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Essay: Dispute Settlement.

Today land has become one of the major issue and concern among the Solomon Islanders and at large the government. These concerns are brought about because of the crashing influences of Westerner's development especially in the rural localities. The introduction of foreign development had changed our traditional values to land. Instead of having land as a communal asset, it is slowly becoming an individual asset. There are many reasons ~~when~~ behind these demand for these new changes of behaviour with land. In many of our societies, they had completely neglected their own traditional values to land without considering the significant roll it play in maintaining the peace, harmony and solidarity within the community. When tried to operate our customary land in a way according to foreign ideas, there are always chances of interference which eventually creates and resulted in disputes within same kinship-group. Often we tried to prove ourselves by taking our disputes before courts to solve or put an end to these disputes, and again no lasting solution aiming at peace, harmony and solidanty is reached. This is because both parties involve either wish to over-right each other and taking no consideration to ~~res-~~ ~~and taking no~~ pect their right and interest on the land. So in settling such nature of disputes especially when court based its decisions either to win or loss, a satisfactory workable solution is often difficult to draw. Despite these concerns of increasing disputes and the paramount important effect it beared to

our communities, I recommend that a step is necessary to be taken in analysing these problems in order to find the possible method whereby we can solve this violent to community's peace, harmony, solidarity and stability.

Before put discussions into some of the means used in settling these business of land disputes, it is also worthwhile analysing the source causing these disputes. By understanding the grass-root we can then choose the method of settlement we ought to adopt or needs improvement. Perhaps the common source of most disputes arising today is development. It is a foreign custom geared to foreign ideas of tenure and therefore no doubt we should expect these kinds of problems. No doubt my country-men we are only searching up dreams endless dreams and dreams of illusion. Development is like that, it tries to defect us from being solidarity within our land to individuality and self satisfaction with land, the land we both own, the death, the living and the unborn generation. When one tries to be alone for example operating cattle, cocoa or commercial project aiming to develop himself he ended up with interference and disputes among his kinship-group over their kinship-land. He then even worsen the situation by taking further steps to have plot of land he operates on to be registered. He claimed the registration his title is secure from outside ^{ter} interference and therefore would be encourage to develop his land. As years went past, what he expected from registration is lacking, disputes multiplied in numbers and eventually he wind-up his project ending up with vacant goals and dreams

If registration (as a means) lacking solution especially dealing with customary land, but yet we have this determination of developing our land, how are we each responsible individual are going to go about minimising these unwanted newly created problems or even before any problems rises which direction should we approach to be armed and ready to counter these problems. As one born in traditional values of life, peace, harmony and solidarity, I personally felt that to be in our own is worth rather than somebody. That is, just eat the food you understand better don't test ones you don't familiar with, it may be good or bitter for you. The point in trying to preach is, what is customary disputes apply another positive force or work it through the traditional method rather than courts. This brings us each individual to a turning point where we have to make our rightful choose whether to retain and maintain our traditional method or defect to other alternative means that is official settlement. The choose is ours because these problems are also our problems.

Additionally before putting a glance on ways of dispute settlement, I wish to bring us back into history and see if we can figure out some possible reasons for ^{the} acceptance of foreign ideas of settlement and having less interest in their own system. When the first arrival of European traders and missionaries their attempt was to have a total change from our own social, economic and political traditional values of life. Britain then later took Solomon Islands as part of her own and she also had a support for this determination. Traders began to en-

couraged trade among the indigenous population. These were merely involved in exchange of goods or often called the better economy. The missionaries again succeeded in converting islanders from their traditional religious beliefs to Christianity. All these events added together led to this complex transition. One of the notable evidence or concrete foundation for this transition (traditional to foreign ideas) is the elimination of warfare by the colonial government. People can be deflected easily because traditionally, warfare was one means of dispute settlement. I may be mistaken that this normally involved with criminal and civil cases not with land matters. The question one needs to ask himself is, does this success (elimination of warfare) reflect and can be carry-over to weigh against land matters. This is what actually happened with our forefathers and still continuing today. They tended to feel that what foreigners done for them in one case should be applied whole through out or every cases. Personally, land issue is complex and can not be treated parallel or similar to other cases such as criminal and civil cases. Today in the Solomon Islands it is evident that our local court is operating ^{on this} base, that is no separate court has been created at the lower level for each respective cases. At this lower level, ^{it} is where we each individual and the government should focus more consideration into. How are we going to do this, to adapt new foreign ideas or evaluate our own system and make improvement where we think is necessary. I feel that to avoid confussions, time, money and need for expertists, our traditional system should be closely looked at, One that we already have with greater

is understand
understanding. The better how the system, ^
the better one understands where his/her
mistakes are.

