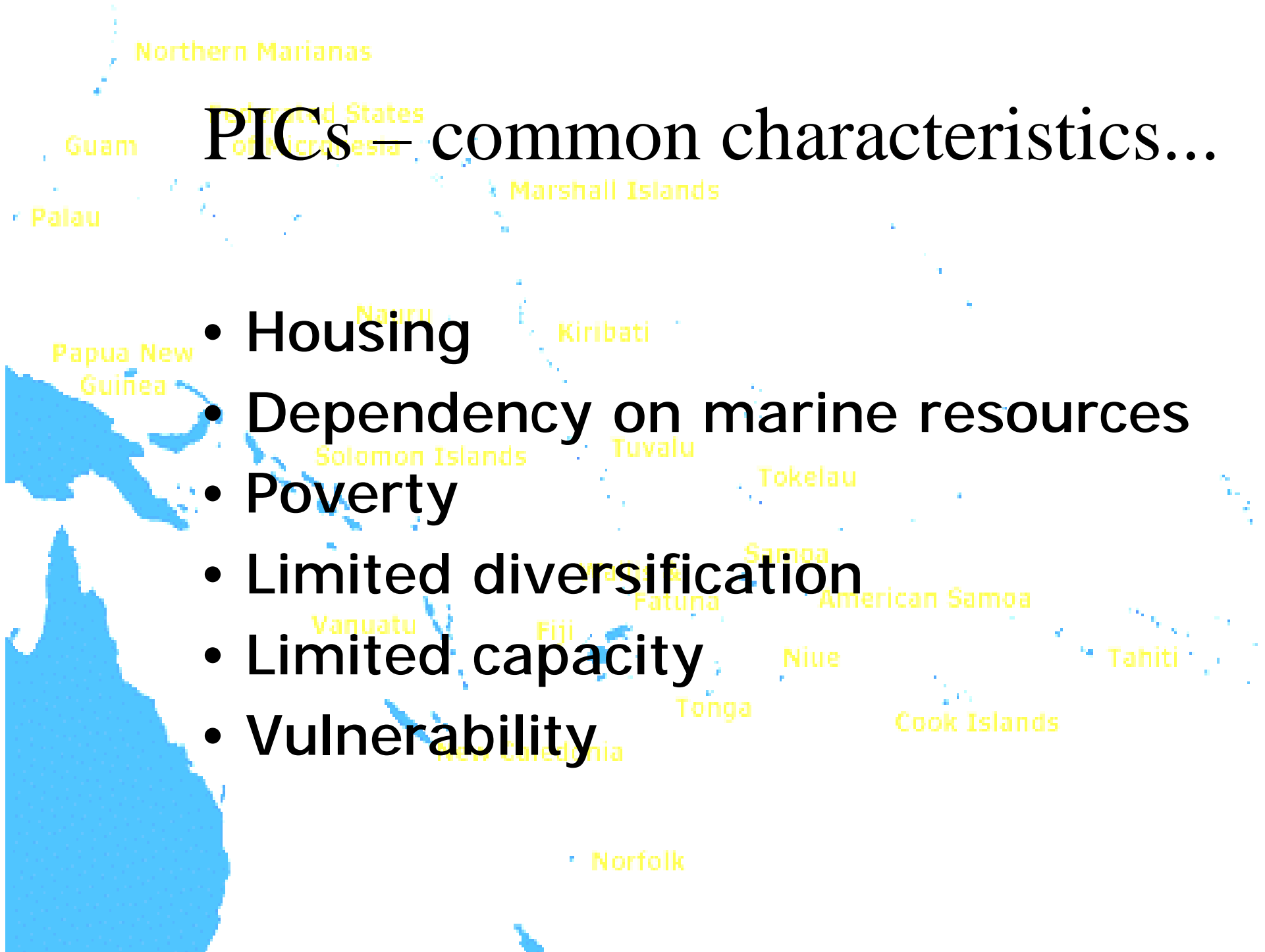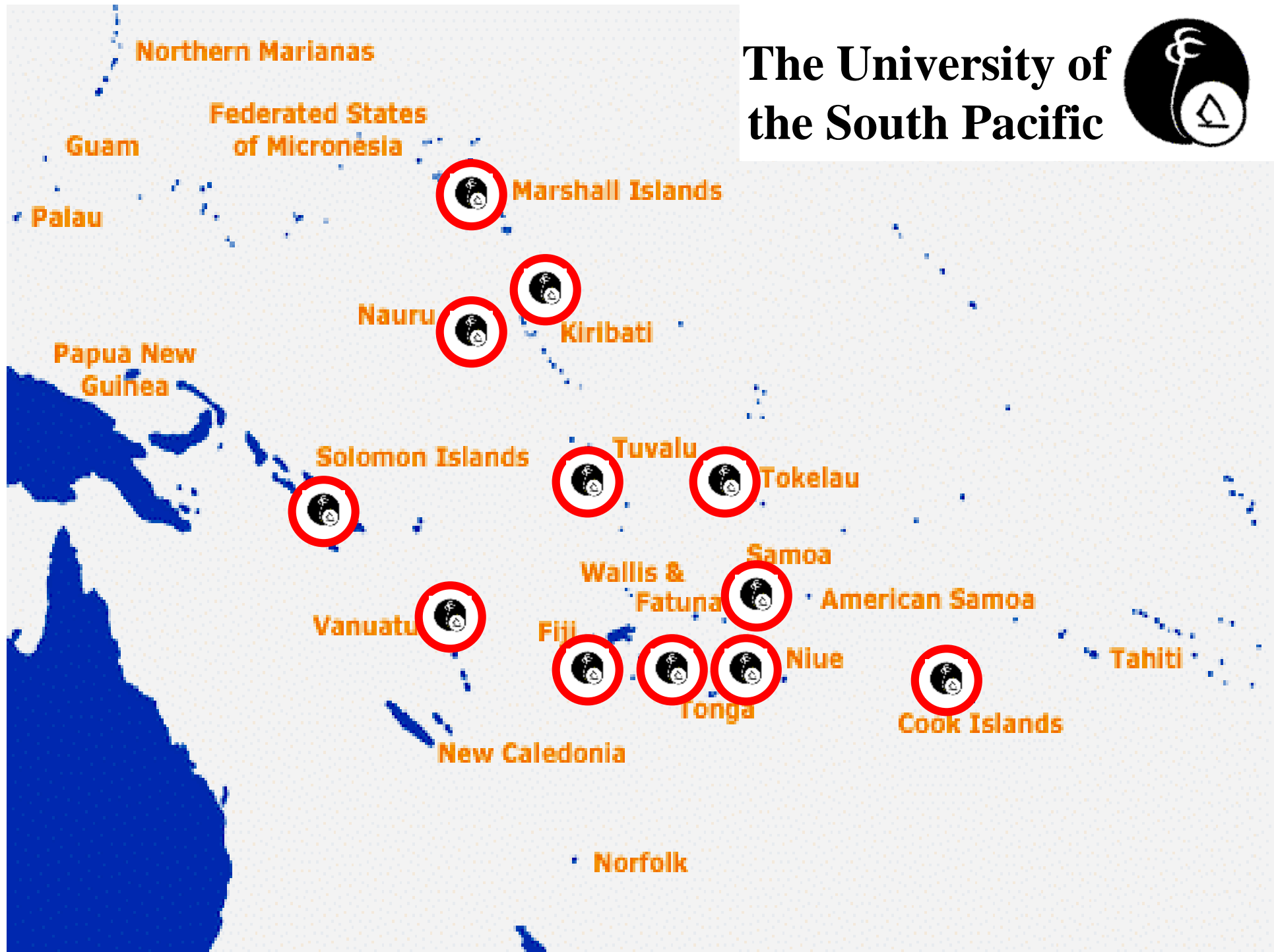# PICs – common characteristics

