

and the people in this case the French colonists in New Caledonia and the New Hebrides know it and find it easy to administer and apply. It saved them the terrible complexity of working out a new tenure system. The disadvantages are that the foreign model did not suit the local culture. The French applied their land laws through French courts. French courts were not intended to give foreigners the advantage, for the French regarded everybody as equal before the law. But of what happens in a law court depends a great deal on how effectively people know how to manipulate the system. In the case between French colonists and the Melanesians of New Caledonia and the New Hebrides, there were white Frenchmen who were familiar with the French law and who could afford French lawyers to defend them or present their cases, and on the other hand Melanesians who knew very little about French law and who could not possibly afford French lawyers and the courts of course were operated by Frenchmen themselves. Even if such a court tried to be fair the result will generally favour the French rather than the Melanesians. This has been apparent in all the French colonies.

The key point about the French system is that it was an assimilation policy, a carryover from the French metropolitan model. Also French land policy continued to acquire land from islanders after the colonial takeover. Like the other Colonial Powers they wanted to increase productivity but most of them failed.

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KEY FEATURES OF PRE-EUROPEAN LAND TENURE IN THE GILBERTS

As there was no central government in pre-contact time in the Gilberts, warfare was the key feature manifesting the natural tendency in man to spread out, to increase his own advantage at the expense of others. Because this was constrained by the same tendency in others, competitions between right holders was the result and this led to wars between the different families. There was no written record of lands and as each family lived on its own land, the land was passed within the family from one generation to the next. Also some of the family could be sent to settle and live on lands acquired by wars. Family units were strong and stayed closely united together because of these constant wars over lands.

Here the most important grouping is the family group. Before the arrival of Colonial Rule and the establishment of Central Government, the people lived in their family groups known as "te kainga" throughout their islands.

- Each piece of land had a name and the boundaries were marked by some kind of tree or a line of coconut trees showing where one kainga's land ended and the next one began. It was said that the kainga with strong, aggressive and industrious men had more land than those with gentle, weak and lazy men.

Because of the subsistence living people valued land a great deal. Land gave a Gilbertese man wealth, status and dignity. A Gilbertese looked on his land to provide him with food, shelter, clothing, tools, ornaments, as well as other requirements. When the pandanus was in season the people made "tuae", and "kabubu" which could be stored for a long time. Coconuts were kept the "aokai", a hut for storing coconuts, for food and future use. Fish was salted with a kind of salt collected from the reef. Besides coconuts and fish



babai gave variety to the daily diet. Babai is grown in pits and in islands like Marakei and Butaritari, it grows very well while in the Southern Gilberts they have to be cultivated and tended with great care because of the great heat and scarcity of rain. Babai pits were dug with tools made of coconut or other tree trunks, and the work took up a great deal of time, patience as well as energy. And for this reason Gilbertese people made use of sorcery and were great sorcerers. Each family had its own kinds and types of sorcery and from childhood a boy or a girl was equipped for life with sorcery ceremonial rites to make the child a good dancer, to make a girl mild and gentle, to make a boy a good fisherman and so on. The most common and popular one was to make little boys grow up strong, aggressive and industrious. Once they had started digging a babai pit they would keep at it until it was finished. In other words sorcery was very much part of life and it was also used at wars to help one defeat one's enemies.

The main means of transport was by canoe and on foot. There were no roads as there are now, but small paths and tracks through the bush showed up the constant treading down of grass and pulling apart of bushes. The houses, even the maneaba, had low eaves that made the visitor bowed low in order to enter. If he was welcome he was considered fortunate but if the owner of the house decided to kill, the visitor would be stabbed as he entered. Eventhough there was a lot of wars a group could only attack a limited number of people at a time because of lack of efficient metal weapons and transport. This technology limitation also had its repercussions on the area of land that a particular group could conquer and hold effectively under control.



When there was a murder, the murdered's family found out on which land their relative was killed and they would know straight away which family did it. They would then gather together their men to avenge the death of their relation. This was known as "te nenebo", civil wars between families. Eventhough there was a king or a chief residing on the island and had power over the people and their lands to a certain extent, he could not stop this. This was regarded as a family matter, a dispute between those two families, and he had nothing to do with it. The families had to settle their own disputes or fought them out. The latter was the most common form and the defeated family always lost its land to the victorious and triumphant one. Because land provided a Gilbertese man with the essentials in life the defeated one then had to look for land somewhere else and he could kill his neighbour to get his land or someone else for that matter. In fact the early people lived precariously. This was the constant state and atmosphere they lived in, always fighting over lands and always in fear of being attacked for their land. This kept the family unit very close together and prevented any disputes, quarrels or disagreement within the family.

With the arrival of Colonial Rule and the establishing of Central Government, wars were abolished and land grabbing stopped. There are no more wars but there <sup>are</sup> still disputes over land. With the changing customs and attitudes to life land and the introduction of the money economy land has now become a marketable commodity.

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FACTORS THAT LED TO CHANGE OF PRINCIPLE, PRACTICE OR EMPHASIS  
IN LAND TENURE IN THE GILBERTS

Before the arrival of the Europeans the family unit was about the only unified group in the Gilberts. Wars and disputes over lands were settled in these small family units. As each family lived on its own land this made the search for food and the defending of land easy. The introduction of guns strengthened and made secure positions of chiefs on islands such as Dutaritari and Abemama. King Baiteke of Abemama and the two nearby islands of Aranuka and Kuria became an absolute dictator with the aid of European muskets. Also these were the only two islands with centralized government before Colonial Rule. On the other islands, for all practical purposes, the village was the political unit and the 'Old Men', sitting in their boti (traditional clan sitting places) in the maneaba, (the ceremonial meeting house) acted as the governing body. Apart from imported guns the labour trade, blackbirding, and brought in diseases helped in the population reduction. In 1863 the ship, Ellen Elizabeth, took 161 Gilbertese to Peru, and when refused permission to land them, disembarked the 110 survivors on Penrhyn Island; while the following year recruiting started for Fiji and in 1868 for Tahiti. The tyrannical rule of King Baiteke resulted, however in a reduction of the population, particularly on Kuria and Aranuka where in 1863 only a few hundred slaves were left out of some 2,500. As a result of the decline in population there were a great deal <sup>of</sup> coconuts available for bartering to traders like Randell. Some of those who settled in the Gilberts acquired lands in exchange with the usual traded articles like guns, rum, axes and so on.