Let no one think that traditional ^{system} is best
and workable for every communities within the
country but apply what one thought best and
workable for his own community. For example in
my own district, AteAte District we still retain and
maintain our traditional dispute settlement mainly
when dealing with land. Other matters like criminal
and civil cases are handle by the court but
most are still dealt within the traditional system
that is through peaceful negotiation. Today in my
district, traditional settlement (especially land mat-
ter) is still looked upon as the most humanitar-
ian method of dispute settlement as far as our
custom and land tenure is concern. Probably if
properly structured as we proceed, it will be a
generation's assistance in solving their disputes
in future. Today if you come to AteAte you will
find less disputes. There is no secret about how
we AteAte people operate our society. It is only
the fact we showing respect to our rights and
interests on the land. Secondly because the system
is well understood we may suggest improvements
where needed if time allows. When referring to
time I mean that everything changes according
to what day, month and year may bring, for
example education, urbanisation and develop-
ment. Often many land cases held at Auki,
Malaita Province, our paramount ^{chief} is always re-
quested to handle this court cases and according
to sources both parties involved in the disputes
were pleased and agreed with many of his disci-
sions. This fact brings both confidence and pride
to me personally and even encouraged me to re-
tain and maintain my traditional settlement.
As I have mentioned earlier to improve a system,
you understand better to be workable ^{more} is no secret about
it.

Most important is to see, feel, touch, hold and even treat the problems a part of your own body. then from what you understand make or find your path through.

Now let us examine few underlying factors which distinguished AreAre people to have less dispute as compared to another communities is the country. From own evaluation with the help from another sources, especially the book called "Land Research in the Solomon Islands" an article written by Jim Waroka, there about eight factors combined together to minimise land disputes in whole AreAre district.

Firstly, most elderly people in AreAre know their land through oral tradition. That is they know their both father and mother's land and also any plots of land within these land own by different groups of people. Usually before someone especially those who live in the interior land may negotiate for a plot of land (usually to accommodate one hut) with chief or the who own land on the coastline as a camping site for a night-sleep before their home journey with their things (usually salt-water and other unlocally ^{produce} products). Traditionally such piece of land the rightful generation can claim right of perpetual ownership over it. But it has no economic value for any one to develop. The important point for touching this example is if any of those rightful claimant settle on this piece of land, our elders said that those are the kind of people you need to be watchful of because they are the ones who may cause problems among you by making false claims. This is one reason why you need to understand your land and what rights do different people have. As said by our elders, when you know your land ^{it is} like the registration we talk of today, in

words we do have our own registration. But ours is in oral, unspecific ownership and temporary boundaries whereas European registration is written, specific ownerships and permanent boundaries. At present we ^{are} working on a process toward improvement to the system by having these oral information into a written form of permanent record. Our first task in the process is for all the tribes of whole AreAre to have their genealogy written and according to sources the work had already been accomplished. One little point needs clarification is, genealogy irrespective to land-ownership is a broad word. When speaking on genealogy and land ownership, only those born within the trunk of the genealogy (regardless to sex), are the unique rightful say on the land. Those outside the trunk also have rights but their rights are limited and dominated ^{by} the trunk holders. So in other words our ownership is also specific, own by a specific sole group of people. The second task is to have all our customary land boundaries demarcated. The only delay in proceeding is financial difficulty and this will be a long-term problem for us to counter. It would be very kind for any assistance for our government in making this task possible to over come.