- Remoteness & geographic isolation
- Environmental fragility
- Rapid population growth
- Limited land resources
- Dysfunctional/immature land markets
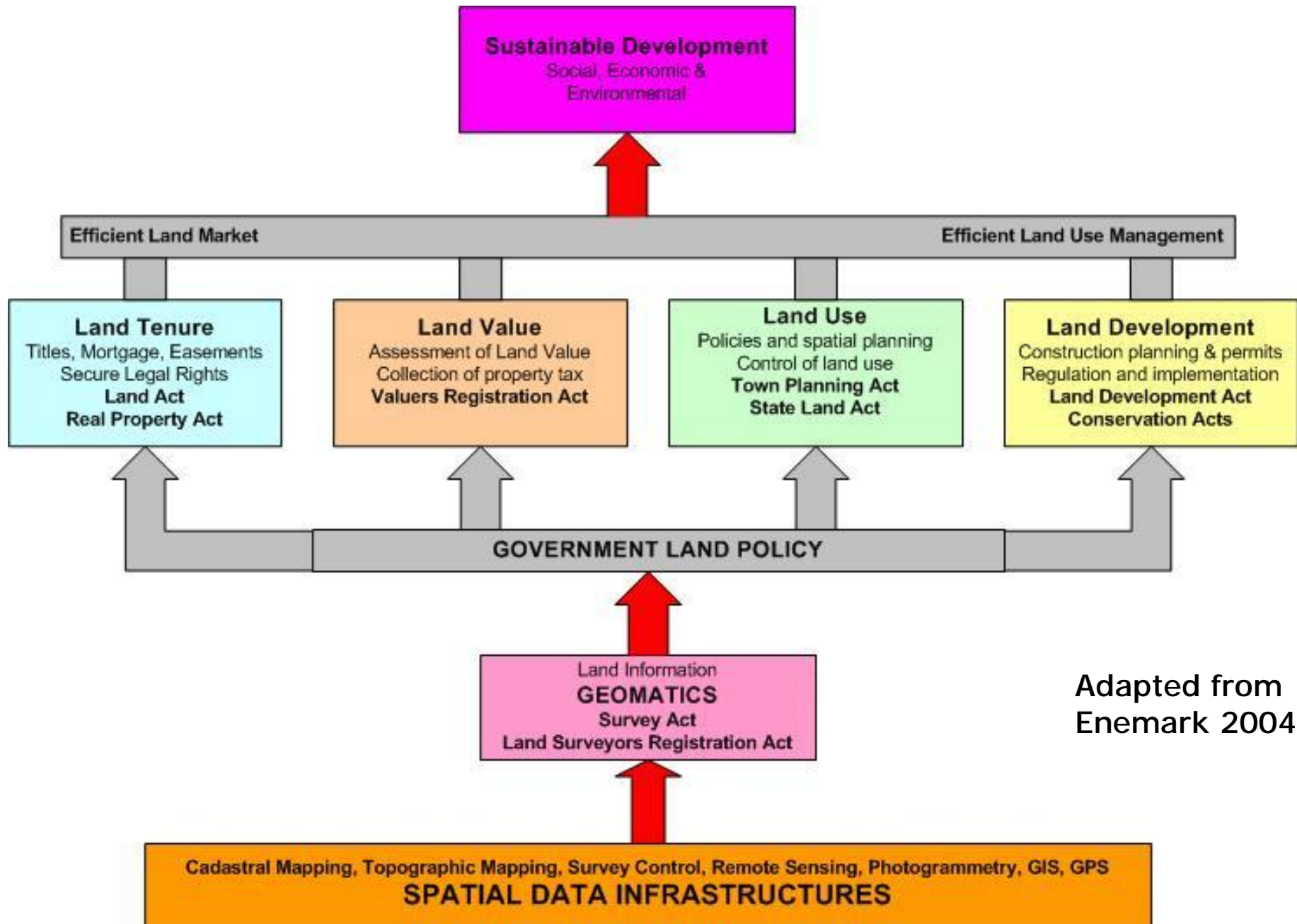- Access to land (83-100% customary)

PICs – common characteristics...

- Housing
- Dependency on marine resources
- Poverty
- Limited diversification
- Limited capacity
- Vulnerability

The University of the South Pacific

Sustainable Development
Social, Economic & Environmental

Efficient Land Market — Efficient Land Use Management

Land Tenure
Titles, Mortgage, Easements
Secure Legal Rights
Land Act
Real Property Act

Land Value
Assessment of Land Value
Collection of property tax
Valuers Registration Act

Land Use
Policies and spatial planning
Control of land use
Town Planning Act
State Land Act

Land Development
Construction planning & permits
Regulation and implementation
Land Development Act
Conservation Acts

GOVERNMENT LAND POLICY

Land Information
GEOMATICS
Survey Act
Land Surveyors Registration Act

Cadastral Mapping, Topographic Mapping, Survey Control, Remote Sensing, Photogrammetry, GIS, GPS
SPATIAL DATA INFRASTRUCTURES

Adapted from Enemark 2004

Challenges of Implementing Land Reform for Secure Access in the Pacific Region (1)

- Complexity
- Needs high level support
- Accommodate economic aspirations whilst respecting socio-cultural, religious and environmental values
- There is no property in nature
- Political governance
- Political will
- Different frameworks for different uses
- Distributive justice

Challenges of Implementing Land Reform for Secure Access in the Pacific Region (2)

- Process protocols
- Adaptive strategy rather than structural reform
- Community (grass roots) focus
- Education about property rights and policy change
- Balance commodification versus cultural value
- Cost benefit analysis
- Customary tenure versus individual rights
- Quantity versus quality

Planning for Sustainable Community Lifestyles – Land Issues Case Studies

- Gender
- Tourism
- Natural Resources
- Trusteeship
- Absenteeism
- Urbanisation (and informal settlements)
- Property Rights
- Valuation and Land Taxation
- Property Theory

There is no property in nature

There is no property in nature

- Institutions
- Territoriality
- Spiritual Value
- Spiritual Materialism
- Alienation

Formal Institutional Arrangements	Informal Institutional Arrangements
Constitutions	Relationships
Statutes	Social expectations
Regulations	Family
Plans	Firm
Policies	Community
Title	Traditional Laws and Customs

Property Rights

- *"**Property rights are the principal instrument for achieving and reconciling multiple aspirations, reducing uncertainty for investors and maximising benefits to the community**."* (Smajgl et al., 2003)

Property Rights (cont…)

- Determines the welfare that can be generated from the landscapes
- How benefits and costs are distributed between sectors and user groups
- Security of rights in the face of economic and ecological uncertainty

- Power relationships

Source: UN/Habitat (2004) Pro-Poor Land Management, Nairobi, Kenya, p.14.

