

Tok Blong Pasifik

**A Quarterly of News and Views
on the Pacific Islands**

May 1994, #47

VICTORIA, B.C., CANADA



Elta District, Tabiteuea North, Kiribati

photo by Rick Gillie

Land is the Heart of the People

Featuring ...The View from Underfoot: A Perspective on Land in Vanuatu
...The World Bank/IMF and the Enclosure of Land and Consciousness in Melanesia
...The Military and Land Alienation in Hawaii
...Land and Women in the Pacific
...La Terre - Coeur perdu de la nation Maohi
...Urban Nightmares

About this journal...

Tok Blong Pasifik is a phrase in Pidgin, a language used in some parts of the Pacific. An equivalent expression in English might be "news from the Pacific". *Tok Blong Pasifik* (formerly Tok Blong SPPF) is published quarterly by the South Pacific Peoples Foundation of Canada. SPPF gratefully acknowledges financial support for the publication from the Canadian International Development Agency (CIDA).

SPPF's major aim is to promote awareness of development, social justice, environment, health and other issues of importance to the peoples of the South Pacific. Through this journal, SPPF hopes to provide Canadians and others with a window on the Pacific that will foster understanding and promote action in support of Islanders in their struggles for development.

We welcome readers' comments on the journal, as well as suggestions for articles, selections of clippings, or notices of materials of interest. We reserve the right to edit material. Views expressed do not necessarily reflect those of SPPF or of CIDA.

For further information about *Tok Blong Pasifik* (ISSN: 0828-9670), membership in SPPF or other SPPF activities, contact: SPPF, 415-620 View St, Victoria, B.C. V8W 1J6, CANADA. Tel: 604/381-4131 Fax 604/388-5258 or 721-0409 sppf@web.apc.org Editor: Stuart Wulff Asst Editor: Margaret Argue

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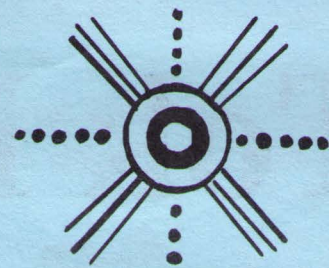
SPPF Update

Linking Indigenous Peoples

Pacific Islanders increasingly see themselves as part of a global community of indigenous peoples struggling for recognition of their rights and ways of life. As a result, some Islanders are asking us to facilitate links with First Nations in Canada. We're also finding increased interest from First Nations here in developing links with Pacific indigenous peoples.

The attendance of Shuswap Nation members at our 1993 Pacific Networking Conference (co-sponsored by CUSO) led to Shuswap interest in working with CUSO and SPPF to develop links with Pacific peoples. That interest has already borne fruit. I attended an April workshop for CUSO organized by members of the Shuswap and Okanagan Nations. Our 1994 conference (May 6-8) focused on land and sovereignty issues and was followed by an Inter-Regional Forum hosted by the Shuswap Nation (with CUSO/SPPF co-sponsorship). The Pacific participants also visited several First Nations in B.C. Due to connections made at these meetings, a Maori woman was invited to a northern Saskatchewan meeting on sustainable development. Meanwhile, SPPF was represented at the U.N. Conference on Small Island Developing States by a Haida, Michael N. Yahgulanaas.

Our "Land is the Heart of the People" conference drew 100 people, including 10 Pacific Islanders and around 30 First Nations people. Several Pacific Islanders and First Nations people, including local Cowichan people, had input into the programme. The result was a conference more shaped by indigenous perspectives than in the past. The Inter-Regional Forum drew almost 300 (mostly indigenous) people to some activities, with average attendance of 200. The Shuswap did an excellent job of hosting and the forum proved to be a moving experience for many people.



Most of the Pacific Islanders participated in a two week tour to First Nations communities around B.C.: Dididaht, Shuswap, Okanagan, Haida, Nisga'a, Tsimshian, Haisla, Gitksan, Wet'suwet'en and Cheslatta Carrier. Other First Nations were involved through attendees at the conference or forum. The Islanders rated these community visits as the best part of their visit to Canada.

The conference, forum and community visits generated many ideas for future collaboration. Exploring these opportunities will be an important part of our work in the next year.

The conference and tour would not have been possible without the support of co-sponsors, funders, hosts and others. CUSO played a major role and funded travel to Canada for several resource people. The Shuswap Nation's role was key. The tour wouldn't have happened without support from the Council of the Haida Nation, Global Links and NWDEA. Thanks also goes to the many First Nations people who met with us. Funders included the United Church of Canada, Anglican Church of Canada, Harmony Foundation of Canada, Peacefund Canada, Inter Pares, B.C. Government (Ministries of Environment, Aboriginal Affairs and Forests) and Canadian International Development Agency. Many individuals assisted with billets and organizing of meetings. We thank you all. Finally, thanks go to Andrea Clark for her work in organizing the conference and tour and to Gayle Nelson and Adele Scissons for their assistance in planning.

SPPF's work with First Nations is still at an embryonic stage, but a good start has been made. We look forward to the next steps.

Stuart Wulff for SPPF

In This Issue....

Commons Land and the Common People

History may yet record that the great battle between capitalism and socialism that has preoccupied recent generations of humanity was little more than the froth on top of a more profound struggle, a struggle that has shaped peoples around the world and their relationship to their environments for the past several centuries. From the consolidation of feudal states to the evolution of strong capitalist and socialist nation states, "big government" and "big business" political/economic systems have acted to shift control of the commons, collectively held land and resources, from local communities to supra-institutions much less accountable to local community control and decision making. In a time of capitalism ascendant, this trend continues to evolve as "globalisation" shifts control even further from local communities, even nation states.

SPPF's 1993 Pacific Networking Conference looked at the impact of globalisation on the Pacific. As we delved into the issues, it became clear that, for Pacific peoples and other indigenous peoples around the world, land is at the very heart of the struggle to resist globalisation and retain control and economic benefits at a community level. People urged us to focus the 1993 conference on land issues. We decided that a special issue of *Tok Blong Pasifik* would look at the same issues and complement the conference.

For a more in-depth discussion of the "commons" versus "enclosures" struggle over land and resources, both generally and as it plays out in the Pacific, we have included articles by John Salong (page 5) and "A World Bank Watcher" (page 9). We asked the World Bank for an article from their perspective but did not receive one). Adolfin Siganelu (pages 6) and Peggy Fairbairn-Dunlop (pages 18) look at land issues from a gender perspective. Other



articles look at a range of land and land-related issues: golf courses, logging, alienation of land for military purposes, urbanisation and land pressures, and indigenous intellectual property rights. Sovereignty struggles in Hawai'i, Guam and Tahiti-Maohi (French Polynesia) are also examined.

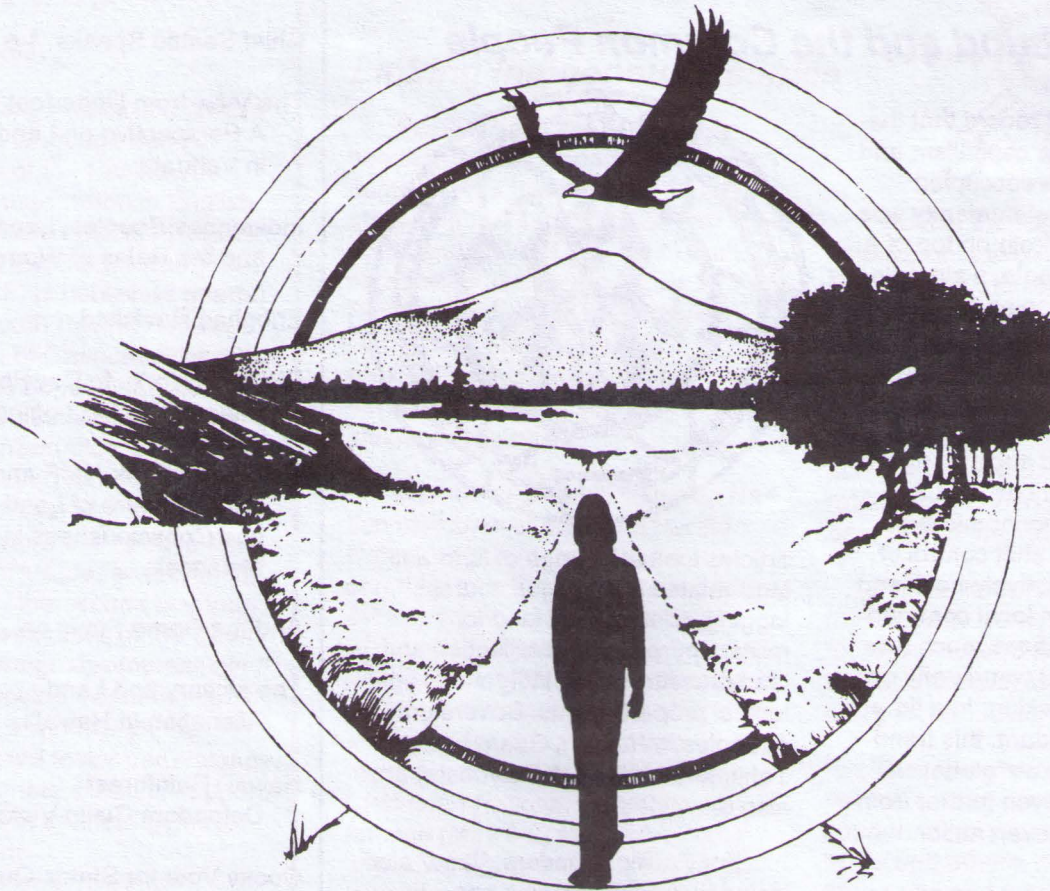
For Pacific Islanders, "land" also includes the surrounding sea, lagoons and reefs. The sea is as much the home of Pacific peoples as the ground under their feet and the water territory of island nations far exceeds the island territory. A couple of the articles provide some discussion of how "land rights" also include rights to specific water and reef territories and resources.

For those of European ancestry, we should not forget that this has also been our history. It is one of the bitter ironies of history that many of the white settlers who dispossessed indigenous peoples from their lands were themselves the earlier victims of land enclosures and dispossession in their countries of origin. They/We became and too often remain agents of a historical process which has made us too its victims. Today, as the culmination of this process in "globalisation" disenfranchises most of us and our communities from what remains of our own land and economic rights, the struggles of indigenous peoples are at the cutting edge of a broader struggle that involves all of us.

