

LAND TENURE

SE103 - ASSIGNMENT ONE.

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SETTLING LAND DISPUTE ON
TANNA AND COMPARISON
TO FIJI AND TONGA.

Introduction.

The paper determines to examine and consider the Tannese [Tanna] system of settling land dispute. Both legal (official) and customary (unofficial). Specifically I will be looking at the means of these disputes system on Lenakel, Tanna, an Island lying on the Southern part of Vanuatu. Mostly will be concentrating on a particular tribe known as 'LELPUN' which is situated some 30 kilometers inland away from Isangle (government headquarters). This particular tribe live on a narrow area of land stretching from the coast ~~se~~ separated by two creeks which cut inland. The two creeks divide the LELPUN from ~~the~~ other tribes as well as serving as a boundary which separates their land from other nearby tribes.

I will discuss the causes of land disputes within the Lelpun and a nearby tribe known as Laitai, other tribes ~~the~~ names around Lenakel area would also be consider later on to the fact of settling land dispute within these particular tribes mention above. Will be examining the causes of land disputes, their main base or reasons for existing, why does these disputes occur between the tribes, how they ~~are~~ (disputes) were settle in customary ways, why the disputes settle in ~~to~~ customary ways.

I will also identify why people still ~~is~~ settling land dispute in customary ways at present even though legal rules has been introduced. Will also be looking at how people unofficially or in customary ways settle land dispute at present times, what did they (people from ^{different} each tribes) do concerning the dispute and also how do people in each tribe settle land dispute officially at present times and why they settle land dispute officially or unofficially.

A comparison will be made to that of Fiji and Tonga method of settling land dispute. Will also try and consider alternatives approaches to these problems of settling land dispute as well as recommending improvements that I think are feasible.

Tribal settlement.

As in most Melanesian societies, the 'Lelpun' ^{tribe on Tanna} people live in small hamlets known as 'Yiamalum'. The ~~Yam~~ Yiamalum itself is

an open space of bare ground shaded by a large banyan tree" [Trease p.2 1976]. Lelpun people as a whole do not live together in a single village, but build their homes or hamlets in small settlements few kilometers apart from each other on their single plot of land believe to be theirs handed over by their ancestors to them through warfare and clans right to land. The other tribe known as 'Lai Lai' at present is arguing regularly ~~with~~ over a ~~plot~~ plot of land in the Lelpun tribe that it was their land but because of some unequal dispute, thus the plot was then given to the Lelpun. (will be discuss later)

Each hamlet in the Lelpun tribe passes its own Yiamalum and a special name given particularly to that Yiamalum. Yiamalum is the central place where kava is drunk and is the setting for custom dancing during customary ceremonies such as Kauror (when the male children are circumcise and their bleeding healed, thus a ceremony is usually held, with dancing and feast to celebrate it). Other important celebration such as Toka which involve other tribes to participate always take place in the Yiamalum and usually other outside tribes are also ~~by~~ invited to perform certain dances at the Yiamalum as a part of Toka, i.e. Toka is divided into tremendous different dances which each group from the same tribe or other tribes participate on. Other special ceremonies such as Nekowiar or important meetings often took place at the Yiamalum.

Usually ~~the~~ tribe ~~has~~ possess a common Yiamalum for the whole tribe, and apart from that common Yiamalum, there are also other small Yiamalum for the small settlement or hamlets in the tribe, for example the Lelpun's common Yiamalum is known as Iaknarauka and a hamlet Yiamalum is known as Iakulpo.

FORMS OF RIGHT.

With cultural diversities in mind about Tanna or Vanuatu as a whole, one could conclude the diverse forms of rights from one island to another. But as most Pacific Islands who share aspects in common, the most generally accepted forms of rights on Tanna are: (i) original settlement on the land

by the ancestors of the group. (referring to the Lelpun rights ^{over} ~~on~~ their plot of land.

(ii) "Conquest or other customary means of transfer

(iii) immemorable occupation or ownership by ancestors of the group although not necessarily continuous.

(iv) Continuous occupation by the present members of the land-owning group.

(v) recognition by other groups of the nature of right held over the area" [B. Sope 8]

INHERITANCE OF LAND RIGHTS.

