

## 9 Land

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### 9.1 Historic development of land ownership and tenure

The current system of land ownership on Rapa Nui is the product of several eras of contestation and reform. From an initial situation of prehistoric indigenous land ownership under the sovereign king (Figure 9.1), foreign ownership of land on the Island commenced with the arrival and acquisition of land by missionaries around 1863. In the following years, the French entrepreneur Jean-Baptiste Dutrou-Bornier and his business partners also acquired land tracts from the small indigenous population that remained on the Island (Figure 9.2). At the time, no formal legal mechanism for land ownership existed and is unlikely that the indigenous population had understood land ownership according to the notions of European civil law.

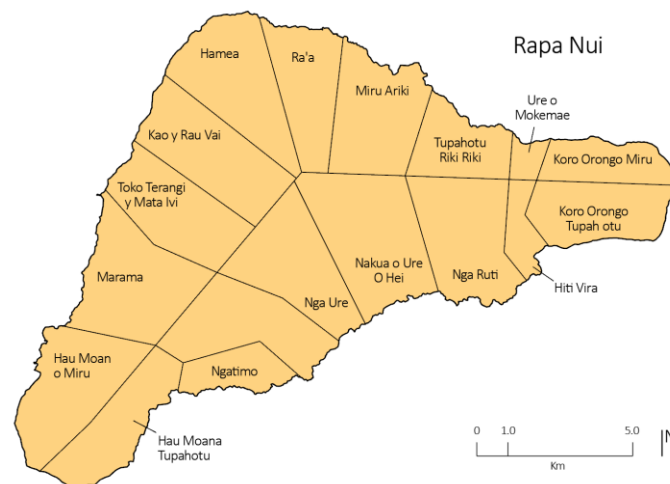


Figure 9.1 Ancient distribution of clan territories according to the elders council (from [1]).

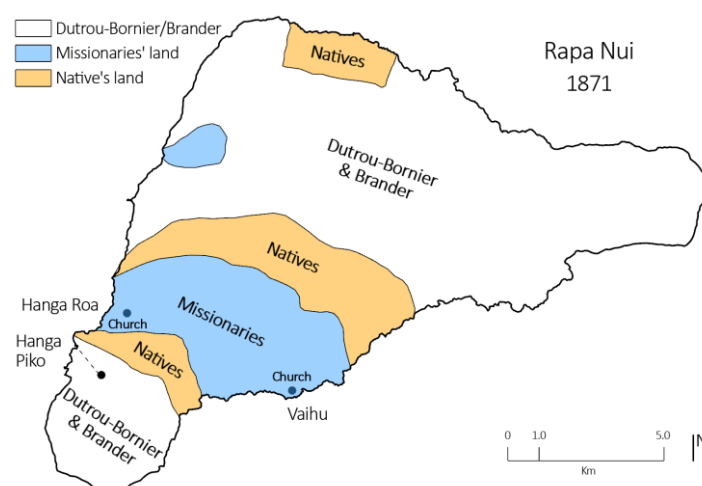


Figure 9.2 Probable distribution of land ownership in 1871 (own elaboration based on a plan drawn by Naval Officer Policarpo Toro found in [2]).

At the time of the annexation of the island in 1888, Chilean authorities recognized only the property rights of the missionaries, the descendants of Dutrou-Bournier and his partners, formally acquiring them through purchase. Chilean annexation of the Island included a controversial treaty whereby all indigenous-owned land was transferred to the Chilean state. Subsequently, Chile leased the newly-acquired land, with the exception of the area in and around the village of Hanga Roa, to commercial interests until 1917, when the original leases were terminated and the land was placed under Chilean naval control.