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Most graphics in this issue are taken from *Grass Roots Art of the Solomons: Images and Islands*. Adrien Allen, et al. Pacific Publications, Sydney-New York



This we know, the earth does not belong to us, we belong to the earth.

We are part of the earth and it is part of us.

The perfumed flowers are our sisters.

The deer, the horse, the great eagle; these are our brothers.

This land is sacred to us.

*The shining water that moves the streams and rivers is not just water,
but the blood of our ancestors.*

The waters' murmur is the voice of my father's father.

The air is precious, for all things share the same breath.

The beast, the tree, the human; they all share the same breath.

*Teach your children what we have taught our children,
that the earth is our mother.*

*You must teach your children that the ground beneath their feet is the ashes of
our grandfathers.*

Whatever befalls the earth, befalls the sons and daughters of earth.

Chief Seattle, 1854

The View from Underfoot

A Perspective on Land in Vanuatu

by John D. Salong

John Salong is a ni-Vanuatu community activist working on environment, community development and sustainable development issues and programmes in his native Vanuatu.

My land, my life...

Land is the means and the end to sustainable human development. "My land, my life" - a slogan used by a political party in Vanuatu - captures the essence of an indigenous sentiment with respect to land in Vanuatu. For indigenous people with this belief, land is:

- where spiritual lives of future babies can be found,
- the principal factor of sustenance for the extended family,
- and the final destiny of all human spirits.

This indigenous belief does not accommodate claim over land or land ownership. Transient physical beings are owned by the land, not vice versa. One cannot own all future babies' spirits, all extended families or all ancestral spirits. But each and every human being is owned by one or another piece of land. Sanity, security and responsibility - vital characteristics for sustainable human development - are predicated on a person being owned by a piece of land. Without a piece of land to come from or go back to, in life or death, one cannot navigate life's turbulent waters. Without land, there are no future babies - spirits to physically build sinew over, creating transient living persons. Life is not life if not rooted in the land.

People in Vanuatu are today being misled to believe that land is simply a factor of production. The first public speech by the present Chief Justice of Vanuatu, Mr. Charles Vaudin d'Imrecourt, stated that there would be no development

in Vanuatu unless the land tenure system was changed. The Physical Planning Act of 1986 empowers government to exercise total control over land by declaring physical planning areas. 1992 saw the first case of the government buying land from the indigenous people of Port Vila's neighbouring villages. The Land Acquisition Act of 1992 gives government the powers to forcefully acquire land from "custom ownership" for "public interest" without defining "public interest". The National Parks Act of 1993 empowers the Vanuatu government to set up national parks where local management controls are expropriated to foreign managers who are assumed to know how to manage the land better. Conservation can be contained, permitting the decimation of all other lands. These legislations and powerful declarations form the motor that drives the rapid change in the meaning and significance of land to the people of Vanuatu.

All land is "owned by custom owners"

In October 1979, the Constitution of Vanuatu was ratified. The spirit of the Constitution recognizes land as paramount and belonging to "custom". Since ratification, a fundamental change has occurred in the applied definition of land. "Custom land" has been interpreted as "land ownership by people" instead of "ownership of people and cultures by land". This fundamental change has created the high incidence of "land disputes" in the country.

But who is the "custom land owner"? If land can be owned, "custom owner" can be defined by people in power to benefit themselves. Such people have defended the criteria for "custom ownership" as:

- a story of creation,
- proving to be "the first to the land",
- and land purchases using traditional currencies.

All these definitions invariably benefit people in power because:

- stories of creation can be manipulated in an oral culture where information is hoarded, information is power, and power is in the domain of those who define "custom",
- disempowered people have never been permitted to tell or write mainstream history, while people in power can influence history to prove that they were the first to the land,
- and people in debt have never been allowed to set the conditions for repayment of loans, thus allowing the purchases of land with "custom valuables" to claim custom "ownership."

Misuse of law to assert land ownership

Some people in power have gone further than defining "custom ownership" to benefit themselves. It is more efficient for such people to use legislation to exert land ownership. Such people can:

- claim compensation beyond any group's capacity to pay after working the land without prior agreement,
- use the Physical Planning Act,
- use the National Parks Act,
- use the Land Acquisition Act,
- use the formal legal system with the necessity to spend great sums of money on good representation as opposed to the cheaper and more appropriate custom court,
- and even legislate new laws to give themselves land ownership.



photo courtesy of Jacob Sam

Gathering for a marriage ceremony in Ikutaus village on Tanna Island, Vanuatu

All in the name of "development"

Hasty pursuit of "development" has taken Vanuatu to a point of no return. The government talks about "grass roots development" while it legislates land control. Rhetoric on self-reliance is mouthed while leaders look for foreign handouts or loans that oblige the indigenous people regardless of who benefits. Peace and unity are preached from the pulpits while different Christian sects support different political parties en masse. "Human rights" are praised in theory while:

- the judiciary is manipulated,
- new recruits into the police are being hired, using irregular hiring procedures, and trained by French, Australian, and New Zealand instructors in riot control measures and "anti-terrorist" tactics,
- land dispute settlement is being wrenched from the hands of chiefs by magistrate courts,
- ministers and acting constitutional heads physically abuse people who stand up for their rights,
- labour rights are trampled on,
- and constitutionally guaranteed freedoms are restricted.

Land - vital ingredient to sustainable human development

"Development" mania has left no time for important questions, such as that of land, to be

collectively discussed and understood by the indigenous people of Vanuatu. It is questionable whether the path being followed will lead to or away from sustainable human development. For development to be human centred and sustainable, it is imperative that common agreement be established on what "land" is. Indigenous people must collectively determine changes to that definition of "land" as time passes. If it is decided that land be simply a factor of production to be surveyed and registered, bought and owned, subdued, guarded and sold at will, then so be it. On the other hand, if it is decided that some holistic indigenous perspectives be maintained, then aspects of the view from underfoot, expressed herein, may have value.

When dark clouds hustle, thunder and lightning will strike

In each heart of hearts, "my land, my life" rings true to most indigenous ni-Vanuatu. Future prospects do not look bright for the land and life of ni-Vanuatu at the present rate of change. May a little prayer be said that looming dark clouds slow down and pour out showers of blessing on the land. May the sun shine through to produce the myriad of colour blended into one for the glory of the land. Amen.

Indigenous

by Adolfina Siganelu

Adolfina Siganelu left her West Papuan homeland as a refugee at the age of 12. Seeking asylum in Papua New Guinea, she is now a PNG citizen. She has worked for 20 years as a hospital nursing sister and has a strong interest in the advancement of indigenous women. This article is a slightly abridged version of a paper given at a 1993 International Women's Day event in Port Moresby and reprinted in the January 1994 issue of Pacific Vision, a newsletter of the Women's International League for Peace and Freedom.

Talking about the roles of "Indigenous Women", it is necessary to look at the society to which they are rooted. Indigenous women are part and parcel of a larger global society of over 2,000 societies identified as indigenous or tribal peoples (about 4% of the world's population, over 200 million people). Asian indigenous peoples compose the bulk of indigenous people; there are 150 million indigenous people in Asia with the rest scattered in Africa, America, Europe and the Pacific.

All indigenous people share some things in common; the most important one is their notion of land. Land is central to their life, history, culture and spirituality. Indigenous people everywhere regard land as sacred, something that cannot be bought or destroyed. Land is the beginning and the end for a Melanesian. It is upon the land that one depends for security and as a sanctuary for ancestral spirits and one's beliefs. This special relationship with the land means that indigenous people regard it as their responsibility to look after the land and its resources, not only for themselves but for future generations.

The indigenous concept of land is unknown to western industrial society where land is a source of profit and an instrument of domination. Western industrial society

Peoples, Land and the Roles of Women

continually poses the greatest threat to indigenous peoples' survival and the environment. The history of indigenous peoples from the time of colonial annexation to the present is in essence the terrible story of their enslavements, exploitation and extermination.

The impact of so-called "development" on indigenous societies throughout the world, but more specifically in Melanesia, proved to be disastrous. Current notions of "development", "nation state" and "national integration" are the major contributing factors to the rapid destruction of land and culture, hence the very existence of Melanesian and other indigenous peoples. In parts of Melanesia, indigenous people are being deprived of their lands through annexation, invasion and evictions. They are the most marginalised and downtrodden people and are under threat of being absorbed into other societies against their will. When they resist assimilation, they are decimated. Those preaching "development" identify the institutions of indigenous peoples as backwards and a hindrance to modern development. Therefore, they must be dismantled and indigenous people integrated into nation states.

The Roles of Indigenous Women

Over the years, indigenous women stood beside their men, angered but powerless, only trying to protect their land, resources, freedom and right to exist as peoples. In recent years, indigenous peoples have become increasingly assertive in defence of their lives, land, culture and self-esteem. In this context, I believe indigenous women have a unique and crucial role to play.

Indigenous women play vital roles in ensuring the continuing existence of indigenous peoples, cultures and biodiversity. They are the main food producers in subsistence economies, which persist in many indigenous societies. Their

reproductive roles of bearing and rearing the future generation are done amidst situations of poverty and dire lack of health and social services. They are capable resource managers and protectors of the environment.

Resistance against environmentally destructive "development" projects and forced integration into a nation state included the women as major players. The indigenous women of New Caledonia, East Timor and West Papua have joined their male counterparts in taking up arms in the struggle for self-determination. They want to free themselves from suppression and forced integration by colonial and neo-colonial powers.

Indigenous women remain one of the most marginalised, discriminated against and oppressed sections of society. Mainstream development, emphasizing economic growth, left indigenous women far worse than the subsistence economies they have sustained for many years. They lack training and training opportunities for indigenous women are not given priority. They must compete with other women of superior ethnic groups and their male counterparts. Indigenous women suffer a bigger disadvantage because most of them do not have a part in organisations which articulate and address their issues. There is a high rate of illiteracy and their multiple burdens tie them down such that they can hardly find time for other involvements. Their leadership potentials are not developed. There has been great concern expressed by women about lack of participation by women in political decision-making. They are victims of

discrimination, not only because they are indigenous, but also because they are women.