Property Rights Summarised

Direct use	Quality of title
Indirect economic gain	Divisibility
Control	Access
Transfer	Withdrawal
Residual	Management
Identification / symbolic	Exclusion
Duration	Alienation
Flexibility	Usufruct
Exclusivity	Chiefly rights

Source: adapted from Boydell (2005) summarised from: Crocombe (1975); Payne (1997); Rigsby (1998); Sheehan and Small (2002); World Bank (2003); and, Power (2003)
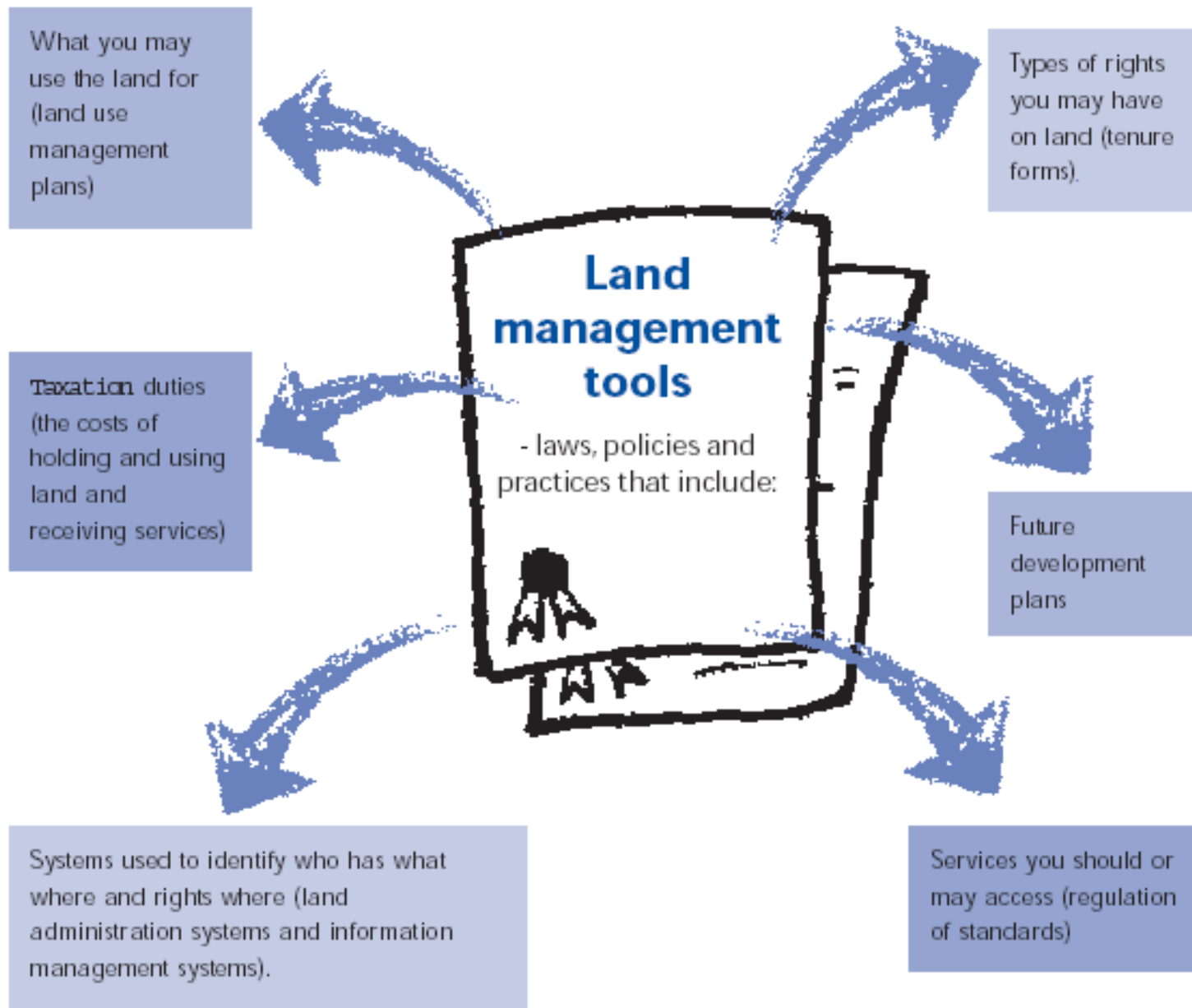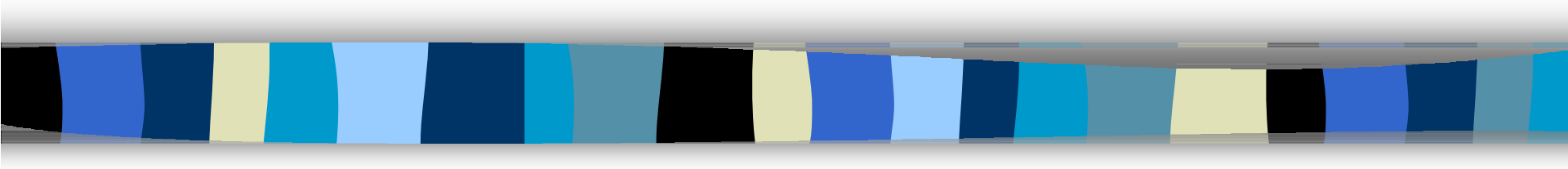
What you may use the land for (land use management plans)

Types of rights you may have on land (tenure forms).

Land management tools

- laws, policies and practices that include:

Taxation duties (the costs of holding and using land and receiving services)

Future development plans

Systems used to identify who has what where and rights where (land administration systems and information management systems).

Services you should or may access (regulation of standards)

Source: UN/Habitat (2004) Pro-Poor Land Management, Nairobi, Kenya, p.8.

