# Bigmen justice: Governance arbitrage in Solomon Islands justice delivery

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*Abstract: Solomon Islands remains underdeveloped despite decades of development assistance. I argue this is due, in part, to the failure to account for the country's hybrid governance in which governance codes of Western liberalism, capitalism, Christianity and Melanesian custom interact. There is a need for contributions that discuss and explain the practical impacts of hybrid governance on those who live in the region. To help fill that gap, I review and analyse the relevant secondary literature, introducing a new concept, 'governance arbitrage', to explain how actors navigate a hybrid governance environment. I show governance arbitrage is widespread within the justice system, and is a tool used by elites and non-elites alike. I conclude by suggesting possible new avenues for research*

The Solomon Islands state remains weak despite decades of development assistance. While there are many possible causes to explain this weakness, one important yet relatively neglected explanation is that development efforts have failed to account for the country's hybrid governance in which governance codes of Western liberalism, capitalism, Christianity and Melanesian custom interact. Although hybridity in the region is explored by academic observers (Boege et al., 2008; Mac Ginty & Richmond, 2016; Wallis et al., 2016; Forsyth et al., 2017), there is a need for contributions that help explain the practical impacts of hybrid governance. In other words, understanding that governance in Solomon Islands is hybrid is the first step; understanding how hybrid governance functions is the second.

To help fill that gap, this paper introduces a new concept, 'governance arbitrage', to explain how actors, elite and non-elite alike, navigate a hybrid governance environment by calling on different governance codes in the pursuit of their goals. I argue the concept of arbitrage – profiting by taking advantage of the difference in values for the same commodity – is useful for interpreting the actions of Islanders because it shows how hybridity works in practice.

To illustrate governance arbitrage in action, I use the example of the justice system in Solomon Islands, for two reasons. The first is that delivering justice is the definitional task of effective governance that asserts legitimate authority (Finnemore, 1996), which is in turn the first goal of development under the good governance agenda (World Bank, 1997). The second is that justice in Solomon Islands has long been an area of hybrid contestation between the governances codes of the Western liberal state, customary practices and Christian churches against a backdrop of unfettered capitalism. I build on the discussion of the justice system to contrast elites and non-elites as governance arbitrageurs of differing resources, experience and skill at operating in the hybrid 'mix of formal and informal institutions through which the exercise of power plays out' (Allen et al., 2017:p.7).

Elaborating on the connection between governance, legitimacy, authority and justice, Allen and others (2007) are right that power 'plays out' through institutions. Institutions legitimate power when they provide some kind of public good, creating an obligation by the public to support that institution. This legitimate power expresses itself as authority, as opposed to illegitimate, coercive and larcenous power (Barnett & Finnemore, 1999).

Turning to governance, Solomon Islands does not have a single, unified justice system with discrete venues designed as an authoritative and legitimate institution, except on paper. Instead, the hybrid reality of justice-seeking in Solomon Islands means that courts are sites for mixing governance codes in ways that are dynamic and uncertain. In contrast to the cut-and-dried ways of common law legalism, the hybrid actions of Islander governance arbitrageurs make sense in the context of an 'arbitrary governance environment' characterised by the 'constant making and unmaking of public authority...

**Figure 1: Child playing with an old tyre at a beach on Savo Island, Solomon Islands.**

where it is frequently unclear to the citizenry which authority, if any, will take responsibility for handling any given complaint' (Tapscott, 2016:p.42).

In this paper, I review the relevant secondary literature and make an argument for governance arbitrage as having explanatory advantages over an alternative such as forum shopping. This review of literature in the region brings together voices on both the Solomon Islands justice space as well as anthropological perspectives on how people – both elites and non-elites – have operated in other parts of Melanesia to identify and explain a phenomenon that holds back development efforts in Solomon Islands. This raises a concern about conflating literatures by using literature that is specific to Solomon Islands as well as another literature that includes Melanesia more broadly, particularly Solomon Islands' neighbours of Papua New Guinea and Vanuatu. There are a number of reasons why I have chosen to override this concern and go forward. First among them is that Melanesia as a region of social science study is defined by the omnipresent diversity between governance codes. As a result, bringing perspectives from one part of Melanesia to another can illuminate common issues. At the same time, adopting national boundaries as barriers to research seems inappropriate. Finally, I am following in the tradition of the literature by

comparing like-cases to generate fruitful insights (Douglas, 2005; Evans et al., 2010).