Land rights among the Lelpun are inherited patrilineally. This is done through a system of name-giving which operates under the principle that an individual is entitled to a piece or pieces of land because the name which he has been given at birth is that of a kinsman's in the past who previously held rights to the land. The more important names, it is said, belonged originally to men who were half man/half spirit and come from the place where the spirits of the dead reside. In other words, the rights to land are related to a belief in the spirits of dead ancestors whose names are given to living descendants. An individual has rights to lands, therefore, which have traditionally been associated with his line and this link is reinforced through the giving of the name of the ancestors who held rights to those lands in the past. [Trease. p. 17].

CAUSES OF LAND DISPUTES.

Before discussing the causes of land dispute I have to make clear that on Lenakel as well as Tomna as a whole there is always in existence a 'MAK ASUL' or a Boundary in which everybody knows ^{common mark} divides and separates each clan and tribes areas of land, it is only a general mark which consist of either Mountain, Valley, terrain, as well as trees such as banyan trees including other physical features.

Apart from the MAK ASUL, there are other boundaries ^{such as trees, wire etc} which indicates different tribes plots of land. Two major causes of Land

dispute is the problems and disputes associated with land lost during the period of inter-tribal warfare and the question of the land alienated to Europeans.

During the inter-tribal warfare in the past, a man from the Lelpun tribe flee to Saffy in the Lailai group in fear of being shot or killed, he was allowed to settle and live with the Lailai group. According to the Tannese Customary Land Tenure, he was given land, women whom he married and they live and make garden in this plot of land, the man from the Lelpun tribe was not given any ^{custom} name ^{entitle to} concerning the land he is now living on, other plants ^{crops}, trees, could be grown on the land but not the Coconut, which was strictly prohibited by the Lailai bigmen. The name given to person from other tribe who live with other tribe as mention above is known as IALIWAK (own knowledge, heard from the elderly people). The landowners have the right to take any fruit or cut any trees from the land.

In some cases the IALIWAK from the Lelpun group planted some Coconuts Palms on the land of which he was prohibited to and thus reluctant to leave. The rightful owners began to use the palms themselves and hopes he will realise that they want him to leave. However this process

has taken place generation after generation and the latest generation of the Ialiwaks from the Lelpun tribe living in the Lailai plot of land declared that the Coconut Plantation and the ^{plot} of land was their's from the ~~ancestors~~ given to them by their ancestors, On the other hand the Lailai tribe suggested that the land was given to their ancestors only for a short time, and that it would be taken back again, but that he has planted Coconut and now claim to be the rightfull owner of the land whereas he is not, because he has no special name given to him concerning the land.

However, this is one of the most common causes of land dispute found not only on Lenakel but right through the Islands. Thus, the disputes between the Lailai tribe and the

Lelpun tribe is still in existence. People from other tribes live on other people's plot of land and claim ~~as~~ ^{that} their own right to it. Concerning the Taliwak from the Lelpun group, his family is increasing therefore needed more land for gardening.

Another causes of land dispute among the Lelpun's tribe and other nearby tribes such as Lailai tribe is the disagreement between boundaries. As already mention above that there is a common boundary known as Mak Asul which separates each tribal land from others, but because of the introduction of technology ^{mostly metal tools,} individual assuming greater power, they then extend their rights beyond other tribal boundaries. Only in very recent years has introduced agricultural technology had a significant effects. Sometimes when a tree which indicates the boundary between two tribes died, another tribe thus penetrate a little further inland, ~~to~~ ^{entering} into another tribes territory thus when this has been discovered, arose in the disagreement between the two tribes concerning the boundary. This ~~is~~ ^{disagreement over boundary} argument may even led them to court. This usually happens in the past, but because ^{it has} ~~it has~~ ^{not} ~~been~~ ^{been} settle by the big men ~~is~~ during that time, it continued until present times in which the government had to interfere and take the land for the purpose of public use, because they can't find ^{the} ~~the~~ solution of who is the exact owner of the land, eventhugh it arose only as a disagreement between the two tribes concerning the boundary.