The second factor contributing to minimisation of dispute is, every person in AreAre has land because people and land are indispensable in words without the present of one the other will not exist. There is very little chances for any one person in AreAre to become landless man or woman especially when we still know our land and genealogy is still traceable. I can not comment as no one can fore-see the future, as we expected increase population with increase in undertakings (development), however if we start preparing before hand now the future will still promising. With genealogy any one person

may found ownership in several land, but most important ownership one have the utmost perpetual title is the land where one is born within the trunk of its genealogy and always remember that this trunk ownership is regardless to sex. In other saying, this is your most economical and secure title. So we AreAre people believe that each individual leave land because people and land is impossible to separate.

Third factor is, people in AreAre today are located in their respective customary land. Not very recently, most of our people do not located in their respective kinship-land as today. This does happened following the influence of european traders and missionaries. Another factor making this possible was the attitudes our people had toward land in those days as compared today is less and dormant despite less development, less people and therefore vast land was available. Since the increase in development and population the availability of land is becoming limited, This has a shock on the community to think about their staying and its future and the alternative for those are just immigrants is to return to their homeland, their respective customary land. Another driving force making people to realized the importance of their homeland is, writing the genealogy. It was true that most of us knew nothing about their own original land but haven written the genealogy down it has enable these people to find their respective locality locality. By having a written genealogy it has two effect, first, it can direct people who are flooded to find their home destination where they should be rightly settling. Secondly, it can maintain the morale of unity among the kinship-group in working toward one goal, for

example, developing their land for the future betterment of their children. Togetherness in development is an important requirement especially with type of land tenure we have (customary land).

Fourthly, our people respects each others rights and interests to land use. From personal assumption, our people been facing similar problems as other areas if we do not have this respects to our rights and interests to land use.

I have this prediction or assumption because there have already few spots source of disputes already existed. This was created by our forefather. What happened was, when European traders and missionaries established contact with the local population they had a great influence on our people. This influence forced our fore-fathers to immigrated from their original (respective customary land) to gain access to trading and missions to work for labour-wages. Here they resided or even treated as a secondary-home. Since land was available they began to develop the land especially with coconut and cocoa farms.

Today as they becoming aware of the important of their respective customary land, most of them are returning and leaving there farms behind. So those land-owners whom these properties on their, if they have no respect to these different people's interests to their land there is a possibility of disregarding these interests. This might eventually exist into disputes. So with respect to each others rights and interests to land is also other adding factors in minimising disputes.

The fifth factor is all marriages in A'e A'e help strengthen respect to rights and interests to land use (eg tribal marriages). Tribal inter-marriages is one of those key factors in up holding, maintaining and

weakened our traditional respects. As a result of these whole net-work of tribal inter-marriages, land-ownership in whole AreAre overlap each other. I have previously mentioned that any one person may found ownership in several land. This has come about because of these whole net-work of tribal inter-marriages. So when you have such nature of ownership, we found that is limited chances for disputes.

Sixthly, the retaining of activities like custom feasting, giving names to people, common ancestral worship, and common tambus assists greatly in indicating our original. For instance, it is our custom that each child in the family should have two names. One from the father's generation and the other from the mother. Unlike the European custom where children is only named after the father. Custom feasting is an occasion may be held as a memorial for some important respected figures (chief and elders) who died or an occasion to mark an event. All in all, the whole main intention in hosting such feasts is, to bring together the kinship-groups to one focus point of sharing and negotiation. It is a indication of solidarity within any AreAre community. Other activities such as ancestral worship and common tambus also plays an important role in the community.

The seventh factor is AreAre is a Bilineal society. Land rights and other wealths can be also inherited by the children from both the fathers and mothers side. I have earlier mentioned about the 'trunk of the genealogy', that if one born within the trunk of the genealogy and this is regardless to sex, according to AreAre custom both sex have equal shares irrespective to ownership. But other areas like leadership, naturally these

these responsibilities are handle by the males. This must be cleared and understood because this little point may be misleading and understanding. It is important to understand this, because it may cause anyone to neglect his own kinship members especially female sex, thinking that he is the sole owner whereas land is a communal asset. For clarification our custom (AeAe custom) also suggested that it is reasonable for the woman to reside at their husband's side because it is not proper for the man to use his-in-laws land but if he wish he may do so, according to custom there is nothing withstand, in the respect that the woman is also a land-owner or the same blood of the family. (tribal).

