

**LAND
TENURE
IN
TONGA**

THE PROCESS OF CHANGE



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LAND TENURE IN TONGA

The process of change :
past, present and future

A discussion paper by
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for

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1. Slow change and fast change

Tongan land tenure and Tongan society, like all other land tenure systems and social systems everywhere in the world, has changed, and is changing. Change usually goes in cycles, with times of fast change (sometimes called radical or revolutionary change) followed by periods of slow change. The slow change is often not seen as change at all, and therefore we often hear people in Tonga, as elsewhere in the world, saying that things in their place will always be the same. They are wrong on two counts: first, if they knew their history better they would know that today is different from yesterday, and second, if they knew more about human beings, they would know that tomorrow will be different from today. Change is never total or absolute and the words stability and change are not absolutes, but differences of degree. These universal human processes apply also to land tenure in Tonga.

Some countries, such as U.S.A. or U.S.S.R., have constitutions, which are basic frameworks of law. Other countries, such as the United Kingdom or New Zealand, do not have constitutions. In the same way as land tenure systems are always changing, so are constitutions. Historically, most of the world's constitutions have not lasted very long before they have had to be substantially modified or become abandoned. This is usually because they have not adapted soon enough to meet changing needs: in other words what was good for one time, or population density, or economy, or balance of power, or set of public aspirations, is too often thought to be equally suitable in very different circumstances. Constitutions which do not adapt to changed circumstances become an obstacle rather than a help, and create problems rather than solve them. Even when the constitutions themselves are not changed, the operation of them, the actual working, is often changing steadily. The Tongan constitution has not been unchanging as many people seem to think. It has been changed many times: four times between 1880 and 1890, four times between 1910 and 1918, and at various other times. Perhaps that is why it has survived better than most of the world's constitutions, simply because it has changed and adapted.

2. Land tenure always part of a larger power system

The other point we must remember is that any land tenure system, which is the system of control of land, is only a small part of an overall system of control, influence and power in the society concerned. Any actual land tenure system does not necessarily reflect political ideals or land tenure ideals, but it does reflect political realities through the actual operation of the land tenure system, irrespective of constitutions or laws. One cannot understand a land tenure system without carefully examining both the ideal and the real power structure within which it operates. In the same way, effective changes in land tenure systems anywhere, usually come about only as a result of effective changes in the distribution of power - including of course the power to make laws about land, and the power to administer the land laws. Achieving fruitful and meaningful change within the principles of non-violence is no doubt a major aim of your seminar.

3. Early Tongan land tenure

About the time of Moses (about 1,250 B.C.) the first humans came to Tonga and by the time of David (1,000 B.C.) they were probably well established. The archaeological record shows that they lived largely on shellfish and other lagoon foods, but by the time of the birth of Christ they were probably more dependent on farming land and would probably have developed a more complex tenure system to meet the need. But the numbers of people are likely to have been small, and land was probably plentiful. No records are available to prove it, but it is likely that tenure became increasingly complex as population rose.

4. 1775: Land tenure at the time of European contact

In 1775, from what can be inferred from Tongan oral history and from reports by people like Captain Cook, and shortly after by people like Will Mariner, there was a gradation of land rights from the members of a household, through the lineage, with some rights being distributed further up the line to the level of the Tui Tonga, who held certain nominal and ceremonial rights to land - and more important to its produce through obligations of its people.

The English word "own" is not an accurate one to apply to land in Tonga (or many other countries for that matter). In English it usually means that the owned thing can be bought and sold at will. This is totally in conflict with both the law and the philosophy of Tongan land tenure - both in 1775 and in 1975 (and at any other time in Tongan history).

We need to be aware of the nature and significance of symbolic rights to land, for high ranking Tongans did hold such rights. In most countries of the British Commonwealth land on which roads, schools, government offices etc. are built, is called "Crown" land. In the same way, every British naval ship is called H.M.S. (i.e. Her Majesty's Ship). This is correct, in the true sense of Her Majesty as the symbol of the people of the nation as a whole. But if Her Majesty were to sell off government schools or naval ships and pocket the cash for herself, or rent the ships or government offices and use the money to hold private parties or take expensive holidays, or lend the ships or give roadways to friends who did her personal favours, the whole idea of Crown land and H.M.S. ships would soon be discredited. This is not just an idle speculation. Many kings and nobles in many parts of the world, who had these nominal and Symbolic rights in pre-commercial economies, turned them to their private gain when money economies gave them the chance to do so. In doing so they gradually lost the support of their people, and the history of the world during the last hundred years has seen hundreds of such leaders and leadership systems, swept away in revolutions because they misused responsibility and turned it to personal gain.

Another feature in 1775 was the inasi offering of fruits to the Tui Tonga as representative of the god Hikuleo. It was then believed that failure to hold the inasi would result in Hikuleo sending disaster to the land. That belief, of course, was invalidated by the acceptance of Christianity.

The polopolo or first fruit offering to other chiefs, was by definition not a recognition of land ownership by chiefs, because they recognised ultimate title to land as belonging to the Tui Tonga.

It was mainly a recognition of a chief's leadership, and of membership in the group he led. It did have significance for land tenure, but very different significance from a commercial landlord to tenant relationship.

The nature of rights to allocate land needs clarification, for high ranking Tongans had some powers of land allocation. Allocating means assigning something to someone - which is very different from keeping it for ones' self, and different from leasing or selling it. Land allocation took place usually if a line died out, or lost in war, or in other unusual circumstances. Land allocation was in 1775 a responsibility of chiefs, but under the Constitution it became the legal responsibility of government. In both cases, under normal circumstances, once land was allocated it remained as of right with the person to whom it was allocated and his descendants. Succession from parents was the normal way to get land rights (at all levels). Allocation from those further up was for special cases.

The symbolic rights and rights of allocation are two of a complex pattern of rights which we do not have time or space to go into here. But it is important to note not only the rights and powers held by higher ranks in the society, but also the practical limitations to these powers. Chiefs did not own the land, they held certain rights to it, as did the King, the lesser chiefs, the heads of families, individual members of families, and certain relatives under certain circumstances. Until the introduction of guns and other metal weapons, any chief was dependent on the clubs and spears of his followers. There are plenty of examples of people changing sides if they did not approve of a chief. In other words, it was a situation of balance in which chiefs were dependant on commoners for their effective survival as well as vice versa.

5. 1875: The revolutionary changes of last century

Then a revolutionary leader emerged, and was understandably regarded by some as dangerous. But classifying people as dangerous or as revolutionary is always relative, and we must always ask dangerous to whom? and revolutionary of what? Or more simply, whose powers did he challenge,

and what changes did he want to introduce? Like most successful leaders of change he was regarded by some who disagreed with him as misguided, ill-informed, self-seeking, immoral and unwise. Some even wanted him killed. But human beings in positions of power are often bad judges of those who seek improvement or change. Like many other successful revolutionaries, this man was highly intelligent and outstandingly able. His name of course was Taufa'ahau, and when his revolution succeeded, he took the name King George Tupou I. He was one of the greatest and most outstanding leaders anywhere in the Pacific in the whole nineteenth century. His greatness lay in his emphasis on change, but relevant change, suited to the times. Yet when we read the letters, reports and papers of his early days, we notice how many leading Tongans as well as Europeans, honestly thought he was wrong or even evil. It is only looking back that we can see what a great man he really was. Of course there is nothing new in that. Christ was crucified for his insistence on honesty and on commitment to the highest possible principles of conduct, even when it meant going against persons in established authority who acted unjustly. The leaders of new ways are usually vilified, criticised and ostracised for years before the validity of their case is accepted. It is too soon to know who, in 100 years time, will be seen to have been the emerging leaders of 1975.

Any leader who gains power by warfare, as King George Tupou I did, naturally outlaws warfare as soon as he has got power, for it is only by enforcing peace that he can stop others taking power from him in the way he took it from those before him. In other words, it is in the best interests of a successful war leader to become a man of peace provided he retains control.

Although King George Tupou I introduced radical changes in many fields: in the political system, in supporting and in some cases imposing a radically different and foreign religion (Christianity), and in women's rights, our main concern here is with his programme of land reform, for he introduced what are almost certainly the greatest changes Tongan Land tenure has ever seen.

6.

One important change in the 1875 constitution was the recognition that the great changes since 1775 had necessitated a new class of leader. This new category, which included only some of the former leaders, was appropriately called nopele, from the English word noble. This was very significant for it acknowledged the very great changes which were taking place then. Pre-contact Tonga, like other tribally organised, subsistence-based societies, was led by a system of chiefs. Chiefs had major responsibility for organizing war, or at least defense, for religious ceremonies, and considerable say in almost all aspects of government. King George Tupou I's choice of the new name nopele signalled the great change in their role: warfare was outlawed, defense became the responsibility of central government, as did some of their other tasks. The Christian church was less directed by the nobles than the pre-Christian religion had been by the chiefs. Only since the 1950s has the next change been emerging - that from nobles to bureaucrats (government officials) who are chosen on quite different criteria, because the circumstances they are to operate in are quite different.

One other relevant change was that nobility was thereafter selected by accident of birth rather than by ability. In the pre-European system in Tonga, the man who was appointed to a rank title was selected by a number of criteria: ability in war, ability to hold the support of his followers, and acceptability to the main people in his group. Birth order was only one of a number of factors. This gave flexibility and more people to choose from. Once a nobility ties itself to accident of birth as the only means of selection, the average quality of person holding the post must inevitably decline. Many, many nobilities around the world made that error last century: they got short-term security in return for long-term erosion of quality.