My argument is as follows: in a developing state like Solomon Islands, development requires effective governance. Effective governance, in turn, requires a justice system that resolve disputes in a way that is seen to be fair and reasonable by participants; in a word, the justice system must be legitimate. That legitimacy comes from rightful authority, but in Solomon Islands, what precisely constitutes rightful authority is a highly complex problem and contested issue.

This paper begins with a brief description of the social geography of Solomon Islands through the four codes of governance at work in the country, and use that discussion to define elites and non-elites in Islander history. I elaborate on hybridity, and then defend governance arbitrage as a better heuristic tool than the alternative of forum shopping. Having developed my theoretical approach, I then use the example of the Solomon Islands justice system as a space where governance arbitrage is omnipresent. I close by summarising and offering my views of what governance arbitrage's use in future research programs. My objective is to show that governance arbitrage is a novel and useful description for an ongoing phenomenon with deep roots in Solomon Islands in particular and Melanesia more broadly. My

conclusion is that understanding governance arbitrage is vital for explaining the pervasive uncertainty for justice-seekers in the region.

## Solomon Islands: a social geography of four governance codes

Solomon Islands is an archipelagic developing country in the southwest Pacific. A part of Melanesia, it is part of the most ethnolinguistically diverse region on the planet, with the varieties of governance to match (Putt et al., 2018). The substrate of Islander governance is the traditional, or customary code. It includes a vast range of variations, but common features to be discussed shortly it together as a code (Wittgenstein, 2009). While the customary preceded contact with Westerners, custom since sustained contact is called kastom in Melanesian pidgin, reflecting its hybrid reality. Alongside custom is Christianity, introduced two centuries ago and the faith of virtually all Islanders today. Alongside both is the Weberian liberal state, with its institutions and assumptions of selfhood, citizenship and governance. Alongside all three is capitalism, the pursuit of economic profit by private actors. This section explains what these codes are, in the small space available.

The basic building block of Solomon Islands society is the customary code of governance; and the basic building

block of the customary is what is now called the wantok. A group of people who view themselves as sharing a common identity reified by mutual reciprocity (de Renzio, 1999), wantoks express 'cooperation, caring and reciprocal support, and a shared attachment to locality' (Nanau, 2018:p.244). Literally meaning 'one talk' in pidgin, wantoks often share a common language, but may also offer commonality across, but not exclusive to, kinship ties, geographical origins, social associations, and religious affiliations. Wantoks remain 'the primary reference point for most Solomon Islanders' (Allen et al., 2017:p.6), and wantokism is the omnipresent 'invisible hand' (Nanau, 2018:p.248) of social interaction and governance in the country.

Like kastom, the wantok is a social phenomenon that emerged in response to contact with other, foreign governance codes, but by the same token, represented something that had existed long before contact. Fundamentally a 'system of generalised obligations and supports', wantoks express a customary approach to constantly shifting interrelations between groups, that sees exclusivity as alien (Brigg, 2009:pp.151-152). As Harrison argues, the kastom code with its focus on 'transactional networks and lines of transmission rather than ... discrete and bounded entities' (2006:pp.70-71) leaves individuals as 'partible' people who act 'as composite beings constituted of the detached parts/relationships of other persons through prior ... exchange' (Mosko, 2010:p.215). Kastom and wantokism model a sense of selfhood based on dividual selves: selves defined in relations to others; meaning generated by what Harrison calls the 'commerce of cultures' (1993).

Intertwined after nearly two centuries of missionary activity and holding the allegiance of 95% of the Solomon Islands population, Christian practice is also based in sociality and collectivity. Literally parochial in a way that has hybridised well with kastom, Islanders themselves regard the two codes as 'inextricably linked' (Timmer, 2008:p.199) even if they disagree about the precisely how and to what extent, and see the two codes as focusing on reciprocity, spirituality and a rich cultural ritual practice (Douglas, 2005). However, tensions abide, and at least

one observer notes how a Protestant-dominated Melanesian Christianity based on an unmediated relationship with God can drive individualism in a way that undermines social stability (Robbins, 2004). Yet Whiteman argues that far from being passive recipients of a foreign creed, Islander Christians were, and are, 'active participants, reinterpreting, modifying, accepting and rejecting change advocated by the missionary' (1983:p.432).