The pre-industrial cultures of the Gilberts did not use metals or writing and food preservation was limited. Byron sighted the island of Nikunau



in the Southern Gilberts in 1765 and by the 1820s the islands were visited by whalers and traders who were after coconut oil in exchange for tobacco, knives, guns, rum and other European imports which modified the Gilbertese technology. Randell who was a trader in the Gilberts from 1846 - 1870 had oil stations on each island. Beachcombers and castaways from ships wrecked on the low and badly charted reefs acted as agents for his coconut oil trade. Consequently on islands such as Butaritari, Abemama and Abaiang, where the physical environment permitted, there was an expansion of oil production to pay for increased European goods; but elsewhere, where population pressures permitted little surplus to pay for the new commodities, now beginning to be regarded as necessities, one tended to find instead increasing conflict and disharmony within the island communities. Within a couple of decades the clam shell adze, the coral file and rasp, the wooden diggingstick and many other artefacts of local manufacture were in the process of disappearing, in favour of metal <sup>tools</sup> ~~tools~~ and utensils which enormously reduced the labour of constructing a babai pit, fish pond, or canoe, or preparing food or drawing water, of house building, fishing or cutting toddy; or for undertaking almost any technical or domestic process.

Gilbertese lands are family lands. When the Missionaries arrived they were strangers and were given lands to live on because they were strangers. These were eventually returned to the original right holders who lent them. Like the government the Missions now hold land leases for Mission stations on each island. There was not much money and no one would ever thought of buying lands. Not only is land ownership a measure of wealth, status and a part of a man's identity, but it also provides a daughter's dowry at marriage and the aged person's contribution in the indigenous social security system. It was also a basis for psychological



security for it gave people an identification, a place to belong.

By 1892 the islands became a British Protectorate and with the establishing of Central Government, villages were set up to stop warfare. Wars and land grabbing by the strong were abolished. This cessation of warfare, then, did away with what was perhaps the most common means of adjusting land resources to major changes in population. In 1896, the Resident Commissioner, Telfer Campbell, started the Land Registration. Unfortunately this fell through as they began at Butaritari and Makin where the true nature of land holding was traditionally different from anywhere else in the Gilberts. Here it was the king who decided who should have lands and what lands they should have. The land was his gift. This was taken up again by Grimble who was appointed Land Commissioner in 1922. He was given the task of the systematic recording of lands and landowners in every island, a process which went on until 1956.

Contact with the American troops and the American liberal generosity, gifts and high wages influenced Gilbertese custom, tradition and attitudes to life, especially on Tarawa, Butaritari and Ocean Island, and with an increase in the money economy, it is now quite common to find lands being sold for money or in exchange for some other wanted European goods such as a motor bike, a radio transistor or a supply of imported articles. Owing to the restrictive environment coconut is the only well grown and widespread crop plant found on the islands and it is about the only cash crop. The Agricultural Department is trying to improve the growing of coconuts besides trying to grow other imported food crops like cabbage, tomatoes, etc., not only on Tarawa but on the outer islands as well. With the increasing population of today, it is rare to find a man with exclusive land rights to a particular piece of land. Some men are already finding it difficult to alienate land to give as dowry, or to leave enough land to their sons to avoid being shamed.

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HOW A LAND COURT OR COMMISSION IN ANY ONE COUNTRY COULD BEST BE IMPROVED

LANDS COURTS IN THE GILBERTS

In any society there are disputes about boundaries, ownership, inheritance, use and other matters. Some person or some institution must have the power to decide what is right or who is right in order to end the disputes. This may be either a judge, chief or a court, a council or some other organisation. The present system in the Gilbert Islands works well, and, on paper, is difficult to improve. But it is a system which involves human judgements, which are both liable to partiality and prejudice or open to be accused of both. To improve the present system, it would be necessary to invent some of system which made both of these impossible.

In the beginning the government in the Gilberts tried to have all land matters handled by administrative officers from other countries but problems got worse. Then it decided to let the locally elected Island Councils handle matters. In the end, this work was given to locally elected land Commissions, consisting of members sitting with a senior administrative officer. These were set up on each island to decide the ownership of all lands. This was probably the best and cheapest job that has been done anywhere in the Pacific. The work in each island was usually completed in less than a year, and the work in all 22 islands settled was finished between 1947 and 1954. The total cost of deciding ownership to the 73,000 sections of land was only £26,000 (\$US79,000) or approximately one U.S. dollar per decision. When the Lands Commissions finished their work of deciding ownership they were disbanded. Land Courts were set up in their place. The locally elected members of the Court are specially chosen for their knowledge of the history of lands and families in their village, and they should be able to compile family trees to show just who and how many co-owners there are. There is a member from every village, sometimes there might be two members if the village is big.