The new system of land tenure which was evolving during the 1800s, and was marked by various legal steps both before and after the 1875 constitution (including such amendments as that in 1891 which made government alone responsible for land allocation), was generally well adapted to meet the needs of those times - in fact it was by many criteria both the most equitable and

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effective system of land tenure introduced anywhere in the Pacific in the nineteenth century. It also succeeded in keeping all Tongan land in Tongan hands, and in avoiding speculation in land, even within Tonga. Its suitability continued to be perhaps the best adapted in the Pacific until three generations later - which is a very long time in the changing circumstances. Its most significant features included provision for equal and adequate land for every man for his livelihood, the great increase in protective powers over land by central government, the reduction or abandonment of rights to land by lesser chiefs, and the increase of land rights of the household head. This is a general process in human societies as communication improves and technology becomes more complex: that is, the many levels in the hierarchy of rights formerly ranging from top to bottom of the society, are narrowed and concentrated - usually on two main levels. The top level is always that of the central government and the other main level is usually that of the adult man (the head of a household), but in some societies (e.g. China, parts of Israel, Tanzania etc.) it is the commune or cooperative. It was a two-level (central government/household head) structure which King George Tupou I aimed to establish.

6. 1975: The next stage of change begins to take shape

From 1875 to about 1950 the system of land tenure provided by the constitution worked well to the extent that it was implemented. The problem was that much of it was not implemented. From the beginning, many nobles obstructed the full implementation of the constitutional provisions. Surveys were frustrated by members of the nobility, and it was not until the 1960s that a full survey was completed due to pressure from the then Prime Minister. Even today the land allocation has not been fully implemented. During the hundred years from 1875 to today, many nobles successfully misused the system to their personal advantage, and the people became accustomed to the idea that they had to give both material gifts and psychological obeisance in order to get and hold land rights which the constitution intended should be theirs as a matter of right.

Some conditioned subservience remains, but the seeds of change are now so firmly established that no attempts to eradicate them are likely to succeed. This is partly because the seeds are underground - not in any secret sense - but in the sense that those who carry them are not aware of it, for the unknowing carriers are almost the whole of the younger population, who are more influenced than they yet realise, by changes in the climate of opinion, both outside Tonga and within, through films, radio, books and other media, through experiences in other countries, and through formal education, through important changes in the emphases of Christian teaching, and a host of other unseen and often unintended processes. The processes have some way to go yet, but experience elsewhere indicates that ignoring them or denying them, or forcing subordination, almost inevitably fails in the long run.

Since the 1950s the need for some improvement has become increasingly apparent, until, in this historic year, His Majesty King Taufa'ahau Tupou IV implied in opening Parliament that the changed circumstances were such as to necessitate some rethinking and some modifications. Speakers at this conference will be discussing various changes that have taken place or that might lead to improvements. This conference itself is likely to be an historic one, and it is encouraging to see the churches in many parts of the world taking a serious and active concern with the "whole man", with social justice, and with other concerns that were so central to Christ's teaching.

Let us turn to some of the changes that have taken or are taking place: first, whereas the population in 1875 was probably less than 25,000 and going down (McArthur, N., Island Populations of the Pacific, Australian National University Press, Canberra, 1967) it has now grown to over 100,000. So whereas in 1875 there was plenty of land and it was sensible to allocate $8\frac{1}{4}$ acres to every man, this is no longer sensible - partly because it is impossible. A law which is impossible is no longer sensible.

Second, in 1875 almost every man lived by subsistence agriculture plus a little cash cropping (especially of copra), but in 1975 many people have other sources of livelihood as civil servants, businessman, sailors, etc. So, given the shortage of land, it is no longer sensible to give $8\frac{1}{4}$

acres to persons who have regular and adequate alternate sources of income (though it would seem sensible for some of them to have smaller subsistence plots). More than not sensible, it is not just or fair, for it means that some have two sources of income while others have one, and many have none. The 1875 constitution aimed for reasonable equality, and reasonable equality can only be achieved if the equality is aimed for in total income-earning opportunities. In 1875 land was the only source of significant income for the great majority.

Third, and perhaps the most important, is that whereas in 1875 the nobles were the main administrators - they had to keep order, to settle most of the disputes, to supervise public works, to supervise commercial production, to organize fund-raising and many other tasks, these have been slowly taken over more and more by the central government, by statutory authorities, by the greatly expanded churches, by business firms and by foreign aid. In other words, the inevitable transition from hereditary aristocracy to official bureaucracy that is going on in varying degrees all over the world (irrespective of the political system) is also in process in Tonga. Some countries are further along this road than others depending on such things as the extent of opportunity, education, and distribution of resources. But the pressures are there nevertheless. In Tonga this is reflected in the fact that the responsibility of the nobles has been going down to such an extent that some of them can spend much of their time away from their people. Yet some of their rewards from land have been going up. Briefly, many of them are getting more for doing less. This has been a world-wide tendency which has led, all over the world, to a reduction in respect for, and then in the power of, nobilities. Sometimes this has occurred gently and adaptively, but frequently it has been forced by great pressure, as human groups seldom give up privileges if they can avoid it. But attempts to retain archaic privilege are met by increasing insistence on social justice, and one by one the changes have come about, even though in each case many persons thought they would not, and often despite military or other force to try to avoid inevitable changes.

Fourth, this increased population results in an increased demand for land. This inevitably provides a potential for exploitation, and it has been clear for the last twenty years or more that the degree of exploitation of commoners by nobles has been steadily increasing. Evidence from court cases, from published reports, from numerous individual cases which are becoming widely known in many countries, (and reflect unfavourably on the overseas image of the Kingdom) and even recently from the concern expressed publicly by His Majesty the King himself. In short, it is widely known that the way the constitution intended every man to acquire an 'api, has not worked well for a very long time, and is not working well now. It is pointless to blame a nobility for exploiting their advantage: it is an inevitable human temptation. The only way to solve it is to relieve them of their role in land allocation. This is necessary in fairness to both the common people and to honest nobles who do not want to have responsibilities which are no longer appropriate and are so vulnerable to being misused.

It is clear that this has reached oppressive proportions and is causing widespread concern. As a conference organised by the Tonga Council of Churches, you will no doubt be giving considerable thought to the extent to which the churches themselves have, unintentionally and unaware of their own role, facilitated this oppression and continue to do so. You will no doubt be considering what future role the churches might be obliged to take in land matters, remembering that land control can only be handled in the overall context of the wider systems of control.

Fifth, some commoner 'api holders near Nuku'alofa have exploited the needs of citizens by dividing and selling off house sites. More of the world's governments (local or central) are acquiring and redistributing land near the cities in order to avoid speculation and the consequent inflation and transfer of unearned income to persons who make little or no productive contribution.

Sixth, the legitimacy or acceptability of the nobility will continue to reduce. In many countries it has totally gone as a result of these processes. Nobilities in many countries have wondered why they were

acceptable before, but a point is reached after which their acceptability greatly decreases. It is not usually because they as people have become better or worse, it is partly that both science and religion have come to accept that they do not necessarily have any superior intelligence (this is also shown in their children's results in competitive examinations) ability, right, or divine gift. Moreover, their former role, which was a product of peasant agriculture (in the same way as the chiefly role before them was a product of isolated subsistence) becomes slowly irrelevant. Their administrative role is increasingly taken over by central or local government, their judicial role by police and courts, their economic role by companies, co-operative, government corporations, and taxes by local or central government authorities. This is the most difficult problem - it is a problem of redundancy; Just as sailmakers were made redundant by ships engines, and town criers made redundant by newspapers and radio, so more and more of the functions of any feudal nobility become increasingly redundant as central government increases, as formal education and scientific knowledge about human behaviour spreads, and as the movement of people increases. This does not suggest that individual nobles need to lose their status. It is that their former status is anachronistic. If they can adapt to new circumstances they can take new roles.

People sometimes wonder why the chiefly systems of Hawaii, Tahiti, Cook Islands and Marquesas disappeared so quickly. There were many reasons but one was their exploitation of their privileges in relation to land. On the other hand the chiefly system of Western Samoa has survived much more effectively, partly because every man (and nowadays quite a few women) has the opportunity to hold one or other of Western Samoa's 11,000 chiefly titles; because chiefs are chosen largely on merit and proven ability from non-chiefs, rather than by accidents of birth; because land belongs to the aiga, not to the chief, who merely administers it on their behalf; and because Samoan chiefs continue to live and work in close personal contact with their people, and carry out most of the functions of local government relatively effectively. The Samoan fono is one of participation, not control.

Monarchies, on the other hand, have survived more effectively than nobilities in those countries where they have withdrawn from such functions as land-allocating and land control, and have concentrated on the vitally important functions of symbolising national unity, and the increasingly expanding role of international relations and goodwill. This naturally leads to the situation in which the connection between the monarch and the public is increasingly direct, or via the bureaucracy, rather than via a nobility. There is ample evidence in the case of Tonga that largely due to the high quality of its first, third and fourth monarch in particular and their effective action on behalf of the people, that the public feels that they have had good value from the monarchy.

7. 2075: what of the future?

