

## LAND ISSUES ON ROTUMA

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IN 1959 THE BRITISH colonial government passed “The Rotuma Land Act” to establish a land commission that would deal with the surveying and transmission of land rights on Rotuma. Because government officials considered the traditional Rotuman bilineal system to be conducive to disputes, the Act included a provision that land be transmitted only through the male line, following the Fijian model. Unsurprisingly, the Rotuman people rebelled, and the survey was abandoned. Although the Act was not repealed, Rotumans have continued to deal with land issues according to traditional principles until now. In 2009 a Rotuma Legislation Review team was appointed to receive submissions regarding amendments to the 1959 Act. However, land issues are now much more complex as a result of the potential commercial value of land, which has raised the stakes.

### Introduction

When I arrived in Fiji in August 1959 on my way to do dissertation research on Rotuma, I was told by British colonial administrators that people on the island were in a nasty mood and might not welcome an anthropologist asking questions. It seems that Rotumans had reacted strongly against an attempt by the government to implement the Rotuma Lands Act of 1959. People on the island had threatened violence against Land Commission personnel, who left bewildered. The attitude among senior administrators in Suva was somber. They were inclined toward a lengthy cooling off period and were concerned that I might be thought a government agent sent to collect information about the troublemakers, exacerbating hostilities.

### Historical Context

Understanding the reasons for Rotumans' nearly violent rejection of the 1959 Land Commission requires background knowledge of the traditional system of land tenure and its evolution following European intrusion, which began in 1791 when the crew of HMS *Pandora* first engaged the islanders.<sup>1</sup>

#### *Land Tenure at the Time of Early Contact*

The best early account of Rotuman society is contained in J. Stanley Gardiner's article, "The Natives of Rotuma," published in 1898. Even at the time of Gardiner's visit, in 1896, Rotuman society had changed to a considerable degree from the time of first contact with Europeans. It was in a state of transition, but Gardiner was able to obtain sufficient information to make a reasonably comprehensive reconstruction of the traditional social organization. According to Gardiner's reconstruction, the name *ho'aga* "applied to all the houses of a family, which were placed together, forming, if the family was a large one, a small village" (Gardiner 1898, 429). Each *ho'aga* was named and was governed by a titled chief, the *fa 'es ho'aga* (man of the *ho'aga*). Each *fa 'es ho'aga* controlled the lands occupied by his group and was called the *pure* (one who decides) over the lands. Concerning land tenure, Gardiner wrote

No private property in land formerly existed; it was all vested in the *pure* for the time being of the *hoag*; the district generally had no rights over it. It usually consisted of four kinds: bush, swamp, coast, and proprietary water in the boat channel; common to the *hoag*, too, were wells and graveyards. Every member of the *hoag* knew its boundaries, which consisted of lines between certain trees or prominent rocks, posts, and even stone walls. (Gardiner 1898, 483)

Boundaries were in earlier times marked by *hefau* trees (*Callophyllum inophyllum*), but by the time of Gardiner's visit these were replaced by stones and coconut trees, "the ownership of which is a constant source of dispute" (Gardiner 1898, 483).

#### *The Aftermath of Contact*

Following their first encounter in 1791, engagement with Europeans steadily increased throughout the nineteenth century with the coming of

whalers (who found Rotuma an excellent source for reprovisioning), renegade sailors (who settled on the island for various durations), traders (mainly in coconut oil and copra), French and English missionaries, and ultimately British colonial administrators. As a consequence of the changes they brought about, land tenure in Rotuma was considerably altered. The cumulative effect of three factors in particular—a decline in population, the development of a commercial economy, and the establishment of missions—led to the breakdown of the ho'aga as a kinship unit and to increased individuation of land holdings.