It is important to provide opportunities for indigenous women to talk about their situation and understand more deeply what brought them into this. Their participation in international conferences and networking even among themselves is extremely limited. The very few who get to be heard are the indigenous men. In recent years, some governments, international non-governmental organisations and churches have called for establishment of better dialogue with indigenous peoples, not just to help them but to learn from them. As an indigenous woman, I believe that we have a genuine desire to be free, to be heard and to be treated as equal humankind.



Packing firewood in Sawa-er village, West Papua

Enoghae Revisited

by Valerie Harrison

For the second time in a decade the people of Qerasi Area, North New Georgia, in Western Province of the Solomon Islands have taken the law into their own hands.

The article in the *Solomon Star* on March 29, 1994 noted that "Landowners in Northern New Georgia were reported to have again set fire to three more bulldozers belonging to Golden Springs International. It goes on to state: "the incident was a follow-up of what had happened March 5 when landowners first set fire to five bulldozers owned by the same foreign logging company."

"The burning of the bulldozers early this month followed a long time dispute between the landowners and Golden Springs International."

"The landowners claimed that the logging company have not met some of the conditions contained in the agreement. Golden Springs is a foreign logging company which has its headquarters in Hong Kong.

A subsequent article in the same paper, on April 6, 1994 noted that "because of the lack of cooperation of the villagers the police were having difficulty in locating any suspects and in creating an investigation report."

Further it stated that four men who admitted burning six bulldozers had been arrested and charged with arson. The April 6th article also noted that the value of the damage in the second incident was \$600,000.

A copy of a news release obtained from the Solomon Island Broadcasting Corporation dated April 10, 1994 stated that "the local chiefs have been implicated in masterminding the burning of eight bulldozers."

As those of you that are familiar with this area know, similar incidents took place at Enoghae in North New Georgia, in the mid 1980s when fire destroyed logging equipment there. At that time those that were directly involved with the action were tried and sentenced to

jail. Upon returning home those that served jail sentences were given a heroes' welcome.

It would appear that there is some need for governmental administrative powers to take action on behalf of all concerned. There is also a very clear message here for the powers that be that if the land issues are not resolved satisfactorily administratively, then the people will take the law into their own hands.

To date no one has been injured or killed; only pocket books are suffering. However, if these attacks escalate and the logging company brings in armed guards, violence will escalate and injuries may follow.

With the Bougainville crisis so close to hand one would think that governmental powers would learn from their neighbours' errors and act to ensure that there are far fewer incidents of citizens taking the law into their own hands, and that valuable resources of people and land are managed to minimize the likelihood of future confrontation.

ESCOW Works to Develop Alternatives to Logging

by Catherine Sparks

Catherine Sparks is a former SPPF employee now working in PNG under the auspices of CUSO.

In February I visited Wagu Village, located at the base of the Hunstein Range in East Sepik Province, Papua New Guinea. While there, I bought a wood carving and three bilums (string bags) to send to family members and friends in Canada. As I make only a low salary while working in PNG as a volunteer, I definitely "blew my budget" for this month. But I feel good about my over-expenditure because the money goes to a good cause, protection of the Hunstein Range rainforest.

How does buying carvings and bilums help protect the rainforest? If you ask Gabriel Molok, the environment officer at the **East Sepik Council of Women (ESCOW)**, he will explain that such purchases provide an alternate source of cash income to communities that have chosen not to sell their land to logging companies. Aiming to both protect the environment and maintain local control of the land, ESCOW works with local communities, encouraging them to develop income generation projects as alternatives to large-scale logging by foreign companies. In Wagu, not only is the community marketing locally made bilums and carvings, it is also looking to eco-tourism as a future source of income. The village has started building a guest house and identify-

ing other infrastructure necessary for a successful tourism venture, including a variety of bush walks and bird-watching locations.

ESCOW stresses that these alternatives to logging are sustainable sources of cash income that can provide long term benefits to communities. In large scale logging projects, communities lose their land, their forest, and usually receive only one lump-sum cash payment, so that when this money is used up the community has nothing. Alternatives to logging, such as eco-tourism, the marketing of bilums and carvings, and even butterfly and cassowary farming, allow communities to retain control of their land and to provide themselves and future generations with sustainable, long term sources of cash income.

The World Bank/International Monetary Fund and the Enclosure of Land and Consciousness in Melanesia

by A World Bank Watcher

The writer is an academic with an interest in the role of the World Bank and International Monetary Fund in the "New Enclosures" of land and the role of indigenous peoples in resisting this process.

New Alliances, New Enclosures and Indigenous Peoples

Indigenous peoples have important experiences to share with all of us whose struggles may be defined in other ways: class; race; patriarchy; imperialism; etc. A look back over recent decades provides ample evidence that it is only when all movements against oppression incorporate the contributions of each struggle that progress can be made in any of the arenas in which we work.

The 1960s and early 70s provide a prime example. In the US, the Keynesian "deal", "a fair day's pay for a fair day's work" (with a "fair" profit for capital), was brokered with largely white male workers at the end of World War II. After the 1950s, the workforce was becoming less white and less male and began to align its struggles with the "wages for housework" campaign by feminists and the welfare and civil rights movements led by people of colour. By the 60s and early 70s, these bridges between the workers', women's and African-American movements threatened the link between work and wages. The expanded demands of these expanded "working classes" caused social services, unemployment insurance, wages and benefits to increase dramatically, while profits plummeted.

During the 1980s, capital managed to transform its profits crisis into a crisis for all of us by rescinding the "deals" it had struck since WWII, forcing McDonaldisation on "first world"

workers, the "collapse of communism" on "second world" workers, and a vicious form of recolonisation by the International Monetary Fund and World Bank on the nominally independent nations of the "third world". Once the deals were off, capital could go on the offensive with a set of "New Enclosures", which can be likened to the Old Enclosures where the English peasantry was removed from their traditional lands at the dawn of capitalism:

"A corrosive secret is hidden in the gleaming ideals of globalism... the last decade has seen the largest Enclosure of the World Common in history.... We have all entered capitalism through the same door, the loss of our land and the rights attached to it.... In the biggest diaspora of the century... millions are being uprooted from their land, their jobs, their homes, through wars, famines, plagues and the IMF... (the four knights of the [post] modern apocalypse).... The "debt crisis", "homelessness" and the "collapse of socialism" are frequently treated as different phenomena.... For us... they but deceptively name aspects of a single unified process: the New Enclosures, which must operate throughout the planet in differing, divisive guises while being totally interdependent.... With each contraction of "communal rights" in the third world or of "socialist rights" in the Soviet Union and China, comes a contraction of our seemingly sacred "social rights" in the US.... In no way could capital have won in any place if it had not operated in every place. Only if Filipinos thrown off the land could be used in "free enterprise zones" in Manila... could capital reduce real wages in the US." (Federici 1992: 317-321)

Many of us felt a sense of defeat as a result of these developments. But we should take some comfort and guidance for future

action from the fact that it was the power, unleashed by our successful collectivisation of experience from different struggles, that originally provoked these events and catapulted us all into the post-industrial era. If the linking of class, race and feminist struggles in the 1960s and 70s led to such critical consequences, what will the addition of indigenous struggles contribute?

If we define "indigenous peoples" as populations with a pre-Enclosures relationship to the land and each other, i.e. whose relationship to their means of production and reproduction does not yet function within the basic capitalist concept of "ownership", the potentially earthshaking contributions of the struggles of indigenous peoples begin to emerge. Once such basic concepts as ownership are called into question, deeper and deeper levels of oppression become vulnerable to critical analysis and creative struggle. Indigenous peoples' struggles dare us to reclaim our lives, our humanity, our loves, our communities, our land and our planet - things that most of us have forgotten are our birthright.

Any Enclosure in the material reality of a community must be accompanied by a corresponding Enclosure of consciousness. As the South Africans, Palestinians and other indigenous peoples have taught us, a people has not really lost their land until they resign themselves to the expropriation. Indeed we may define the term "indigenous peoples" as those populations who have not yet had their lands enclosed and/or who have not yet stopped struggling against the Enclosure of their traditional lands.

Just as the Enclosures of land are yet to occur in Melanesia, so are Enclosures of consciousness. In Melanesian custom, any significant

accumulation of goods or power is expected to be distributed throughout the community. In industrialised countries, people accept as "natural" that a few people have tremendous wealth and power while the majority have barely enough to survive. Melanesians are yet to have their sense of justice and fairness enclosed to the point that they can accept the gross inequalities on which the capitalist system depends.

Land in Melanesia: What is at stake?

Land tenure is at the very heart of the issue of control and independence in Papua New Guinea, Solomon Islands and Vanuatu. Control over the land gives Melanesians economic independence from the international companies and the economic superpowers and international banks that represent the interests of these companies. As a wage worker, if a Melanesian finds the pay too low or working conditions unacceptable, she or he can go back to the village where most basic needs can be satisfied with little or no need for money. In order to force Melanesians to accept the starvation wages and inhuman conditions of work that the largely landless populations to the north of Melanesia (the so-called "Asian Models") have been forced to accept, control over their land will have to be taken away from them.

In the name of "economic recovery", the World Bank's and International Monetary Fund's (hereafter WB/IMF) structural adjustment programmes (SAPs) for Papua New Guinea and other developing countries both mask and implement three main strategies for wrenching land from the control of the indigenous peoples who have traditionally controlled and looked after it. The first and short term strategy is to forcibly evict communities from land targeted for key development projects such as dams, plantations and mines. The second, medium term strategy is to offer schemes such as the World Bank's Land Mobilisation

Programme to induce people to give up control over their land in exchange for promises of "development". The long term strategy involves promotion of concepts of development (such as "cargo" development) that alienate the population, youth in particular, from the attitudes and work practices that are necessary for maintenance of a viable economic base on the land.

The market value of food and housing alone for a Melanesian extended family surviving on their land runs into millions of dollars, especially when the needs of coming generations are taken into account. Of course, the value of the land goes far beyond this to include fuel, water, inputs for money making activities, traditional medicines, etc. Even from a purely economic point of view, the land is worth much more to the people living on it than any company or bank could pay for it. However, "fair market price" for the land is determined not by the traditional inhabitants of the land, but by the "free market" which is not free at all, but instead controlled by the companies and banks who want control of the land. Under such a system, the companies and banks are guaranteed to win, since they set the prices and rules.