In 2075, a hundred years from now, none of us can know what the position will be, but everybody has a responsibility to think carefully about what it is likely to be. Perhaps we should plan in more detail for the year 2000, which is only 25 years away. Some likely trends over the next 25 years seem to be:

1. A greatly increased population.
2. Many more Tongans living in New Zealand, Australia, U.S.A. etc. than in Tonga (taking Western and American Samoa together, over half as many Samoans already live outside Samoa as in it; more than three times more Niueans live overseas than in Niue; more Wallis Islanders and Futunians live outside the territory than within; and nearly as many Cook Islanders live in New Zealand in the islands. These trends are very recent - mainly over the last 10 years.
3. A much higher percentage of the population in Tonga not living by farming (but working for the tourist industry, small factories, in shipping and other transport, service industries, government etc). One consequence of this will be the need for more town land.
4. Much more intensive, scientific, mechanized and commercialised agriculture.
5. A greater diversity of life-styles. Tongans today live much more diverse life styles than they did in 1875 and all indications suggest very much more

differentiation again by 2075.

6. Significant changes in beliefs, values and aspirations of the people, and in the role and influence of religious organizations.
7. Possibly a significantly changed system of government. Other political ideologies will inevitably become known in Tonga in the coming years. The extent to which they will be attractive or implemented is likely to depend on the extent to which people feel that the system they then have is operating justly and reasonably.

The greatest honour one could do today to those farsighted minds who devised the 1875 system of land tenure for Tonga is to do what they did; that is, to examine the great changes that have been going on in the society, realistically assess the likely future trends, and then devise a new adaptation to suit the changed and changing needs of these coming circumstances of the next generation.

If experience elsewhere in the world is any guide, a really honest re-assessment and modification based on the 1875 system could meet the need. It would require some painful changes, some difficult decisions and the overcoming of some powerful vested interests. But it could be peaceful change in the interests of a stronger, healthier, more prosperous and more confident Tonga. Experience elsewhere shows that nobilities usually try to hold onto discriminatory privilege too long. If they do not respond to changed needs, they themselves cause revolutionary change by insisting on the exercise of privileges which are no longer accepted as reasonable. They usually try to avoid this by increasing police and military power, but this usually turns out to be counter-productive and divorces them further from their people. No category of people willingly gives up short-term advantage which it hopes it can perpetuate, even for its own long-term gain.

In country after country the nobility has felt confident that their privileges, (particularly over land) can be perpetuated and that major change "cannot happen here". In the great majority of cases they have been wrong. Nearly every year for the past 50 has brought new examples. One reason they are misled is that they rely increasingly on intelligence

information and coercive reaction. Intelligence information is inevitably misleading because at best it can only measure and record what is, and cannot measure the unseen potentials created by the new context, which provides the basis for future beliefs and the preconditions for future reactions.

Many countries have found that oppression can succeed for a time, at the price of keeping the people in poverty and subjection. But the greater the oppression, the greater the eventual reaction against them.

What historians of the future will have to record about Tonga in the 1970s, 1980s and 1990s is beyond anyone's knowledge today, but the rest of the world teaches us that the greater the inequalities and injustices in land, the lesser the chance of survival of any nobility. But in a minority of countries (only a minority) nobilities have responded far enough and fast enough to retain the respect and the support of their people, and in their own self interest avoided being either swept away, or eroded into insignificance.

8. Some of the alternatives

Your invitation to attend this seminar also asked me to discuss some of the alternatives now before you. I am sure that your experiences and discussions will be of much greater value than any outside view, but as it was requested, some points are raised - you have probably considered these and many more already.

What might be kept, and what might be changed, of the 1875 provisions to suit 1975, 1985 and 1995? By any criteria, the 1875 provisions remains a great monument to their founders.

(a) Public rights to land

1. The basic concept of land as a national asset is a key provision which merits retention. Tonga was far ahead of a great many nations in the world in seeing this need, which many others have only much later come to accept. Many other countries have since taken this step forward, and many have gone further again. It will not be surprising

if increasing need for public land and need to protect public interest, will also lead Tonga to increase public rights over land in the coming years. Perhaps land should again belong to the Crown in its symbolic role as representative of all the people.

2. In 1891, King George Tupou I transferred some Royal lands to the government for public purposes. The circumstances of land shortage today may make it appropriate for this precedent to be followed again.

3. Tax means "a contribution for the support of government" (Concise Oxford Dictionary), that is, for the provision of services to the public. In 1875 many local government services were provided by the nobility which today are the responsibility of government. It therefore seems appropriate that government should receive land tax and use it for public benefit. Higher rates of tax, but only on persons who get land, seems merited.

(b) Improvements in the allocation of farming land

4. To adapt to the inevitable decline of the function of the nobility in relation to land, land allocation might be taken over completely by central government (which does the work anyway). Incidentally, from earlier reading I have the feeling that King George Tupou I did not want the nobles to be involved in land allocation anyway, and that it was only after his death that an amendment (Hereditary Estates Law 1915, No. 3) gave nobles a right to be "consulted". Though the right is only one of consultation, it seems to have been allowed to change into a power of control in practice. In fact I don't think he wanted them to have *tofi'a*, but I have not had time to check this point yet. There may be some case for nobles having somewhat larger lands than others - perhaps say 25 acres (3 *api*) maximum. The idea that nobles won't be respected unless they can allocate land confuses respect with fear, and the idea that nobles won't be respected unless they have large areas themselves confuses respect with envy. Nobles, like other people, will be respected for what they do. "By their fruits shall ye know them" applies to all of us. But there would be much disadvantage in yielding to the temptation to allow the area to become too large.

5. Additional planning, organization and training may be necessary in Lands Department to handle a somewhat wider range of responsibilities.
6. There may be a case for all land allocation and administration to be undertaken by the government but subject to rather more surveillance and scrutiny by the court, and/or by a standing committee of predominantly elected persons, or otherwise. It is likely that this can be carried out adequately in practice only if the central government is directly responsible (at least very predominantly) to the public. An interest group is not likely to allow real change peacefully while it holds disproportionate legislative and executive power.
7. One of the key intentions of King George Tupou I, especially after he saw the poverty of Australian slum-dwellers of the 1870s, was that every Tongan should be entitled as of right, to secure tenure to enough land to feed himself and his family. To meet population growth, smaller units seem to be needed. Possibly 1 or 2-acre (or $\frac{1}{2}$ or 1 hectare which is about $2\frac{1}{2}$ acres) subsistence units might be the basic entitlement for every family. In the 1950s an amendment was introduced making the entitlement not $8\frac{1}{4}$ acres but not more than $8\frac{1}{4}$ acres (which is very different thing). I have not had time to go into the details of that change.
8. To meet greater diversity and intensity of land use, more categories of land size, land use, and period of control of land seem to be needed. Working out the details would need care, but is relatively straightforward.
9. Commercial gardening land on relatively short leases (from the government preferably) at commercial rates to mechanised farmers, may be worthwhile. Other commercial farming (e.g. cattle, forestry) would need longer leases, perhaps allocated by auction, or by independently assessed value.
10. Land held by churches and which is not well utilised for appropriate church purposes, should perhaps be reallocated by government to those in need. Such Churches would show their true concern by taking a lead in

this matter rather than waiting for other pressures to bring it about.

(c) Town land

11. Urban housing is a special need. As a result of inevitable rapid increases in urban population, land for both low density housing built by individuals, and for high density built possibly by a National Housing Authority, Cooperative, or private business. This will probably necessitate government resuming some farming land near town and some land in town now controlled by nobles, and reallocating it for housing at least some of it high density housing.

12. Land for industry and commerce is again a special category. There seems to be a good case for the benefits going (as they do to some extent at present) to central government for public benefit.

13. Leasing of land in town should perhaps be exclusively a matter for government. The spirit of the constitution and its amendments suggests that unearned income should be for public benefit, not private - for that can only be at the expense of the public. Avoiding land speculation was one of King George Tupou I's main aims.

(d) Improving productivity

14. Several points seem to merit consideration. There is a good case for keeping the rental (or 'tax') on subsistence lots low (though there is a case for higher rates than at present) and possibly for urban housing at low rates (though remembering that cheap urban land in fact means hidden subsidies from rural people and will speed up urbanization). For other areas both urban and rural, full commercial rates (based on assessed productive potential) seem to be necessary or at least highly desirable. There are good reasons for all persons, including nobles, paying land tax. This is desirable not only from a social justice viewpoint, but even more important for ensuring productivity. Despite exceptions, underutilised nobles' estates have been characteristic of many countries, and have only changed under considerable pressure.

15. Enforcing residence on the island where one holds land rights may

be desirable. At least for farming land, an absence of more than 2 years in any 5 year period may be an appropriate time to cut off rights. Presumably if this was done, the outgoing holder would be able to transfer it to a son or other close relative who remained at home and needed the land. This would of course apply likewise to Tongans living overseas.

16. Enforcing productive provisions in the existing legislation seems to be a high priority or perhaps adapting new, more workable requirements may be needed. Perhaps the public does not realise that unused land keeps everyone a little poorer, not just the land-holder.

17. The very young and the very old are not usually very productive. Possibly the present minimum age of 16 should be raised to 20 or 22. A maximum of 65 might be imposed for larger farms, 70 for 2 acre subsistence lots, but no age limit for house sites.

18. The present probationary period before final registration was introduced to ensure that the farmer was productive. But it has been misused as a tool for exploitation, and clearly needs rethinking. Examples of this exploitation are becoming known throughout the Pacific and beyond and undermine confidence in the system both at home and abroad. The principle is sound, and it should be possible to make the practice sound also if it is well planned.

19. The present practice of 90 per cent of lease income going to holders of tofi'a or api seems inconsistent with both the philosophy and the need. Perhaps the percentages might be reversed.