The Land Court on each island handles all matters, land registration, the day to day matters as they arise, inheritance, partition, disputes, etc. The



Gilberts' system is much cheaper, then costing only 20c for any case that was brought up before the court; much quicker and gets much more work done. It has the added advantage of giving experience, responsibility and some employment to local people. The language spoken in court is Gilbertese and the laws are made by the islanders themselves and based on customs which have been modified to meet changing needs. When in season, court members who are closely related to the persons involved in court cases must stand down during such cases, but every court member has some knowledge and some relationship, however distant, to almost everyone appearing before him. The large number and representative nature of the court, however, is intended to provide a check on personal interests.

In the early stages the Land Court System was running smoothly but that was fifteen to twenty years ago and unfortunately they have not kept the records up to date with subsequent births, deaths, adoptions, gifts, sales, loans, leases, absentees, etc. as well as they should have. The Central Government is partly responsible because it has not provided an adequate auditing and training service and has not kept up with appeals.

There are over 3,000 people on Abaiang. During the last 20 years land cases varied from 58 in 1968 and 102 in 1961; appeals varied from 2 in 1965 to 16 in 1970. The difference in figures was caused by the differences to the number of deaths per year and also by the natural human instinct to spread out at the expense of his neighbour, resulting in boundaries being moved now and again. Most of the appeals were dissatisfaction from dividing inheritance.

The Land Court for each island keeps the responsibility close to the local people and the appeal system is generally a good one which allows a single appeal to set for government or to set for central government authority, with claimants presenting their own cases. Since 1974 the cost for each case brought to court has been differentiated, any appeal now costs \$4 and a \$1 for every



entry in a register. The court meets twice a month, the second time is for marking boundary as they usually have to travel to the bush. Since this year the amount of money for the Land Court on Abaiang has been increase from \$980 to \$1380. This amount differs from island to island because of the differences in population.

Just recently they have come to a conclusion that besides the island local registers they are going to have a central one as well. A copy is to be sent to the Central Registry on Tarawa and this will act as check on fraud and also allows for central planning. This is an improvement as some of the buildings where registers are kept on the outer islands are made of local material.

The Gilberts' system is one of the very few simple, cheap and straight forward systems exercised in the Pacific besides that of Tonga. Central government was responsible for the fault in not keeping up with the recording of subsequent births, deaths, etc. It should have provided an adequate auditing and traiding services and particularly it should have kept up with appeals. The Court required only a regular check up about a year by staff of the central government on its efficiency.

I suppose anything that has to do with human judgement is subject to error. Favouritism and prejudice are both human tendencies. There has been a case here on Abaiang of a man who had been chief judge in the Land Court for 27 years and he has just got the sack last month. There's a lot of talk and some said he had always been partial in his final decisions and having been so long in court he knew how to lead his fellow court members to agree to what he had in mind. Also in a place the Gilberts where a lot of supertitions are still kept, it is said that some of those whom he favoured did sorcery on him so he would act for their good. Quite a few people lost their lands to others through him so to speak. Besides it's a thing here, too, to help one's relations so I think unless some sort of system could be invented, I can't see any solution, because on the other hand there is also the human tendence on the side of the loser







*Sr. Alama*

THE INHERITANCE ASPECT OF REGISTRATION SYSTEM IN THE GILBERTS

Here in the Gilberts we have something required by the Native Lands Ordinance called a Register of native landowners. Lands do appear in the Register but it is the landowner who is registered and not the land. Land is essentially family land and one can't truthfully say that so and so is the land owner of a particular piece of land. The person whose name appears in the Register is not a landowner but the owner of a right or interest in that land, usually along with quite a lot of other people. With some exceptions every land has more than one owner or rather in every land more than one person has ownership rights. Members of a family generally being co-owners.

In these Registers which are kept by the Registrar of the Lands Court on each island, all lands on the island are recorded or should be under the name of one of the co-owners. On the death of a landowner, the register is right there and his lands are distributed by the Lands Court in accordance with the provisions of the Land Code. The man might have left a will in which he made over a particular piece of land to particular children of his. If he has not got enough plots to go round his children then his land is inherited by all his children in what is known as "undivided shares".

This means that the land goes to a man and his sisters or a man and his young brothers jointly and it is his responsibility to see that his sisters have share rights with him but not the same rights as he has. It is a traditional common thing here. The man will have the obligation to look after his sisters if they need it. If there are no sons and daughters then the land goes to the next of kin. These ownership rights usually pass down through the family of the original landowner.



The name of the new landowner is entered instead of the name of the deceased one, at the top of the left hand page. On the top left hand side of the left hand page are listed the lands held by the same landholder. Also on the left hand page is a column for recording the encumbrances on the land. It is in this column that the other co-owners are found, each of whom holds ownership rights over the land. An encumbrance remains an encumbrance - it runs with the land as we say here - until it is removed by the proper process and in this case by the agreement of all concerned.

The Gilberts' system provides this form of registration which is called a man with his sisters or a man with his young brothers and various other forms that whereby the senior person is trustee as it were for the others. If the sisters married out and get lands elsewhere and if their children inherit, they will not pass all that land on. They may pass on a particular piece to a particular child but they will not pass all that land on. The actual names of these co-owners are rarely, if ever, recorded in the Register, and it is impossible to discover from the register who they all are, or how many co-owners there are in respect of any particular land. The various co-owners know their rights to the land and do not bother too much about the formalities.

Quite often too on death of a landowner whose land is subject to ownership interests of others, the land has been split into two or more pieces. These smaller pieces are then allocated to each of the co-ownership groups, and the name of the senior of each group is written on a separate page in the Register, over the name and number of the divided land. This stops the problem of multiple ownership to a certain extent, as each group has its own divided share of the land which is separately entered in the Register of Native Lands. This is discouraged by the Lands Code and obviously there is a limit to the number of times a land can be divided. There has been a situation where these divided strips may



be 7' 6" wide and half a mile long, stretching from ocean to lagoon, and not big enough to build a house on and with the chances being that any coconut which may fall from a tree on that strip will probably fall onto somebody else's land. Clearly such land is of little or no economic value, but although it undoubtedly has a social value, it is land, after all. *Some of the children*  
*should have learned from their school.*







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ADOPTION AND LAND RIGHTS ON ABAIANG

Adoption on Abaiang is a very important and a precious custom. It is precious because land is involved in it. It is a custom which is essentially an expression of kindness and love. Once a person has adopted someone else's child, the blood relationship might be quite distant but with adoption the relationship is strengthened and brought much closer. The adopted person can act as a peacemaker between families but if peace is not restored then the adopted relationships are broken and names returned.