The record of the WB/IMF around the issue of land in other "developing" countries is not good. It is estimated that over the last decade the WB/IMF was directly responsible for forcing one and one half million people off their land to make way for bank "development projects" with millions more losing their land because of hardships brought about by the WB/IMF SAPs.

If Melanesians become landless, where will they get the food and shelter to survive? It is difficult to imagine how a landless family could survive on the minimum wage in any Melanesian country, if one of their members was lucky enough to find wage employment in the first place and if the WB/IMF doesn't abolish the minimum wage altogether in their quest to bring

Melanesian wages down to so-called "competitive" or Asian levels (\$1.20 per day in Indonesia). In Thailand, over 200,000 girls under the age of 10 have been forced into prostitution because of landlessness and the hardship caused for their families by SAPs. Thanks to WB/IMF policies, over 100,000,000 Asian children are subjected to slavely working conditions as child labourers and the number is growing. In other countries, millions of abandoned children live on the streets and are vulnerable to murder for the value of their organs on the international body parts market. Will the next generation of Melanesian parents be selling some of their children in order to buy food for the others?

Structural Adjustment and the Era of Recolonisation

Papua New Guinea, like most countries which have experienced colonial underdevelopment, counts two dates among the most significant in its history: 1975, the year of administrative independence, and 1989, the year when it could be said to have lost that independence, that is the year when it was forced to accept a SAP designed and implemented by advisors sent from WB/IMF joint headquarters in Washington.

As in almost all developing countries, Melanesian labour generates tremendous wealth for the world economy, but most of this wealth goes directly or indirectly to foreign interests and companies. Thus, Melanesian and other developing countries have found themselves short of money and have had to borrow money from international banks. If Melanesians were paid according to the true value of the products of their labour, there would be absolutely no shortage of money in any Melanesian economy.

The SAP was forced on PNG ostensibly because it was unable in 1989 to meet the payment schedule on its debts to the international banks. Before a nation is permitted

to renegotiate its debt, it is forced to accept an SAP and a team of WB/IMF advisors to "manage" its economy and "get its house in order". As in most of the 70-80 countries that have had to submit to SAPs over the past decade, the WB/IMF advisors and their SAP have NOT gotten PNG's house in order. Foreign debt has grown substantially since 1989 and now stands at well over \$US3 billion (approaching \$1,000 per capita). Debt service payments consume a quarter of the national budget. With the active encouragement of the WB/IMF, the debt is likely to double over the next several years.

It appears that the real intention of SAPs is not debt reduction or economic recovery, but re-establishment of a significant degree of administrative power by the old colonial masters over their former colonies. This policy has had disastrous consequences: UNICEF estimates that 500,000 children per year die in "developing" countries as a result of WB/IMF SAPs.

PNG's SAP has followed a typical pattern. An "Expand to Export Campaign" was initiated in 1990 to promote the establishment and expansion of plantations, at a time when world markets for cash crops are glutted and prices at all time lows, largely due to WB/IMF cash crop promotion in other countries. The currency was devalued by 10 percent in 1990, amounting in effect to a 10 percent pay cut for Papua New Guineans. The urban minimum wage was recently lowered from US\$36.00 to the rural minimum of US\$21.00 per week, while some talk of eliminating the minimum wage altogether. Traditional collective work practices are also being targeted, with promotion of production by nuclear rather than extended family units. Spending on social services has been slashed while spending on the military, police and prisons has increased substantially. These increases under the SAP sponsored "Law and Order Campaign" go hand in hand with repressive legislation passed since 1989.

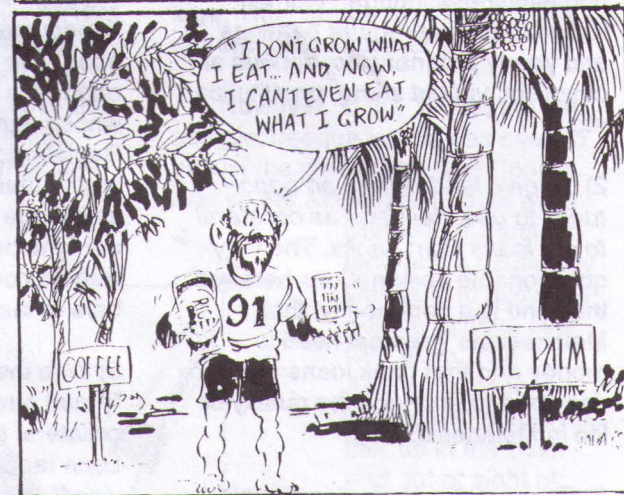
These include the death penalty, severe punishment for obstructing the operations of a company, a Vagrancy Act, and new provisions for national identity cards, road blocks, mobile squads to and police permission to stage public demonstrations. Meanwhile, legislation controlling foreign companies in PNG was largely dismantled.

The most salient recommendation of all World Bank missions to PNG, however, has always been the elimination or radical modification of traditional land tenure systems. As a result, the flagship programme of the World Bank in PNG has been the "Land Mobilisation Programme". As will be shown, the Land Mobilisation Programme is little more than a scheme to ready the legal system and population for massive expropriation of traditional lands.

"Land Mobilisation" and Enclosures of Land in Melanesia

Unlike most "developing" countries, Melanesian countries have not yet had most of their land incorporated into the Northern system of ownership. 97% of PNG's territory is divided into customarily demarcated areas, each of which is collectively held by an extended family group. Virtually every Papua New Guinean (over 95% of the population) enjoys this collectively based land tenure today.

Under traditional Melanesian land tenure, there is often no concept of "owner". Those who traditionally inhabit the land and exercise custodianship over it belong as much to the land as the land belongs to them. In most Melanesian languages, peoples' relationship to land is not normally expressed in terms of alienable



graphic from ...From the mountains to sea Teacher Guide, Melanesian Environment Foundation, Papua New Guinea

(Enclosed, commodifiable) possession, but in terms of an inalienable familial association. Instead of referring to themselves as "landowners", Melanesians traditionally refer to themselves as the children, siblings or parents of the ground. In the customary conceptual framework, it is as impossible to envision the buying or selling of land as it is to envision buying or selling of one's mother or child. But today many Melanesians, with the active encouragement of the World Bank and companies, are referring to themselves as "landowners", not realising that their uncritical acceptance of that name represents a major victory for the WB/IMF in its drive to enclose the consciousness of Melanesians around the commodification of their land.

As promoted by the WB/IMF, Land Mobilisation has three main aims:

1) To mobilise land for "development". This assumes that land in

Melanesia is not "developed" and that traditional land tenure somehow prevents this "development". But if development means to improve the quality of life, it can be argued that Melanesia has some of the best developed land in the world, with no homelessness, unemployment, hunger or criminality. To the contrary, it is in areas of Melanesia which have been "developed" by World Bank and company projects that we witness the first cases of homelessness, hunger, women forced to accept regular beatings and yearly pregnancies, serious alcoholism, violent crime, prostitution, etc.

2) *To give landowners an opportunity to use their land as collateral to get loans from banks.* The very questionable assumptions here are that land is a commodity, that Melanesians' greatest need is money and that bank loans are designed to enhance the quality of life in Melanesia.

3) *To protect a particular group's lands from encroachment by neighbours.* This assumes that Melanesians are their own worst enemies and that this programme will "save Melanesians from themselves". This logic is typical of what is becoming known as "cargo development". Promoted by agencies like the WB/IMF, "cargo development" is the dominant model of development in Melanesia today. "Cargodevelopment" involves the rejection by Melanesians of themselves, their culture and their resources as viable agents in the development process, accompanied by their uncritical acceptance of a version of "development" owned, operated, packaged and imported into the country by foreign companies and agencies.

The Land Mobilisation Programme is implemented through the various provincial land acts, which make provision for the registration of land. I will use the East Sepik Land Act as a point of reference. Land registration procedures entail the following:

1) First, the land is surveyed and boundaries delineated. In traditional Melanesian societies, some boundaries are fixed, some are fluid, some are contested and some zones are shared with neighbours. Shared and contested lands may not be registered, leaving the way open for these to be declared state property and taken over by companies.

2) The boundaries are then listed in the Land Register and one or a few "landowners" or "trustees" sign the book. The registration process thus opens the way for the individuals whose names are listed in the Land Register to act "on behalf" of the rest of their extended family and to sell usage rights or to sell the land outright for their personal gain, without consent from the other members of their family line.

3) With the land registered, the "proud new landowner" can use it as collateral to take out bank loans. Loan recipients are normally "advised" to use the money for economically unviable cash crop projects. In the almost inevitable case of default, control over the land must be ceded to the banks.

4) Under SAPs, a number of regressive taxes are usually imposed. However, without land registration, it is impossible to levy land taxes. If enough land is registered and land taxes are charged, land could be confiscated by the State from those unable to pay.

5) Land registration transfers control of land from the traditional democratic authority of local people to the absolute, centralised control of the Land Register. According to the East Sepik Land Act, the Land Register is under supervision of the Controller of Lands, who has discretionary power to change boundaries at any time.

Will the Lessons of the Past be Learned?

While other developing countries had to accept SAPs on faith because they were new,

Melanesian countries are only now being forced to accept these programmes, after the disastrous results from other countries have been made public and even acknowledged to some extent by the WB/IMF. It is clear from the way they are trying to implement SAPs in Melanesia that the WB/IMF has not learned from their past mistakes. Can Melanesia learn from the horrible cost in human life and suffering caused by SAPs in other countries?

Will the Melanesian countries allow the big banks and companies to transform their indigenous populations from relatively well housed, well fed and productively employed citizens into landless, homeless and underemployed wage slaves? Or will traditional Melanesian resourcefulness and humanity prevail and the developmental achievements of the ancestors be used as a solid foundation on which to build an alternative model of development that can compete with the WB/IMF cargo development model? If Melanesians have the courage to assert themselves in this way, they could become the world's teachers and humanity's guides in its quest to become human again, instead of becoming the world's latest coffee, timber, oil and gold plantation slaves and toxic waste dumping victims.