In the Lailai tribe, the most disputed lands were land that were close to the village. This is due to the fact that the more concentrate an individual effort in an area, the more absolute his right will be. As already mention above that the Lelpun's group tribe has an access to a plot of land in the Lailai tribe, they are in most cases the enemies of the Lailai tribes. Thus the enemies to threaten their right would be their own kind. J.C. Welty pointed this out with regard to the behaviour of a Robin towards his territory. He stated that "a Robins' worst

enemy is his greatest competitor — is not a hawk or a cat. It is another Robin which seeks from the environment exactly those kinds of food, those nesting sites, and that kind of a mate that all Robin seek." [J. C. Wetzy 13]

Another common cause of land dispute among the Lelpun tribe is the Adoption. Adoption is a common custom now and has always been. This resulted when a father does not have any child of his own to be heirs. When this became the case, a childless father may ask an agnate to give him a boy. Normally the parents of the child do not object to the matter since it would be settled with ceremonies. However, if ~~the~~ his agnate rejects his offer, the man would approach his "tahan mel". (The term means brother in law and classificatory brother in law in Tannese) The adopted child then inherits from his adopted father and becomes ~~of~~ one of the tribe. [if the ~~name~~ of the child is not the Lelpun tribe] He would then use the hamlet stock name ~~or~~ ϕ or title for his child [M. Allen P. 340 + Humphreys P. 34] The adopted may in future send one of his sons back to his original village to compensate for the cost they suffered. On the contrary, what would happen if the adopted father has sons of his own? This is the point in which the ^{dispute} ϕ " emerge; The father would distribute the land equally among the sons including the adopted son, if he is getting older. When he dies, the elder brother in the family sometimes emphasize that he has right to all the plot of land that was given to them by their father, ^{whereas} ~~the~~ other brothers would then argue that they have ~~also~~ ^{also} their own plot of ~~the~~ land that was given to them by their father, however, this would then cause the land dispute among the brother.

The ϕ " as sons of the dead father would, accuse the adopted ϕ " brother that he has no access to land in their hamlet, thus causing dispute among themselves.

On Tanna from my own personal observation, sometimes the adopted son have more right than the real son. This could depend on what title each was given and also responsibility in attending to the elders. For instance, I have an uncle who was adopted by an

old man in the village. This man also has a child of his own. This uncle's first born is a son and he was given the highest title to land claim to land in that hamlet. Although this uncle was adopted he I think has more right to land through my Cousin's title than the son of the adopted. [personal observation subject to error].

One major cause of land dispute is, the dispute over the plot of land in the Laitai tribe which was alienated to a white Australian settler Mr. Bob Paul during the contact time. This plot of land is now used by the nearby villagers (Bethel) to ^{make} garden. After independent, it was emphasized that ~~all~~ all alienated land be given back to the custom owners, however both tribes are ~~at~~ at the moment arguing against each other over this plot of land. Thus alienated land ^{by european settlers} is one of the major causes of land dispute on Tanna.

Permissive right or lending Right ^{is} also a cause of land dispute on Tanna. The claim and permissive right would only last for a period of time thus give back to the owner again, only seasonal crops should be grown. For example, a man could ask for land and through active maintenance of both land and mutual agreement with the owner, passed claimed his right to succeeding generation. This is the most, I think, disputed land. I know of a Plot of land in my area which is the center of endless dispute. This land was "lend" to one member of a tribe who seek refuge with our ancestors. (period of fire armination). Land was given to this refugee to make gardens. They stayed for a couple of years and planted crops and Coconut as well. They had to return when peace was restored in their tribe. But since they did not compensate for using the land and the fact that they owned trees, succeeding generation think they own land as well. This kind of land is called "Kakel". This designated occupancy rather than claim. [Personal knowledge from Village elders. This could be question because oral history is biased sometimes] But as Professor Crocombe pointed out, the ~~more~~ more work an individual exerted

on to an area, the more claim one could exercise [lecture]. Thus as a result it causes land dispute between the two groups of people.

WHY DISPUTES OCCUR BETWEEN THE TRIBES.

On Tanna in the past one could see clearly that rights were strongest at home and tended to weaken as one went further out, both because of reduced economic and psychological value, and reduced ability to defend. [Crocombe : 1975 : 13].

Fear of war and sorcery kept people close to home, because the further people got away from their own group, the more vulnerable they were to attack, thus the result of ~~tribal war~~ and sorcery led to decrease in population. Comparing the past population with that at present times, it has increased in number thus ~~is~~ is one of the main figures in causing the disputes among the Tannese tribes as to what persons or groups have what rights to what land or maximum productivity. Thus the increase in population led to more disputes, because the more people we have in our society, the more space is required for them to live.