When a person has started to adopt from another family, his family then carries on from him and his children adopt the adopted child's children and so on. According to custom, one piece of land and a babai pit are the usual shares of the adopted child from the adopted parents. Sometimes if the real parents have more land and their child is adopted they give the adopted parents a piece of land and a babai pit as their child's share. In this case all members of the adopted parents' family can collect food here while the adopted child is with them. Once she or he is married the land and babai pit go with him and his children will eventually inherit it after him. If he has no children then the land goes back to his real brothers and sisters if they are still alive or to their children. In other words the land returns to the family - next of kin.

In the old days when warfare was the major means of acquiring lands, adoption was also used as a covering against attack from the king or the strong and powerful of the island. There was a case here of a man named Kabunare of Aua-i-nano. He was one of the chiefs of Abaiang during the reign of Kaiea 11 of Abaiang. This was towards the late 1800s. Kabunare owned about one-third of the whole of Abaiang. He adopted one of Kaiea's brothers and named him Kabunare.



The people of the island made Kaiea attack Kabunare the old man to take the land that would go to his brother Kabunare the boy. Kaiea did not want to fight because he also loved his brother but in the end he had to as he was afraid of the people. Kabunare, the old man, had a sister who married a chief from North Tarawa. This brother in law was at war against another chief from South Tarawa and he had asked help from Kabunare. Most of the men of Aua-i-nano left for Tarawa and then Kaiea and his men struck at the old man. Luckily Kabunare, the boy, was not killed and during the fight, one of the King's brothers stood on the land where the grand children of Kabunare the boy now live. This brother of the king told the wife of Kabunare the boy to look after the baby well as that would be his land. The wife was then still carrying the baby in her womb.

The old man was defeated and all his land became "war land" - land acquired by war except for his inherited lands and the one made over to the wife of his adopted for the boy still to be born by one of the king's brothers who was really a brother of Kabunare the boy and an uncle of the baby. Most of Aua-i-nano people also had lands in Tarawa and a great number of them remained in Tarawa as most of their lands on Abaiang was taken by the king after the fall of Kabunare.

As king, Kaiea owned a lot of land or rather he distributed many pieces of land to his relations. What happened was that the defeated party would usually go asking for some of their lands back. Normally this was granted by restoring one piece of land. Sometimes the defeated party went to the relations of their wives in the winning party to ask them to give some of their lands. Kaiea did not have any children but his family, brothers and sisters are numerous in number as it was usual for a king to have more than one wife. Today even

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though the monarchy has ceased to function their families are the ones with the most lands on Abaiang. Their servants from the old days are the poor ones and have hardly any lands at all.

Since adoption is a custom that expresses kindness and love, a person who has no land to give to his adopted children can still adopt. The adopted child shares the same privileges as his own children and sometimes more. They always and should come first with him, more than his own children if he has any of his own.

Fifteen adopted people <sup>interviewed</sup> on Abaiang and their cases studied.

NEI BUREATA KADAKI:

Married woman

Over 40 years of age.

Chn: 1 boy, 1 girl, elder 23.

Real family: 2 brothers, younger.

2 sisters, younger.

Adopted family: 1 brother, younger.

Reason for adoption: Custom, her family is adopted by this other family, distant relation.

Inheritance: none from adopted family.  
none from parents.

Note: She lived with adopted parents until she married. She still thinks that her parents would remember her when they die.

TEN TUTU IAOKIM:

Married man

39 years of age

Chn: adopted girl, 8yrs. old.

Real family: 1 brother, older.

1 sister, younger.

2 half-brothers, younger.

2 half-sisters, younger.

Adopted family: none

Reason for adoption: Custom, mother was adopted by this same couple, distant kins.

Inheritance: None from adopted parents.  
undivided shares with brothers and sisters from both parents.

Who will inherit: not yet decided.



Note: The adopted daughter is not yet legally adopted. Tutu's real mother married again after death of first husband. Tutu lived with adopted grandparents till they died.

NEI DURATAKE UTIMAWA:

Married woman

Over 60 years of age.

Chn: 1 girl, 2 boys by first husband.

2 girls, 2 boys by second husband.  
eldest son, 40.

Real family: 1 brother, older.

1 sister, younger.

Adopted family: 1 brother, older.

4 sisters, older.

Reason for adoption: Custom, her family is adopted by this other family.

Inheritance: none from adopted family.  
undivided shares with brothers and sister.

Who will inherit: her children.

Note: Lived with adopted parents until she married - mother of the above Tutu.

NEI UAUU DURETI:

Married woman

47 years of age

Chn: 3 boys, 4 girls, eldest 26.

Real family: 1 brother, older.

2 sisters, younger.

Adopted family: 3 sisters, younger.

Reason for adoption: Custom, her mother was adopted by this same family, distant relatives.

Inheritance: 1 piece of land from adopted mother.

1 piece of land from mother.

Who will inherit: eldest daughter will get land from mother; one of the other daughters will inherit the land from her adopted mother.



Note: She only lived with adopted parents  
for 5 years.

NEI T. NEITTABOTARI TAWITA:

Married woman.

37 years of age.