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Statistics have been gleaned from various media sources including the BBC World Service, Radio Australia, *The Guardian Weekly* and *The New Internationalist*. While precise numbers are hard to come by, the figures quoted are generally the most conservative estimates and those which have been reported in more than one source.

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And the Game Plays on...

by Margaret, of the Manly Warringah Aboriginal Support Group

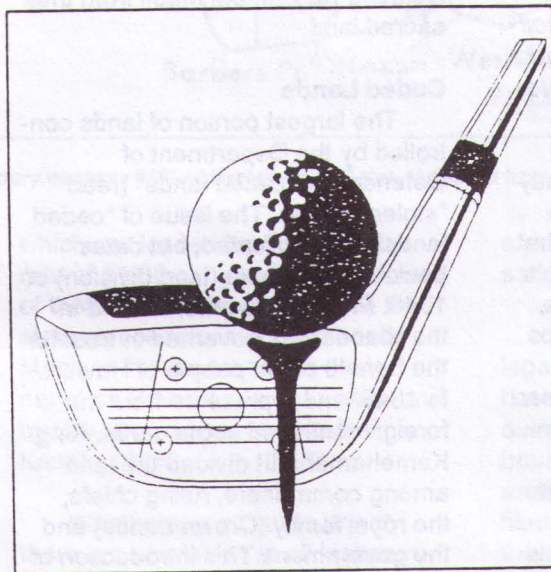
[The "Mabo" court decision in Australia, which affirmed the reality of native land title and rejected the concept of terra nullius, a long-prevailing legal fiction that Australia could be considered as if uninhabited prior to European arrival (thus negating any acceptance of traditional Aboriginal land rights), has generated considerable activity vis a vis land and Aboriginal rights over the past couple of years. After considerable debate and consultation, the Australian federal government passed a Native Title Bill in December. While setting strong limits on Aboriginal land rights, the bill represents a potentially significant change in Australia's relationship with its Aboriginal peoples. This has not gone without opposition from some quarters, including several state governments. The government of Western Australia has already passed its own legislation to extinguish the Aboriginal land rights so recently recognised in the court decision. This short article from the newsletter of the Manly Warringah Aboriginal Support Group provides one small example of the effects which denial of Aboriginal land rights has had. It also provides an example of an issue of increasing concern to indigenous peoples throughout the Pacific, the increasingly frequent dispossession of indigenous peoples from their land to make way for golf courses, tourist developments and other such projects meant primarily to serve the interests of outsiders.]

I suppose it's fairly obvious to everyone that golf is now more than just a game - it's a God! Everything - beast, bird, tree and human - falls beneath its appetite. Take the story of Stuart Island for example.

If you happen to drive up the north coast, turn in to the right when

you come to the signpost for Nambucca Heads. You will notice that you are driving beside the beautiful Nambucca River. Turn right, down into Bellwood Park, and drive across the causeway that links Stuart Island to the main town.

You are now faced with a hideous Golf Club complete with a large tarred area of car park. Get out and look around. You will see that the island is just about covered by a golf course. (There is a little piece given over to boat ramps and sheds.)



Now the Nambucca River is lovely so turn away from the Golf Club and walk along the edge of the course by the river. You will have to walk by the very edge because the course takes up all the land. Right down at the very end of the course you will notice a large flat-topped mound of earth, rather like a teeing off spot. But if you go closer to look, you will see that there is a chain around this mound and one notice proclaiming it "out of bounds" to golfers and another stating the interesting information that this is a burial mound.

It is in fact the burial mound of the ancestors of the local Aboriginal people. These people lost a lot of their land during the mid-1800s. They were, however, given Stuart Island as their reserve in the 1880s. The people lived on the island as a community. They ran a school and grew vegetables around their village. They buried their dead in the aforementioned burial site.

However, in the 1950s, the flat and picturesque island was seen to be just the place for a Golf Course. And so the Aboriginal people were

pushed off Stuart Island and a causeway was built to allow the golfers to drive over with ease. The Aboriginal people were given a spot further up in the bush - well out of sight of golfers and tourists - along the Bellwood Creek - where many still live today.

The burial mound was used as a good tee-off spot for a long time... until a few local Aborigines insisted on the chain and notice. Nambucca Golf Club now owns most of the

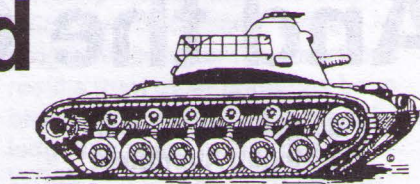
island - whereas they only leased it before.

So if you feel like a game of golf, why not go to Nambucca Island Golf Course and play... while you are being watched by the spirits of those long dispossessed.

P.S. The local Aboriginal people did lodge a Land Rights Claim to Stuart Island under State laws, but it was rejected.

[Reprinted from *Elimatta*, Summer-Autumn/94]

The Military and Land Alienation in Hawai'i



by Judy Lee Rohrer

(From a report "Hawaii and the Military: The Conflict Over Land" prepared by Ms. Rohrer in 1987 for the Hawai'i office of the American Friends Service Committee. Ms. Rohrer now works for the Central Coordinating Committee for Conscientious Objectors in San Francisco. This version was edited and updated by Roger MacPherson Furrer, Program Coordinator for AFSC-Hawai'i.)

(Language Note: Na Kanaka Maoli - plural for Native Hawaiians; Kanaka Maoli - singular or adjective for Native Hawaiian.)

Residents of Hawai'i frequently grow so accustomed to the huge military presence in the islands that they tend not to notice it. Often it is a visitor who will comment on the large number of freeway off-ramps marked with the name of one military installation or another: Pearl Harbour, Wheeler AFB, Hickham AFB. The freeways themselves were planned primarily to facilitate transportation from one base to another. A prime example of this is the new H3 freeway linking Kane'ohe Marine Corp Air Station with Pearl Harbour, a project so destructive of the environment and Kanaka Maoli cultural and religious sites that it required an act of Congress exempting it from the necessary environmental impact studies.

Regardless, the presence of the military in Hawai'i is both incapable and destructive. The military has claimed to own an estimated 272,000 acres of land in Hawai'i¹, roughly ten percent of the state, making Hawai'i "the most densely militarized state in the nation".² The Department of Defense maintains that these holdings are

required for military use and that there are no "surplus" or under-utilized military lands in Hawai'i. By contrast, the Hawai'i State Senate found that "substantial amounts of military lands appear to be unused, under-used, or held in reserve for national defense contingency plans."³

Disputes over use and accounting aside, what is clear is that military land holdings in Hawai'i represent a consistent policy of isolating Na Kanaka Maoli from their sacred land.

Ceded Lands

The largest portion of lands controlled by the Department of Defense are "ceded lands" (read "stolen" lands). The issue of "ceded lands" is complicated, but dates back to the Mahele (land division) of 1848. Prior to this time, all land in the islands was governed in trust for the benefit of the people of Hawai'i. In 1848, under pressure from the foreign controlled sugar cartel, King Kamehameha III divided the land among commoners, ruling chiefs, the royal family (Crown Lands) and the government. This introduction of the foreign concept of private land ownership paved the way for sugar companies to amass vast tracts of land and dispossess up to 90 percent of Na Kanaka Maoli of their land. In 1893, when Queen Lili'uokalani was illegally overthrown by foreign business men in collusion with U.S. Marines, all Crown and government lands were designated by the Provisional Government as "public lands". Five years later, upon annexation of Hawai'i by the United States, these "public lands" were turned over to the federal government and designated as "ceded lands".⁴

When the territory became a state in 1959, the federal government relinquished title of ceded lands to the state with the exception of 400,000 acres retained under federal control. Section 5 of Hawai'i's Admission Act required the state to hold the ceded lands "as a public trust for...public educational institutions, for the betterment of the conditions of native Hawaiians...for the development of [native Hawaiian] farm and home ownership improvements, and for the provision of lands for public use."

Despite this hopeful language, Hawai'i's ceded lands have not been used this way. A 1979 audit of the Department of Land and Natural Resources found that the state has failed to earmark revenues and income from ceded lands. To date, a majority of lands set aside as "Hawaiian Home Lands", for the exclusive use by Hawaiians of 50 percent blood quantum or greater (a divisive act in and of itself), are being used by resort developments, private corporations and the military.

Of the 400,000 acres of ceded lands kept by the federal government upon statehood, 220,000 are currently administered as national parks, 60,000 are located in military installations and 120,000 are controlled by the Department of Defense. A 1963 act of Congress provides for return of these lands to the state whenever they "are determined to be surplus property by the Administrator of General Services with the concurrence of the head of the department or agency exercising administration or control over such lands" (Public Law No 88-233). The ambiguities in this law and the standard practice of offering land declared as surplus to other federal agencies has resulted in only a

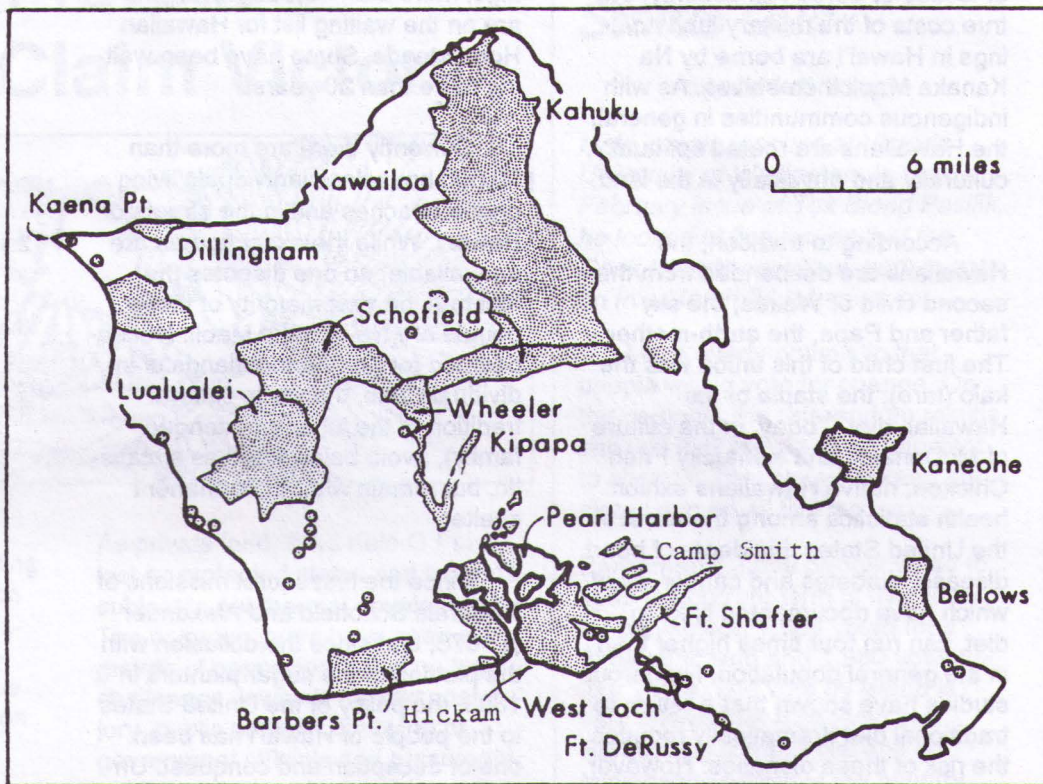
handful of acres actually being converted from federal use.