With the children our custom recommended that they are entitle to have land rights in both the fathers and the mothers side.

The ^{eght} factor is most land use in AeAe is still on a subsistence basis. I assume that one main important reasons why there are very limited chances for any land disputes in our area (AeAe). The AeAe people beleive that once there is cash economy or development taking place it is bound to increase land dispute tension and this in most places where development is taken place. I personally felt that such disputes should have not rissen if there is a proper preparation at the first place before introducing these foreign tradition (development) into our society. One interesting point i noted on areas where development taking place (eg most of north Malaita, Esuadalecanal, western province etc) the future of their new born generation is unseeable. For example what resources (eg timber) these new generation with education, skill and other qualifications are going to develop. I'am sure some would sorry or even mourn their exploited resources

or their future. In ^{other} words these so called developing areas are between two forces, the bad and the good. Their self determination and choice is hindered and limited, despite the fact that no foundation (solid) had been prepared beforehand whereby they can feel that they are at home in their traditional custom. This self illustrated when erecting, where you are build on a solid foundation so a development. One has to begin at the foundation and this preparation is rightly build within your own tribal groups. Therefore to ease preparation AreAre people believe in slow developing^{ment}. There is a saying, Don't drink out of a water-fall. The AreAre don't want to search up dreams but this is what is happening in many areas in the Solomon. The AreAre chiefs said, 'we are into today's life but merely preparing for the future betterment of young generation. We don't mind now we may be poor but reserve the riches of our coming generation.'

Since the Maasina Ruru (wrongly called 'Maching Rule') movement many people and even Government administrators at large claimed that AreAre people are anti-development. We do admitted these statement and it is event that most government and private undertakings (loggings and plantations) are mainly established on different soil apart from AreAre. But do these many people and government at large understand the truth of the content of their criticisms and the core reason why AreAre people's concern about bringing in foreign traditions or development. The ^{AreAre} people do understand that where there is development it is bound to bring about changes to our homes (traditional values). Disputes these understanding of development we thought it best to uphold our anti-development attitudes, especially on those major undertaking (eg loggings). We thought that before intro-

ducing such nature of development we have to be properly prepared and organised, For example making sure that everybody know their land and rights and interests to different people have on their land. Even further by devising a proper means or structure (more traditional) whereby any disputes may be handle. These requirements have to be met at hand before accepting any development but only the selected ones. The AneAne people do expected the bads and good effects of development but we believed that if we established ourselves well it might help to minimise any disputes raisened. A need for a means of settlement is demanded because in order we can develop our land and ourselves all these requirements have to be at hand. Not just in a time where there is need but to prepare before hand.

Today what the AneAne people are working at is to establish a devise aiming at retaining our valuable traditional values and genealogy. and even clarifies any black spots among any investors wishing to invest without changing our tenure 'unnecessarily'. It is hoped that if we have ^{our} own structure it would be a greater advantage for our people in handling our own affairs, for example, be selective in development, a kind of undertakings that unlikely upset our traditional values. I am putting more emphasis on this focus is this is where we need to gain strength, the foundation of all societies. This lower level must well organised at the utmost effort of each individual society. One reason is it is the kind of foundation we have been building through the ages, from our forefathers and probably will continue through the new generation. It is a system we understood, for example the language and its compositions. The structure shown is one of those proposals they drawing up. The illustration

does not cover whole Aotearoa but only an example presentation to serve explanation.