One major ~~point~~ ^{point} which always ~~used~~ rises the dispute among the two tribes, Lelpun and Lailai is the disputes over land which has not been settled sometimes ago by the ancestors and thus this major problem is still fore in ~~it~~ mind by opposite tribes and whenever a meeting is held for ~~set~~ discussing and solving another ~~problems~~ such as enlargement of public road through the village or plantation it may often lead them to this dispute in which no solution will ~~be~~ ^{then} be made to it, except for some arguments about it, but not fully settled.

Introduction of technology ~~is~~ also ~~a~~ encourages people to ~~be~~ have or extend their farm over a greater area in which often, ~~they~~ ~~is~~ someone is likely to cross boundary and penetrate into another person's boundary; this is done especially for commercial farming such as Cocoa, Coffee and other short term crops such as potatoes which is mostly

grown ~~on~~ on Tanna, as well as other vegetables.

HOW DISPUTES SETTLE IN CUSTOMARY WAYS

On Tanna in the past and is still in practice and very common is the ~~is~~ method of settling land disputes through customary way ~~in which~~ either between tribes, hamlets, families, lines ~~etc~~ and so forth. This is done through giving of pigs, kava, foods such as taro, banana, yams, even a bullock may be slaughtered in this occasion. This above system of goods exchange ~~is~~ between the tribes usually occur when a dispute is solved and therefore sought to heal the wounds among the individuals in each tribe or the tribe as a whole. At present times, because of the introduction of modern goods and money, thus lead the people to use these items to include it with the above mention goods in settling whatever disputes arises between them, it might be that of land or other disputes, such as stealing, or quarrelling among individuals.

However the most well known method of settling land dispute is through swapping of pigs and kava mostly including item such as Calico and money. All these ways of settling land dispute is usually done at the Nakamal [Vivalum] with both people from each tribe present with their chiefs and talking chiefs. Although the tribal structure of the Lelpun and all other tribes on Tanna lacks centralised political authority, certain figures within the tribe and clans have special powers. The "yeremere" referred to here as a chief, is not a chief in the classic sense. There may be several in the tribe. The most active leader is the "Yani niko" or master of the canoe, of whom there is one associated with each chief. It is he who speaks to the people for the chiefs and directs the collective activities of the group.

At ceremonial occasions in which the disputes are settled the "Yeremere" from each tribe direct the distribution of food and kava as already mention above and the "Yani niko" carry this out. Another way in which the two side of the tribe sought to heal the wounds of battle in the past which sometime ~~a~~ raises dispute was through

intermarriage, or swap of women. In other words women are exchange between the tribes to establish good and friendship relationship.

WHY THE DISPUTE SETTLE IN CUSTOMARY WAY.

Between the Lelpun tribe and the Lailai tribe in the past, dispute is usually settle by the customary way, even Tanna as a whole has this particular customary method of settling disputes, it was already in existence before the arrival of European and the introduction of legal system. Since Vanuatu became colonise the central government [Condominium] do not allow customary institutions to make or enforce land decisions, and to make it worse the government does not provide any adequate alternative. As Professor R.G. CROCOMBE has pointed out "In parts of Vanuatu some government officers are aware of the useful work done by "unofficial courts," The officers co-operate with the courts, encouraging people to take their disputes to them, and support them in their decisions. This is because the official court procedure is so slow, costly, and cumbersome. Unless these unofficial courts are properly recognized in the law, however, their achievements are limited." [crocombe 1975: 28] Thus on Lenakel, a newly island-court has been set up, known as "NIKO Letan", the main purpose of this court is to solve whatever dispute that arise within the island. if the court faces great difficulties in such matters it thus passes the matter or make an appeal to the government or national court in Vila. The NIKO Letan court is mostly made up of custome chiefs from ^{different} district around Tanna and deals mostly with problems using customary methods.

WHY DISPUTE SETTLE IN AN OFFICIAL WAY.

We all know that every countries in the world have different land Tenure System, each country's Tenure System is different greatly from that of another Country. On Tanna or Vanuatu as a whole, before the European or Colonial time, land tenure system was already in existence, they [land tenure system] are ~~made~~ made by our Tannese ancestor long ago to serve the needs of the Tannese

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people. It was adapted to the Tanna^a physical environment and on the other hand the people way of life. Thus during the colonial time, new change seems to be taking place. New methods and techniques of doing things were introduced by the two colonial powers, the British and the French. This marks the period in which the foreign Land tenure system was introduced as well as established on Tanna including Vanuatu as a whole.