Two other Western governance codes, liberalism and capitalism, resolve the tension between individualism and collectivity by relying on a vision of the 'possessive individual' who is the unique 'the proprietor of his own person and capacities, for which he owes nothing to society' (Macpherson, 1962:p.263). The individual citizen is the basic component of Western liberalism expressed through a Weberian state structure with an elected political leadership and an implementing disinterested bureaucracy together exercising rational-legal authority (Weber, 2013). Of course, being a 'possessive individual' is not merely a statement of political citizenship, but a description of an egoistic, rational, benefit-maximising economic actor who is committed to the formal equality of all citizens under the law, but also to the pursuit of inequality in private profit under capitalism. Although the capitalist and the liberal codes of governance intertwine, they do so in tension (Sykes, 2007).

The uneven interaction between these four entangled governance codes has resulted in what Porter and others call 'social disintegration'. This is particularly clear in the example of youth and migration. In a post-colonial country with half the population under 25, and the young stuck between the past while also struggling to build a stable future, there is a growing sense that the traditional institutions are inappropriate or obsolete. This feeling is strongest in the towns and city (2015:p.2), places where the governance and social and economic 'mix is changing fast[est]' (Moore, 2014:p.29).

Returning to wantoks, we can see this disintegration and reformation occurring in real time. Wantoks may provide social cohesion, comfort and support in the village, but transformed by an aggressive

brand of capitalism and weak liberal government systems, wantoks of elite actors reshape reciprocity from a means of sharing and mutuality into a means of 'exploitation and political expediency' (Nanau, 2018:p.248). This 'manipulation of custom' (Fraenkel, 2004) is not confined to elites, but elites by definition have the power, authority and capacity to act more freely than non-elites, as Fraenkel points out in his discussion of militia leaders strategically misapplying customary principles of compensatory justice to rationalise their attempt to blackmail the liberal state for money payments to call a truce. This example from the violent ethnic Tensions of 1998-2003 is only one example of how the customary has become

"increasingly monetised, separated from its social foundations, and often used instrumentally to extort and intimidate, or otherwise used to promote particular material or political interests" (Allen et al., 2017:p.5).

## Grassroots and bigmen: elites and non-elites

The question of defining and outlining elites and non-elites is a question of the hybrid interaction of governance codes in every way as much as kastom or the wantok. This section discusses who elites are in Solomon Islanders, as well as non-elites. There are three kinds of elites: those pre-contact, during the colonial era, and finally the current, post-colonial era. In contrast, the relative ratio of non-elites is surprisingly consistent across all three eras, with change coming very recently.

In Islander societies, the vast majority of people live by subsistence farming from time immemorial. Even today, between 80% and 90% of the population still live in this way, in village life. These non-elites – what Martin calls the grassroots (2007) – have recently begun taking part in the capitalist economy, whether in small doses in the village, or by moving to provincial towns or the capital, Honiara. By virtue of exerting capitalist agency, grassroots individuals join the 'working class', the Melanesian term for those engaged in the wage economy. If successful, they also begin ascending toward elite status.

On the other hand, elite status is

something that must be both earned by the individual, and conferred on the individual by others. The sources of legitimating elite authority before sustained contact with Westerners lie in the ability of individuals to set themselves above by ritual achievement (earning the post-contact status of 'great man') or by entrepreneurial, acquisitive achievement (the 'bigman') (Harrison, 1993:p.156; compare Sahlins, 1963). Later, Western capitalists and colonialists attempted to define elites by offering more alien monikers: bigmen and great men were 'chiefs', and elite chiefs were 'paramount chiefs' (Goddard, 2010:p.11). As we will see shortly, British colonial officials attempted to create a new, specifically collaborationist elite by appointing some chiefs as 'headmen'. Finally, in the post-colonial era, the rapid hybridisation of governance created a proudly, aggressively Western kind of elite figure eager to define themselves through their liberal and capitalist identities as a 'possessive individual': the 'big shots' who had risen to the top end of the working class (Martin, 2007).