A large fraction of the island, the Vaitea farm, remained under lease to the *Compañía Explotadora de Isla de Pascua* (lit. Easter Island Exploitation Company, CEDIP, Figure 9.3), which used it almost exclusively for sheep farming. Chilean state ownership of all Rapa Nui land was formalized under Chilean law in 1933. In 1935, the Chilean government declared the whole Island to be a national park, providing legal protection for archeological and natural resources. During most of the 20<sup>th</sup> century, the Rapanui were confined to live in Hanga Roa, where the government assigned them temporary rights over plots of land for family sustenance [3]. By 1950 land under fiscal control available for assignment to the growing native population was running out [4]. The lease to the CEDIP was terminated in 1953, in recognition of permanent breach of contract conditions and concerns over the work conditions and general social impact of its operation. In 1973, the national park was placed under the administration of the national forestry corporation (CONAF), and in 1995 it was declared World Heritage in the category Cultural Landscape. In 1966, law 16.441 was enacted to administratively incorporate the island to the rest of the Chilean territory. A municipality and basic public services were inaugurated in the newly created Department of Isla de Pascua. One of the first actions of the local land registry office was ratifying the 1933 land inscription that declared the whole Island fiscal property. In 1979, by means of a decreed law (D.L. 2.885) property titles were granted to permanent tenants of land on the Island irrespective of their ethnicity. Both actions were the cause of local indignation, the latter generating a long lasting divide in the local community.

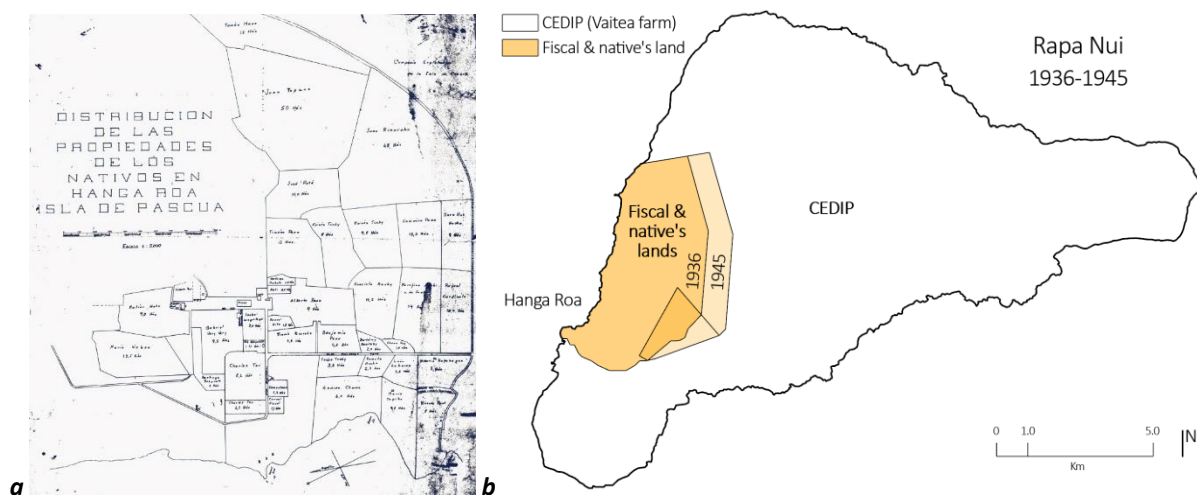


Figure 9.3 **a**: Plan of Hanga Roa ca 1928 showing land plots with identification of owners, **b**: Land ownership between 1936 and 1945 (from [5]).

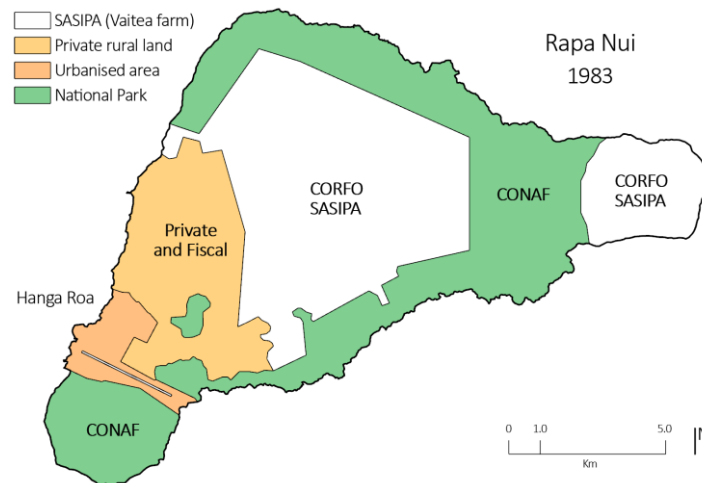


Figure 9.4 Land ownership in 1983 (from [5]).