Rotuma's early encounters with Europeans set in motion a process of depopulation that lasted until early in the twentieth century. The degree to which depopulation took place cannot be measured precisely because early visitors gave divergent estimates of the island's population, so there is no reliable baseline from which to measure change. Calculations ranged from 5,000 by Tromelin (1829, 42) to 2,000 or 3,000 by Lucatt (1851, 158). Gardiner, taking into consideration abandoned house sites, native estimates of fighting men from different localities, evidence of planting remains, burial grounds, and the relocation of people around churches, concluded that "the population in 1850 cannot have been short of 4,000, and that at the beginning of the century there were nearly 1,000 more" (Gardiner 1898, 497). The first official census, taken shortly after cession to Great Britain, in 1881, showed a population of 2,452. By 1891 this figure had dropped to 2,219, and in 1901 to 2,061. After a steady increase for a few years, the population fell to a low of 1,937 following a measles epidemic in 1911. As adjacent ho'aga amalgamated in order to maintain adequate manpower in the face of depopulation, the kinship unity of the group was lost, and ho'aga evolved into political units composed of a number of localized (usually adjacent) households.

In the 1870s the first commercial traders established themselves in Rotuma (Russell 1942, 235), and in all probability the island's first commercial product was coconut oil. It was not long, however, before the copra trade sprang up, and by 1875 copra had replaced coconut oil as Rotuma's chief export. In 1881 Rotuma exported 446.5 tons of copra, 2 tons of coconuts, 104 gallons of coconut oil, and 3 tons of kava, amounting to an estimated export value of £2,800. Imports for the same year were valued at £2,076, and included tools, clothing, food, and sundry other articles of civilization.<sup>2</sup>

The growth of the trade in coconut products gave people a more permanent interest in the land than previously, when land was valued primarily for the food it produced, and for its symbolic significance for personal and family identity. Usufruct privileges had been routinely given over vacant

plots to kinsmen and neighbors in exchange for a small portion of the crops produced, but as coconut products took on commercial value, the value of the land on which the trees grew increased correspondingly. This resulted in stronger claims to land, with a resultant increase in disputes.

Adding to the impetus toward change, missionaries and traders, pursuing their own interests, encouraged a concept of individual ownership (i.e., the right to allocate and dispose of land).

In time the right of the fa 'es ho'aga to distribute the land gave way to the rights of the user, and ho'aga land was divided into individual holdings, with each household head assuming the rights of a pure over the land he worked. This undoubtedly did not take place as a consciously executed plan, but rather as a gradual process involving a growth of vested interests in specific blocks of land and a loss of authority on the part of the fa 'es ho'aga resulting from the intrusion of nonkinsmen into the group. The process of fragmentation that took place was furthered by frequent sales of land by Rotumans among themselves for money, pigs (which were necessary for feasts on special occasions), and various other items.

The establishment of the colonial administration following cession in 1881 also had a great impact on matters pertaining to land. Of greatest importance was the establishment of the administrative structure itself, which provided for the systematic handling of transactions and disputes. Within this structure the district officer (previously the resident commissioner) was the supreme decision maker and interpreter of custom. The government further complicated the situation by introducing a land tax, the payment of which came to be regarded as a means of legitimizing claims.

Despite the shift toward individuated land holdings, the relationship between kinship and land rights was by no means eliminated. What happened was that land became a form of negotiable property, and since custom closely prescribed kinsmen's rights over one another's property, the operating principles were simply extended to include rights over land and the products from the land. The transmission of land rights thus came to be dominated by two sets of principles, the first based on the pure's right to dispose of property in accordance with his own wishes, the second based on the rights of kinsmen over one another's property.

### *The Formal Model of Kinship and Land Tenure*

The basis of Rotuman kinship can be designated by the word *kainaga*, which in its broadest sense means "kind, sort, variety, species, class" (Churchward 1940, 235)—in other words, belonging to the same category. It can be used to describe people of the same nationality, or it can be used