20. Finally, Garth Rogers recently explained to me what he thought to be the significant advantages of selective use of the toutu'u system for some food crops. He felt that it distributed access to high quality land, gave economy in farming, and combined the best features of cooperative enterprise with those of individual incentive.

You will know much about all these things than I do, and no doubt many people and institutions have already given them considerable thought. The fact that the churches of Tonga have felt it appropriate to bring these

matters to a higher level of awareness suggests that the process will soon move logically from thought to action. In 1875 Tonga led many countries of the world by adopting a constitution that was forward looking, not backward looking. It was uniquely Tongan, because it did not get hung up on the past, but planned boldly for the needs of the next generation. If enough people give it enough priority, the same way in future be said of the changes in land policy and practice in the 1970s.



LAND TENURE IN TONGA

THE PROCESS OF CHANGE - PAST, PRESENT AND FUTURE

(A few friendly comments for a friend - in the Pacific way)

INTRODUCTORY

You are here dealing with two kinds of audience - the one actually attending the seminar who will be largely in favour of change and the wider public audience made up variously of those in favour, the entrenched vested interests, few in number but possessing much political power, who will be against, and the apathetic. I assume that the central practical aim of the seminar is to effect gradual change in the immediate future and thus to avoid a more disruptive social upheaval later on; that is, the seminar is very much action-orientated whilst at the same time not detracting from its academic interest.

The few comments offered here are largely to fill in the few gaps in the background material, to make a few observations on the likely results of alternative courses of action suggested in your paper and, hopefully, to add something on the Tongan social milieu at this point in time.

SLOW CHANGE AND FAST CHANGE

Tongan society throughout the reign of the late Queen Salote seems, in retrospect, to have been characterised by slow change. Imperceptibly, some people came to believe

Tonga could not, and did not, change. Further, I think they identified slow change with stability. It was better to have stability, i.e., slow change or no change than change, with its attendant problems of uncertainties and social disruption.

The word "sacred" has a special place and meaning in the Tongan system of attitudes and values. The Constitution acquired the aura of sacredness right from the start, not dissimilar in effect to the tabu attached to the person of the Tu'i Tonga in former days, and the Sabbath when the missionaries first came and even today. Because of this tabu none of these three were to be tampered with. If to "sacred" you add the words "for ever" you virtually guarantee no change for all times, i.e., until the winds of change begin to blow gently across the islands, e.g., The Tonga Council of Churches Conference. Refer also relevant clause in the Tonga Constitution relating to Sunday observance. Your audience will understand and want change. But I suspect that only a few will speak out openly. It is highly doubtful if the Legislative Assembly reaction has received much support amongst the general public, nor can it be seriously taken as representative of thinking on the theme of the seminar. One obvious reason is the highly disproportionate pattern of representation in Parliament.

LAND TENURE IS ALWAYS PART OF A LARGER POWER SYSTEM

The question here is how to effectively change an existing power structure in a way that would make possible the required changes in the tenure system, and in accordance with the principles of non-violence.

EARLY TONGAN LAND TENURE

1775 : Land tenure at the time of European contact

Your statement about chiefs not owning land but holding certain rights only, will generate much comment. The nopele believe chiefs who held the titles they now inherit actually owned the land whereas today they are subject, under Legislation, to certain limitations which make them worse-off in terms of freedom to carry out land transactions.

1875 : The revolutionary change of last century

The section strikes me as being most germane with its emphasis on suitability and relevance to a given time and age. In the circumstances of the 19th century, and in the archipelagic nature of the environment Tonga's land tenure system was the best. It no longer is.

King George Tupou I was the epitome of change. It would be useful to dwell at length on this feature.

Under this section also it might be useful to make a few comparisons with the Samoan matai system under which the rules of succession to titles and inheritance are likely to yield more satisfactory results in terms of leadership material.

1975 : The next stage of change began to take shape

You might check again whilst in Tonga and before you give your paper on His Majesty's reference in Parliament to the need to have another look at the land tenure system. I would like to think he was referring to possible changes in the administration, control and distribution systems, i.e., in the actual structure. But I am not at all sure. From memory, and by inference, because he gave no details, he was referring to the possibility of further sub-dividing $8\frac{1}{4}$ acre lots into smaller areas, say, 2 acres in Ha'apai and 4 acres on Tongatapu. I think there was also more than a hint about possible forfeiture of land belonging to Tongan people permanently settling abroad. I don't think nopele estates and hereditary land were being affected though.

You have raised an extremely interesting point about some people in the community having access to two sources of income (regular employment plus the $8\frac{1}{4}$ acres tax 'api) whilst others have one source only, or none at all. This is essentially a distribution problem and on egalitarian principles the prevailing situation in Tonga (it be lack of incentives!)

is indefensible. I agree entirely when looked at from the compelling standpoint of the "haves" versus the "have nots". It is then suggested that the anomaly would be removed if no one had more than one source of income. Without in any way appearing to minimise the strength of its political appeal in terms of equality of opportunities, fair distribution and taking cognizance of the "haves" and "have nots" arguments, I think it is always useful to try and look at these concepts in terms of the realities obtaining rather than what ought to be. There are two reasons why the proposed remedy might not ameliorate the land situation in Tonga - (a) merely increasing the number having access to the same amount of land does not guarantee that the land will be put to more productive use (if there is any truth in the law of diminishing returns, productivity might even fall) (b) in Tonga there is a very marked correlation between good husbandry and the employed, i.e., it is the civil servant, the shopkeeper, the taxi driver, truck driver or owner, the school teacher who is also the good farmer. (When flying into Tonga, and driving into Nuku'alofa from the airport keep an eye out for uncultivated land; there is more land under bush than under crop). In other words, there are hundreds of acres of land lying idle, not because nobody owns them but because of inertia (or could it be lack of incentives!)

I think If you go further into this you will also find that a significant percentage of 'api holders, in return for a cash payment under a fairly loose arrangement quite unenforceable at law, hand over the use of their land to any one of the category of people I have listed for varying periods. But for the operation of this kind of arrangement the proportion of uncultivated land in Tonga would be even higher than it is, whilst in no way minimising the need

to take up The solution to Tonga's land problems may well lie not in reducing the size of holdings so much as in society, perhaps devising a system that would ensure more intensive land use resulting in increased productivity. Priority could be given to increasing output. The egalitarian objective can be ~~achieved~~^{attained}, once optimum output has been achieved, through the tax system. I think this is a much more preferable alternative to that of a uniformly low level of peasant existence and certainly more in accord with the average Tongan's aspiration, as I understand it.

One other argument against a further reduction in the size of units is that it makes mechanization, even on a modest scale, uneconomic. If this conclusion is valid then it contradicts your prediction that agriculture in future would be increasingly mechanized. employment.

Agriculture was, is and always will be important to island economies. It is so the world over. However,

I think economic planners may have unconsciously tended to over-emphasize its potential in the islands without sufficient regard to the severe limitations inherent in the situation. Limited land resources effectively limit the opportunities for large scale production and the benefits of economies of scale. Of greater potential to the islands is their human resources, if suitably trained. In Tonga, whilst in no way minimising the need to take appropriate measures to improve the land tenure system in order to satisfy the criterion of a 'just society', recent developments would suggest the emergence of a new socio-economic pattern. My observation on recent visits to Tonga is that there is a rapidly growing preference for a regular job to village farming. Exposure to wage employment in New Zealand and elsewhere has strengthened and accelerated the process. You might make some enquiries as to what proportion of unemployed people 'drifting' round Nuku'alofa have lands lying unused where they come from. On the point of nopele spending more time away from their people than with them - you will find that a big percentage live more or less permanently in Nuku'alofa in rented houses. Very few have homes of their own in Nuku'alofa and fewer still have regular employment. grounds and partly on the availability of alternative and better ways of attaining the desired goals.

Ok if
B...
-vale

2075 : What of the future ?

Some of the alternatives change in the legislation relating

(a) Public rights to land There is need also for suitable
administra There is need to define what you mean by public
rights to land in the context of the Tonga situation.

(b) Improvement in the allocation of farm land

Are you referring to the distribution process
only without a parallel change in the structure? Under
present legislation the Minister is empowered within limits
to do exactly this. In the current session of Parliament
a nopele member of the House moved that the legislation be
amended to require the Minister to obtain first the approval
of the nopele in whose tofi'a the land is situated before
the allocation is effected. If you mean allocation under a restructuring of
the system there will be need to work out a compensation
formula acceptable to the parties concerned. About four
years ago a leading nopele suggested that all tofi'a holders
might surrender their land rights to Government in return
for a monthly salary like civil servants. The Government
did not take up the offer seriously. I have expressed reservations about further
reductions in the size of allotments partly on economic
grounds and partly on the availability of alternative and
better ways of attaining the desired goals.

Ok if
Bonds diminishing
in value

(c) Town land

A fundamental change in the legislation relating to town land is desirable. There is need also for suitable administrative machinery through local governments to organise and maintain the necessary services.

(d) Productivity

I have mentioned to you in conversation that the amount of unallocated land actually remaining in nopele possession is a small fraction of total land available. Some nopele have no more land to distribute, which they consider a most lamentable situation. The only way in which a piece of land might again become available to them is through reversion under the rules of inheritance.

Exploitation through the device of 'delayed registration' is factual. There is also plenty of evidence that what amounts in law to land sales actually take place despite their illegality. These "sales" are no longer done secretly but everyone keeps a blind eye to them.