The case of Bellows Air Force Station is a good example. Situated in the largely native Hawaiian community of Waimanalo, on the Windward side of O'ahu, Bellows consists of 1,495 acres, 97% of which are ceded lands. These lands are used primarily for rest and recreation activities as well as occasional communications and training exercises (which, by the military's own admission, could be performed elsewhere). Despite sustained efforts on the part of Kanaka Maoli activists and members of the Hawai'i Congressional delegation to have the land returned to Hawaiian use, in April of 1994 the Air Force proposed expanded training use and the simultaneous development of military housing on the site (two seemingly incompatible uses, especially on lands held as culturally significant and religiously sacred by Na Kanaka Maoli).

Another way ceded lands (and other State lands) have been lost has been through executive orders signed by Presidents of the United States. More than 200 executive orders have turned over various parcels of land to various divisions of the armed services. Often transactions of dubious legality, the most infamous of the E.O.s was the 1953 designation of the entire island of Kaho'olawe (sacred to the god Kanaloa) as a practice bombing and shelling site. Dealing just with Hawaiian Home Lands, a 1983 Federal-State Task Force concluded that more than 13,580 acres had been improperly withdrawn through executive orders.

Leased Lands

Another highly complex area of contention is land that the military claims from the state in fee-simple. Approximately 90,000 acres are currently leased, more than 30,000 of



The military controls 25% of the island of Oahu. (Adapted from the Hawaii Observer)

which are leased for 65 years at a rate of \$1.00 per year. At least some of these leases were forced on the state as conditions of Statehood. Much of this land was (is) designated as Hawaiian Home Lands and by law should be leased to Na Kanaka Maoli.

Whether ceded lands or not, there are provisions in all leases requiring that land be returned to the leaser in original condition. However, the reality can be seen in lands owned by the Kamaka family in Waikane Valley. Leased in 1942 as an artillery training site, the U.S. Marines determined in 1988 that they were incapable of clearing the land of unexploded ordinance. The Kamaka family was offered \$735,000 for 187 acres. When the family refused the offer because the purchase price was below market value, the military replied that the land could not be sold at market value because of the activities that had taken place on it. In 1993 the Marines completed condemnation procedures on the land, seizing it as

a public hazard and without compensation to the owners.

Despite being of questionable legality, condemnation procedures have been used by the military to acquire prime lands around Pearl Harbour, Lualualei, Kane'ohe and other areas. Numerous suits have been filed by private citizens to prevent the taking of lands or to obtain adequate compensation, but these have met with limited success and can drag on for years at great expense. To date, large corporate landowners have met with the most success in defending their land rights against the military.

Equally interesting have been observations by Congressman Neil Abercrombie. In February he noted that, of the two types of military lands in Hawai'i, "ceded" and "fee-simple", it is only those which the military claims to control on a "fee-simple" basis that are even being considered for return to civilian use.⁵

Regardless of legality, propriety or issues of perceived security, the true costs of the military land holdings in Hawai'i are borne by Na Kanaka Maoli themselves. As with indigenous communities in general, the Hawaiians are rooted spiritually, culturally and physically in the land.

According to tradition, the Hawaiians are descended from the second child of Wakea, the sky-father and Papa, the earth-mother. The first child of this union was the kalo (taro), the staple of the Hawaiian diet. Today, in the culture of McDonalds and Kentucky Fried Chicken, native Hawaiians exhibit health statistics among the worst in the United States. Incidents of heart disease, diabetes and cancer, all of which have documented links to diet, can run four times higher than in the general population. Numerous studies have shown that a return to traditional diet dramatically reduces the risk of these diseases. However, without access to the land and the sea, this lifesaving diet remains elusive to the majority of Hawaiians.

Despite thousands of undeveloped acres of Hawaiian Home Lands and others diverted into

resort development and military holdings, more than 18,000 Hawaiians are on the waiting list for Hawaiian Homesteads. Some have been waiting more than 30 years.

Currently there are more than 20,000 houseless individuals living on the beaches and in the streets of Hawai'i. While the exact figures are unavailable, no one disputes the fact that the vast majority of these people are Na Kanaka Maoli. Not accounted for are the thousands of individuals who, thanks to cultural tradition of the 'ohana (extended family), avoid being listed as a statistic, but remain without permanent shelter.

Since the first secret missions of Generals Schofield and Alexander in 1873, and since the collusion with the plotting of the sugar planters in 1893, the policy of the United States to the people of Hawai'i has been one of deception and conquest. Unless immediate steps are taken to secure access to the land and the rights of self determination for Na Kanaka Maoli, the end result is almost surely genocide.

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1. Based on the 1987 report on military lands done by the Senate Committee on Military and Civil Defense. This figure includes the island of Kaho'olawe and Barbers Point Air Station, both being transferred to State ownership. State of Hawai'i figures at the time estimated military holdings to be somewhat larger.
2. Ian Lind, "Ring of Steel: Notes on the Militarization of Hawaii", in *Social Process in Hawaii*, 1984, p 24.
3. Senate Concurrent Resolution No. 6. the Senate Ninth Legislature, 1977.
4. In a report on Native Hawaiian Land Claims commissioned by U.S. Senator Daniel Inouye, the U.S. Library of Congress determined: "It could thus be argued that when Hawaii joined the U.S. and ceded the government and crown lands of the Hawaiian people to the U.S., it did so without consent (and possibly against the will) of the native population, who...found themselves without title to the ancestral lands on which they had lived and which they had used from time immemorial."
5. Congressman Neil Abercrombie in a public debate, "Economic Conversion: the Future of Hawai'i's Military Bases", Leeward Community College, Pearl City, Hawai'i, February 23, 1994.

Pacific Pen-Friend Wanted!!



My name is Linnhe Catlow. I am 16 years old and I would like a pen-friend in the Pacific Islands (Age is not important).

I can speak English and French, so please write to me for a lot of fun!

Linnhe Catlow
Low Grove House
Stockghyll Lane
Ambleside
CUMBRIA, LA22 9LG
GREAT BRITAIN

...available from the SPPF
Resource Centre

ACT OF WAR: THE OVERTHROW OF THE HAWAIIAN NATION



A one-hour video (VHS/NTSC) presentation of the events surrounding the overthrow of the Kingdom of Hawai'i in 1983.

Produced by Na Maka o ka Aina, Honolulu in association with the Center for Hawaiian Studies, University of Hawai'i at Manoa.

Hawai'i Rainforest Defenders Claim Victory

Opponents to geothermal energy projects on the island of Hawai'i were celebrating in March, following the announcement that one of the companies involved was ceasing operations. True Geothermal Energy Company announced that it was abandoning efforts to generate geothermal power due to "marketing problems". Geothermal projects on Hawai'i have been the target of extensive local and international opposition, including local indigenous Hawaiians and rainforest protection groups.

The geothermal energy projects are located on the slope of the Kilauea volcano, in a geologically volatile area. They are also located in the Wao Kele O Puna rainforest. Wao Kele O Puna is a World Heritage Ecosystem and home to many species unique to Hawai'i. The area also has significance for Native Hawaiians in the practice of their traditional religious, cultural and subsistence activities. Opposition to the geothermal energy projects centred on concerns about negative impacts on the rainforest, as well as concerns about public health and safety due to leaks of hydrogen sulfide gas from the generating facilities.

The State Government of Hawai'i has been promoting geothermal energy development as a joint government-private sector partnership, with the goal of generating up to 500 megawatts of electricity for export from the island of Hawai'i to O'ahu. In 1985, the Wao Kele O Puna rainforest was designated by the state government as a "geothermal resource subzone" and was swapped with other land to remove it from protected public lands status.



Pele Defense Fund

As private land, Wao Kele O Puna lost its protected status and became subject to geothermal development. The ensuing years have seen a growth of opposition including legal challenges, lawsuits for personal injury, public protests, lobbying of government officials and grassroots public education. A recent lawsuit has sought a halt on further government involvement in the geothermal generation and power transmission projects until an environmental impact statement has been completed.

With the halt to True Geothermal's activities, the focus now shifts to the other company still active in geothermal generation, Puna Geothermal Venture. Geothermal opponents are also seeking: a return of Wao Kele O Puna to protected status; a government commitment to abandon the 500 megawatt geothermal generation/transmission project; proper plugging and abandonment of the wells drilled by True Geothermal; and complete reforestation of all areas denuded by the project.

For further information contact:
Big Island Rainforest Action Group
P.O. Box 341
Kurtistown, HI 96760
U.S.A.

[From: Information and press releases from the Big Island Rainforest Action Group; April 1994 Action Alert of the Rainforest Action Network]

Cooks Vote for Status Quo

by Makiuti Tongia

Maki Tongia teaches at Victoria University of Wellington. In the February issue of Tok Blong Pasifik, he looked at five issues that the Cook Islands populace were to vote on in a March 24 referendum.

I was overly optimistic that people would vote for change. On the contrary, the referendum results showed that people were reluctant to change. They voted to keep the status quo on all five issues.