Developing the Toolkit – Finding Appropriate Methodological Approaches

- Anthropological and Social Enquiry
- Genealogies
- Stakeholder Analysis
- 4R's Framework
- Dual Concern modelling
- Power & Relationship modelling
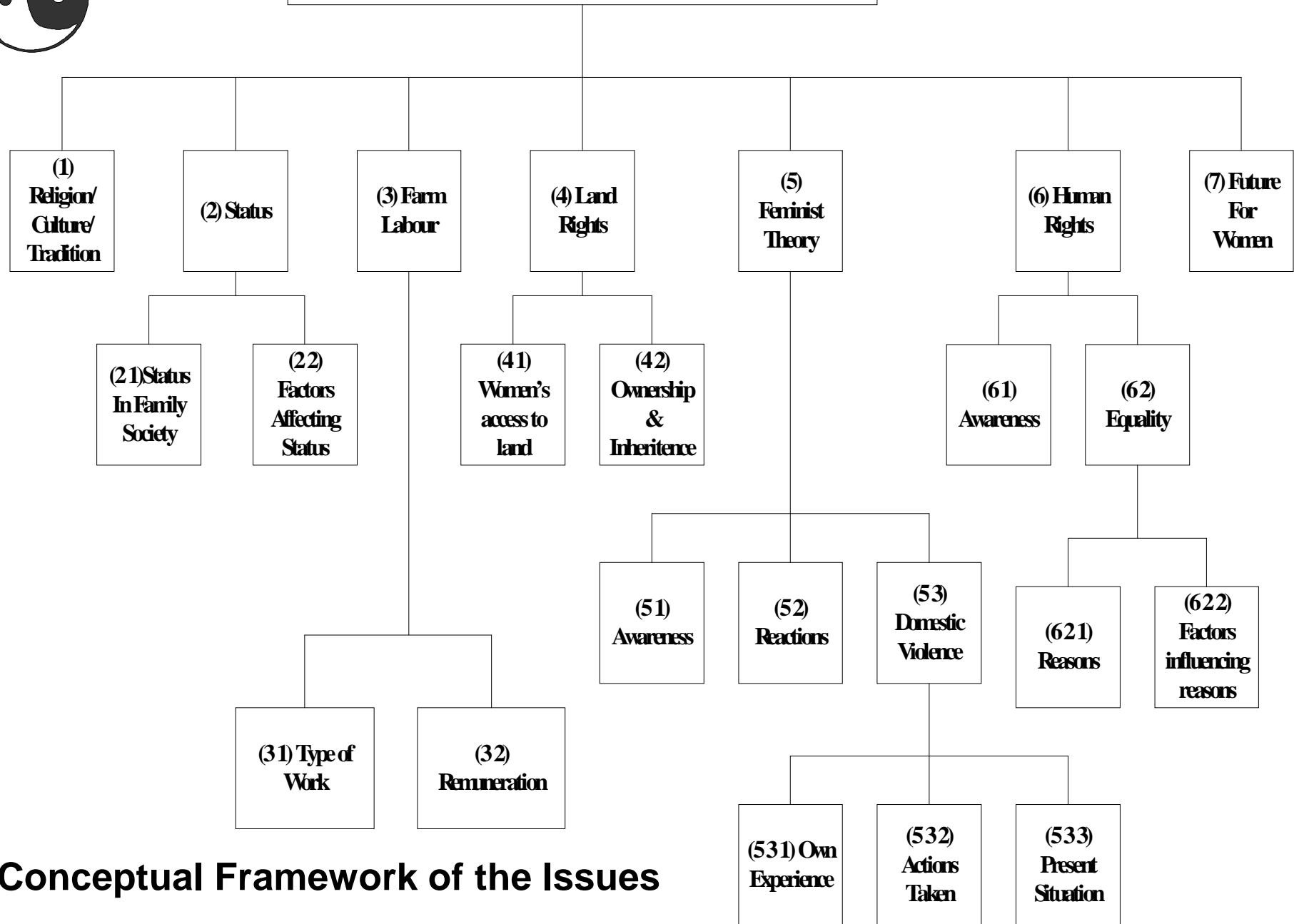- Analytical Hierarchy Process

Rural Women's Access to Land – Anupam Sharma

Case study of Fiji:

A Hindu
Perspective

Rural Women's Access To Land In Fiji : A Hindu Perspective

(1) Religion/ Culture/ Tradition

(2) Status

(3) Farm Labour

(4) Land Rights

(5) Feminist Theory

(6) Human Rights

(7) Future For Women

(21) Status In Family Society

(22) Factors Affecting Status

(41) Women's access to land

(42) Ownership & Inheritence

(61) Awareness

(62) Equality

(51) Awareness

(52) Reactions

(53) Domestic Violence

(621) Reasons

(622) Factors influencing reasons

(31) Type of Work

(32) Remuneration

(531) Own Experience

(532) Actions Taken

(533) Present Situation

Conceptual Framework of the Issues

Gender Analysis

- n Qualitative Research Solutions N5 (Non-numerical Unstructured Data Indexing searching and Theorising)
- n content coding for analysis
- n Findings:
- n majority unaware of human & constitutional rights
- n most unaware of feminist theory
- n almost half experienced domestic violence

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Gender Analysis

- **n** all - Hindu religion - superiority to men
- **n** all - Hindu culture / traditions are biased towards men
- **n** small minority wanted change in such culture
- **n** others - content - present culture

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Gender Analysis

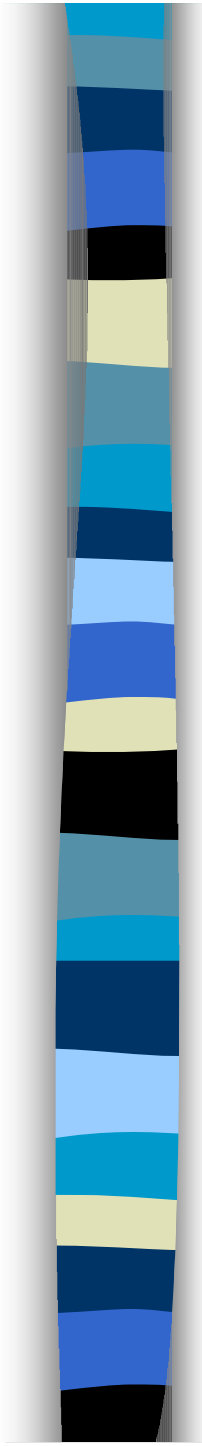- all - women - subservient status
- all - status is improved with seniority
- all - high status due to involvement in religious club
- all - gained access to land through relationship with men as daughters, sisters, wife, mother
- all - laboured on the farm
- few received remuneration

Gender Analysis

n women - not regarded as farmers but as farm assistants

n most ownership title & leases - remain under name of men

n all - land rights for granted - developed the perception that land is still a male domain

n importance of women's access to land is yet to be realised in Fiji

n "Potential conflict between culture & feminist theory is not only a real concern to Indo-Fijian Hindu women but to all Pacific women. Culture should be scrutinized in order to identify & expose inequalities between men & women. Culture should evolve with time to suit lifestyle of people. Hence, it becomes the responsibility of the entire society to develop our cultures in such a way that it neither discriminates against any disadvantaged group nor deny them their basic human rights"

(Sharma,A. 2002)

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Customary Land Mobilization

Auluta Basin

**Tribal Lands Unit
Dept. Lands & Survey**

With acknowledgement to Alec Rukia, Secretary of Tribal Lands, Government of Solomon Islands.

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Background

The Customary Lands Unit was established in January 2003

Objective

Is to devise a comprehensive and cost effective system for defining customary Land holding groups.

Customary Land Records Act

The only legal tool we have available that relates to the nature of our objective is the Customary Land Records Act… The Act, although was passed by Parliament in 1994, had never been used and one obvious reason is the cost factor (administration & proceedings).