## Hybridity

Rather than crossing a fluid boundary between public and private, I argue that in Solomon Islands, people repurpose codes of governance, whether custom, Christian, capitalist or liberal, with elites having much more practice, facility and therefore ability at doing so. However, to say actors switch between discrete codes is to present them with solid and stable, not fluid and dynamic, boundaries. Moreover, while some codes have closer relationships than others (for example custom and Christianity as kastom), they are all interrelated. Capitalism has found its way into even the most remote corners of the country, while liberalism has outpaced the reach of its feeble Western state – providing at least ideas to Islanders, if not basic services.

This section shows that hybridity is the most useful heuristic, as some of the preeminent experts in its use have said, to 'explor[e] complex processes of interaction and transformation occurring between different institutional and social forms, and normative systems' (Forsyth et al., 2017:p.408) in Solomon Islands. We must understand how the four



Source: Patrick Rose.

**Figure 2: Peter rows the ferryboat between Taro and Supizae in Choiseul. Every year the distance gets longer because both islands are shrinking as the sea level rises. Hundreds of times a week, Peter rows his passengers across the short stretch of water taking people to work and returning them home. Because of climate change, the township of Taro will relocate to the mainland leaving Peter facing an uncertain future.**

governance codes in Solomon Islands interact and constitute a hybrid governance space.

Why is this specifically hybrid, and not something else? To say these codes have been and are hybridising is mixture, but it is not random bricolage. At the same time, making this an example of Marxist or Hegelian dialectic is too a priori prescriptive. 'Norm-grafting' implies a simplistic addition of one plus one making two. Hybridity, however, is just right: it captures the fluid dynamism of different codes interacting, but on unequal terms according to context. The rest of this subsection unpacks hybridity before introducing examples of authority arbitrage that illustrate how elite actors call on different codes of governance to assert authority against a backdrop of rapid social, economic, political and cultural change.

Hybridity is a relatively new entrant into scholarly research. Emerging from postmodernism as a repurposing of the Marxist dialectic, hybridity became a key concern of postcolonial writers and then with observers of globalisation after the Cold War. Hybridity has since become a common reference among the new and fast-growing literature of peacebuilding, if only slowly rising to prominence in others. Its rapid rise stems from the problems encountered in stopping and preventing civil conflicts, (counter-) insurgencies and mass atrocities in the developing world. As Boege and others point out (2008), the good governance agenda relied on the presence of legitimate institutions; these institutions required an authoritative state; authoritative states required liberalism to be legitimate, and so it was necessary to build or impose liberal states on developing countries. However, from Africa to Afghanistan and Iraq to Solomon Islands, it rapidly became clear that the Western liberal state

"does not have a privileged position as the political framework that provides security, welfare and representation; it has to share authority, legitimacy and

capacity with other [community and customary] structures. In short, we are confronted with hybrid political codes, and they differ considerably from the [W]estern model state" (Boege et al., 2008:p.10).

Hybridity therefore emerged from the need to describe something that 'good governance' could not: the reality that effective governance is not found in the liberal state alone, but nestled among other 'local', religious, customary, formal and informal sources.

While this description is relatively uncontroversial, what is controversial is the attempt of some to operationalise hybridity and make the descriptive, prescriptive. Naturally, this prescriptive hybridity is a 'double-edged sword' (Wallis et al., 2016:p.161). Drawing on evidence from hybrid peacebuilding efforts in Papua New Guinea, Solomon Islands and Timor-Leste, Wallis, Kent and Jeffery point out that this 'instrumental' (ibid.) hybridity can fail as a result of Western technical experts attempting to appropriate local customs for their own ends, or equating so-called local ownership with locals being responsible for implementing the strategies Western experts give them (Boege et al., 2008).

Yet, while prescriptive hybridity has its 'dark side' (Wallis et al., 2016:p.159), hybridity simply is, and observers and practitioners must use it as a descriptive tool to better understand how governance functions. Actors must accommodate some form of instrumental hybridity to have any effect at all, and that is what governance arbitrageurs are an example of.