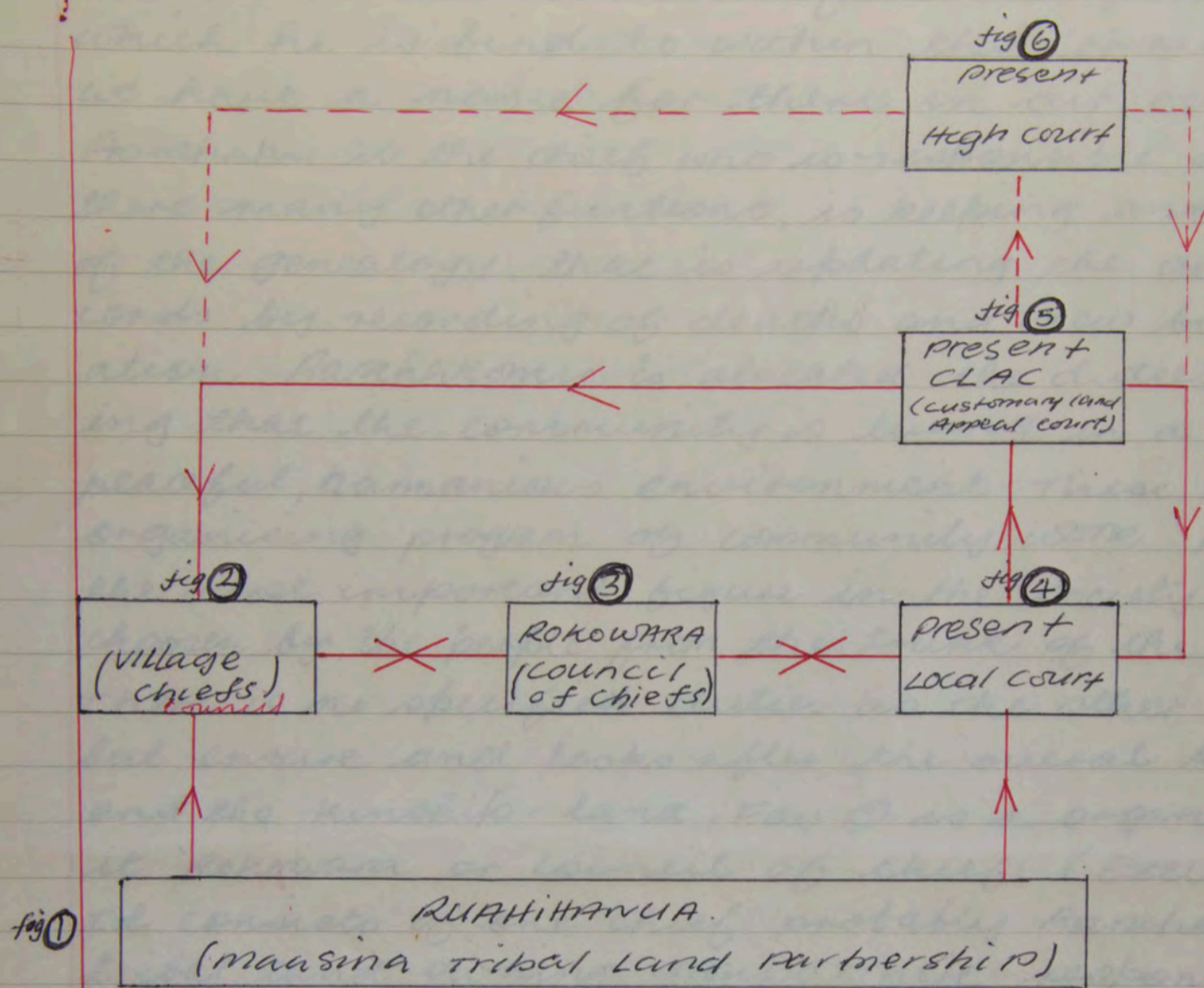


Fig ① represents the Aotearoa Maasina Tribal Land Partnership. This is the foundation of any society and in order the structure can be workable within the community it has to be well rooted, or in other words each respective individual land holding group must know and understand what rights and interests do different people have on their land. Apart from knowing and understanding his/her land the genealogy must be also understood and it should be written with a simple, clear and well understanding presentation. So good foundation means having good permanent knowledge about your kinship-land and kinship genealogy.