Parliament: 2,559 people voted to keep the current term of five years for parliament. 1,586 voted for a three year term and 1,980 voted for four years. The vote by island is very interesting. It showed that Rarotonga, commercial and administrative centre of the country, was ready for change. Half the Cook Islands population of 19,000 reside on Rarotonga. 1,400 voted to have a four year term, 1,347 voted for a return to the three year term and 1,353 voted to keep the five year term. In the outer islands, the story was quite different. All except Rakahanga, which voted for the four year term, voted in favour of keeping the five year term. Only 33% of Rarotonga voters voted to keep the five year term. In contrast, 60% of outer islands voters stayed with it.

Flag: Four islands - Atiu, Pukapuka, Mitiaro and Mauke - voted to change the current flag to the old green flag. I found this rather interesting. Except for the island of Atiu, all the others are strongholds of the Cook Islands Party, the sponsor of the green flag. The two important variables at work here are political affiliation and ethnics. Atiu is not a Cook Islands Party stronghold, but would have voted on changing the current flag because of its association with Rarotonga. The latter voted overwhelmingly in favour of the current flag. Overall the vote was very close at 48% to 44%.

...continued on page 34

Land and Women in the Pacific

by Peggy Fairbairn-Dunlop

Peggy Fairbairn-Dunlop is Head of Social Sciences at the University of the South Pacific's School of Agriculture in Apia, Western Samoa.

A major factor regarding land in the Pacific is that, in most countries, up to 80 percent of the land is still held in customary tenure. So unlike other developing nations, there are in theory no peasant farmers in the Pacific. Most people have access to land through their kinship groups. The family is still the main unit of production. In Melanesia, women are largely responsible for food security. In Polynesia, it is men who are generally the farmers.

Within this broad picture, variations in practices regarding access to land and women's rights to access land exist throughout the region. Furthermore, cultural and social sanctions impact upon women's ability to exercise their right to land. For example, in Western Samoa women have equal rights with their brothers to family land held in customary tenure. However, social norms make it unlikely that women will apply to the family or village council of chiefs for land because of

cultural ideology that brothers should look after their sisters and protect their interests; thus, sisters should not 'need' to access land or do agricultural tasks.

About 10 percent of the population of the Pacific traditionally followed a matrilineal principle for transmission of land rights. This included most of Micronesia (except Kiribati) and pockets of coastal Melanesia. On the mainland of New Guinea, where the majority of Melanesians live, all cultures gave priority to males in transmission and management of land. But even where land rights were transmitted through women, it was usually from males to males through females. Management of land was predominantly a matter for men. The Christian faith, with its heavy emphasis on the dominant role of fathers, and colonial governments, all from cultures which gave strong priority to land as a matter for men, reduced the role of women in land matters in those places which traced land rights through the female line (Crocombe 1993).

Despite the fact that land is theoretically held in customary tenure and hence belongs to

'families', individualisation of landholding (eg. by families passing on land to their children) has increased in most countries, though this is not acknowledged in formalised legal processes. The trend for individualisation is associated with planting of long-term tree crops, permanent concrete dwellings and other long-term improvements to land. These signify 'ownership', whether people are in the country or not (hence the large tracts of unused or underused land which can be seen in any Samoan village). In most countries, population growth is bringing pressure on land (eg. Tonga). Hence, many governments are examining ways of freeing up customary land lying idle (eg. through long term leases) for use by those needing land.

There are national differences regarding the extent of enactment of formalised laws regarding land holding and the impact of this on women. For example, in Tonga the enacting of formal laws regarding land worked against women, whereas in the Cook Islands (see below), the endurance of customary ways has enabled women to exercise land rights. Title to land is tied to the issue of accessing loans for improvements, etc., and hence has implications for women's access to and use of resources.

In "Trends and Issues in Pacific Land Tenures" (unpublished paper - 1992), Ron Crocombe writes that there has been a reduction of differences in land rights based on gender. He writes that, in most parts of the Pacific, the gap between male and female has been reduced, and in some cases virtually disappeared, but the variation is extreme. Equality of the sexes in relation to land is closest in the east (French Polynesia and the Cook Islands) and north (Hawaii and Guam) and furthest away in Papua New Guinea, Irian Jaya and Tonga. Crocombe links this movement to education, adding that the process

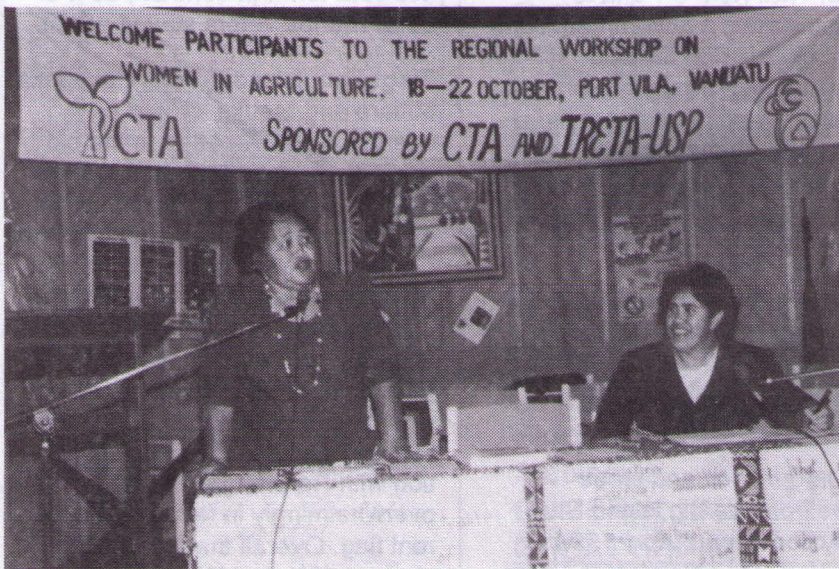


photo courtesy of Peggy Fairbairn-Dunlop

Patevaline Ainuu, Secretary of the National Council of Women, Western Samoa presenting at the recent Women in Agriculture workshop in Port Vila

is likely to be quite slow in the pidgin-speaking nations (PNG, Solomon Islands and Vanuatu), where the proportion of females receiving higher education is very low (about 15 percent) and where mobility of women is relatively restricted. The slow growth of acceptance of women as chiefs over the past one hundred and fifty years has implications for the power of women in relation to land.

Cook Islands: A Trend Towards Equality

Crocombe writes: "When I first went to live in Rarotonga in 1951, land was not a matter for women except in very special circumstances. Meetings to discuss land matters were called by the senior man of the extended family concerned. The people appearing before the Land Court to make claims for registration or to resolve disputes or to formalise transactions were overwhelmingly men. The only persons who appeared for others as reps in land matters were men.... By 1991, meetings in the Cook Islands to discuss land matters seem to be arranged and managed by women more often than men, and women appear more frequently before the Lands Court to give evidence, make claims and formalise transactions.... women as well as men appear as reps in land cases. There was no particular turning point... but a slow progression built on such factors as the technology-driven changes in world ethos, the liberation of women from home through labour-saving devices, the equalisation of educational levels of the sexes, and the increasing number of households which are effectively headed by women. The changes have taken place fastest in Rarotonga, the capital, and less rapidly on more isolated islands."

Crocombe adds that the most important point about the radical changes in relation to gender and land in Rarotonga is that there was no change in law, no change in policy, no activism, in fact very little awareness of the incremental changes taking place over time. Cook Islands' land law says that land matters must be determined according



photo by Hewitt Roberts

Woman working in terraced sweet potato fields in the south Ballem Valley, West Papua

to Cook Islands Custom, which has never been defined. Thus it can respond to actual behaviour more flexibly than systems which are more restricted by formalised definitions of culture at a particular point of time in the past or by legislation of whatever origin. Similar changes in relation to gender are apparent in Hawaii, New Zealand, Guam and French Polynesia.

Tonga: Legislating Against Land Rights

On the other hand, the status of women in relation to land in Tonga is worse than two hundred years ago. In pre-European times, women's status regarding land was at its highest. However, legislation enacted in the last century has restricted land rights to men. (There is a minor exception for land use by widows.) Thus, women's rights are denied by statute, unlike the general pattern in the Pacific where such restrictions are not usually defined by law.

Samoa: Harder Today for Women to Obtain Land

In Samoa, both male and female are entitled in theory to land which comes under their family title. Lauulu Fetauimolemau (personal communication in 1987) writes that, in the old days, it was relatively easy in Samoa for women to get

land, particularly for a development project. But these days, it is much harder. Women apply and wait for the council to decide. Often they are turned down. The trend towards 'group' vegetable and income-generation projects in Samoa rather than 'individual' projects was necessitated by the inability of women to access land for these ventures. Land for group projects, for a community purpose, was more easily gained, hence the group project. This constraint has implications for project sustainability because the life of group projects is very limited (due to motivational problems related to difficulties about who does the work and who reaps the rewards).

One reason for this constraint on women's access to land is the increasing pressure today for land. A further reason is that lands under crops now signify ownership.

Papua New Guinea: Projects Discriminate Against Women

In countries where large plantation agriculture has been developed (eg. PNG, Solomon Islands), women have been disadvantaged, for example by pushing land available for family cash cropping further from the village centre or through

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Guam

Land Alienation Under Colonial Rule

by Mark C. Charfauros

Mark Charfauros is a member of the Chamoru Nation and activist for Chamoru rights.

For over 400 years, Guam and its native Chamoru people have been subjugated by foreign nations. Guam continues to be ruled under a colonial system denounced even by the United Nations. To understand Guam's quest for self-determination and the struggle of Chamorus to have their ancestral lands returned by the United States of America, one must understand their struggle from its beginnings.

The first invaders came in 1521 when Ferdinand Magellan, lost with a starving and sickly crew, stumbled upon Guam. The Chamorus nursed, fed and housed their guests, as was the custom of these peace-loving islanders. When the guests had regained their strength and replenished their supplies, a few Chamorus boarded Magellan's ship and took several items of metal such as nails and hammers. The Chamorus did this in fair trade for what Magellan and his crew had received. Magellan was furious. In retaliation, he and his crew burned homes and canoes and killed several men, women and children.