Land was surveyed on ~~the~~ Lenakel, and some areas registered by the two administrative governments [Condominium]. Others remain in the hands of the ^{indigenous} Custom owners. It was at this time when the court was established to settle whatever case or disputes that arise on Tanna. Thus whenever a dispute occurs among the people, was brought into the court in order to settle it in the official way. To make it ~~not~~ worst the court is so slow in settling disputes and sometimes resulted in conflict among the tribe which in the end ^{cause} some injured.

Disputes ^{were} ~~is~~ settle in an official way because, it was ~~the~~ the French and British system of doing so. And as already pointed out above that each country has its own system, thus the British and French tend to adopt their own system, establishing it on Tanna, or Vanuatu as a whole, not paying any respect to the traditional Tenure system. It is also good in some circumstances especially when ~~a~~ a dispute occurs between two different tribes, and could ~~is~~ particularly not settle in customary ways, it then transfer to the court where a final decision is formulated as to who is the sole owner or has the right to this block ~~of~~ or area of land. When the decision is finalised, remain as it has been ~~is~~ suggested, ^{thus} ~~the~~ force will be applied to person who disobeyed the provided statement.

People sometimes bring disputes to the official court if they feel that it has not been dealt with accurately in the customary way and the official court thus concluded

with one final discussion that has to be followed.

HOW DISPUTE SETTLE IN AN OFFICIAL WAY.

According to the articles 71 and 72 of the Constitution, it was stated that all Land belongs to the indigenous custom owners [except that which is acquired by Government in the public interest] and that the rules of custom form the basis of ownership and use of land in Vanuatu. In hearing land cases therefore, Island courts must always base their decisions on customs as it relates to the land in dispute and their decisions must also seek to establish the true ownership of land. To achieve this the procedure set out the Island courts [land case procedure].

Below are some of the steps and procedure use by the Island courts to settle land dispute, it was practice by the "Niko Letan" Island court on Lenakel as well as other Islands through out the archipelago.

1. Lodgement of case.

Every land case shall be lodged by presenting details in writing, of the land in dispute and of the tribes, parties involved, to the court clerk at his place of working during the hours that it is open to the public.

2. Fees: Land cases shall only be accepted on payment of the prescribed fees.

3. Date of hearing: On accepting the case the clerk will enter details in the land case register and will set a date for the hearing which shall not be less than thirty days from the date of acceptance.

4. Publicity: The clerk as soon as possible after accepting the land case, by notices posted on the land in dispute and by any other appropriate means, advise the public of the intended hearing, naming the litigants and inviting any other persons claiming interests to the disputed land, to lodge their claims.

with the clerk before the date of the hearing.

5. Lodgement of Additional claims: Additional claims shall be lodged with the clerk in the same manner as the original land case and on payment of the same fee.

6. Lodgement of Late claims disallowed: It shall be ~~lawful~~ lawful for the clerk to refuse to accept any claims lodged after the date of the commencement of the hearing. ---

8. Justices with Interests in Disputed Land may not sit:

Any Justice who has an interest in the disputed land ~~or~~ or who is in any way connected with the litigants, may not sit. ---

12. Boundary to be Demarcated: The boundary of the land in dispute ~~will~~ ^{is} be demarcated in the presence of the Justices.

A sketch plan giving dimensions of the land and a description of its boundary shall be attached to the case file.

14. Indigenous Elders and Land Committees: In all land cases the Court shall endeavour to obtain the opinion of acknowledged indigenous clan elders or land committees recognised as having authority over the area of land in which the land in dispute is situated and their opinion shall be recorded on the case file.

15. Judgements: When all witnesses have been heard the Judgement then written either by a Justice or the clerk. It contains the reasons on which the Court has based its decision.

16. Judgement heard in Court: The Judgement is read out aloud in Court either by a Justice or the clerk and it is then signed and dated by all the Justices.

17. Decree: the clerk then prepare a decree detailing the Court's decision and stating who owns the land. He will then sign and give a copy to each of the litigants. [Island Court article: 23]. ~~The above way or~~ The above way or system of settling land dispute officially is completely

different from the Customary way, which has already been discuss.

Each tribes, example the Telpun or the Laitai may either settle land dispute in Customary way or official way, it depends on the agreement that they make.

