

Plural governance of
marine and terrestrial
protected areas under
customary tenure in
the Pacific Island
Countries

Patricia Parkinson
WCEL

Definitions

- **Legal Pluralism:** Existence of multiple overlapping and interacting legal systems
- **Polycentric or multi-level governance:** Existence of multiple overlapping and interacting governance structures and systems

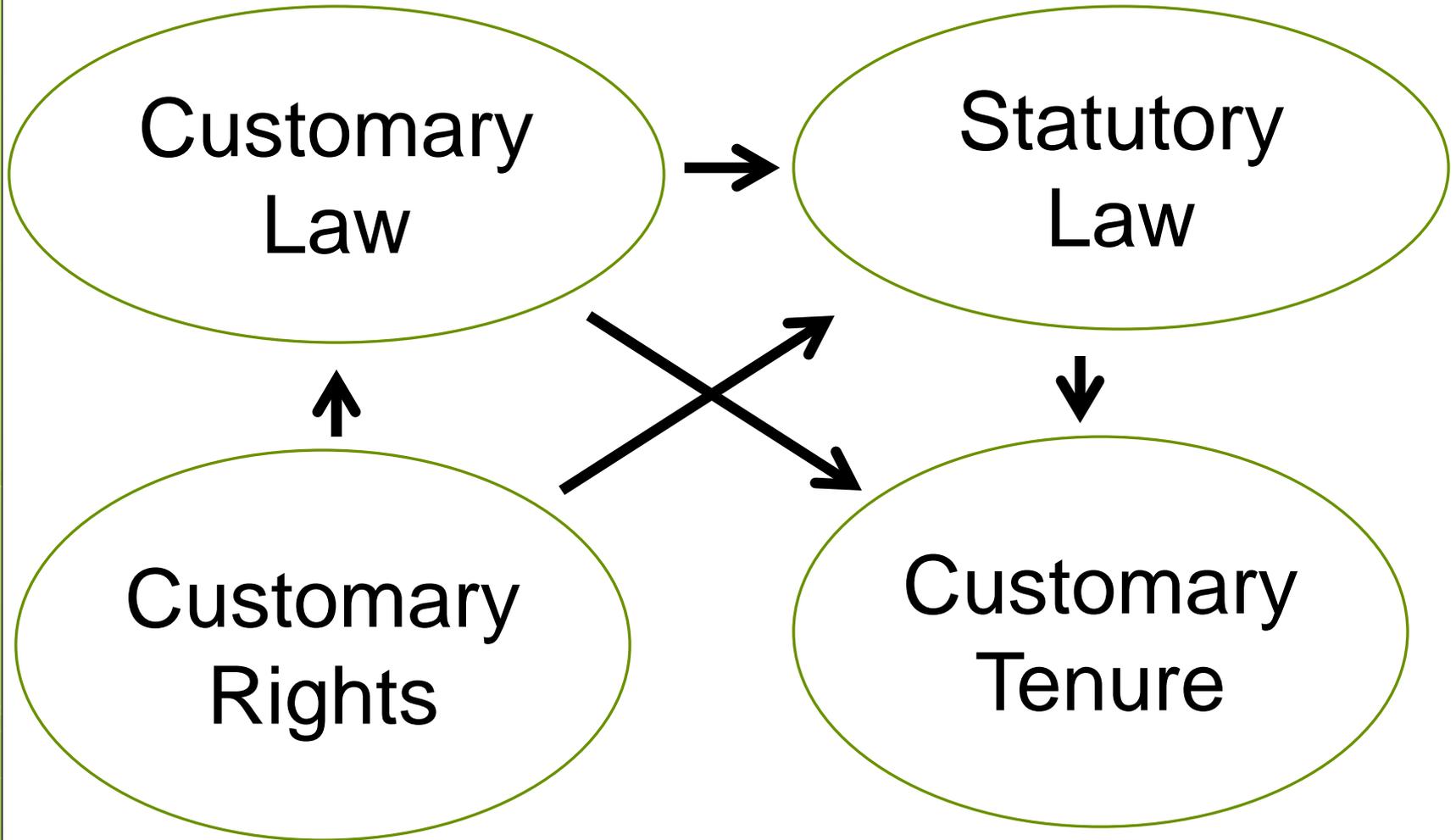
Definitions

- **Customary law:** Practice or norm followed out of a sense of legal obligation and considered by relevant actors to be law.
- **Customary rights:** Rights acquired by custom and recognized by customary or statutory legal systems
- **Customary tenure:** Relationship to land/resources defined either by customary law or by customary rights recognized in statutory law