Fig ② is a small body consists of elders and headed by chiefs. For very individual tribal

land owning groups there is a 'village chief council'. In each tribe there are three chosen chiefs and all three are members of the village chief council. Each chief are deligated a function which he is bind to within the community and we have a name for them in our own language. Aarahahu is the chief who is responsible although there there many other functions, is keeping and maintaining of the genealogy, that is updating the genealogy records by recording of deaths and new born generation. Aarahakomur is allocated the duties for ensuring that the community is living in a healthy, peaceful, harmonious environment. These involves organising program of community work. Aarahahu is the most important figure in the society and he is chosen by the people from the trunk of the genealogy. There is no specified duties as the other two chiefs but ensure and looks after the overal kinship-group and the kinship-land. Fig ③ is a organ we called it 'Rokowara' or council of chiefs (Executive Body). It consists of one chief probably Aarahahu of each tribal land owning groups. These responsibilities are also unspecified. They deals with both local and national issues. For examples, land reforms and setting up possible means of settlement, this are national issues and the same time they also deals with settling disputes among tribal-groups or within group itself which were previously heard by Village chiefs Council. Fig ④ ⑤ and ⑥ are the current existing operating body of courting proceeding. So to give us a rough idea of courting proceeding in both system i will briefly running through.

Lets first start with the official method, examining how land disputes are proceed through the local court. With the local court the proceedings must or are done on a formal process. This means, time limit are only allowed for each speaker and is restricted to any interested elders to takepart if she/he is not a witness for neither parties.

It is so evident that although our Local Court is intended to constitute accorded with customary in practice people sees it as another arm of government. Time restriction may be an advantage for administrative cost, but to find a possible solution to benefit and satisfies both parties is still doubted and other question to consider both locally and by the Central Government. Despite this undenied system, judges only based their decisions on what they thought is right to custom. These are facts that are unrecognised by any law (eg Land Title Act 1977). So you can imagine when dealing with court system of such nature, appeals on the same dispute is likely to be renew. This is because the lack of power and because these facts are not defined and recognised by the law. The local court proceedings is similar to that with Customary Land Appeal Court, which is the second stage^{or level} appeal in the country. This system (CLAC) was introduced following a major setback suffered the local court. Its content is also un-identifies but intended to constitute accorded with customary principles. The third stage appeal is done from the customary Land Appeal court to the High Court but any disputes in such case will only dealt with in points of law. But what normally happens with such dispute is the High court will refer it either to the local court or the customary Land Appeal court and the same cycle with the same dispute just continues without reaching any solid solution either laid by these official methods.

Now lets briefly look at how land disputes will be dealt within the customary ^{system of settle-} Land Appeal ^{ment} Court, for example disputes among members or within the same tribe. I have given this example because in our area it is unlikely that non land owners would dispute a land owner. Most disputes heard in court ^{in the Solomon Islands} were mainly among the same family or group members. Well when there is a

land disputes it is firstly with by the Village Chief Council which is comprised of three chiefs and any advisable interested elders. One can also say that it is a collective body. The system has no proper formal proceeding as compared to the official system but an open discussing process or system - If the dispute is within tribal members as happened and happening in many areas especially those in access to development, the points which the council will based its decision on are :

- (1) by tracing the genealogy to find out how the two involve in the dispute are related to each other. One must understand that genealogy itself can be string down in three main categories, namely Hutara Ahia Mako, Hutara Keni and Hutara Ahari. Below illustration may help to explain.