in a more limited sense to designate persons “of the same blood,” i.e., consanguinity. Since kinship is traced bilaterally in Rotuma, a person’s *kainaga*, in this latter sense, constitutes a personal kindred, a grouping that becomes functionally operative during life-crisis ceremonies or when an individual becomes critically ill. The term *kainaga* may also be used in a more restricted sense, indicating common descent from an ancestor who had resided at, and held rights in, a given *fuag ri* (house site). People are said to have rights in the *fuag ri* of their eight great-grandparents. Every site is named, and people usually describe their affiliation with statements such as “I am a member of the Halafa *kainaga*.” Associated with each *fuag ri* are sections of bush (interior) land,<sup>3</sup> presumably those over which the ancestor held rights; to claim membership in a given *kainaga* is to claim rights to these lands. The person who lives on the *fuag ri*, and controls the land, is the pure. He or she is obligated to grant usufruct privileges in available land to any member of the *kainaga*. If a pure is unreasonable or overly stingy, the *kainaga* have a right to hold a meeting and depose him or her in favor of another person. If a pure dies or otherwise leaves the ancestral *fuag ri*, the *kainaga* should hold a meeting to select a new one. The prescription for selecting a new pure gives priority to the senior male of the *kainaga*, with seniority being based on age in one’s own generation and one’s father’s seniority in the parental generation. Theoretically, then, succession goes from elder brother to younger brother, to eldest son of elder brother, to younger son of elder brother, to elder son of younger brother, to younger son of younger brother. A woman may become pure only if there are no eligible males, and her eldest son is expected to succeed her provided she has no brothers with sons.

With regard to land tenure, the concept of *kainaga* rights was complicated by the advent of individual ownership following European contact. This resulted in a range of concepts to describe rights in land, consisting of the following seven concepts:

1. *Hanua ne togi*, which refers to land acquired by an individual through purchase. Rights thus obtained are undivided and the purchaser is undisputed pure.
2. *Hanua ne na*, which refers to land acquired by an individual through gift. The only distinction from *hanua ne togi* lies in the method of acquisition; rights are undivided and the recipient is undisputed pure.
3. *Hanua ne haisasigi*, which refers to land in which a sibling group and/or their known descendants have rights. Thus land that is individually owned becomes *hanua ne haisasigi* to children in the next generation (provided there are more than one) and remains so in

descending generations as long as genealogical connections to these siblings remain clear. When genealogical connections are obscured, usually in the fourth or fifth descending generation, the land becomes known as *hanua ne kainaga*.

4. *Hanua ne kainaga*, which refers to land over which all the descendants of ancestors who previously held rights, own rights. Relationship may be traced back to any ancestor who held such rights, not necessarily to a specific person (such as a founding ancestor) or sibling group. *Hanua ne kainaga* is usually applied to cases in which genealogical connections are obscured, whereas *hanua ne haisasigi* is generally reserved for cases in which the connections are known.
5. *As ne hanua*, which refers to land affiliated with a chiefly title. Since all members of the *kainaga* to which the title is relevant share rights in the land, functionally (within the formal model) as *ne hanua* is identical to either *hanua ne kainaga* or *hanua ne haisasigi*, as the case may be. The only distinction is the conception that the title holder is automatic pure.
6. *Hanua ne 'on tore*, which refers to land in which the collective descendants of a pure who had owned undivided rights have rights. The concept is more specific than *hanua ne kainaga* in that the latter does not include reference to an original ancestor who had enjoyed undivided rights; on the other hand it is less specific than *hanua ne haisasigi* in that it does not require knowledge of genealogical connections to the original ancestor.
7. *Hanua pau*, which in its broadest sense includes any individually held land. In a more specific sense *hanua pau* refers to land in which the sole survivor of a *kainaga* has rights. By implication, *hanua pau* (in its more restricted sense) was once *hanua ne haisasigi*, *hanua ne kainaga*, or *hanua ne 'on tore*.

A feature of this conceptual system is a built-in cyclical aspect. Individually held land (*hanua ne togi*, *hanua ne na*, or *hanua pau*) becomes *hanua ne haisasigi* in the second generation, providing the original pure has multiple offspring. The land remains *hanua ne haisasigi* until genealogical connections are obscured, when it becomes known as *hanua ne kainaga* or *hanua ne 'on tore*. The land in turn may become *hanua pau* should all but one of the *kainaga* die out.

### **Origins of the Rotuma Lands Act of 1959**

The Rotuma Lands Act had its roots in a concern, on the part of Rotumans and administrators alike, over the many boundary disputes that plagued the

island. All agreed that it would be advisable to have the lands properly surveyed and registered so that the ambiguities of boundaries defined by trees, stone fences, and pegs would be eliminated (RLC, memorandum L.D. 24/9, from director of lands, dated September 4, 1952).