Chn: 4 boys, 3 girls, eldest 18.

Real family: 2nd child of a family of 11.  
3 brothers, 7 sisters.

Adopted family: 1 brother, younger.

Reason for adoption: had no children.

Inheritance: undivided share with adopted  
brother; undivided shares with  
real brothers and sisters.

Who will inherit: her children.

Note: She and her family are living with  
adopted father; adopted brother is  
one of her three brothers.

TEM BEIA MARIANO:

Married man

Over 31 years of age.

Chn: 2 boys, 3 girls, eldest 18.

Real family: 1 brother, older.

Adopted family: 1 brother, younger.  
1 sister, younger.

Reason for adoption: as companion to his  
grandfather who married  
Nei Tooti from here.

Inheritance: one babai pit and undivided  
land rights with adopted brother.  
undivided shares with his brother  
in Nonouti.

Who will inherit: his children.

Note: still live with adopted mother; separated  
from adopted sister because she married  
against Tooti's wish.



NEI KAUTU TEKAUTO:

Married woman  
37 years of age.  
Chn: an adopted girl, 8yrs. old.  
Real family: an only child.  
Adopted family: 1 brother, younger.  
Reason for adoption: father died, adopted  
by a second cousin  
of her father.  
Inheritance: none from adopted parents.  
lands from both parents.  
*Heir: Not yet decided.*  
Note: Wife of Tutu Iaokim. She only  
lived with adopted parents for 10yrs.

TEKANENE TEAUKI:

Married man  
Over 30 years of age.  
Chn: 3 boys, 3 girls, eldest 11.  
Real family: 1 brother, older.  
1 sister, older.  
Adopted family: 2 sisters, older.  
Reason for adoption: mother died, cousin  
of grandfather  
adopted him.  
Inheritance: none from adopted parents.  
undivided shares with real  
brothers and sister.  
Who will inherit: his children.  
Note: lived with adopted parents till  
they died.

TEM BEEN TERIAKI:

Married man  
26 years of age.  
Chn: 1 boy, 1 girl, elder 3.  
Real family: 1 sister, younger.  
Adopted family: 3 brothers, younger.  
3 sisters, younger.  
Reason for adoption: mother died; mother's  
brother took him and  
still lives with them.  
Inheritance: undivided shares with adopted  
brothers and sisters; thinks  
he will get his mother's share.

*Who will inherit: His children.*



Who will inherit: His children.

Note: Has never been to Maiana.

NEI KAUTU TEKANANG:

Married woman

Over 31 years of age.

Chn: 2 boys, 3 girls, eldest over 11.

Real family: 4 brothers, younger.

3 sisters, younger.

Adopted family: 1 brother, older.

Reason for adoption: mother was unable to  
breastfeed her, distant  
relation.

Inheritance: a babai pit from adopted father.  
undivided shares with brothers  
and sisters.

Who will inherit: not yet decided.

Note: She lived with them till she married;  
adopted mother is her relation.

NEI TINAKAI:

Married woman

37 years of age.

Chn: 3 boys, 3 girls, eldest 19.

Real family: 1 sister, younger.

Adopted family: 2 brothers, one older.

2 sisters, one older.

Reason for adoption: adopted mother named  
her father, distant  
relation.

Inheritance: none from adopted parents.  
undivided shares with her

*Who will inherit: Any of her chn - who wants to go to Marakei.*

Note: She is from Marakei, adopted very *Marakei*  
young, lived with adopted parents  
till she married against their wishes,  
has never been back since.

TEN TABURIMAI NADUBURA:

Married man

Over 60 years of age.

Chn: 2 girls, elder 27.

Real family: 1 brother, older.

Adopted family: none.



Reason for adoption: Custom, family adopted  
by this other family,  
distant relatives.

Inheritance: land from adopted mother.  
undivided shares with brother.

Who will inherit: his two daughters.

Note: He only lived with them for 5 years.

TEN TAETOKA TIBO:

Married man

40 years of age.

Chn: 3 boys, 3 girls, eldest 19.

Real family: 2 brothers, one older.  
2 sisters, younger.

Adopted family: 1 brother, older.  
2 sisters, older.

Reason for adoption: Custom, his family is  
adopted by this other  
family, distant relatives.

Inheritance: land received from adopted grand  
mother; undivided shares with  
brothers and sisters.

Who will inherit: eldest inherits land from  
adopted mother.  
his children.

Note: Taetoka is Tinakai's husband. He lived  
with adopted parents till they died.

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NEI TABURE NAUATI:

Married woman

54 years of age.

Chn: 3 boys, 6 girls, eldest 35.

Real family: 1st child in a family of 6,  
2 brothers, 2 sisters, 1 died.

Adopted family: 1 sister, older.

Reason for adoption: Custom, named by her  
adopted sister, distant  
cousin of her father.

Inheritance: none from adopted parents; they  
still have land given them when  
they adopted her.  
undivided shares with her real  
brothers and sisters, babai pits  
have been divided.

Who will inherit? not yet decided.



NEI TEUNEKE:

Married woman.

60 years of age.

Chn: 2 boys, 5 girls, eldest 39.

Real family: 1 half-sister, older.

Adopted family: 2 sisters, older, one died.

Reason for adoption: friendship between  
mothers; lived with  
adopted till she died.

Inheritance: 2 pieces of land bought with  
money by adopted father.  
Undivided shares with half-  
sister;  
Undivided shares with children  
of her father's brother.

Who will inherit: Not yet decided. Maybe  
the one who cares for her  
till death.

Note: One of the pieces of land from adopted  
parents was disputed and the matter was  
settled by it being made over to Teuneke's  
grandson, father European.