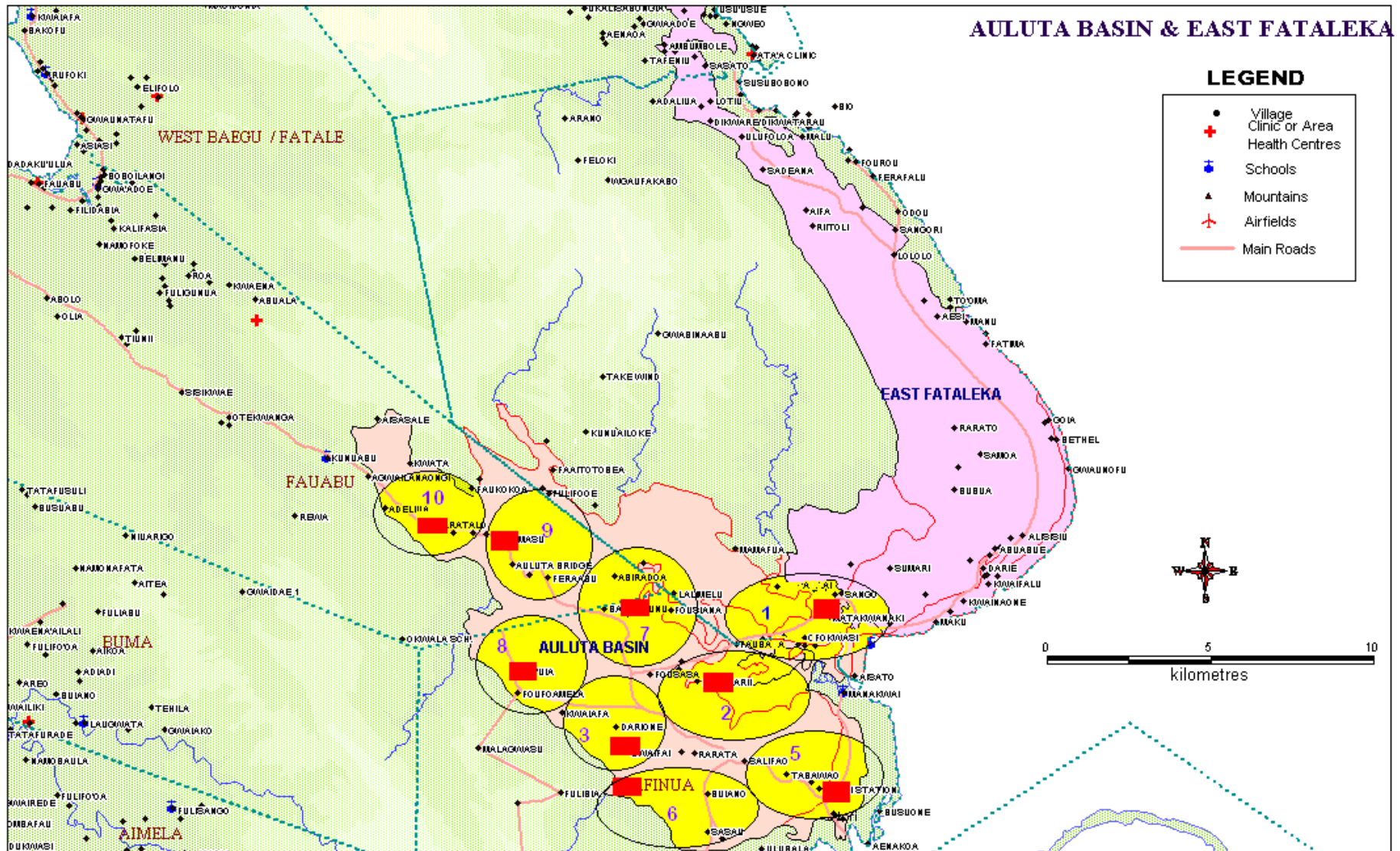# Customary Land Mobilization - Auluta Basin

Mission:

1. To record how many different customary Lands exist within the Auluta Basin?

2. Where are the boundaries?

3. Who hold rights to the ownership of these lands?

4. What is the current status of these lands in terms of disputes

In reality we are only taking a "stock-take" of customary lands in the Auluta basin. What do we do with these Records??? (to assist in speeding up the Acquistion Process).

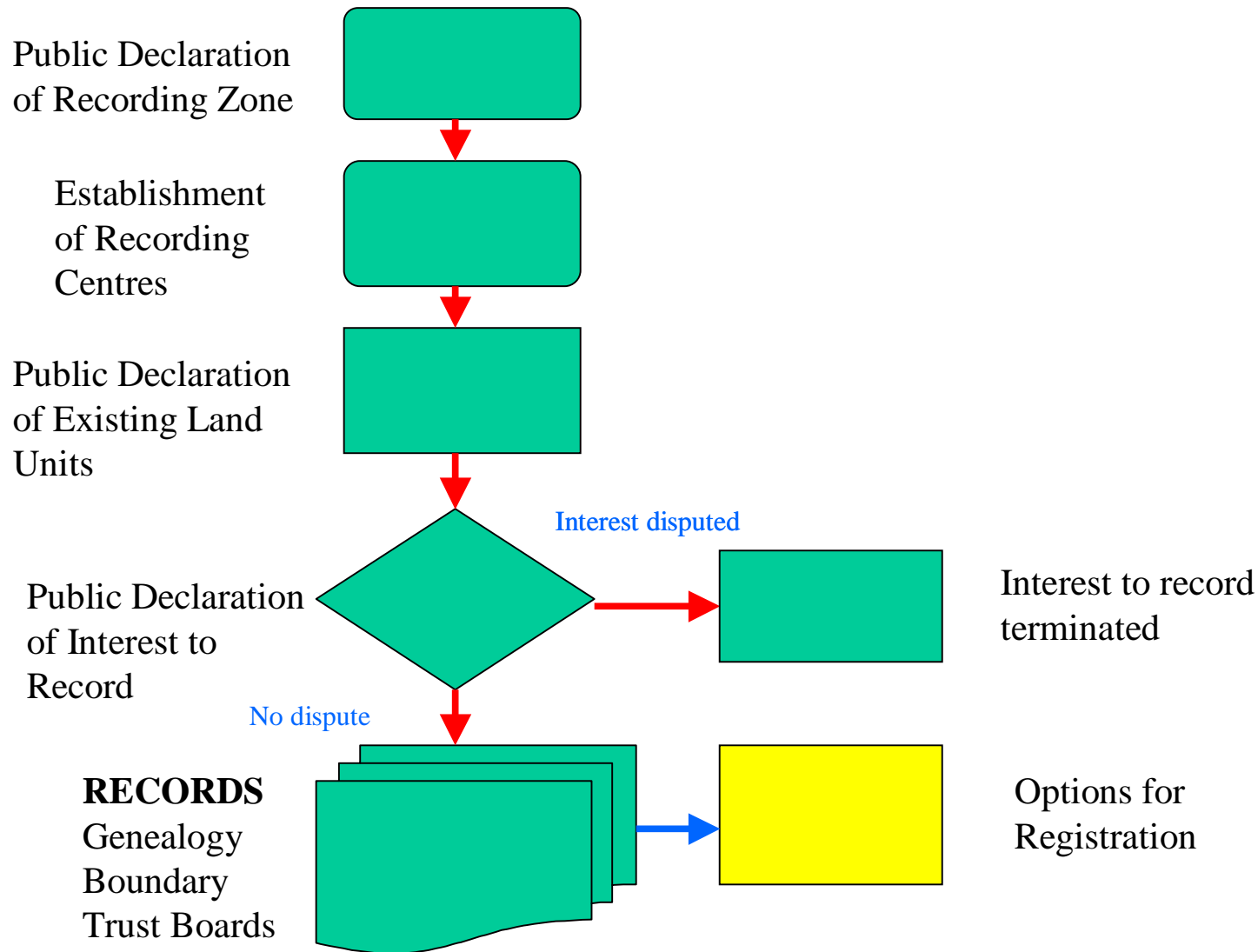**MALAITA PROVINCE**
Location Map Aluta Basin