Whilst recognising the great merit of Tonga's land system and its suitability to an earlier age, it now seems to suffer from two serious defects (a) the fact that, as Father Foliaki pointed out in his lecture "Ethics - the Pacific Way", the whole of the "unearned increment" on the land goes to the nopele and (b) the large tofi'a holdings of the nopele in a land-starved country.

(a) is true and is aggravated by a lease system which provides for five-yearly reviews. In an inflationary situation the adjustment is in one direction only - upwards, worsening an already bad situation.

(b) is true only in a formal sense.

Whilst in no way appearing to defend the system it is useful to bear in mind that once the land is registered, the power of the nopele over both land and holder is virtually reduced to nil. More land is registered than not registered. The position, therefore, may not be as serious in practice as it may appear on paper.

Whatever system is eventually established Tonga's greatest need remains that of raising productivity substantially.

— 24 —

TONGA COUNCIL OF CHURCHES
Programme for Seminar on Land Tenure
and Migration. 22 - 26 September 1975

- | <u>A.</u> | <u>LAND TENURE</u> | <u>SPEAKER</u> |
|-----------|--|---|
| | <u>TOPIC</u> | <u>SPEAKER</u> |
| 1. | The Land - Landlords' View | Noble Ma'afu
(Speaker of Parliament) |
| 2. | Theology of Land | Rev. Siupeli Taliaf
(Principal Tupou College) |
| 3. | Tonga's Constitution re Land
and Land Laws of Tonga.
Relevant or Obsolete? | Chief Justice Roberts
(Chief Justice of Tonga) |
| 4. | The Land - People's View | Mr Taniela Manu
(People No. 1 rep. in
parliament)
Mr Laitia Fifita
(Roman Catholic rep. in
National Council of Churches) |
| 5. | Alternatives to existing
Land Tenure Practice. | Professor Ron Crocombe
(Professor of Pacific Studies.
University of the Sth Pacific) |
| 6. | Panel Evening re Papers on Land. | |
| <u>B.</u> | <u>MIGRATION</u> | |
| 1. | Temporary Emigration
For/Against | (1) Mr Clive Edwards. LLB
Auck. <u>NEW ZEALAND.</u> |
| | | (2) Australian Deputy High
Commissioner. |
| | | (3) Rep. of N.Z., Government. |
| | | (4) Rep. of Embassy of the U.S.A.
<u>SUVA.</u> |
| 2. | Permanent Emigration
For / Against | (1) Mr Andrew Afeaki,
Lecturer,
Institute of Technology
Wellington. |
| | | (2) Australian Deputy High
Commissioner - Miss
Maris King. |
| | | (3) Rep. of the N.Z. Govt. |
| | | (4) Rep. of Embassy of the
U.S. Govt. |
| 3. | Economics of Migration | Mr Sione Tupouniua
(Lecturer at USP - Suva)
Sociology & Politics) |
| 4. | Tonga for Tongans | (1) Dr 'A. Havea
(President of Wesleyan
Church of Tonga / Chairman -
Tonga Council of Churches. |
| | | (2) Mr Mana Latu
(Principal of Tonga College) |
| | | (3) Mr. Futa Helu
(Principal of 'Atenisi
Institute. Tonga. |
| 5. | Theology of Migration | Bishop P. Finau
(Roman Catholic Bishop of
Tonga.) |
| 6. | Panel re Papers on Migration. | |

KOSILIO 'A E NGA'AHI SIASI 'I TONGA
TONGA COUNCIL OF CHURCHES

P.O. BOX 1059
NUKU'ALOFA, TONGA.

Cable: UNICIL
NUKUALOFA

August 18th, 1975

Professor Ron Crocombe,
University of the South Pacific,
P.O. Box 1168,
Suva,
FIJI.

Dear Ron.,

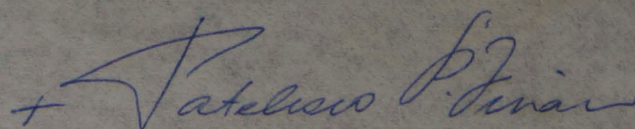
Thanks for yours re translation of your paper for the "Land and Migration" Seminar. Futa Helu has agreed to translate your paper and also be the interpreter when you give your paper during the Seminar.

You may have heard His Majesty will open the Seminar on evening Sunday 21st September in the Centenary Church, Nuku'alofa.

Thanks for the report on Tutu Survey.

Very kind regards,

Sincerely,



+ Patelisio P. Finau,

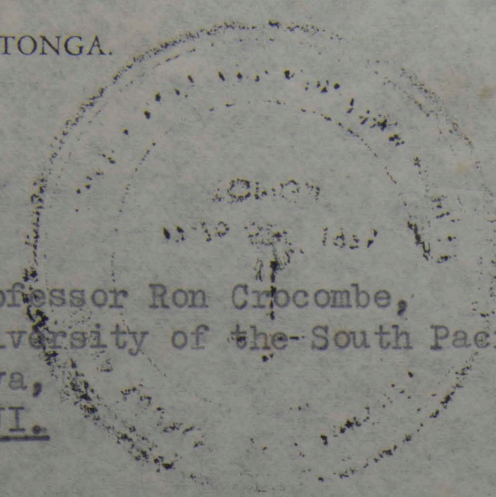
President Organising Committee,
for the Seminar.

KOSILIO 'A E NGA'AHI SIASI 'I TONGA
TONGA COUNCIL OF CHURCHES

P.O. BOX 1059
NUKU'ALOFA, TONGA.

Cable: UNICIL
NUKUALOFA

September 5, 1975.



Professor Ron Crocombe,
University of the South Pacific,
Suva,
FIJI.

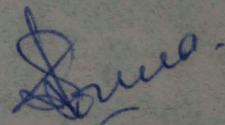
Dear Sir,

Thank you for your letter regarding the translation of your paper by Lopeti Taufa and Father John Foliaki.

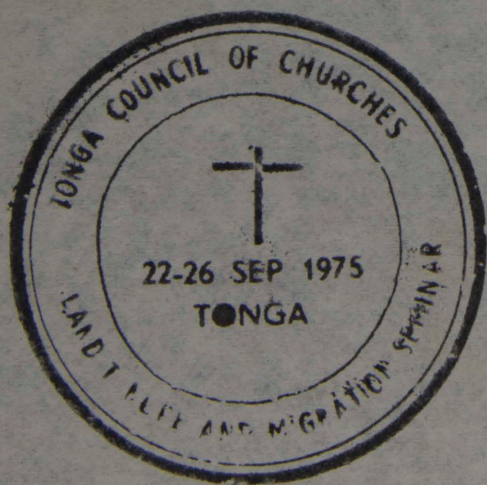
The Organizing Committee has decided to have 200 copies in Tongan and 150 copies in English of each paper, as the total number of participants for the Seminar will be 200.

Lopeti Taufa is in Nuku'alofa and I will see him regarding your paper and its duplication.

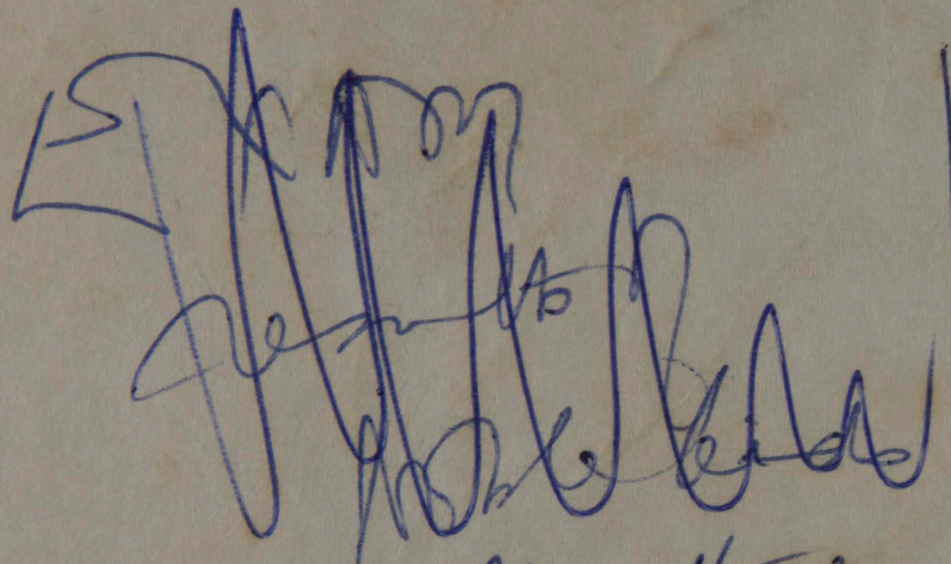
The Committee appreciates your continuous interest and the assistances of Lopeti Taufa and Father John Foliaki with best wishes.



Siosua Fomua
Secretary
Organizing Committee,
Tonga Council of Churches.



TONGAN LAND TENURE



Recommendations

Caution: not based on
research

~~Some people may think~~
Let us recall the real constraints on
~~if you think~~ ^{of our} chiefs' rights. Imagine, for a moment, in the
precontact situation, if a chief
allocated all the land to himself, +
pushed all his followers off it. In time he couldn't
have, but if even if he succeeded, he would also ^{probably} ~~lose~~
- practice to be a chief. A chief is by definition the leader of a group.

Toungou L.T.