Nei Bureata was adopted by the family who adopted her mother. She is the eldest child of a family of five, two sisters and two brothers. She was adopted when she was born. Her adopted brother is also a blood relation. She lived with them until she married. On her deathbed, her adopted mother tried to tell her own mother to give Bureata a piece of land. Her mother, because she did not want land to go away she pretended that she did not know what her daughter was talking about. Bureata and some other relatives were there beside the dying woman and they heard this too. She never got the land her adopted mother wanted her to have. She had no land from her adopted father either, though it was the woman she was related to.

She has been separated from her real parents for more than twenty years now. They did not like the man she wanted to marry and because she would not do what they wanted they would have nothing further to do with her. Her



adopted parents welcomed her choice of a husband and it was from them she was married. The real parents are still alive and she still hopes they would take her back one day. She would leave her land if she gets any to her two children.

The adopted child can be used or act as a peace maker, when there are disputes or disagreement between families. Nei Uaua was adopted by the same family that adopted her mother. When she married Kararaua, Kararaua's family wanted one of their men to marry Nei Taoia from Uaua's adopted family. She is the daughter of the brother of her adopted mother but Nei Taoia's father would not hear of it. Kararaua's family kept going back and back to ask for Taoia's hand but still they were refused. In the end they took Nei Uaua, much against her will as she was scared of the consequences. They were allowed into the house and the proposal was agreed to straight away. If Natan, Nei Taoia's father, had not agreed, the whole relationship would have been broken up and Nei Uaua would have returned to her family. Names would have dropped and Uaua would not have been able to return to her adopted family. In accepting the proposal, Uaua's adopted family showed Kararaua's family and everybody else how loved and precious and important their adopted one is to them. On the other hand if Kararaua's family had not taken Uaua with them to ask for Taoia's hand - there was no doubt their proposal would not have passed and the marriage would never have taken place.

Though she only lived with them for 3 years she inherited land from her adopted mother who was a distant relative of her own mother. The husband, adopted father, was from Marakei and when they left to go to Marakei Uaua's parents did not want her to go with them. They have never been back since.

Ten Tutu was an adopted grandchild. He was adopted by the same



Nabura who adopted his mother. He did not get land nor his mother before him. He holds rights to land from both his parents. He is the second son of his father. His mother married again after the death of his father and had more children. Nei Buratake is his mother and her father before her was adopted by this same family. She inherits land rights from her real parents.

Those with no children usually adopt from their own kin. Kararaua and his wife who was from Tabiteuea adopted a girl and boy from Kararaua's sister and they have been living with them ever since. They are legally adopted and inherit land rights from Kararaua.

Beia Mariano is from Nonouti and was adopted by his own grandfather who married a woman from here. Now that his adopted father is dead, the adopted mother shares her time between Beia and his adopted brother who is really her nephew. As their adopted mother is still alive they have not divided their lands yet but each one has been given a babai pit to work and cultivate from which they can collect food.

Some people were adopted because one or other of the parents died. Nei Kautu Tekanang is the eldest of a family of eight. When she was born her mother was unable to breastfeed her so a cousin of her grandfather took her. She loved her adopted parents and she did not realize that she was adopted until she was quite old. She lived with them until she married. She inherited a babai pit from her adopted father and holds undivided land rights with her real brothers and sisters.

Nei Kautu Tekautu was another one whose father died when she was very small. She was named Turiana by a cousin of her father and brought up by Turiana's parents. Her own mother is from Abaiang and Marakei. After the



death of her husband, Kautu's mother went to Marakei where she remarried. Since she is an only child, she has left all her share of land to her daughter.

Unfortunately Kautu separated from her adopted parents. It was the Turiana who named her that cause the trouble. For a long time Turiana did not have a baby and she took great care of little Turiana. When she finally had one, her attitude towards her namesake changed and the real grandparents noticed this and so they took the girl away, dropped Turiana's name and renamed her Kautu.

Nei Kautu loves Turiana as she grew up with her. Today whenever Turiana comes to ask her for anything she welcomes her and supplies her with whatever she wants. Kautu and her husband have no children of their own. They have adopted a little girl whose parents are cousins of theirs. Though the little girl has been with them since she was a baby she has not been legally adopted. They have not made her their heir as they want to see how they stand with her whether she really loves and cares for them. Her becoming their heir will come in time as they told me.

Tekanene Teauoki was adopted by a cousin of his father and his wife when his own mother died before he was a year old. He lived with them and cared for them in their old age until they died. He did not get lands but he inherited land rights from his real parents. He is the youngest in the family and he shares these rights with his brother and sister. They have not divided their lands.

Tem Been has a sister and when their mother died, he was adopted by his uncle, a brother of his mother, and his sister was adopted by a relation of their father. Their father is from Maiana and when he returned home after the death of their mother he married again. Now he has more children. Ben



is sharing land rights with his uncle's own children, his adopted brothers and sisters. He thinks he mother's share will go to him when his uncle dies. He also thinks he will get rights to land from his father in Maiana.

Nei Tinakai is another one adopted very small. She is from Marakei and her adopted mother named her father. The adopted mother married a man from Abaiang and they brought her with them to Abaiang. She grew up here and once when she was invited over to Marakei by her people she did not like Marakei. She likes Abaiang better than Marakei.

She became separated from her adopted parents when she married Taetoka. They did not like Taetoka as they already had a husband all lined up for her. When she ran away with Taetoka they washed their hands of her and never wanted to have anything to do with her any more. Before this happened she had been given a babai pit by her adopted father and after she had run away she never went back to work or collect food from the babai pit. She has lands from both her mother and father in Marakei and she has been asked over so they could divide them. She did not stay long when she went so nothing has been done yet. Taetoka, her husband, is from here and she hopes that those of their children who want to go to Marakei will have her share of lands. She belongs to one of the chiefly families of Marakei.