## How hybrid is forum shopping?

To clarify the benefit of using governance arbitrage in a specifically hybrid environment, let us contrast it with another candidate used in an excellent article on the phenomenon of (North) Solomon Islands justice-seeking: 'forum shopping' (Cooper, 2018)[footnote: I thank an anonymous reviewer for making this point.]. Forum shopping, a term taken from Anglo-American legal studies, is the 'act of seeking the most advantageous venue in which to try a [legal] case' (Algero 1999:p.79). It assumes, however that both vertical and horizontal fora options (whether appealing to higher

courts or moving cases from one jurisdiction to another) are distinct, discrete, and legible to the participants.

Forum shopping means weighing and up selecting mutually-exclusive fora, i.e. going from one forum to another forum and choosing between them, as one would between different items at the market. Forum shopping requires a choice between a liberal resolution process, a Christian resolution process or a customary resolution process. While these labels can be attached to different examples, the hard-and-fast distinction breaks down on contact with reality: each is captured in turn by the others on shifting ground. The analytic clarity that forum shopping offers should not be dismissed, but in Solomon Islands justice-seeking, the choice is not between fora, because the national justice space is essentially one big forum, in which the four governance codes vie and overlap.

If forum shopping is about choosing different options within one framework of governance, governance arbitrage is about both choosing and creating different options for governance outcomes amongst intertwined governance codes. In contrast to forum shopping, where justice-seeking strategies are delimited by space and time (i.e. changing venue or pursuing an appeal by scheduled dates with final judgements handed down), hybrid justice-seeking means arbitrageurs seek their outcomes without regard to time (no sub-ideal outcome is ever final) and ranging across different hybrid spaces: examples include local courts that meld Western liberalism and customary-Christian kastom, pursuing Christian church dispute resolution if unsuccessful, or petitioning the state for compensation which is non-customary by calling on kastom (Evans et al., 2010). Distinct, discrete and legible accurately describe forum shopping, but do not accurately describe this process. We must move beyond a 'hierarchical approach to legal pluralism' in Melanesia that 'obscure[s] a more complex interplay between the interwoven spheres of "traditional law" and "state law" and a new sphere of "blended' law"' (Corrin, 2009:p.29).

## Governance arbitrage and justice

This section uses justice as the

example of how governance arbitrage works in practice. I begin with outlining the Islander justice system, pre-contact, before moving onto the installation of a Western justice system under the British Solomon Islands Protectorate and colonial attempts to use governance arbitrage to assert their authority. I then outline the decline and collapse of the justice system outside the capital – the Native Courts, then area, or local courts – since independence. Throughout, we see elites and grassroots alike pursuing justice, but the elites using their greater resources as arbitrageurs to tip the procedures and outcomes of the justice system in their favour.

Before Westerners, dispute resolution in Melanesia included a variety of methods from sorcery to vendetta-warfare, but not courts as Westerners would think of them. Customary practices did not constitute a formal, written code of laws because there was no writing and therefore no formality. Different groups with their unique requirements of right and wrong, fairness and justice made the reconciliation of differing accounts difficult without a common body of law or venues. Even the collaboration of relevant chiefs virtually never resulted in a final, acceptable settlement, a feature of Island justice that survives in this century. Understandable due to the fluid boundaries of different groups' cultural practices, compensation in the form of gifts, people, and other offerings such as cultural rituals often represented the only way to bring conflict to a close. It was only with the coming of Christian missionaries – themselves often brutal in the treatment of sinners – that peaceful mediation became a method of conflict resolution (Harrison, 1993; Goddard, 2010).

The coming of colonial power in the late nineteenth century filled a role of the disinterested, bureaucratic adjudicator whose rulings were seen as unbiased and therefore legitimate. In the British Solomon Islands Protectorate, officials followed the Australian example in neighbouring Papua and New Guinea by sending junior officers on patrol (Dinnen & Braithwaite, 2009), in part to serve as circuit judges. However, because these District Officers were so few in number – at its height, the Protectorate employed 100 staff to oversee 28,000

square kilometres (McIntyre, 2014) – the British co-opted customary institutions by appointing bigmen as 'headmen' (Putt et al., 2018) of their village or district and presidents of the 'native court', to be assisted by other Islanders serving as constable and clerk (Evans et al., 2010). Banned from issuing decisions on religious matters, the headmen were both empowered as the link between customary and Western justice, yet disempowered as their authority came from Western justice alone (Goddard, 2010): whether officers, or the later magistrates, and finally European judges in the capital, colonial officials always reserved final adjudicating power for themselves.