Main point is that nobles were needed in situation where ~~foot~~ was main decision-making ^{got} ~~was~~ ^{was} over, few miles, because foot ~~and~~ cannot travel well. Now, road, cars, ships, telephones, radios make these redundant & all due to Naba's ~~only~~ 100,000 army.

As all sources show, ^{if a chief was out, it was well known to kill} a person ~~was~~ ^{was} offered ^{to} the gods if a chief was ~~out~~ ^{to} make the sickness better. This was a well established & accepted Toungou tradition. If people don't want ~~to~~ ^{to} move it (to keep a stock of rice hospital) then they keep the land headed privileges of the nobility - one is as or + of date (to be as representative) as the other. Liberian ~~by~~ ^{by} chief would want to leave or Palatine. A thought control problem. Tubu's chopped off the left arm of 12 coats to show his power - men who do this sort of thing don't deserve to live.

THE UNIVERSITY OF THE SOUTH PACIFIC

Laucala Bay, Suva, Fiji

TEL. SUVA 27 131
OUR REF.

P.O. BOX 1168
SUVA, FIJI.

Olovenka.

Don't
TYPE

Quote

The moving finger writes, and
~~what it writes~~

having writ, moves on —

can't alter a jot or tittle.

etc

Where from?

Rubbings of those things you.

Fitzgerald's translation

f.c. " Why can't you read the
beginning of the verses "
Matth 16:3

Page 21.

Labouché Ch. 4 p. 10. "... paradoxical
that the very Constitution which set out
to limit the powers of the monarchy
should have created a new landed
aristocracy with increased
powers. This would appear to be the
reverse of what both the framers
& the King had long striven to achieve
in earlier legislation, i.e. to limit the
powers of the King & reduce the ^{status} of
commoners.

... the commoners' absence
& tribute, undermined the declaration
in the Constitution that all men were to be
equal in the eyes of the law ..."

... the creation of the
landed nobility appears to have been a
blunder...

Tonga LT

" Traditionally, hereditary succession
to the throne was not automatic, but
was decided upon by a 'electoral
college' from among several candidates.
The selection of successors to other
chiefly titles had been left in the
hands of the principle chiefs of the hoia
to which the title belonged. Usually they
chose the most capable. However...
rivalry between claimants often resulted
in open conflict + war between factions."

Saturday ch. 4 (in press) 1975

→ ~~Hereditary titles were awarded~~ awarded between 1918 + 1918, ~~and without titles between 1880 + 1890~~ ~~the~~

→ Including Hereditary Lands Act of 1882
(by King George) ^{increased the size of holding and} ~~which made tax lands hereditary~~
^{process of alienation}
Amendment of 1880 made tax land hereditary

In 1892 King George approved another alteration
making the Crown collect all rents.

KOSILIO 'A E NGA'AHI SIASI 'I TONGA
TONGA COUNCIL OF CHURCHES

P.O. BOX 1059
NUKU'ALOFA, TONGA.

Cable: UNICIL
NUKUALOFA

2 May 1975.

It is the hope of the Tonga Council of Churches that you would be able to participate in this Seminar. Seminar air fares would be covered by the Council. Accommodation with hotel or other arrangements will be made for you. We would be most grateful for an early reply.

Professor Ron Crocombe,
University of the South Pacific,
Suva,
FIJI.

Dear Sir,

The Tonga Council of Churches are sponsoring a Seminar focused on "Land and Migration" and it will be held in Tonga during the period of 22 - 26 September 1975.

This seminar is being arranged by the Tonga Council of Churches together with representatives of various sectors of the people of Tonga.

The Council is very pleased indeed to invite you or your representative to participate in this Seminar by presenting a paper with proposing resolutions on the important topic of "Alternatives to existing Land Tenure Practice."

The selected topics are considered priority problems and which the Council is sure that your background and experience could provide a significant contribution to the people of Tonga.

I would be most grateful if you would kindly give me an idea of the title of your paper on the said topic, date and the length of time of the day which you would require to present the main points of your paper leaving sufficient time for discussions. There will also be discussions in the evening.

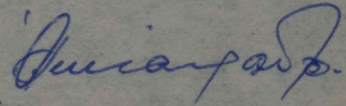
It would therefore be appreciated if you can send me your paper by the end of August so that we can translate it into Tongan and distribute to our local participants before the Seminar.

- 2 -

It is the hope of the Tonga Council of Churches that you would be able to participate in this Seminar. Return air fares would be borne by the Council together with hotel or private accomodation at your request.

I look forward for an early reply.

Yours sincerely,



Mrs ('A. Fineanganofa)

Secretary,
Organizing Committee
Tonga Council of Churches.

THE PACIFIC THEOLOGICAL COLLEGE

Vuya Road, Veiluto

P.O. Box 388
Suva, Fiji Islands

Tel: 311 100
311 331
Student: 311 902

p.3. What kind of land rights did a chief have in the 1775 period as compared to his rts. granted by the Constitution in 1875. Furthermore what do you see as in fact the rts of the nobles in 1975 to land as cf. with the spirit and true intention of the Constitution in 1875? (Letters written by King G. Tupou I prior to 1875 ~~show~~ help to clarify the spirit and intention of the land provisions of the Constitution.) Do you think it is important to make a clarification?

last 11
p6: re selection of chiefs in pre-European contact period:

Very interesting point but I don't think Latukefu will agree with you on that. He thinks that birth has always been the determining factor ("Chud & State in Tonga") what do you think? *Asked in the Latukefu - he does agree*

↓ because of pre Christian religious rts.

p7: 2. re: population living in overseas countries. Perhaps clarification is needed for certainly there are still more Tongans in Tonga than overseas.

p15: re George F did not want nobles to be in land allocation or have "tofus". I have the same ~~was~~ understanding as to the true intention and spirit of the 1875 Constitution.

Ken I'm not sure whether mention of a need for "Separation of Powers" is relevant here. But anyway I feel that the ^L Court more effectively if there is ^{such} separation. Not so much to include it in this paper but perhaps maybe raised in the course of discussion that will follow.

✓ Last, but not least, I think that the paper is very good. Thank You
TEPI.

p. 4.

I still question whether
Tupou I was a "revolutionary"
in the modern common use of
the word. He gained supremacy
by force and introduced
changes which were revolutionary.
He was not engaged in a
war against the establishment
- he was the establishment, or
at least a strong contender.

"revolutionary"
His "war" was rather one of ideas.
Today, a revolutionary comes up from
under ~~the staff or consolidation of~~
~~existing powers~~ - shooting.

Pacific Theological College
Suva, Fiji

August 10, 1975

Professor R. G. Crocombe
University of the South Pacific

Dear Ron:

I appreciated the opportunity to read your paper on "Land Tenure in Tonga." As you know, I am eminently unqualified to make any comments on it. So, here I go.

My overall impression is certainly positive. As usual, you speak directly and clearly, and the structure is transparent. With one exception. The last section, which contains your own proposals for revising the present system, is so condensed as to be opaque to the layman (i.e. me) at several points.

I think you are right to place the land problem in a larger setting, recognizing the present realities of political power. I was also gratified by your stress on the future, and the need to respond flexibly to present trends.

One caveat. I think most scholars would agree that Jesus was crucified by the Romans as a political criminal, not as a meralist. (But that may serve your purposes even better.) The gospels tend to conceal this, most likely because Christians did not want to draw the authorities' attention to their suspicious beginnings. But there was this much truth in the Romans' accusation: Jesus' demand for an absolute commitment to God undermined and relativized the absolute claims of government, together with the authority of the Jewish law and its traditional interpreters.

That's all. Not much, I'm afraid, for you, but very helpful for me. Again, my thanks.

Sincerely,

JL
J. Leland Mebust

*What role for nobles -
cultural role and compare their
privilege. Create new rituals, not by
by nobles a thin ritual system*

p. 14 (a) Who will be the guardian or trustee of this national asset? Crown? Central Government? Land Court?

(b) "Land allocation might be taken over completely by central government —".

How can the interests of the majority be safeguarded when central government is not directly responsible to the people? This seems to be an insurmountable problem. The Constitution places power beyond the ^{hopeful} reach of the people! Can the paper suggest a solution?

Dear Ron,

Thanks for the privilege of reading this thought-provoking masterpiece. I have benefited a lot from reading it. I am sure it will create a lot of interesting discussions.

Looking forward to seeing you during the seminar.

Sincerely,

Sripati

Then a dangerous revolutionary came onto the scene. We must remember that classifying people as dangerous or as revolutionary is always relative and we must always ask dangerous to whom? and revolutionary of what? Or more simply still, whose powers did he challenge, and what changes did he want to introduce. Like most successful revolutionaries, he was regarded by those he challenged as misguided, ill-informed, self-seeking, immoral and unwise. They considered him wrong so they wanted him killed. But human beings in positions of power are usually bad judges of those who seek improvement or change. And also like most successful revolutionaries, this man was highly intelligent and outstandingly able. His name of course was Taufa'ahau, and when his revolution succeeded, he took the name King George Tubou I. He was one of the greatest and most outstanding leaders anywhere in the Pacific in the whole nineteenth century.* Yet when we read the letters reports and papers of his early days, we notice how many leading Tongans as well as Europeans, honestly thought he was stupid, wrong or evil. It was only looking back that we can see what a great man he really was. Of course there is nothing new in that. Christ was crucified for his insistence on honesty and on pointing out injustice and the leaders of new ways are usually vilified, criticised and ostracised for years before the validity of their case is accepted. Who, in 100 years time, will be seen to have been the emerging leaders of 1975? It is too soon to know.