Tabure Nauati is the only adopted child who was given land by her parents at the time of her adoption. She was named by a cousin of her father whose parents adopted her. Now that she is married and living away from her adopted family, the land given to them when they adopted he is still with them and they still using it. Tabure holds undivided shares to land with her own brothers and sisters. She does not know what is going to happen to that piece of land.

Some families have adopted distant relatives. Taburimai Nabubura was



adopted by the daughter of the man who adopted Taburimai's father, Nabubura. Nabubura inherited land rights from this family and by right since Taburimai is the one adopted after him, he should get this piece of land. The father, though made over this land to both of them. They both hold equal shares on it - he and his brother. They have not divided their lands and they also have undivided shares to all their lands. He would like to leave his share to his two daughters.

Taetoka, Tinakai's husband, was one whose father was adopted by the parents of the woman who adopted him. He is what is known here in the Gilberts an adopted grandchild. The custom is continue the adoption process and keep adopting their children. Most of his children are adopted out by this same family who adopted him. His father got land and though he is still alive, this land has been made over to him. He is going to leave it to his eldest child who is also adopted by the same family. As he is one of the many descendants of the kingship line of Abaiang he has much land. He hopes to leave them to his children after he and his brothers and sisters have divided their shares.

Out of all these, Nei Teuneke is the only one adopted by a person who is not a blood relation, the adoption came out of a friendship between two girls. Nei Teuneke was named and adopted by Nei Tairo, her mother's friend. They went to school together in the Marshalls. Nei Tairo married a European named Arthur and they had two daughters but one died. Then she adopted Teuneke and she lived with them until Tairo died. She left to Teuneke two plots of land bought by her husband with cash. After the death of his wife, Arthur left with his daughter for Fiji and Teuneke returned to her parents.

When Tairo's family complained about lands since the customary share of an adopted child is one peice of land, Tairo's only daughter listened to



their complaint but when she got back to Fiji, she wrote back to the Lands Court giving the second piece of land to one of Teuneke's grandson whose father is also a European. The daughter thinks this is not family land because it was bought with money, and she can't go against her mother's wishes. She also loves her adopted sister.

Of these fifteen cases, all were adopted very young except one, Nei Uaua. She was adopted when she was about 7 years of age and did not live long with her adopted parents. Tabotari, Beia and Been are the only three adopted by close blood relations. Tabotari and Beia both inherit land rights from their adopted parents as well as from their real parents.

When a family is being adopted by another family, one would find that along the line somewhere there have been names put on or an exchange of names within the two families. Taetoka, Uaua, Tutu, Bureata, Taburimai, Tabure and Tinakai are all adopted grandchildren. Some were named and adopted. Nei Buratake was also adopted just as her father was adopted before her and her son after her, but she was "natinaki", an adopted daughter, not an adopted grand daughter, "tibunaki". Her son Tutu was "tibunaki", an adopted grand son, because he was adopted by the same couple who adopted his mother.

The term "natinaki" from "te nati" - the child is used to describe an adoption of a child to a parent; the term "tibunaki" from "tibu" the grand parent is used for the adoption of a grand child. The relationship "tibunaki" is valued more highly than "natinaki" because the grandchildren are very precious in the Gilbertese family.

This shows that people normally adopt from their blood relations, no matter how distant the relationship is and an adopted child is tibunaki, an adopted grand child or an adopted child, natinaki, according to the relationship



between the two families.

Taetoka, Taburimai and Uaua inherited lands from all their parents, adopted and real parents. Tutu and his mother did not inherit land rights from their adopted parents because the adopted parents did not have much even to give to their own children. Eureata and Tinakai lost their inheritance because they married against the wishes of their families. Tabure was the only one who went to her adopted parents with land from real parents and she did not get land interests from the adopted parents.

Kautu Tekautu, Kautu Tekanang, Tekanene and Been were adopted through forced circumstances, because one of their parents died. Nei Kautu Tekanang is the only one who inherited land from her adopted parents. Been is being adopted by an uncle and probably will get land. Teuneke was the only one adopted as a result of a friendship. The adopted mother was one with lands as she was a descendant of the high family of Abaiang. Teuneke inherited lands from her as well as from her own parents.

The question of "who will inherit?" varies from Uaua who is very certain as to who is going to get this and that land to Teuneke and Tabure who are very undecided. Seven of them said they were leaving their shares to all their children while others have not even thought of it.

Today adoption has been catered for in laws dealing with lands. An adoption is recognized as a real adoption only when the parents, both the adopted and the real parents go to court where they both sign the adoption form. If the real parents see that the adopted parents have not got much and if they wish they can give their child a share and this land goes over to the adopted family as the adopted child's share, the adopted child's name is written in the land book for it. If the adopted parents have lands they may tell the real parents



not to worry about their child as they would treat him as their own and would have land rights along with their own children if they have any and if not the adopted child could become their heir. In the old days the adopted child usually got his share of land.

There has been trouble over this adoption business, especially in Tarawa. Sometimes when the adopted child gets to Secondary school or has been through and is working as a government employer, the real parents suddenly want their son or daughter back. They usually find a way of turning the child against the adopted parents just because they want him as he has a job that could supply them with money. There have been many cases like this and so it became a law. An adoption that does not go through the court is not recognized as a real one. If and when something happens or whenever the real parents want to reclaim their child and take the adopted parents to court, the court would act in their favour as the adopted parents did go to court in the beginning.

These cases are fairly typical of adoption cases in Abaiang and even throughout the Gilbert Islands. Conditions vary from case to case. The adoption is a gesture of love and friendship and carries with it specified land inheritance according to circumstances.