In a document dated August 1, 1953, Acting Colonial Secretary Q. V. L. Weston enumerated the reasons given by the colonial director of lands why the survey should be undertaken "at the present time." He noted

- (a) Survey will stabilize holdings and be a curb against future boundary disputes.
- (b) Desirable to have a surveyed record of the old tribal or family holdings and place names before the knowledge is lost through dying out of the older generations.
- (c) A better knowledge of the topography resources of the islands, and a value of each holding will incidentally be obtained.
- (d) Boundaries of alienated lands would be checked and any encroachments corrected.
- (e) Finance now available in the [Rotuma] Development Fund, or alternatively could be levied from Copra proceeds which at the present price would not be a heavy burden on the people but which might not be so in future if there is a drop in the price of copra. (RLC, letter C. 18/1 to district officer Rotuma, dated August 1, 1953)

In fact the issue languished until late 1956, when the district commissioner southern reported that the Rotuma Council recommended an allocation of £7,000 from the Rotuman Development Fund to meet the cost of a land survey. He reported, however, that the Council had agreed with him "that a land survey must necessarily go hand in hand with [a] land commission . . . [and] while arrangements should still continue to be made for the recruitment of surveyors, an early move must be made to organise a land commission in Rotuma which should proceed or be associated with the survey itself" (RLC, letter L. 8/10, dated September 12, 1956).

In a subsequent communication to the assistant colonial secretary, the district commissioner southern opined that

[T]here can be no survey of Rotuman lands until ownership has been investigated and determined. In order to determine ownership it is necessary for an ordinance to be prepared authorising a Rotuma Land Commission to hold enquiries, receive evidence, consider claims, and made decisions regarding ownership. (RLC, letter dated September 20, 1956)

Ratu Sir Lala Sukuna, the chairman of the Native Lands Commission, agreed in a memo to the chairman of the Native Lands Commission and the district commissioner southern:

[A] survey to obtain matter on which to work necessarily comes, in my experience, as the last step into the investigation of the ownership of land, be it native or Rotuman. The reason is that the ownership of lands to be surveyed must be clear and the boundaries accurately defined. As you are aware, sales of land in Rotuma, *inter se* have long been permitted which means that a land-owner may have land which he claims to be his in two or three or even in all the tikina<sup>4</sup> composing the island of Rotuma. Ownership must then necessarily be investigated and as a check on claims all claimants must be present when investigations are being made. To enable this to be done a full list of landowners in each tikina must be compiled and carefully checked. The boundary of each parcel and the owner or owners thereof must be carefully recorded. As so many Rotumans are absentee owners all these people will be required to attend these meetings. As the island is densely covered in coconuts, many disputed boundaries will arise and the presence of all landowners is essential. To do this work there should be a European Commissioner, preferably an Administrative Officer who has had experience of the territory and its people. This will mean the appointment of a Rotuman Assistant Commissioner who should have English and a good knowledge of the people and local conditions. From the beginning the work will be difficult and hard. (RLC, memorandum dated October 27, 1956)

Ratu Sukuna was culturally astute enough to recognize that Rotuman custom differed significantly from Fijian custom:

Since Rotuma has a population with different views, different language, and different customs, it has never been thought wise to carry out legislation along the same lines as in this country. The territory has its own regulations and land laws in Fiji have no application to Rotuma. The investigations suggested are therefore of an entirely new nature and it would not be advisable to join up the Native Lands Commission of Fiji with any similar body that is to investigate ownership, preparatory to surveys, in Rotuma. (RLC, memorandum dated October 27, 1956)



A year later, in a memorandum dated October 17, 1957, Q. V. L. Weston, then the commissioner for the Eastern Division (C.E.D.; under which Rotuma falls), asserted the mantra of development prevalent at the time:

The ownership of land on an individual basis is important. . . . As in Fiji, it is preferable under modern conditions that land should be subject to individual ownership rather than to the communal ownership of a family since the latter arrangement interferes with the land being used efficiently, productively and consistently. (RLC, memorandum LM. 3/1, dated October 17, 1957)

He commented that the Rotuma Council welcomed a trend toward individual ownership provided alienation to non-Rotumans was prohibited except for a limited period.<sup>5</sup>

Additional recommendations included a provision that unowned land on Rotuma should revert to the Crown, to be held in trust for the Rotuman people until redistributed either as *hanua ne kainaga* or as *hanua pau* to those in need of land and able to use it beneficially. Redistribution should be at the discretion of the district officer Rotuma, subject to an appeal to the governor.