British officials built on their cooptation strategy and formalised the headman system as the Native Courts (later renamed 'area courts' under the Local Government Act) dealing with land disputes and customary matters. After the Second World War, headmen were slowly replaced by administrative resident clerks, support magistrates on their circuits, and issue processes. As the decolonisation push began in the mid-1960s, locally-elected councils were created to oversee the courts. However, while the councils were meant to oversee the courts and administer their areas, they were created with no rules for how they were supposed to operate. Plans were drawn up to devolve real powers to the councils, but that was never done (Timmer, 2008).

Nevertheless, there was a functional justice system upon independence in 1978. Sixty-five local courts sat around the country, heard cases and issued decisions to settle disputes or to refer them to the liberal system. The courts worked well as part of a hybrid order: wantoks were represented through the councils, and the distant coercive powers of the state supported and strengthened the courts. Most important was that the courts operated in a way that was legible to Islanders with jurisdiction over problems they wanted solved: 'a range of social order problems' (Porter et al., 2015:p.7) like public drunkenness and delinquency and also the single most important problem in Solomon Islands political economy, land rights. However, this also represented a binary problem

that hybridity could not solve: the impossibility of codifying customary land rights in liberal law, starting with the reality that is customary land use, the use of the land itself could never be legitimately alienated to the liberal system, only stolen (a matter in any event beyond the remit of the courts, which were banned from adjudicating whether or not land was customary or not). Outside observers have often noted the virtually inevitable failure of 'chiefs', however defined, to settle land disputes in Solomon Islands, and the resulting failure of the local courts to solve these disputes (Evans et al., 2010; Goddard, 2010); however, the impossibility of reconciling two completely different governance codes to a legitimate state in either goes largely unremarked.

Independence was followed by the withdrawal of the state from the local courts, and from the rural areas more broadly. Funding dropped for the resident clerks who served as the linchpins of the integrated justice system. The waiting times for oversight and action by the Western system lengthened, undermining the courts' legitimacy and attractiveness by progressively removing avenues for appeal referral. The courts evaporated, and by 1986, halved in number. As what was left of the system was nationalised and placed entirely within the liberal state judiciary, justice became inaccessible (Hammergren & Isser, 2015:p.10). By 1998, only three courts remained outside the capital, and magistrates could no longer effectively go on circuits to hear cases (Porter et al., 2015). This vanishing from the periphery 'severely hampered [locals'] ability to deal with social crises' (Porter et al., 2015:p.2); in 1998 the Tensions broke out and the local courts and their councils were finally abolished in law; no court would hear a case until 2010 (Hammergren & Isser, 2015).

Communities filled the gap as best they could with 'local arrangements', but these arrangements lacked the legitimacy of the courts. They were overburdened with the sheer range of complaints they had to resolve, whether public order issues, those dealing with land rights or logging or murder (Porter et al., 2015:p.2). While it is true that Islanders 'navigate [hybrid] power relations

in more subtle and nuanced ways' than are readily apparent to outside observers (Allen et al., 2017: 9), the absence of the courts' provision of a space to transparently categorise and refer disputes, combined with the radical social, political, economic and cultural changes occurring, opened opportunities of exploitation for unscrupulous elites.

The 'retreat of the state' (Dinnen & Allen, 2016:p.79) strengthened elite authority by removing alternate sources of effective governance (Evans et al., 2010). Without the courts, justice provision naturally fell back to bigmen and elders, which reinforced 'immense practical challenges in determining who the chiefs [were]' (Timmer, 2008:p.197). Weakened communities 'routinely challenged' claims of authority by bigmen, especially those who had sinned according to church doctrine by 'partak[ing] in alcohol and...are seen as colluding with loggers' (Porter et al., 2015,p.7).