But, in our changing society, the old Gilbertese style of adoption is being modified by the development of the cash economy. The establishment of land laws has demanded that adoption be legally performed. The materialistic spirit of making money is coming into conflict with the spirit of friendly adoption - and so, this important facet of culture is being slowly weakened. There is also among some of our young educated people a desire to keep their own family together. It remains to be seen how future development will affect the adoption custom.







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HOW LAND AND WAY OF LIFE AFFECT PRODUCTIVITY IN  
THE GILBERTS

Gilbertese are individualistics. Their most important grouping is the family group. In pre-contact times, each family lived on its own land throughout the islands. Like most Pacific islanders their traditional tenures were designed to operate without written records, and the absence of writing tends to force continuing adaptation to the present and the recent past, and obliteration or reinterpretation of the distant past. As they were more mobile than most of the world's people this was associated with transfer of land rights. Here in the Gilberts there was such things as compulsory migration, when a man was banished from the island by the high chief or king of that time because he had done something to anger him or migration was the only possible way out to prevent death to oneself or to members of one's family.

Warfare was the extreme, but vitally important, mechanism for adjusting land resources to population needs. Family land occupancy of the land made defending of land and caring for them as well as collecting food easy. As individual or family, the Gilbertese collect food. They might clear the land and plant a few coconuts on their lands every so often and cultivate their babai plants in their pits every now and then but they are never constant gardeners.

With the arrival of Europeans, a diverse mixture of varying degrees of colonial law, policy and practice with varying elements of customary practices as they were in the late 19th century after many significant changes had been wrought on the pre-contact tenures by steel tools, guns which facilitated large-scale warfare, population decline, labour recruiting, increased mobility and absentee right-holding, cash cropping and alienation in the post-contact but pre-colonial era. Land Registration was introduced and written records change all this, and



remember much that would be better forgotten. Today 'customary tenures' are actually colonial tenures that have become accepted as traditional tenures.

As land to a Gilbertese is life because it provides him with food, a site where he can build his home; gives him social and psychological security; it is the only thing he can pass onto his children. Land is valued by its size not so much by its productivity. The sixteen islands that form the Gilberts are just coral atolls with more rain and productivity to the Northern Gilberts. These islands seem to have more rain, the babai plant grows well here and they produce more copra. As most lands are now, the coconut trees are not well planted. They are mostly self-sown and too close together. In order to plant new trees and space them out well the present ones need to be cut down and the new trees will then take a number of years to bear fruit. The Agricultural Department has been endeavouring to get as many people as possible to agree to replantation schemes; but, with the land so fragmented, it is difficult to get enough to agree to do so to make the scheme worthwhile.

The contact period was followed by the different Foreign Powers taking over the different island groups. In the Gilberts, it was the British. With the establishing of central government villages were formed to stop warfare. With the abolishing of this major factor in acquiring and adjusting land resources; the improvement of medical facilities which resulted in population increase; and the introduction of land registration; nothing was done to provide adequate alternative means of land transfer. This has left people in most islands with inadequate facilities to acquire effective rights in places to transport and markets. As subsistence farmers, such as the Gilbertese are, they have to have access to land and with increasing population, lands have been divided and sub-



divided causing such great land fragmentation. Whereas in the old days they lived on their lands, today they live in villages, most times very far away from their lands that they only have the time to go there to collect food and return home.

What is needed here is freer facilities for transfer by sale, gift, will, lease, licence or otherwise. Appropriate restrictions on transfer can be effective to avoid excessive alienation and speculation, and to ensure that the land is reserved for farmers, or for particular categories of farmers.

Internal migration as a result of contact with Europeans traders, missionaries and government, here in the Gilberts, is from the outer islands to South Tarawa. In the census of 1973, 7,000 of the 43,000 of whole of the population of the Gilberts including Ocean Island live in urban Tarawa, with a 5,000 on Betio itself. Abaiang was the only other island with a population of over 3,000. Some have over 2,000 while the rest had over 1,000 people on each of them. Of the 43,000 over one thousand were working on Ocean Island while the rest were and are all on Tarawa. All these figures show us that about a  $\frac{1}{4}$  of the people from each island are either working on Ocean Island and Nauru or in Tarawa. These absentee landholders leave their lands on their home islands in the care of relations or friends. This affects the productivity of the land because some caretakers don't work the land well because it is not their own. In this case most landholders return home to find nothing left in their babai pits and their lands need cleaning.

In the Gilberts lands are family lands, and they are handed down from generation to generation within the family. When land goes to an adopted child of a family or when a daughter of the family marries the land that goes will have to return to the family when the adopted child or the daughter have no children. With the increasing population there is a rapidly increasing number



whose rights are so fragmented, so small, so restricted, so badly located or shared with so many others, that they gave no real benefits to their holders. This problem is now very widespread.

As an age contribution or as land is used to provide security for the parents in their old age, the children do not get land until after the death of the parents by which time the daughters or sons are past the age of great strength. In such case all the children collect food from the land but no one really cares to cultivate or look after them well as they have not been divided and they do not know who is going to get which. To increase productivity the parents need to give their children their share of land once they are married or even before marriage so that they can work them. On the other hand the parents also have to hold onto some lands which they can leave to whoever care for them in their old age.

With approaching independence and lack of local resources the new government will have to try to introduce tenure patterns which would facilitate higher productivity from the land. The situation is likely to worsen before it improves, for it requires very considerable commitment to long-term national gains to bring land tenure into gear with the other principles laid down in the national development plans. Specific and fairly small changes to facilitate some greater flexibility of transfer, to reduce the size of rightholding groups on land used for most forms of agriculture, to free land increasingly from ties with social groups which came into existence for quite different purposes, and to make access to land more a function of productive potential than accident of birth, could lead to worthwhile results and to significant increases in output from the partly subsistence sector.