A process of transfer of land from state ownership to private indigenous ownership commenced with the Indigenous Law (*Ley Indígena*) of 1993. The Law recognized indigenous people's rights over historically-occupied lands and provided mechanisms through which land could be legally transferred from state ownership to private ownership by indigenous people. The system restricted land ownership to indigenous people and provided for the establishment of the National Corporation for the Indigenous People (CONADI) which, among other functions, maintains a registry of indigenous land [6].

In addition to general provisions applying to indigenous communities throughout Chile, the Indigenous Law (1993) defined specific provisions for Rapa Nui land ownership. The Commission for the Development of Easter Island (CODEIPA) is responsible for submitting proposals to the Ministry of national Property regarding the transfer of state lands to private indigenous ownership. CODEIPA's mandate includes the granting of title to people already in possession of land and the donation of land to Rapanui who possess no land. Any proposals for the transfer of state-owned land to private or communal ownership should be in accordance with appropriate plans for economic development, environmental protection and cultural protection.

Administration of the territory is complicated by political tension, governance issues and a pluri-legal system of overlapping national, local and consuetudinary laws. Consuetudinary notions of land ownership differ from Chilean civil notions. In the past it was not uncommon that land was lent between members of the community, and contrary to Chilean civil law, buildings were considered as a detached property, not included in the land property: "the house is yours but the land is mine" [8]. The ownership of land, which could be transferred, was considered of lesser importance compared to sovereignty, which was understood as non-transferrable because it is founded on the belonging to a specific clan (the land is the clan *kainga*: womb), and ultimately to the Rapanui nation [9].

Between 1998 and 2000, the first large land restitution process took place, transferring 1,500 ha of land to new Rapanui families without land (254 ha from the National Park, 755 ha from the Vaitea farm and 500 ha of fiscal property) [7]. In 2011, 850 ha were segregated from the Vaitea farm to give land to additional Rapanui families according to their requirements. Every land restitution process has been accompanied by intense public discussion and political struggle.

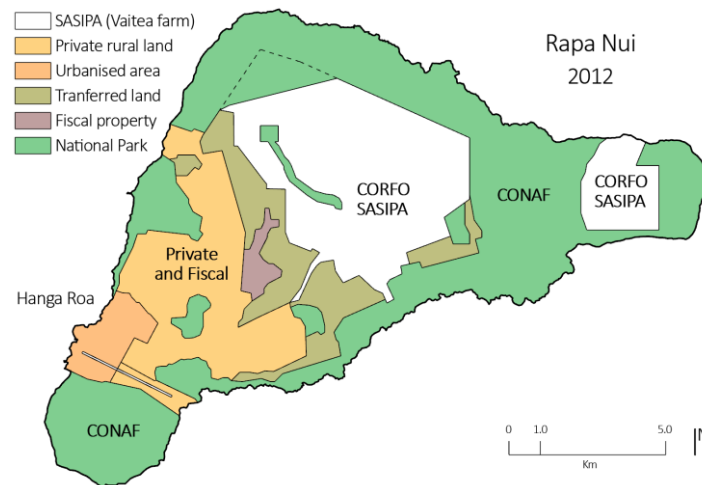


Figure 9.5 Land ownership in 2012 according to Observatorio Ciudadano [7] (based on information of the Ministerio de Bienes Nacionales Chile).

## 9.2 Current land use

Despite regular distribution of land under the provisions of the Indigenous Law and other subsequently-ratified laws related to land ownership, the majority of Rapa Nui land – around 80 per cent - remains state-owned. Of the 16,410 hectares comprising the Island, the National Park covers 7,150 hectares - 44 per cent. The Vaitea Farm – a state-owned agricultural enterprise – accounts for 4,597 hectares, around 28 per cent, of the Island. Of the remaining land, 2,273 hectares (14 per cent) is privately owned by Rapanui, while a further 14 per cent of the land has been allocated for distribution to indigenous people. One exception to this distribution of land between either the Chilean state or the indigenous community is land occupied by the Hangarua Eco Village and Spa, acquired in the 1990s by a Chilean entrepreneur and subject to ongoing ownership dispute with members of the Rapanui community.