In the same memo, Commissioner Weston also raised the issue of defining a Rotuman and reported that the Council of Rotuma proposed a definition along these lines: "A Rotuman is such person as is held by the Council of Rotuma to be a Rotuman" (RLC, memorandum LM. 3/1, October 17, 1957). This wording, of course, was a ploy by the Council to retain control in unforeseen circumstances. In practice, Rotumans have been consistent in asserting that anyone with a known Rotuman ancestor meets the requirement. In land matters, the ability to convincingly demonstrate descent from a landed ancestor is sufficient to claim rights in the land of that ancestor.

In a subsequent memo, dated November 2, 1957, Weston reported that in consultation with Josefa Rigamoto, a Rotuman who was assistant secretary at the Native Lands Commission, they had decided that "a rough compass survey" should be made of undisputed boundaries, leaving disputed boundaries and ownership disputes to be settled by a Land Commission.

The Attorney General for Fiji took issue with this position:

If I draft a Bill now, the only method for the Commission to adopt will be that of the Native Lands Commission, i.e., to describe in

detail by reference to natural features, etc., the boundaries of every single plot. Then comes the survey with the possibility of further disputes and readjustment. A prior rough compass survey . . . will not avoid this procedure. (RLC, memorandum dated November 16, 1957)

The Attorney General suggested that the island should be surveyed first, with all undisputed boundaries mapped by the surveyor. Disputed boundaries would be recorded following settlement. Since the form of the bill to be enacted would depend on which method was adopted, he asked for authoritative instructions.

A memo from the deputy commissioner of the Native Lands and Fisheries Commission (NLFC) to the colonial secretary quickly followed. He argued that both the NLFC commissioner and Rigamoto agreed with him that a commission should precede a survey.

One of the Commission's first tasks will be to compile from evidence taken on oath a register of all family groups in Rotuma, in which register will be entered the names of all persons born into the various units, in the same way as a "Vola ni Kawa" was compiled in Fiji by the Native Lands Commission and is maintained by the Fijian Administration to-day. I believe that no such register exists in Rotuma at present. Unless and until a person is entered in that register under a particular "kainaga" he/she has no right to a share in the communal or family lands. Having established the names of the various family groups and how they stand in status, and at custom one with another, the Commission would then interview every kainaga's chosen representative and obtain from him descriptions of the areas claimed. These descriptions would be recorded and when in a position to do so, the Commission would formally meet, record evidence on oath, call for objections and finally determine the claims. When the surveyor was ready to go to Rotuma the native owners would be asked to clear their boundaries for survey. The surveyor on arrival would be given the rough descriptions recorded by the Commission and would be able to proceed without delay in putting the various holdings on the map. As in the case of Fiji, the surveyor's boundary descriptions as a result of his survey would be used for the descriptions recorded in the Rotuma Register of Native Lands. (RLC, memorandum dated November 30, 1957)

The deputy commissioner went on to take issue with the notion that it would be to the Rotumans' advantage to change to a system of individual ownership:

I disagree entirely with the C.E.D's remarks. . . . I cannot believe that it is in the best interests of the Rotuman people that their lands should be held on an individual basis. There they are, on a small island in the vast Pacific Ocean with an increasing population living contentedly with a system of communal land ownership. Why oh why must we change to individual ownership and eventually create two classes—the "haves" and the "have-nots". To obtain ready cash a Pacific Islander will sell his land. He doesn't suffer but his descendants do! What a mess the rest of the world is in trying to restore the balance and bring the "havenots" closer to the "haves". The C.E.D's views about land ownership in Fiji are his own and are at variance with official policy and Fijian wishes. I can only presume that the Rotuman Council were swayed by the C. E.D's eloquence and by some "pie in the sky" notion they may possess. I suggest that the proviso to Section 4 should not be deleted but that the following words should be added to the proviso:- except as regards freehold land described as "hanun togi." (RLC, memorandum dated November 30, 1957)

The deputy commissioner concluded by suggesting a definition of Rotuman that he considered more suitable: "Rotuman includes every member of an aboriginal race indigenous to Rotuma and every person recorded in the Rotuma Register of Native Landowners" (RLC, memorandum dated November 30, 1957).