Although King George Tubou I introduced revolutionary changes in many fields : in the political system, in supporting and in some cases imposing and radically different and foreign religion (christianity), and in women's rights, our concern here is with his programme of land reform.

* Somebody in the seminar might ask for citation of refs. I only guess some of the missionaries wrote such but how true is this to the mind of the ordinary Tongan?

Now any revolutionary leader who gains power by violence, naturally outlaws violence as soon as he has got power, for it is only by enforcing peace that he can stop others taking power from him in the way he took it from those before him.

* How violent was George Tubou? compared to Ulukalala U & others of his time. Do people look at him this way or do they look upon him as the champion of modern Toga?

* On the other hand I tend to believe that there must be a starting point toward a major reform but again, is this the best possible first step we as scholars of Land Tenure in Toga recommend?

* In your opinion how serious is the "oppression" in and how soon will the majority of commoners come to the point where they will say "We cannot take any more".

* Seems to me that you are invaluable to this forthcoming Seminar as an authority on Land Tenure in the Pacific & in Toga. Since this is ^{going to be} a gathering of church leaders, ~~and~~ govt. ministers, nobles and Parliamentary representatives of the people, they may expect expert advice from you as to possible solutions of the present land problem. Your task as I see it is to point out these possibilities in ^{minute} ~~great~~ details and in a way clear enough that even the mind of the ordinary Toga could understand.

* It would have been a great advantage to us, so I feel, if work on "How to Acquire an 'Api" is already done and now available for our use today.

2 acres 'api
20 x 1/10th strips
= cash & subs. eqn.

Toutu'u System

1 acre,
10 men
10 strips
= Subsistence requirements for family.

"Joint-farming enterprises"

1/10th acre per year
under 1st year crops
suffic. for subsistn.

Advantages:

1. Distribution of 1st quality crop land
2. Economy of the fence
3. Joint effort combined with individual incentive by competitive contrast.
4. For landowner taovau 2 years per strip or 1% of return, plus 2 to church every year.

Good for migrants

^ "rounded" as the pride of the individuals who farm them."

Rogers IPS:

Once nopele - they started to build in Town.

5. Preserves crop until mature.

Could have toutu'u for Food Crops, bank-cloth trees, Coconuts & cattle, pandanus 'mat' trees, Export crops,

Ken.

16 July

I thought you would be interested in the attitudes revealed in Judge Prentice's letter. I have had to battle with that type of closed mind so often among lawyer friends. I am surprised he can be bothered to attend a "Magistrates" Conference, but I'm afraid it may have something to do with certain agenda items relating to "the rise in the crime rate" - Grant, C.S. is going from here.

Do you have ^{Ferbury} KOT BILONG YUMI? I have the 7th Wargani papers by Marilyn Strathern + Orans on village courts proposals for PNG and by O'sifelo on B.S.I.P. "Tyranny", petty or otherwise, is always a hazard of the judicial system, and I would accept Judge Prentice's concern only if there was clear evidence of the arbitrary use of power to the point of abuse - which the people found unacceptable. Strathern suggests this is unlikely. A problem in Samoa is that public hearings have produced allegations of bias which do seem to concern people.

Thanks for the opportunity to comment

How.

TONGA LAND TENURE
COMPLETED NOTES.

pretty strong stuff, but
my inclination is to go ahead
- I suppose because I agree with
your sentiments so wholeheartedly.

Is it feasible to say you are
attending Seminar in personal
capacity and not as Prof/USP
- rather pointless, I suppose,
but some people might accept
the screwy logic.

I am coming back via
Vila (18-20 Aug.) but unfortunately
PNG or Honiara means an extra
week.

Henry.

great urgency.

* On oppression: I tend to believe that the ordinary Tanganyan man can feel the oppressiveness of the present system yet he cannot tell what is causing it, how it comes about and how to remedy such oppression. It is therefore the duty of those more enlightened to expound to them.

* On Security: Man needs security or "securedness". Conformity and obstinacy to change seems to me to be the unconscious act of man to secure himself by within the present state of affairs. Give him the alternative of being able to scrutinize for himself the weak points of the system he's under and work out possible means of changing that system, and maybe he will not be as conforming as he had previously been.

* A knowledge of what I may call "psychology of the Tanganyan" is invaluable when one like you is called upon to comment on this Tanganyan social problem. Perhaps you might be interested in pursuing what "psychology of the Tanganyan" is, if there is such a thing.

* Notwithstanding that you are not a churchman I may suggest that you criticize the Church leaders that are to be at the Seminar. You may, I think, get better help from Dr. L. Mkwana churchwise than anybody else around. However to come back to my point you may be able, as an outsider, to effectively point the Church leaders to where they have erred as ^{reps of} the body of Christ and Conscience of the State. Say to them that the Church cannot go on with her long kept fallacy of supporting anybody with "power". Her (the Church's) power lies in loving suffering, not in worldly human power. P.S. I'm only suggesting, I can't say I'm right because I don't know much.

What might be kept, and what might be changed of the 1875 provisions to suit 1975 and 1985?

First, the basic concept of land as a national asset is a key provision which merits retention. Tonga was far ahead of a great many nations in seeing this need, which many others have only much later come to accept.

Second, to meet population growth - smaller units.

Third, to meet greater diversity, more categories of land sizes, land use, and period of control of land.

Urban housing - high and low density

Subsistence gardening

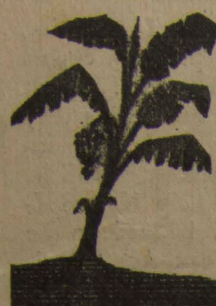
Commercial gardening

Other commercial farming (eg. cattle, forestry)

Industry and commerce

* Naturally the Nobles will not give up their "mouthful of fat" (Tongan expression) without great pressures being applied on them. The ~~set~~ educated elites who have secured the blessing of the King and the Nobility are somewhat to a certain extent adopted members of the aristocracy.

Being ^{myself} an advocate of non-violence I tend to think that maybe if the Govt promises the Nobles fixed salaries proportional to their size of one's tofia and that all land administration go to the Govt - Do you think that such proposition is feasible and if ^{then,} yes, ^{is} the land likely to be fairly administered ~~and~~ distributed and cultivated under such a System?



The

Tonga Chronicle



Where Time Begins

Nuku'alofa, Thursday, July 24, 1975

Vol. XII No. 9 4 Seniti

HOUSE REJECTS INVITATION

After a lengthy discussion on July 7, the Legislative Assembly by majority vote turned down an invitation from the Council of Churches to send a member of Parliament to attend a five-day seminar sponsored by the Council.

The topics for the Seminar, which has been set for September 22 to 26, are "Land and Migration".

The invitation was submitted by the Secretary of the Council's Working Committee, Mrs 'Akosita Fineanganofu, through the Speaker of the House Hon. Ma'afu.

The letter stated the wish of the Council for advice by a representative of the House in view of the importance of the topics to be discussed in the Seminar.

Tongatapu noble, Hon. Vaha'i indicated at the outset that the Council was interfering with matters not their concern and they should confine themselves to the spiritual needs of the people which is what they should do.

Hon. Vaha'i went on

(Turn to Page 10)

The man responsible for the Maori win on Saturday, Supersid receives the ball from a reverse pass by brother Ken Going (No. 15). The Tongan players from left, Peni Kaihau, Tali, Fakahau, Sione Mafi and Valita stand flatfooted as they wonder which direction Sid Going will run. They took too long and Sid scored the Maoris' fourth try soon after the start of the second half.



'SUPER SID' ENDS WINNING STREAK

(From NEVILLE PEAT in New Zealand)

Halfback Sid Going was the destroyer of Tonga's hopes of making it five in a row against the Maori All Blacks at New Plymouth last Saturday. Super Sid, New Zealand's number one scrumhalf was up to all his tricks—switching play, reverse passes and uncanny tactical kicks. When he ran with the ball he was often dynamic.

Sid scored the Maoris fourth try just after half-time from a clever switch with his inside backs, including brother Brian at first five eight. At this stage (23-nil), it seemed Tonga would be overwhelmed.

But the tourists plunged back. Led by captain Sione Mafi, from his own twenty five he sprinted 50 yards and moments afterwards raced over near the posts. Valita converted to make the score 23-6.

For the next twenty minutes it was Tonga's game though they continued to be beaten in all forward exchanges except the lineout, Tonga proved masters of broken play. Fa'aleo who had already excelled in the lineouts showed his speed in the loose when he loped in for a try by the

corner flag. Valita converted to narrow the gap by 23-12.

Then a break by the Tongan backs nine minutes later saw Tonga drive to the Maori line, and Saimone was there to dive across in a maul. Valita missed the kick and that ended the scoring at 23-16.

The Maori's tries came from Terry Mitchell, Peter Goldsmith, Billy Bush and Sid Going with fullback Ken Going converting two and kicking a penalty.

The Maoris were in front 17 nil at half time through forward domination and a very off colour Tongan performance.

But Tonga's fightback in the second spell had the 20,000-strong crowd roaring approval.

Sione Mafi, by exam-

(Turn to Page 8)

Star Halfback has operation

Tonga's star halfback, Ha'unga Fonua, underwent a knee cartilage operation at New Plymouth on Sunday and will not play again on the New Zealand tour.

Ha'unga, who injured his knee in the Mid-Canterbury game, has been replaced by halfback Sateki Tupou. Manager Feleti Sevele

told the Chronicle he felt Ha'unga should undergo the operation as soon as possible.