Land use on Rapa Nui can be considered in four broad categories: 1) cultural (primarily the National Park), 2) agricultural, 3) commercial (including tourism facilities), and 4) residential. Land used for agricultural purposes includes state-owned land of the Vaitea farm, which comprises 4,597 hectares or 28 per cent of the Island, and privately-owned agricultural lands. The primary use of agricultural land is for grazing. The national park premises are also subject to grazing by privately owned cattle. Other agricultural uses include cultivation and forestry (see Section: Economic Base). Forestry has been pursued by the *Corporación Nacional Forestal* (CONAF) and its French homolog *Office Nationale des Forêts* (ONF) as a strategy to reduce soil erosion on several areas of the Vaitea farm and the national park. As a side effect this reduces grazing land.

Commercial and residential land is confined primarily to the urban area of Hanga Roa. Land use within this urban area was regulated by the *Plan Regulador Comunal* (also known as *Plano Anterior*, lit. “former plan”) of 1971, which defined five land use zones: 1) residential, 2) services, 2) industrial (fishery), 3) green areas and sport, 4) tourism and coastal archaeological area (Figure 9.6). The outdated plan has been rendered obsolete by urban growth in the intervening years. In addition to

the urban area more than doubling the original plan, lax implementation of plan is such that land use in Hanga Roa is not clearly defined, resulting in particular in the intermingling of commercial and residential land uses.

Plans for future land use on Rapa Nui are defined in the *Plan de Ordenamiento Territorial Insular Isla de Pascua and Isla Sala y Gómez*. The plan is on its final stages of development and has not yet been formally adopted by the Municipal government.

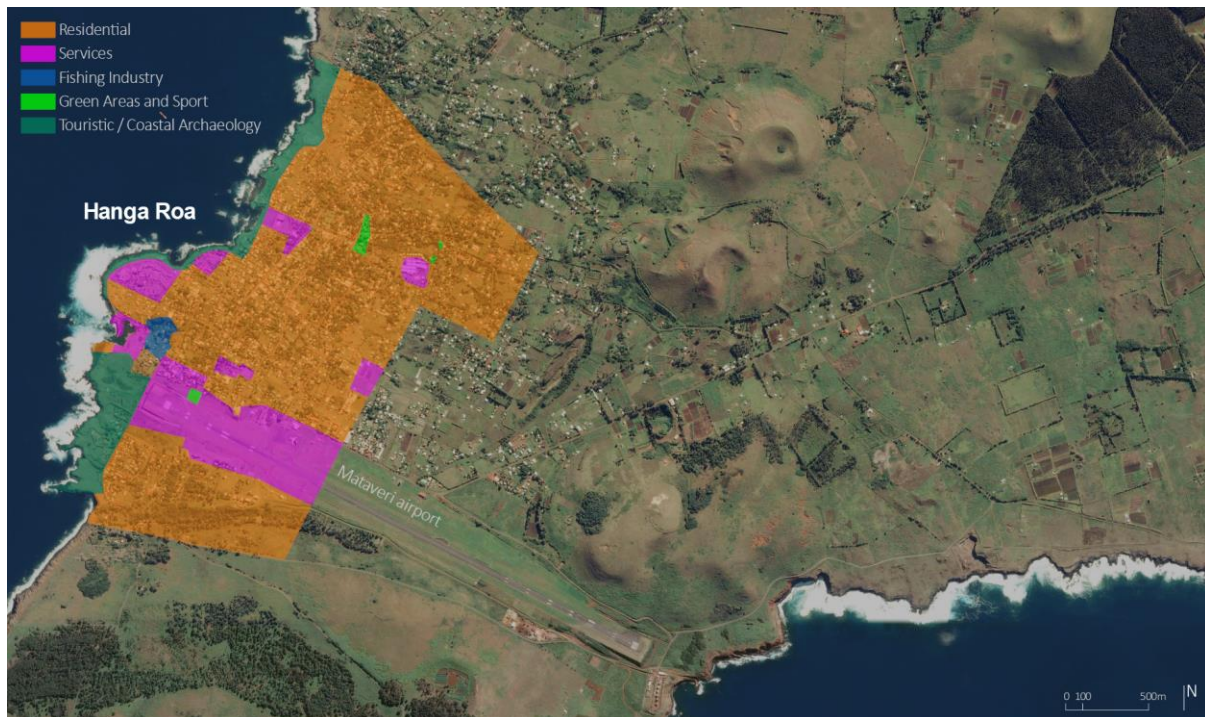


Figure 9.6 Zoning according to current planning instrument, approved in 1971 (own elaboration based on Google maps and [10]).

### 9.3 References

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