However, such a definition was every bit as ambiguous as the one proposed by the Rotuma Council and likewise was rooted in issues of control.

On February 12, 1958, a meeting was convened at the Colonial Secretary's Office "to discuss the questions of a proposed survey and a Lands Commission for Rotuma and to make recommendations as to the form these two requirements should take and in what order they should be tackled" (RLC, minutes of meeting, dated February 12, 1958).<sup>6</sup> The discussion focused on the various types of land surveys that should be done prior to the settlement of disputes and registration of rights. The minutes concluded with the following summary:

It was agreed that the sequence of action should be as follows:-

- (1) Attorney-General to produce a draft of rough clauses for the proposed Rotuma Lands Commission Bill.

- (2) Commissioner, Eastern Division accompanied, if possible, by Deputy Commissioner, Native Lands and Fisheries to visit Rotuma in May or June and discuss the rough draft clauses with the Council of Rotuma and the following proposals regarding the survey:-
  - (a) Preparation of the topographical survey.
  - (b) The Lands Commission to commence its proceedings as soon as practicable after the commencement of field work on (a) above.
  - (c) Once the topographical survey had been completed it should be followed up by a cadastral survey which should then provide Rotuma with sufficient survey coverage to meet requirements in the foreseeable future. (RLC, minutes of meeting, dated February 12, 1958)

Noticeably absent from this discussion, and from all documented preceding discussions, was the basis for succession to land rights that was to be written into the Rotuma Lands Act. The focus was almost entirely on the nature of the survey to be conducted. Yet it was a radical alteration of customary Rotuman rules of succession in the Act that triggered the rebellion against the Rotuma Land Commission.

As described above, the customary system of land tenure on Rotuma is bilineal, with persons inheriting rights in the land of both their father's and mother's ascendants.<sup>7</sup> This is in marked contrast to the Fijian system of patrilineal inheritance, which the colonial administrators I talked to at the time considered better suited for development and less prone to disputes bred by overlapping rights. From a strictly administrative point of view one can understand their preference. The rules of patrilineal inheritance are unambiguous, at least in theory, and provide a relatively clear basis for judicial decisions. The Rotuman bilineal system, by contrast, is far messier from a judicial point of view, with myriad overlapping claims to resolve. Such a system involves frequent negotiation between claimants to work properly, especially between distant kinsmen. Complicating the situation is that the structure of authority in bilineal systems like that of Rotuma is more fluid and egalitarian than in patrilineal systems, resulting in a greater willingness by individuals to vigorously press their own interests.

### **The Rotuma Lands Act of 1959**

To accommodate this preference among colonial officials for patrilineality, the following provisions were written into the Rotuma Lands Act (Ordinance

No. 13 of 1959) concerning the inheritance of hanua ne kainaga: “hanua ne kainaga shall be transmitted only through the male line” and

On the birth of a child to a male Rotuman who is a member of two kainaga . . . the father or other person whose duty it is . . . shall choose in which of those kainaga the child shall be registered and shall inform the District Officer in writing of his choice. (RLA 1959, section 23[3])

Regarding the possibility of no eligible successors, the following provision was included:

If at any time there is a failure of members of a kainaga so that there remains no person in whom the land is vested, the land shall become unowned land vest in the Crown in trust for the Rotuman people and the District Officer shall register it as such.<sup>8</sup> (RLA 1959, section 24[1])

My sense is that this provision incensed Rotumans as much as the imposition of patrilineal inheritance. They perceived it as an attempt by the government to take their land from them. This was a deeply emotional issue not only because of the material benefits of controlling land, but because land has deep significance for people’s sense of identity. To have no roots in the land is to have no status as a Rotuman person.