Malu'u

Dala

AUKI

Aluata Basin

Atori

Atoifi

Su'u

Afio/Maka

Marau

Record collection niches

AULUTA BASIN & EAST FATALEKA

Mobilization of Customary Lands is Mobilization of entire LH Groups

Land Mobilization – System and Application

Public Declaration
of Recording Zone

Establishment
of Recording
Centres

Public Declaration
of Existing Land
Units

Public Declaration
of Interest to
Record

Interest disputed

Interest to record
terminated

No dispute

RECORDS
Genealogy
Boundary
Trust Boards

Options for
Registration

Declaration of Existing Lands

Customary Maps

Example of a Complete Genealogy

Solomon Islands Government

CUSTOMARY LAND RECORDS
Tribal Lands Unit, Department of Lands & Survey, Honiara

ND: ILA			Application No. 0729-0501
cation: Ward 29, Central Kwara'ae, Malaita			Grid Ref:
undary shared with	from	to	Sketch
eboe	Gwaunasuu	Gegema	
obero	Suanihara	Gwaibaleo	

IBE : ILA

ethod of Ownership : Purchase

GENEALOGY & Historical Records, sacred (tambu) sites to be attached.

UTHORITY:		Photograph – Ila Land Trust Board
Chairman	Harry Maefelo	
Vice-Chairman	Peter Wiitee	
Secretary	Eric Dauara	
Treasurer	Joy Takila	
Member	Kote'e	
Member	Semuel Sade	
Member	Sam Maniato	
Member	Maranagao	
Member	Betty Haulidi	
Member	Barnabas Kini	

Endorsed by House of Chief

Radekwai

Recording Officer: Alec Rukia

Recording Centre Gwaifai Central	Date: 27/07/05

Land Records witnessed by House of Chiefs

Objective of Customary Land Recording ?

- **To establish a legally recognized Customary Land Register (Record) that contain details of all the land recorded including the tribal genealogy, land boundaries and Land Trust Boards (Authorities).**

Where do we go from here??

Potential to trial Mike Barry's

"Talking Titler"

in the Solomon Islands
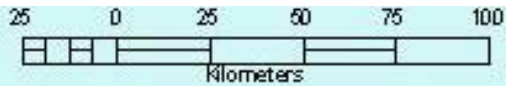
Stakeholder Analysis (a)

stakeholder relationship with the main problem & each other

Stakeholder	How affected by problem	Capacity / motivation to participate in addressing the problem	Relationship with other stakeholders (e.g. partnership or conflict)

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Stakeholder Analysis (b)
expected impacts of proposed project / programme

Stakeholder	Main objectives of stakeholder	Positive impacts / benefits	Negative impacts / costs	Net impact

Stakeholder Analysis (c)
stakeholder power analysis of a particular policy or institution

Stakeholder	Main interest	Power	Potential	Relationship with others	Net Impact	Options / ways forward

Stakeholder Analysis (d)

4 R's rights, relationships, responsibilities, revenues

Stakeholder	Rights	Relationships	Responsibilities	Revenues

Stakeholder Analysis (e)
stakeholders - 3 pillars of sustainable development

Stakeholder	Economic	Social	Environmental

Stakeholder Analysis (e.2)
stakeholders - 3 pillars of sustainable development

Stakeholder	Economic	Social	Environmental
	←→ (red)	(red)	
		←→ (yellow)	(yellow)
	←→ (green)		(green)

- n Identifying stakeholder aspirations (goals)
- n Often stakeholders don't know – or 'think' they do
- n Pairwise comparison

# Stakeholder Analysis (f)
relationship matrix

Stakeholder	Resort Manager	Resort Owner	Village B	Village A	Tourists	Minister Tourism
Resort Manager						
Resort Owner						
Village B						
Village A						
Tourists						
Minister Tourism						

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The Four 'R's *(IIED Power Tools)*

n A tool for looking at stakeholder roles.

Rights	Responsibilities
Relationships	Revenues

Rights

Responsibilities — Roles — Returns /
Revenues

Relationships
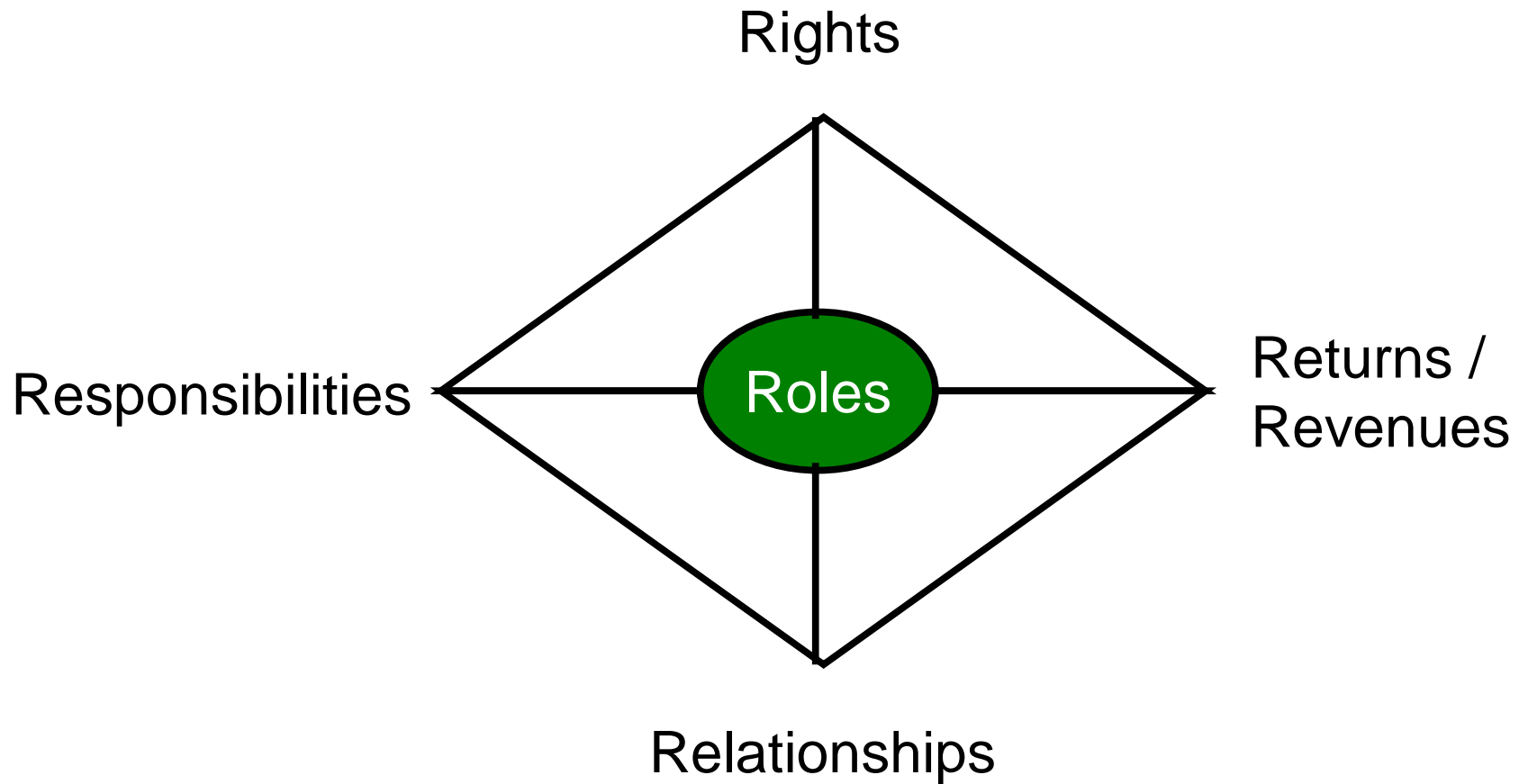
Source: Dubois, O. (1998) p. viii – the 4 (or should it be 5!) Rs framework