A surgeon offered to do it in New Plymouth and the offer was accepted with thanks. Ha'unga (24) has a lot of rugby ahead of him, it was important not to delay removal of the cartilage, said Dr Sevele.



Ha'unga . . . out of the tour.

The halfback will remain with the team until the end of the tour. Sateki left for New Zealand on Tuesday to join the Tonga team.

Tonga Chronicle

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EDITORIAL

Church Interference

The subject of Church interference in political and government affairs has again cropped up in Parliament, during discussions on an invitation by the National Council of Churches for a parliamentary representation to the seminar being sponsored by the Council.

The two subjects for discussion at the seminar are "Land" and "Migration".

There is a persistent attitude by certain members of the House that there is increasing interference by the church in matters outside their jurisdiction. Matters pertaining to the Land and the nobles' estates are considered to be taboo as far as the church is concerned.

There is a strong suspicion by certain sectors of the nobility that the church is advocating for a release of all available land being held by the nobles, to be distributed to the many landless taxpayers.

It is also felt that the church is inciting unrest even though there are certain religious motives behind the church's actions.

I of course agree with the nobles' animosity towards church interference in their privileges and rights if that is how they see it. On the other hand, the church maintains that its main concern is the spiritual implication of the present land tenure system and how it affects the population as a whole. In this respect, the church has a very valid argument.

The church is of the opinion that should the nobles release all land that they hold for distribution to taxpayers, the problem of land shortage cannot be solved. What the church is concerned about therefore, is an alternative to the obvious problem of land shortage, not an insistence to distribute nobles' estates.

The rejection by the House to send a parliamentary representation to the seminar on Land and Migration being sponsored by the National Council of churches, can only mean an unwillingness by certain members of the nobility to accept the superior motives of the church in attempting to cater for both the spiritual and the social needs of the population.

It is hoped however that the Church will persevere in what they think is their rightful duty and the powers that be may recognise in time that the church has a place in the political functions of the country particularly Tonga.

—SIOSUA FONUA.

"DEAR SIR..."

H.A. Finau

Dear Sir,—The correspondent who calls himself H. A. Finau implies that he understands the society and people of Tonga. What a pity that he wastes his specialised knowledge in the spiteful and destructive criticism that his letter conveys.

I am sure we would all welcome the submission by Mr Finau of a list of films he would like to have shown and of programmes, including music, he would like to hear broadcast by Radio A3Z.

H. SITETI

Rugby

Sir,—When I heard that both rugby tests, Tonga vs. Maori All Blacks were to be covered in Tongan, I was most disappointed. I knew that we would not enjoy much of the games because the Tongan commentator had not the expertise nor the skill to run a full commentary on the matches.

It would have been better if the Tongan commentator was trained to be such. I was so disappointed with the commentary on the first test that I turned off my radio during the first few minutes of the game. There were other people, that I know of, who were also disappointed.

In my opinion I prefer an English commentary so that I can feel the atmosphere of the game and be able to follow it with coherence. I feel it sufficient for the announcer here in Tonga to give a Tongan commentary through Radio Tonga after the match.

I hope this arrangement could be changed

after the mistake made in the first rugby test.

H. A. FINAU

Tax

Dear Sir,—I wish to refer to the following items, published in your paper recently.

1. A most interesting proposal made by the No. 1 representative of the people from Vava'u last year in the House—to remove the ten percent export duty on copra. It was supported by the Acting Minister of Finance, published by the Chronicle and announced over Radio Tonga.

2. A recent report from the Statistics Department on the record deficit in foreign trade.

3. The No. 1 representative of the people of Tongatapu made a proposal in the House, this year, regarding deductions from the chargeable income of the taxpayer.

The Government has approved the increase in the rate of the Port and Service tax from five to ten percent to replace the removal of the ten percent tax on copra. This will result in an increase in the prices of goods which will affect the people in the lower income bracket.

Despite the big drop in the prices of the two exports, copra and banana Tonga has another invisible export which can help lower the deficit in its foreign trade—the use of Tongan unskilled labour in New Zealand. Tongan workers in overseas countries have helped their relatives at home by sending money.

What will happen to the low-income people when the prices of goods are increased? How about increasing the Wharfage

tax instead of removing the ten percent export duty on copra. What form of tax will satisfy both low and high income brackets? It will be of more help if amendments can be made in the Income Tax Act to suit the low income bracket.

Correction

The fifth paragraph of Mrs Siu Tu'uhetoka's letter to the Editor in the Chronicle of July 10, the line reading "spiritual and evil powers" should read "spiritual and civil powers". Also in the same paragraph the last sentence should read: "We know that there are no lack for priests in the days of King Solomon of Israel but the dedication of that glorious temple he built, the one and only built in Jerusalem by this nation; the great prayer offered, the blessing of the people, the sacrifices was not by any high priest but the King himself."

I apologise to Mrs Tu'uhetoka for the misprint and may I also point out that the omission was not deliberate as was inferred by Mrs Tu'uhetoka. We are still human and are bound to make errors. Please Mrs Tu'uhetoka, my views are immaterial when it comes to printing a reader's letter to the Editor, although I reserve the right of editor like any other newspaper, to edit a letter as I see fit, to eliminate the possibility of prosecution.

I think I gave your letter more consideration than it deserved, considering our policy of letters to be limited to 250 words.

EDITOR

First Consular Visit

Her Britannic Majesty's Commissioner and Consul for Tonga, Mr A. C. Reid, C.M.G., paid his first official call on Her Majesty Queen Salote Tupou at the Palace on Wednesday, July 14.

Mr Reid was met at the Palace by the Royal Guard of Honour with the Police band in attendance. He took up the post as Consul for Tonga on June 26. He is married and has four children.

The construction of the new wharf at Nuku'alofa by Messrs Dew and Company of England has

LOOKING BACK

FROM THE FILES OF THE CHRONICLE
 10 YEARS AGO THIS WEEK

started on the site at Ma'ufanga. The company has commenced taking fill from the reef in front of the Shell Company depot at Touliki to build the causeway, from the shore out to the actual wharf site.

Major C. W. Tripp and Lieutenant Heckler, who were members of the First Fiji Commando Unit

during World War II, visited the kingdom yesterday. Both were involved in the engagement against Japanese forces during which Lieutenant Henry Taliai lost his life. They were taken on a tour of Tongatapu by two present soldiers with whom they were formerly under their command, Captain Ma'asi and V. Tupou.

1. The question as to who shall own the land had its origin during the pre-contact period. The Tongan system of land tenure rested on the assumption that, owing to his divine origin, all land in Tonga from the beginning belonged to the Tui Tonga, and that the rights possessed by other chiefs therefore derived from him. It is important to note that all the principal chiefs of Tonga during this period were all persons of royal blood. They traced their descendants through the female line and where the mother was not a noble by birth, the children were not regarded as nobles.

In recognition of his position as both the temporal and spiritual ruler, and also of the fact that he was regarded as the representative of Hikulea, the god of harvest an annual festival by Uaasi (offering of the first fruits to him) was held. This annual "uaasi" festival was a religious festival, it was different from the ordinary offering of the first fruits to the chiefs which was called polo polo [Gifford 1929: 103]. It was believed that failure to carry out the uaasi would result in calamity and the whole land would suffer from divine wrath.

As the population was growing with the years, the land was gradually divided among the principal chiefs and in practice they became effective controllers of the land. There were two basic reasons of the allocation of the King's land to the chiefs namely: that, they, with the help of commoners, KAINANGAEFOVUA [literally means the eaters of the soil] would till it and be prepared to present the produce during the annual uaasi festival; secondly, the festival was an important factor which helps to maintain the rule of the Tui Tonga. Thus once a tefika [hereditary estate] had been allocated to a chief, it remained associated with his title and couldn't be revoked by the King, though he would dispose its existing title holder and choose another

The chiefs in respect acknowledged their indebtedness by performing the traditional *qatugini* [cervee].

③ There were many factors that led to the changes in the land system (what was consolidated in the King's hand). One of this important factors is the pressure from the Europeans to buy land from the Tongans; but thanks to the gift of leadership ^{and} strong personality of George Tupou I which saved Tongans from this speculative people. The present land tenure system that was later enshrined in 1875 had its origin when the King visited Sydney Australia. Nothing however impressed him most in this visit than the household system of tenure which he studied closely. To the Tongans the land means perhaps more than it does to the Europeans. The King saw that people was just wandering around the street doing nothing and to him it was probably that they don't have any land to live on or farm it. As such the King was under pressure from these Europeans, apart from those who have arrived at Tonga to sell the land. He once said, "My mind is, that I will not merely sell any piece of land in this Tonga; for it is small; then what of it can we sell? and what would be left for ourselves?"

However, as a result of his visit to Sydney, he now saw that it could be granted without the alienation of ^{the} freehold. He resolved to adopt the household system in Tonga and in article 5 of the Code of Laws, which he later promulgated ^{and} reads which is still in force reads: "It is hereby declared that it shall not be lawful for anyone at any time hereafter whether he be the King or any one of the Chiefs or people of this country to sell any land whatever in the Kingdom of Tonga, but may lease it in accordance with this code of laws and this declaration shall become a covenant binding on the King and

cf. English and = sell

chiefs of this Kingdom for themselves and their heirs
and successors for ever." And should anyone
break this law he shall work as a convict
all the days of his life until he die, and his
progeny shall be expelled from the land."

Suila Kela