Who was responsible for including these provisions in the act is unclear since they were not foreshadowed in the archival documentation preceding its passage. However, Ratu Sukuna’s observation that “land laws in Fiji have no application to Rotuma” was clearly ignored (RLC, memorandum dated October 27, 1956).

### **Land Matters in 1959**

It was only after some rather complicated negotiations that the governor of Fiji, Sir Kenneth Maddocks, gave me permission to go to Rotuma, “provided I did not inquire into land matters or politics.” However, when I arrived on Rotuma in December 1959, people were eager to talk about land issues, and they seemed to be more interested in rumors that I was a communist spy than in the possibility that I might be a government agent. Some months later, when Commissioner Eastern Christopher Legge visited Rotuma and recognized that I had been well received, he urged me to study land issues and provide a report to government. I ended up doing my dissertation on the topic (Howard 1962).

In my report to the administration, I pointed out that the operative bilineal system was very effective in redistributing land when needed, especially since Rotumans had become highly mobile, leaving the island for Fiji and beyond, often returning after several years. The fact that multiple options were available for claiming rights in land made it much easier for them to reintegrate when they came back. As for disputes, most of them were settled in customary ways without resorting to hearings in the magistrate's court. I opined that to replace the current system with a patrilineal one, as described in the Act, would inevitably result in some families having access to more land than they could possibly use while others would end up land poor.

Although the Rotuma Lands Act of 1959 has remained on the books until today, passed from the colonial government to the government of independent Fiji, it has never been enforced. The land remains unsurveyed, and decision making concerning issues of transmission and usufruct has continued to be ruled by custom rather than by law. In the years since 1959 there have been repeated calls for reviewing the Act. For example, in a 2002 submission to a forum on the Rotuma Website (which I created in 1996 and continue to manage), Sosefo Inoke, a Rotuman lawyer, made a strong case for replacing the Act with appropriate laws.

One of the things that we must do is to fix our land ownership problems. It is a fundamental requirement for development. Until we can resolve our land issues and set up the processes and procedures for the proper settlement and resolution of our land disputes I believe we cannot effectively progress. It is a problem that we must face up to now and deal with. . . .

Some of us that have dealt with or been involved in land disputes know of the unsatisfactory situation that exists at the moment. Disputes are not being fairly and properly resolved with any certainty and finality. Some disputes are left up in the air and unresolved. Quite often the situation is worse than it was before the attempts to resolve it. There is confusion as to how disputes are to be commenced [*sic*] as well as to the appropriate tribunals or forums to hear them. The procedures as to appeals are also uncertain and ineffective. There are also in my view unresolved fundamental issues as to the powers and jurisdictions of the tribunals and forums that are making decisions at the moment. If all these problems exist then there is no wonder that disputes are not resolved fairly, properly and with certainty and finality. . . .

I am not an alarmist but I believe land ownership will be in chaos unless something is done now. The appointment of the

Rotuma Lands Commission must be done immediately as it is vital to the effective resolution of land disputes. Equally as important is the registration of land ownership and dealings which is the other function of the Commission. So long as we choose to ignore it I believe our social, political and economic development will be hampered. The little land that we have will be tied up in unresolved feuding and will not be used to its full potential, or worse, benefit only the few that have access to good lawyers and powerful political friends. (Inoke 2002)

Inoke's commentary was enthusiastically supported by several respondents to his posting. However, a committee was not formally established to accomplish the task until 2009. The committee, headed by Fatiaki Misau, a respected Rotuman bureaucrat, set about holding meetings around Fiji, including Rotuma, and solicited submissions by mail and over the Internet.