Multi-actor decision-making, active
participation, favouring collaboration

Disparity in
power

Parity in
power

Mono-actor decision-making, passive
participation, favouring competition

| Outcomes potentially unstable, at least in long term, due to possibility to exert power | Outcome stable as long as parity of power is maintained |

Agreement on objectives
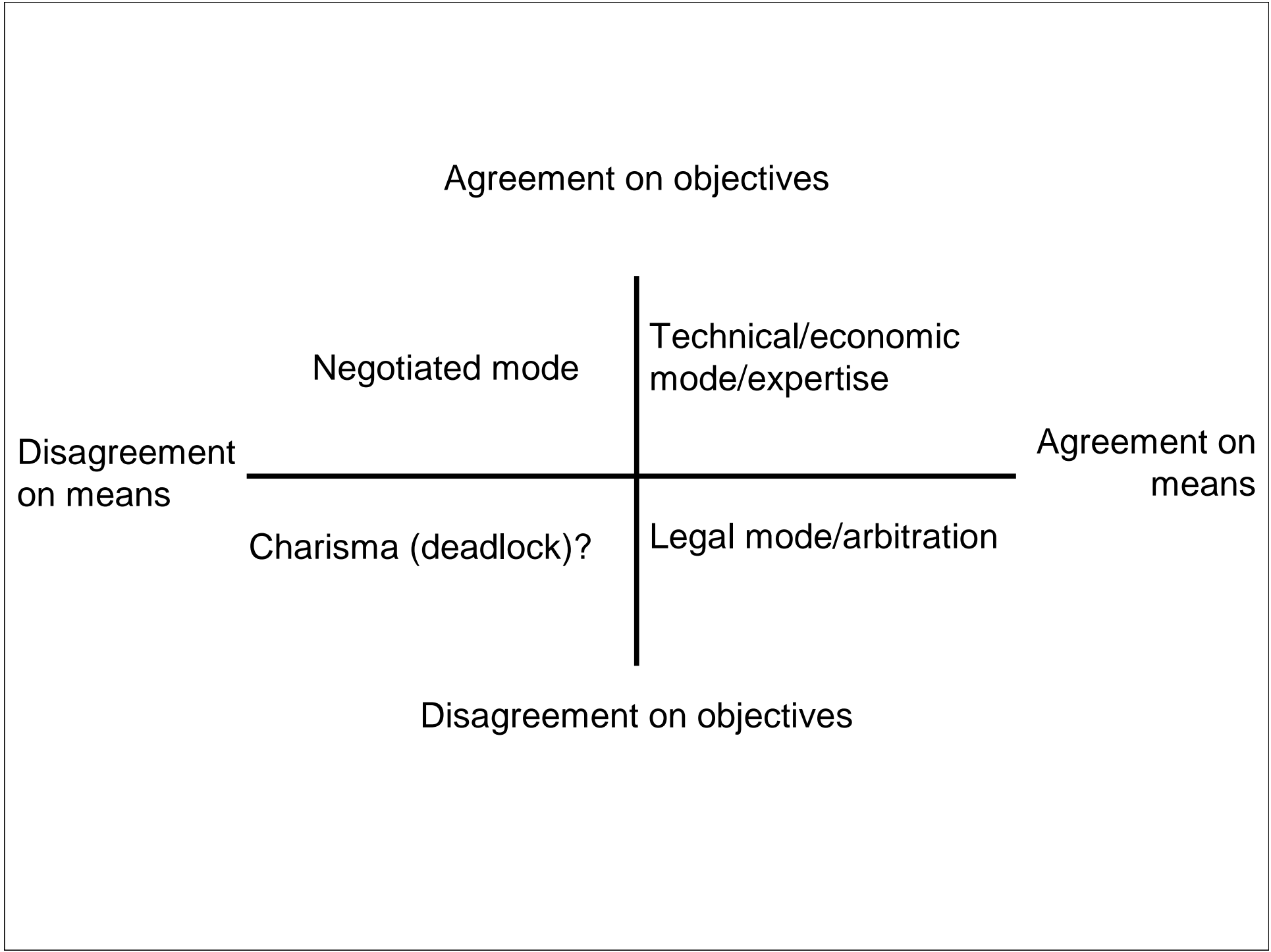
Negotiated mode

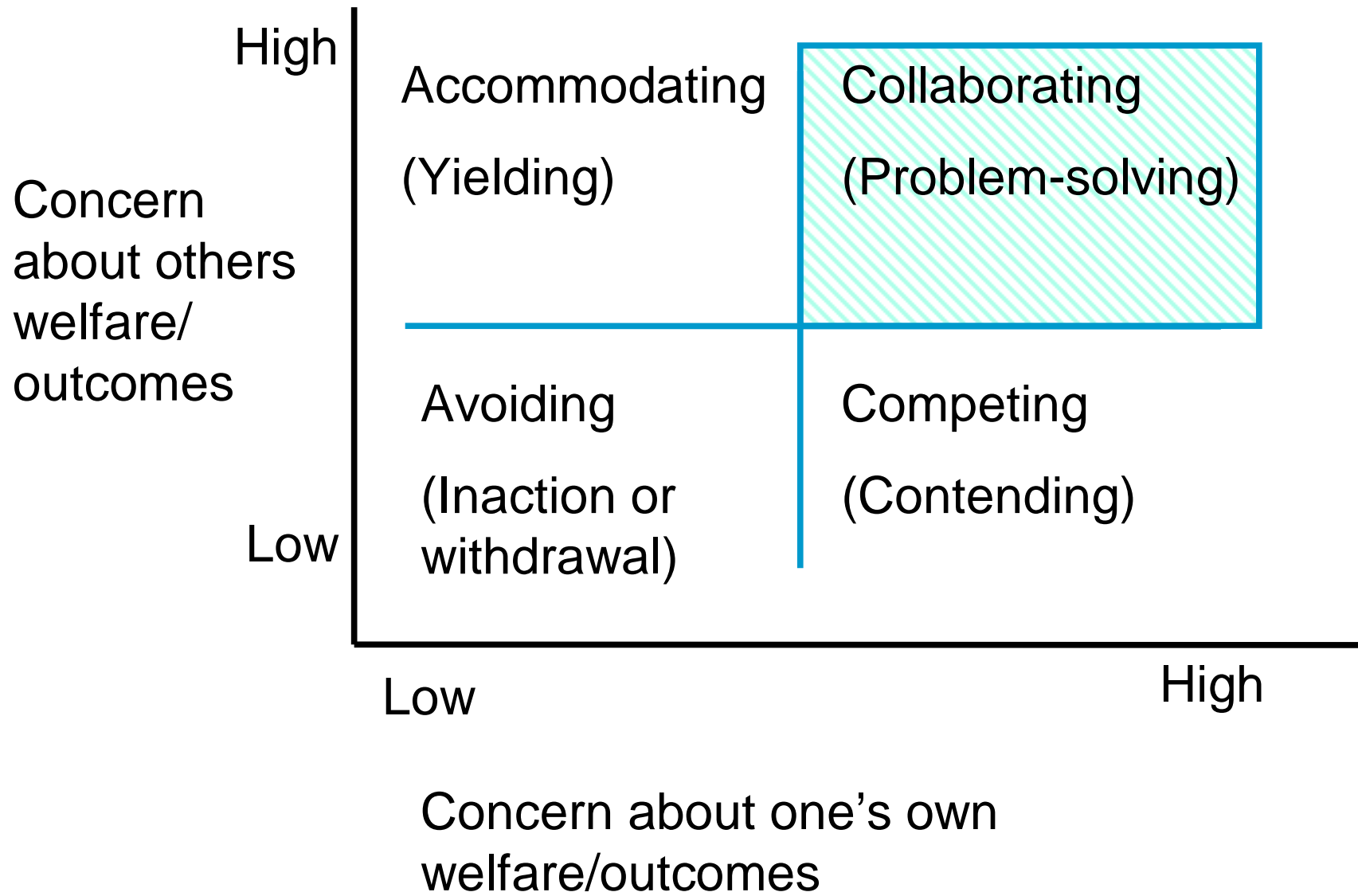Technical/economic
mode/expertise

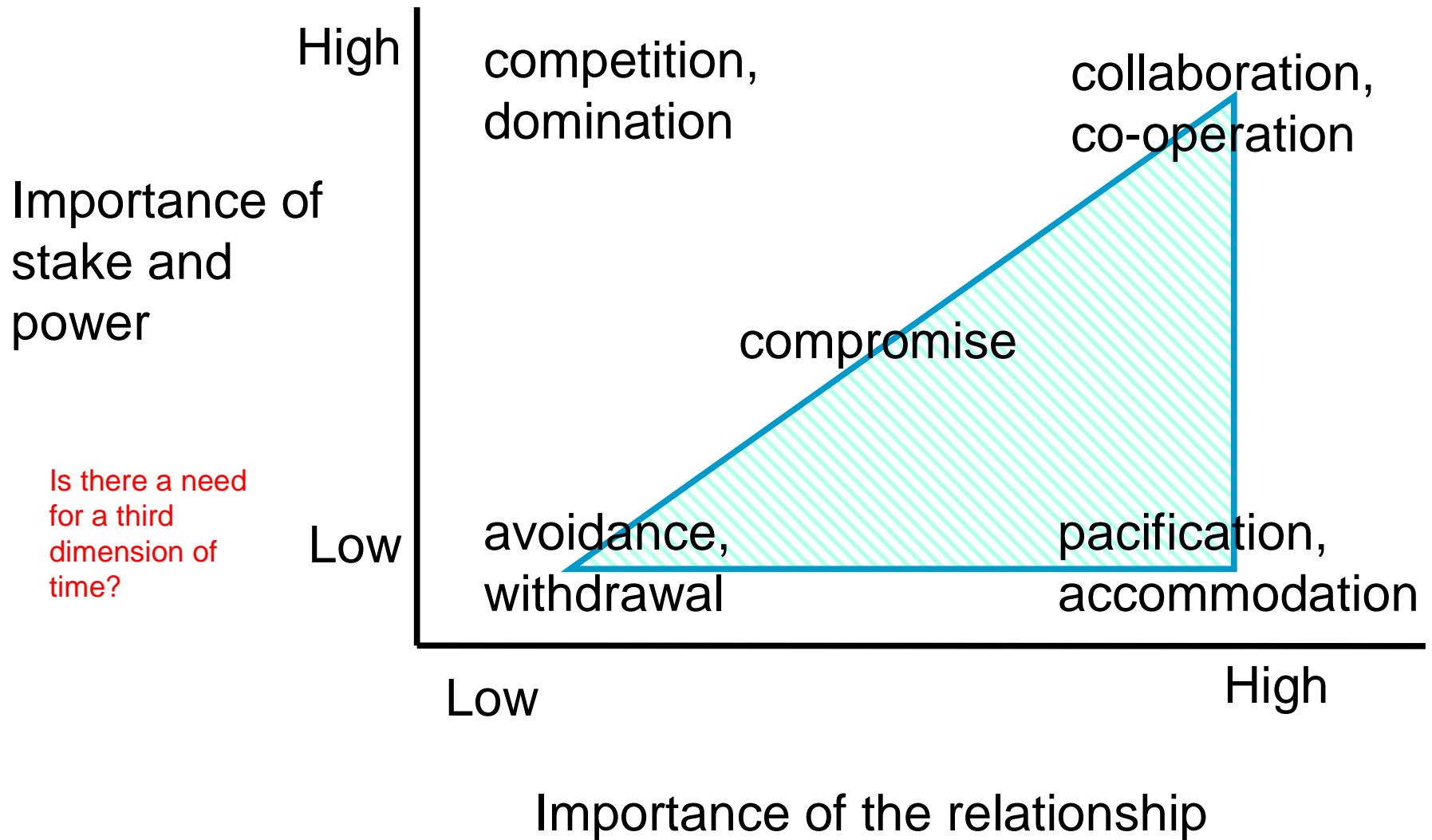Disagreement
on means

Agreement on
means

Charisma (deadlock)?

Legal mode/arbitration

Disagreement on objectives

Concern about others welfare/outcomes

High — Accommodating (Yielding) — Collaborating (Problem-solving)

Low — Avoiding (Inaction or withdrawal) — Competing (Contending)

Low ——— High

Concern about one's own welfare/outcomes

Source: Walker & Daniels (1996)

High | competition, domination | collaboration, co-operation

Importance of stake and power

Is there a need for a third dimension of time?

Low | avoidance, withdrawal | compromise | pacification, accommodation

Low | High

Importance of the relationship

= area where a consensus is reachable even if stakeholders values diverge

Source: Vodoz (1994)

Directions

- Analytical Tools rather than Historical Rules
- Work in progress
- Education – particularly property rights
- Minimise the conflict
- A worthy starting point…

Directions

There is a broad need for a systematic re-appraisal of the very fundamentals of property in a manner that will facilitate appropriate regional solutions. To be effective, local property institutions will need to respect local culture and tradition, as well as incorporate elements that recognise the needs and dignity of persons beyond the confines of the tribal owners. It is only in this way that the broader level of co-operation that is nascent within Western commerce and culture may be made available to customary people. Part of this exploration of property necessarily includes investigations into regional issues and their solutions.

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