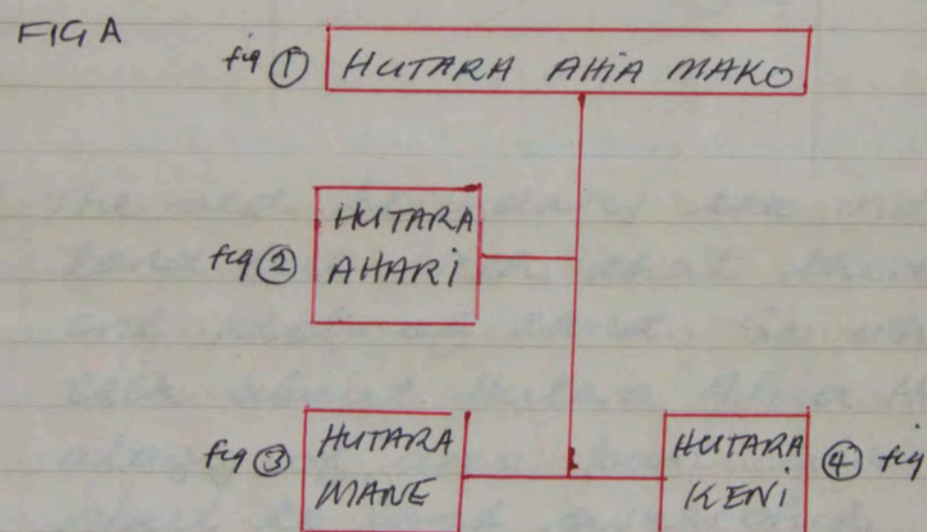
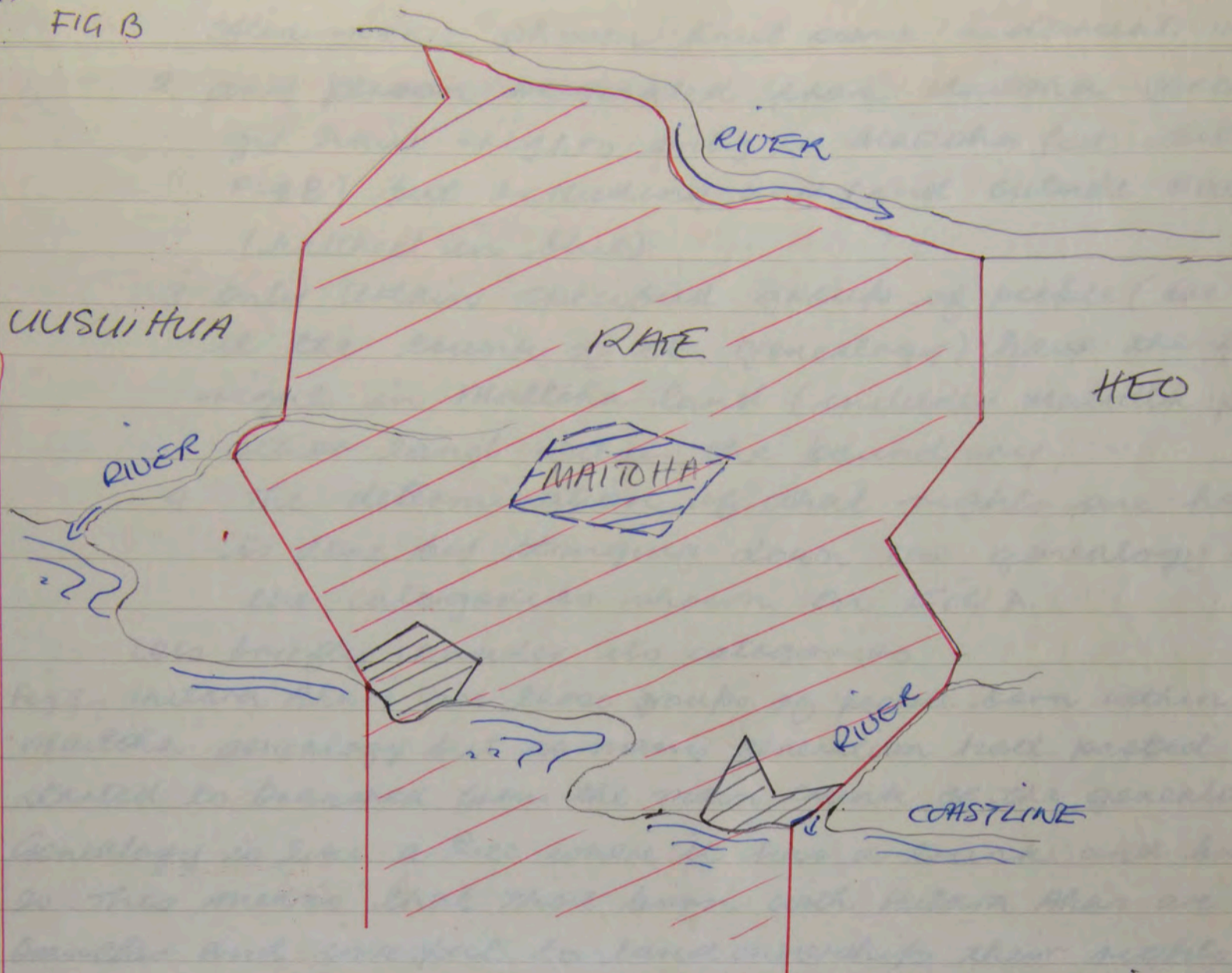


Fig ① is the broad genealogy or the origine of any particular society, for example my son village community. Let's give it a name say MAITOKA. With believe and it is true all our community members are originated from Maitoka land. One point i need to clarify is 'Maitoka' is only a covering name, we called 'Rokowara'. Within Rokowara (Maitoka) it may comprised of many different pieces of land owned by different person or groups of people either within the or born in the genealogy of Maitoka or outsiders. Let's put this in a form of picture to light to the point.