Collusion with loggers brings up the acetylene-torch role of capitalism in undermining justice and effective governance in Solomon Islands (Allen, 2011), and the role of logging in Solomon Islands's political economy cannot be understated. Currently the country's main export commodity earning 70 per cent of all export income (DFAT, 2014), the logging industry has played a major role in destroying both local ecologies and traditional modes of governance by incentivising the breakdown in traditional collective ownership administered by chiefs and elders, and its replacement by local 'trustees' according to Western law who behave as private owners and take the profits, permitting fees and bribes for themselves (Baines, 2015; Monson, 2015), creating an atmosphere of universal suspicion.

This brings us to the core of governance arbitrage. Those who wield authority do so by appeals to multiple sources of legitimacy, often at once. The kastom bigman is a Western state trustee of a wantok's traditional land while serving as a Member of Parliament and a Christian church elder – and if they are not actually the same person, they usually share kin or personal networks (Baines, 2015). Once a bigman would proffer justice with oversight by

elders; then church pastors offering their religious views entered the picture; then Western authorities with their liberal state functions; and finally capitalists with their eagerness to pay pennies to make millions. Now, elites range across these codes to gain and maintain authority, even when asserting authority under one code undermines authority in another; in fact, the practice undermines each code but leaves the power concentrated in relatively few hands (Cooper, 2018; McDougall, 2015; Monson, 2015). Bigmen can and often do abuse their customary authority to line their own pockets with rents and payments from logging companies, the state and foreign aid actors rather than distributing these funds to their kin, and escape retribution by calling on precisely the traditional roles of authority they abuse (Baines, 2015; Hviding, 2015).

Likewise, the withdrawal of that very system under the postcolonial state is another example of the new elite asserting its authority by deprioritising the provision of effective and non-personalised justice outside provincial capitals. While Solomon Islands is a state cursed with the wicked problems of building a liberal democratic state without much money in a context of economic and ethnic volatility, the agency of national elites should not be denied, especially when considering the elites' decades-long approach to subverting the Constitutional mandate to decentralise power and fighting federalism and power-sharing (Nanau, 2017a; Nanau, 2017b; Scales, 2008). Fundamentally, while much remains outside the control of elites, much does.

At the grassroots, non-elite Islanders also understand the differences between governance codes, but see them as generally complementary. Customary, chiefly procedures, Christian mediation and local liberal courts can be complementary (McDougall & Kere, 2012). More importantly, 'local communities ... [combine] the most efficacious elements of indigenous and introduced regulatory systems with reasonable efficiency' (Evans et al., 2010:p.29) in classic arbitrageur fashion. While these views may be optimistic by privileging inputs of governance arbitrage while discounting the outputs of widespread governance failure in terms of ecological disaster,

ongoing ethnic tensions, and state weakness that strengthens elites, the fact remains that elites and non-elites alike are attempting to make the best of a less-than-ideal situation through governance arbitrage in a hybrid governance environment.

## Conclusion

This paper has argued that one vital yet neglected explanation for the poor development outcomes in Solomon Islands is the failure to account for the hybrid interaction of governance codes – customary, Christian, capitalist and liberal – in the country. As a result, despite the presence of four governance codes, effective hybrid governance remains harder to find. Nevertheless, Islander elites and non-elites alike make the best of the situation through governance arbitrage.

In this paper, we have seen litigants bringing customary expectations to a liberal court; bringing the liberal to customary practices; bringing the Christian to both. In hybridity, we see not just distinct venues, but fluidity and overlap between governance codes – and while national elites may be able to navigate the system through the acquisition of experience and the deployment of resources, non-elites in local communities struggle to make do; the difference between the two groups is one's luxury of strategy, the others' reliance on tactics. Both groups, however, are trying to make the best of their situation, to get what they want.

The purpose of this paper has been to identify a gap in the literature, namely examples of hybridity in Melanesia in action. The purpose has been to argue for the concept of governance arbitrage as a useful addition to the literature, using the example of the Solomon Islands justice space. The goal is to recommend new pathways for research, e.g. moving away from the assumption that the liberal justice system with its 'possessive individuals' is the only way to justice and finding examples of governance arbitrage in the emergent legal system. More important that this is seeing Solomon Islands's politics as politics, and looking for governance arbitrage both in the actions of its political actors and as a core component of the slow building of a political settlement in the country.

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**Figure 3: Typical housing on the Solomon Islands, Savo Island.**

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