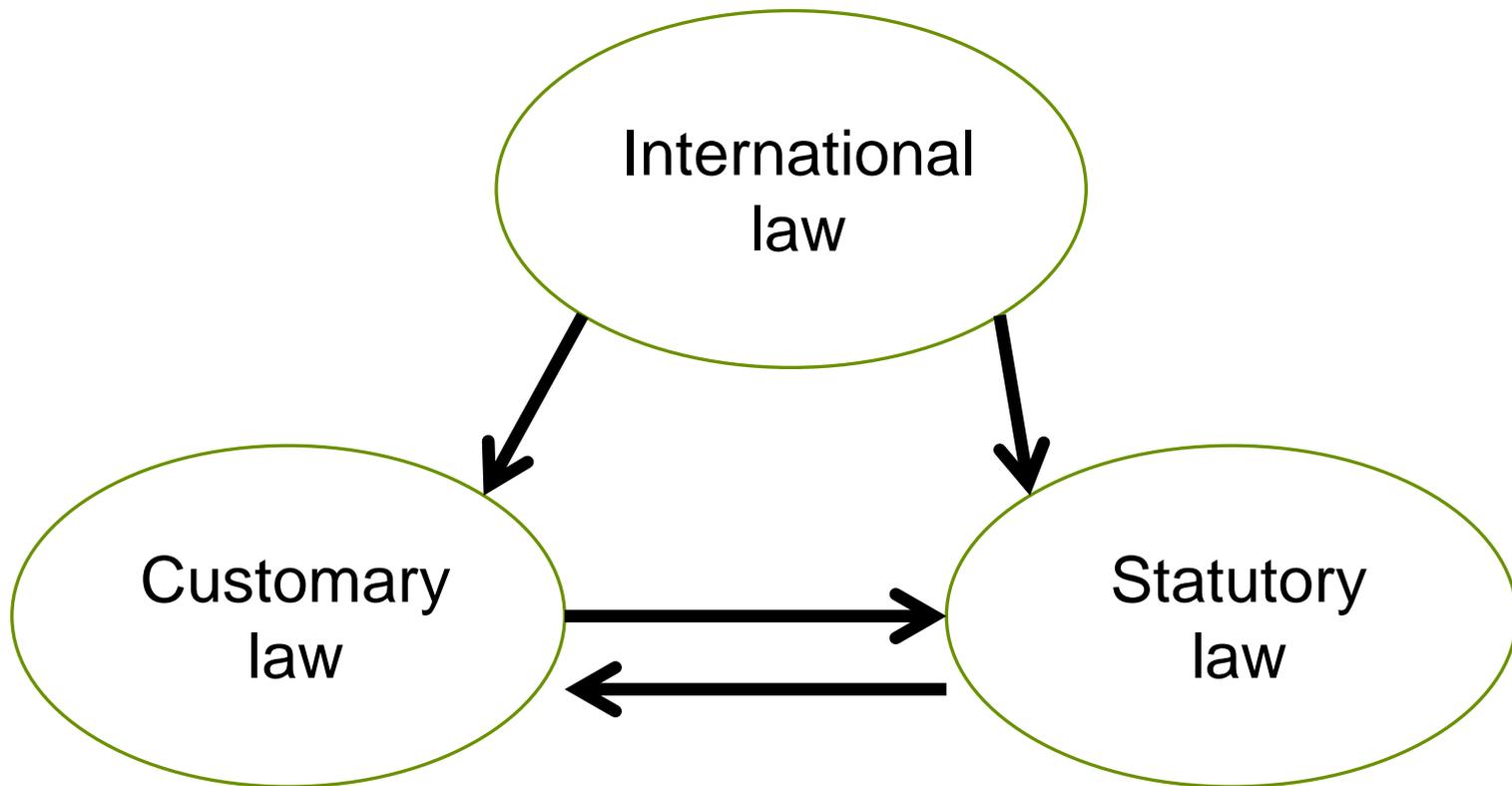
Definitions

- **Customary law:** Practice or norm followed out of a sense of legal obligation and considered by relevant actors to be law.
- **Customary rights:** Rights acquired by custom and recognized by customary or statutory legal systems
- **Customary tenure:** Relationship to land/resources defined either by customary law or by customary rights recognized in statutory law

Definitions



Complex interactions of law and governance frameworks on management of land and NR



Pacific Island Countries – Plural governance

- Colonial legal system superimposed on customary law and governance.
- Constitutions of PICs recognise customary law
- Most of the land is owned communally by Indigenous people

Limits to recognition of customary law



- Conflict with statutory law
- Customary marine tenure less evenly recognized
- E.g in Fiji foreshores lands belong to the State – clearing of mangrove
- Qoliqoli

Limits to customary law

- Traditional systems eroded by external influence, including statutory law, pressures for development, larger population, needs for cash
- Environment impacted by development (reduced fish stocks, pollution...)

Limits to statutory law

- Statutory law regulating management of natural resources often old and do not contain provisions for environmental and social impact
- Compliance and Enforcement issues

Challenges of legal pluralism and plural governance -

- Traditional resource management practices not supported by statutory law
Eg. Tabu not enforceable by fish wardens
- Conflicts with local communities when conservation measures/declaration of protected areas are taken without engagement with local communities
- Non compliance with statutory law conservation mechanisms

Creating linkages – a case for collaborative governance

- Clear need for linking effectively law and governance frameworks to make each of them more effective for conservation and livelihoods outcomes – combining the ‘top down’ and ‘bottom up’ approaches
- Learn lessons from successful collaborative management models around the world and adapt to local circumstances - e.g. LMMAs