The issue that has most concerned the vast majority of Rotumans is succession. The Council of Rotuma, in a deposition to the Constitutional Review Commission dated May 18, 2001, made their position clear:

Traditionally, a Rotuman has ownership rights in respect of both paternal and maternal lands. This we believe should not be changed unless Rotumans overwhelmingly wish it. (Council of Rotuma 2001)

Not surprisingly, the official report of the Review Commission, which was released in August 2010, recommends "that from the commencement of the Act all Rotumans shall be registered on both maternal and paternal lineages." (Rotuma Lands Commission Review Committee 2010)

### **Recent Changes Affecting the Value of Land**

Several recent and impending changes are altering the value of land on Rotuma. For example, changes in the nature of housing have impacted land values. Traditional housing was constructed out of local materials that could be assembled in a short period of time by communal labor. Investment in housing was therefore minimal and was part of a system of generalized reciprocity. However, as people began to build more substantial structures, using imported materials that required paid labor to construct, investment in the land on which such houses were built increased significantly.<sup>9</sup>

At the end of the first decade of the 21st century, new developments have entered the picture. The prospect of tourism, ranging from a major

hotel to various forms of eco-tourism, has upped the value of certain beach properties but has also split families, with some members welcoming the opportunity to profit from tourism while others resist on the grounds that it will corrupt the Rotuman way of life.

Perhaps more importantly, Rotuma's isolation is on the verge of changing dramatically. Shortly after the island was ceded to Great Britain in 1881, Rotuma was made part of Fiji and was closed as a port of entry. Not only people but all foodstuffs and other material goods had to enter Fiji before being allowed to go to Rotuma, and anything Rotuma produced had to be shipped to Fiji first. This situation stifled trade in perishables for Rotuma because of unpredictable shipping and a lack of appropriate storage facilities. However, in 2009, Rotuma was declared a port of entry with the prospect of shipping substantial quantities of root crops and other produce to Tuvalu and elsewhere on a regular basis. Storage facilities are being constructed, the airport and wharf are being upgraded, and commerce is being encouraged. This means that crops that have been treated simply as consumables will take on commercial value, and the land on which these crops grow will take on enhanced value.

In Rotuma today there are conflicting sentiments with regard to land. On the one hand, Rotumans passionately defend their bilineal system of inheritance, so that anyone with an ancestor, traced through either their father or mother, who held rights in specific parcels of land, has legitimate claims to rights in that land. On the other hand, as the commercial value of land has increased and continues to increase, current occupants have a heightened investment in the land they use, whether from their input of labor, the planting of trees and crops with long-term payoffs, or the building of houses from purchased materials and labor. Such heightened investments breed resentment against those, sometimes including close relatives, who make claims after periods of absence. This is a generic dilemma bred in the globalization that engulfs all contemporary societies. Rotumans are not the only Pacific Islanders confronting the kinds of issues described herein. The result is a system in flux, one that will test the Rotuman values of sharing and caring. It remains to be seen how they will respond, both in law and practice, to the new challenges and opportunities that confront them.

## NOTES

1. Much of this historical section has been extracted and adapted from Howard (1963 and 1964).
2. Annual Report of the Resident Commissioner for the Year 1881, Outwards Letters, Rotuma District Office, Central Archives, Suva.



3. Remnants of house sites in the interior clearly indicate that in earlier times houses were scattered throughout the island, but at some time during the nineteenth century settlements were exclusively along the coast.
4. *Tikina* is a Fijian organizational concept referring to a combination of several *koro* (villages). The closest Rotuman concept is *itu'u* (district).
5. The Rotuman Council had a reputation, firmly established in past history, of expressing agreement with European administrators, although they often passively resisted implementing their policies.
6. The meeting was attended by the colonial secretary, who acted as chair; the attorney general; the acting director of lands; the commissioner eastern; the deputy commissioner, Native Lands and Fisheries; Dr. H. S. Evan, who had twice served as district officer on Rotuma; Josefa Rigamoto from the Native Lands Commission; and the assistant secretary "C," who acted as secretary for the meeting.
7. When abstractly describing the system to me, the Rotumans I consulted referred to rights in the land of each of their great-grandparents, or eight *kainaga*. In practice most people exercised rights in only two or three. For extensive descriptions of Rotuman land tenure, both in practice and historically, see Howard (1963, 1964) and Parke (2003, chapter 4).
8. The Act is online at [http://www.paclii.org/fj/legis/consol\\_act/rla148/](http://www.paclii.org/fj/legis/consol_act/rla148/)
9. See Rensel (1997) for a full analysis of the social impact of the change from thatch to cement.

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