Another Question that may arise ~~is~~ as to why people settle land dispute at present time ^{using Customary ways} even though Legals rules or Official way of settling land dispute has been introduce. As already pointed out above that the official way is too slow in hearing cases over land dispute on Tanna, when the time comes for the dispute to be discuss in court, it often takes a week to do so according to the schedule provided, ~~to~~ when it completes ~~the~~ according to the timetable, it is clear that many cases ~~was~~ not heard in the court. And to make it worst, the official court have only a special time to make judgement or hear cases whereas the Customary court may sit at any time and discuss the dispute over land. One objective reason is that the official court is too expensive, people ~~could~~ ^{could} not afford the payment to their cases thus had to deal with in the Customary way, also people, during the colonial era, posses little education, ~~only~~ only a few been educated, while most of them don't. In this case they faces many difficulties or are afraid to report to the court because they don't know how to communicate in either English or French language. ~~It~~ It does not occur nowadays because interpretation could be used in the court. But at least is one of the frustrating cases in the past on Tanna which decrease the interest of people to the court thus leading them to deal mostly with the land dispute ~~using~~ using the Customary method.

Another question that may be ask is, what was the real motive behind the disputes which has been mention above, did the dispute ~~are~~ are exactly as there are in the past up to the present or have they undergone some ~~change~~ ^{change}.

radical or revolutionary change. We only know of the dispute and the settling of dispute today and some years behind us but we don't really know or understand what happen or did really exist some 300 or 400 years ago.

IF the dispute might occur ^{within} that period then the solution might be different from the dispute and the ^{settling of} dispute at present times. This process is slow. The change is often not seen or change at all, and there therefore I often hear people on Tanna as well as Vanuatu as a whole, as well 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. [Crocombe 1976: 1].

TANNA [VANUATU] SYSTEMS OF SETTLING LAND DISPUTE IN COMPARISON TO TONGA.

Tonga System of settling land dispute is very limited or small compare to that of Tanna [Vanuatu] because of the written Law which limits the rises and causes of land dispute. Everything has to be done according to the written law, so is the settling of land dispute. Tonga posses no customary method of settling land dispute, only the official way which is the Law [court].

In comparison to Tanna, ^{problem of} concerning the dispute or disagreement over boundry, Tonga's problem is quite different. Individuals in Tonga sometimes may or may not quarrel with each other over disputed land because each person has got a personal copy where his plot of land is located and he knows it very well, the boundry marking or seperating his plot from that of his neighbour. Each individual knows exactly where the boundry lies and

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could not penetrate beyond that boundary, because his neighbour knows his own boundary through his own copy and there is no mistake in connection to that. If an individual is not sure about his boundary, may check in the land office because every land has been recorded down; whereas in Vanuatu or Tanna is not that case, only for the land already registered. As Professor Ron Crocombe has pointed out. "In Tonga, all title records for all islands are kept at Nukualofa, but this causes no difficulties as there is only one owner per block of land in Tonga; almost all blocks are laid out on a pattern of orderly rectangles with well marked corners; and most important, the landholder is given a copy of the Plan of his land to keep [Crocombe 1968: 17]. In Tanna, or Vanuatu it is not, as it has already been pointed out above.

In Tonga the most common dispute over land is succession. It usually occur among the household or the Kindship [family]. When a father dies, the land according to the law must go to the elder son.

In the past in some Tongan societies, when a man has two wives and two elder sons, it often causes land disputes as to who will take over their father's land. Another problem which also arise is that, when a man dies without having any child, whom would have access to his father's land, the land may be given back to his wife, but only for a time being, also apply to women who is only the surviving heir to the land of a father, because according to the law of Tonga, Ladies have no right to land; therefore the land might be given to the man's younger brother. The dispute over land among the household is usually common because the population is increasing, thus the

members of the family needed more land to grow food, whereas the plot is too small to hold them.

In Tonga all is laid down by the Law, people do things according to the Law that has already been laid down many years ago. Whenever a dispute concerning the land or other potentials occur, they look it up in the Law and find the answer to the particular problem, because everything is written. In the case of Vanuatu it is not. Thus the dispute over boundary in Tonga is different from that of Tanna or Vanuatu.

In connection to dispute over alienated land, Tanna poses some dispute over alienated land. In comparison to Tonga, there is no land alienated by any foreigner since 1875 when the Constitution was signed. It was stated that all land belong to the Crown, that is why there is no dispute over alienated land in Tonga.