MAITOHA-LAND

FIG B



The red boundary indicates Maitoha land but with that there are other different plots of land. So when Aretare people talk about Hulara Ahia Hahu (HSD), or genealogy of "area particular tribe, ⁱⁿ respect to land ownership we are only referring to Maitoha or Rokowaha excluding Rate, the other two plots hatched in black. That is, very individual person originated from and born within the genealogy of Maitoha (hatched in blue) own it but excluding Rate and two hatched plots. Only certain specified groups of people within has the utmost rights and power over Maitoha land (includes Maitoha, Rate and the other two plots hatched in black). With Iam trying to pickout is when we talk about genealogy of a particular land (eg Maitoha) there a few aspects that it contains.

1. A name given to land (eg Maitoha land) is broad in respect to land ownership

- often name chosen have some historical values.
2. any person originated from Maitoha genealogy have rights only to Maitoha (see illustration Fig B) but excluding any land outside Maitoha (hatched in blue).
 3. only certain specified group of people (we called it the trunk of the genealogy) have the utmost rights in Maitoha land (includes Maitoha plus other land within the boundary).
 4. The determination of what rights one have is done by stringing down the genealogy into the categories shown on Fig A.

Lets briefly consider its categories: -

Fig 2.- Hutara Ahari, are those groups of people born within Maitoha genealogy but as many generation had passed they started to branched from the main trunk of the genealogy. Genealogy is like a tree where it has a trunk and branches. This means that those born with Hutara Ahari are the branches and in respect to land ownership their rights are dormant but active where they can become a trunk of another genealogy of another land. Fig 2 & Fig 3 - Hutara Mane and Hutara Keni are both within the trunk of the genealogy and in respect to land ownership they have equal right. They are the specified land holding groups. With the cases of leadership, usually it is administered by those born as Hutara Mane because of the idea that man have the abilities than woman. So in the case of leadership those born within the Hutara Mane have the utmost power.

Traditionally, with clear and well understood written genealogy we believe it would greatly help and workable system in resolving land disputes which may rise among our community members. There is one important one might figure out from how the system is structured is;

1. we do not enforce the system upon the community members, but each has an individual freedom to choose which court system he/she wish to deal her/his case in. As long as he/she believe it would find the solution to end the dispute.

2. Although a case is proceed through the customary method and the end solution is still disputable by either party, from the Council of Chief the can still appeal to local court. In other words, AteAte people in establishing this system is not intended to be the sole means of settlement but the choice is with each individual. We think this is important, especially with land disputes for any person to choose which system he wish to find solution to his problems.

I would recommend that in order or before the system can worthwhile for the AteAte people, we need our government assistance. That the Solomon Islands Government help in financing the mass printing and the land records and genealogies of AteAte people, so that all our land records and genealogies are kept on permanent record. That the Solomon Islands Government recognise and respect AteAte Chiefs and elders and the same time delegating them power to settle land disputes exclusively. That the Solomon Islands Government legalise the whole proposed structure for AteAte people once land records and all genealogies are on permanent records. All these requirements are so needed and must be done by the help of the Solomon Islands Government before our system can be workable for our society, AteAte.

To conclude, i personally feel proud to say that there are few land disputes in my society, AteAte, and this has come about because of:-

- 1) we know our land.
- 2) allocated in our respective areas according to our kinship-group and kinship land.
- 3) respect each other's rights and interests to land use.

4) respect the statute of our local chiefs and elders. We hoped that with the new proposed improvement to our land tenure especially by having permanent written land records and genealogies will greatly help indeed for our people and at large the Solomon Islands Government.