In Tonga, dispute over land is not very common among the villagers or group of people from a certain tribe as that on Tanna where the dispute is common among the tribes and causes tremendous problems, because in Tonga people knew that all land belongs to the crown, people are only landholders but the ownership is belongs to the king [king's property]. Therefore the dispute is only common among the family or household plot of land as to who within the family will acquire and have full rights to the land. Thus people don't quarrel or there is no need for them to quarrel among each other over land because the land is not theirs personally but for the crown, whereas in Tanna people quarrel over land because as soon as they acquire it, it is theirs forever and also because people have personal ownership over land. As Barak Sope pointed out, "The relationship between a man and his land in Vanuatu is the most fundamental and most permanent attitude of Melanesian culture. In Melanesian, a man has deep roots

in land; Land and custom in Vanuatu are one and the same; they are a single fact" [Sope 1974:6]. We can say that there is more dispute over land on Tanna than that in Tonga.

On Tanna the causes of Land disputes are tribal warfare, ^[in the past] disagreement between boundaries, adoption and dispute over alienated land. In comparison to Tonga, Tonga has only the household [family] dispute over land as to who in the family should have the right over the family plot. A difference between Tanna and Tonga system of settling land dispute is that Tanna posses two possibilities of settling land dispute, official way and Unofficial way [customary] whereas Tonga only have one way of settling land dispute which is carried out only in the official way or through the court.

TANNA [VANUATU] SYSTEM OF SETTLING LAND DISPUTE IN COMPARISON TO FIJI.

I am only going to relate small information on Fiji method of settling land dispute in comparison to Tanna [Vanuatu] because the information that I manage to find on settling land dispute here in Fiji is very limit.

Fiji land dispute is somewhat different from that of Vanuatu [Tanna] in that the land marks and boundaries separating each individual or clans land have already been recorded or plotted on the map, which is issued in the Native Land Commission office. Thus whenever a dispute arise, the boundary of which the dispute arises is checked on the map, in which the land have been allocated, it indicates the rightful owner of the land. In comparison to Vanuatu it is not, because there is no map issue yet indicating boundaries of people's land [is only done for those who ^{have} their land registered.] as

it is done in Fiji by the Native land commission. It is lacking because no native land commission was established to deal with these problems. It has recently been decided to establish one.

"Fiji so far, have no customary ways of settling land dispute" [Interview Alipate S. BAF Fijian]. In comparing this statement with Vanuatu [Tanna], Tanna passes a customary way of settling land dispute as already describe earlier.

A course of land dispute in Fiji is when people live on a dead man's land who died long ago or on the absentee's land. In this case, the decedents lived on land of Absen owners or deceased owners without the title legally being transferred to them. Such then led to dispute over land and the disputants often have no rights over the land. Situation of this nature have also led to fights among the occupiers and improper use of land. And because of this some of this land have become very unproductive.

In Fiji according to Nayacakalou, concerning boundary dispute, "Boundary dispute are relatively few and are easily solved by reference to the Native Lands Commission" [Croccombe 1971:220].

In Vanuatu, to compare it with the above, the boundary dispute is either settle in customary way or taken to the Island Court to decide upon. Vanuatu also after independence the government have the right to convert the customary land to public land whereas in Fiji it is not. It means that in Vanuatu ^{for example} whenever a dispute ^{between} two tribes occur and no solution could be apply to it, the government thus have the full right to interfere and take hold of the land or convert it to a public land, according to the regulation.

The alternative in which I suggest will be more accessible for the two countries, Vanuatu and Fiji system of settling land dispute is to have or adopted the Tongan style which is the written law, so that everything is done according to the written law. OR establish only one special court for dealing with land dispute and set up its own regulation to follow in order to settle dispute, and not having two bodies as that in Vanuatu, Customary and Official.

I think it will be best to write written Laws as in the case of Tonga where every thing is done according to the law, this will help reduce dispute among individuals and tribes as they perceive what is on the regulation. It would on the other hand be impossible because each Island tenure system is different from each other and serves people in different purposes, but I suggest that if it is put into practice or is force into the Society it would take root. On the other hand I suggest that a reform be made to change the old system of dispute and therefore be replaced by a new one as in the case of China.

To conclude, all three countries Fiji, Vanuatu^[Tanna] and Tonga have different ways and approaches of settling land dispute, also their existences or causes of their dispute is range in different ways from each other.