During the occupation that followed, the Chamorus resisted Christianity and the Spaniards' view of how they should act, speak and think. As a result of this refusal to accept Spain as their master, Spain initiated genocidal actions. The Chamorus put up an honourable fight, but were no match for Spanish cannons and guns. Chamorus were slaughtered throughout the Mariana Islands (the chain of islands which includes Guam). In less than 75 years, their population of over 100,000 was reduced to less than 4,000. Survivors were brought back

to Guam to be Christianised and indoctrinated into a Spanish way of life. Despite the Spaniards' victory in war, Chamorus never considered themselves as Spanish nor did they replace their native language with that of their invaders.

In 1898, as a result of the Spanish-American War, Guam was ceded to the United States. Guam was placed under US Navy administration. The first Administration sought out land known as crown properties, properties that were deeded to Spain. Any property not deeded to Spain was considered private property and could not legally be occupied by the US government due to their Constitution. The Administration soon discovered that Spain had instituted a well documented private land ownership system and that the only crown properties available were a few government buildings. Since the US Navy's primary mission was to establish a formidable presence, something had to be done to acquire lands needed for military facilities. The Chamorus were told that a new tax system was needed to pay for schools, roads and infrastructure. The Navy established a court system whereby a navy officer was appointed judge and jury by the commanding officer on Guam. Any appeals were heard and final judgment rendered by the same commanding officer. The tax system was structured so that a Chamoru whose land was needed for military purposes could not afford to pay. This resulted in large tracts of lands being seized by the Navy and subsequently used for the building of military bases. Chamorus who protested were ignored, forcefully removed from their homes or jailed for breaking the law. This practice continued until the 1941 invasion of Guam by Japan.

The Japanese occupation marked a grim day for Chamorus, who were again forced into a new set of rules and laws they had to obey in order to survive. Chamoru men, women and children were beaten, raped and murdered by Japanese forces, primarily because their former colonisers, the Americans, were Japan's enemy. On July 21, 1944, the United States invaded and reoccupied the island. Guam was turned into a major supply depot for US Forces in the Western Pacific. Large tracts of land were again taken from the Chamoru people to facilitate this massive military build-up. After World War II, the US military had more than tripled its land takings since its initial occupation of Guam in 1898.

Due to the occupation of Chamoru lands by US forces, the fact that the Chamoru people were not citizens of the United States became an issue in Washington. The options available in order to legitimise US actions were to purchase the lands, lease the lands, or make Chamorus US citizens and condemn the lands. The US Congress did not like the first two options, nor did it agree that Guam should become a state. A fourth option was chosen, to make Chamorus second class citizens and proceed with land expropriations. This was accomplished on August 1, 1950, when the US Congress passed the Organic Act of Guam. This Act was written without any input by the Chamoru people and remains in effect as the governing document for Guam. The Act views the Chamoru people as citizens when it benefits the US and as foreigners when it does not benefit the US. Guam is viewed as part of the US when it comes to expropriations of Chamoru homelands and not part of the US when it comes to allowing Chamorus to have full Constitutional rights.

Shortly after the war, the US military undertook a campaign of deception and coercion to obtain property deeds. Deceptive tactics included having Chamorus sign documents that they claimed were for payments for crops destroyed by US bombings or leave from work forms that were really deeds to their lands. This was possible because many Chamorus then could not read or write. Others were coerced at gun point, some told to sign because they will lose their lands anyway, while others were simply uprooted and moved off their properties. Rather than address these injustices, the federal government in the 1980s basically said: Here's 39 million dollars, take it or leave it, but all lands taken are now legal properties of the federal government.

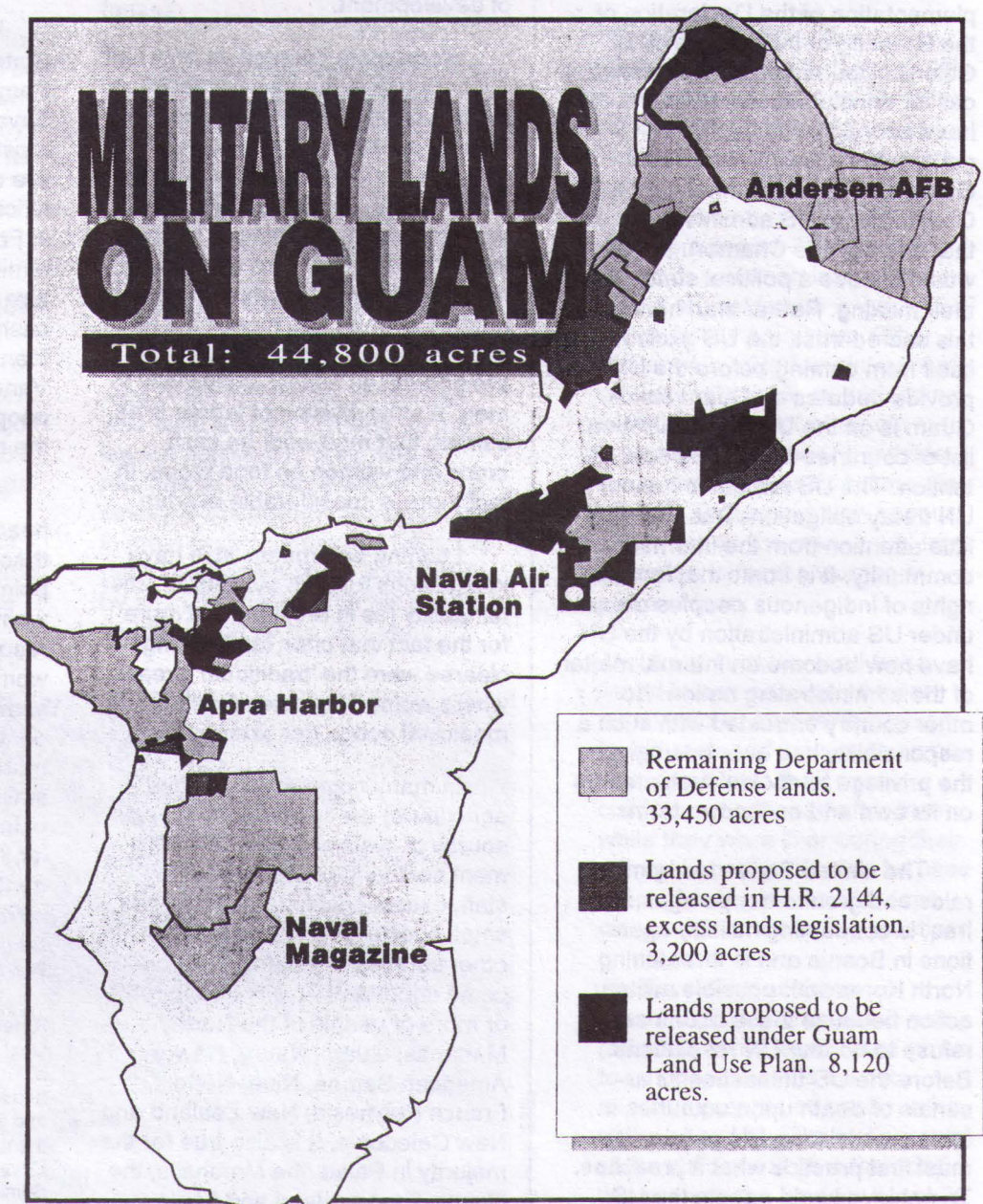
In the late 1970s, the military identified over 3,000 acres of land as being excess, but refused to consider returning any of it to the Chamoru families who were the original owners. The policy is to deny the Chamoru people control of their ancestral homelands. The U.S. government believes that, by denying Chamorus control of their homeland, they will maintain their colonial stronghold over Guam.

With the downfall of the USSR and downsizing of the US military, additional lands have been identified as no longer needed by the military. This could expedite the return of ancestral lands, but unfortunately it is far from reality. Several US federal agencies and non-profit organisations are given primary consideration for these lands. For example, the US Fish and Wildlife Service wants 22,000 acres (20% of Guam's total land mass) for a wildlife refuge. A US non-profit organisation wants land to build a shelter for homeless individuals from the continental US. The US government can

no longer justify occupying large tracts of Chamoru homelands based on military reasons, so a transfer of lands to other federal agencies and US-based organisations seems to be their answer to continued colonial rule.

Chamorus are still fighting the US government for return of their ancestral lands. Arrogant military commanders, by a simple stroke of their pen, take control of property with the full backing of military force. A case

in point is a public roadway identified as route 3A in northern Guam. The commander of Andersen Air Force Base declared 3A off limits to the public and installed a gate and armed guard. This takeover went on for years until several Chamorus, including myself, defied the takeover and dared to walk on this public roadway. We were confronted by a large military contingent and arrested for trespassing. Due to the high media profile of this confrontation, the Air Force backed off and



Source: Department of Defense Preliminary Guam Land Use Plan 1994

removed its sentry. Now the US Navy, again through simple proclamation, has laid claim to the roadway and arrests have been made. Criminal proceedings against a Chamoru nationalist arrested for defying this military takeover are pending.

The US continues to defy United Nations resolutions relating to self determination of the Chamoru people. Chapter VI of the United Nations Charter, the Declaration of the Granting of Independence to Colonial Countries and Peoples, and the Plan of Action for the Implementation of the Declaration of the Granting of Independence to Colonial Countries and Peoples all call for decolonisation of Guam. All have been ignored by the US government. The UN entrusted Guam and its native inhabitants, the Chamorus, to US administration so that one day the Chamoru people would choose a political status of their making. Rather than honour this sacred trust, the US excludes itself from coming before the UN to provide updates on Guam status. Guam is on the UN decolonisation list of countries needing special attention. The US refusal to honour its UN treaty obligations has received little attention from the international community. It is ironic that human rights of indigenous peoples placed under US administration by the UN have now become an internal matter of the administering nation. No other country entrusted with such a responsibility has ever been given the privilege to decide such matters on its own and on its own terms.

The United States led bombing raids and ground troops against Iraq, is conducting military operations in Bosnia and is threatening North Korea with possible military action because these countries refuse to honour UN resolutions. Before the US unleashes its arsenals of death upon countries it feels are violating UN policies it must first practice what it preaches. To achieve world peace, the US must first change its "DO AS I SAY NOT AS I DO" doctrine.

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'worse' lands being allocated for food cropping purposes.

Elizabeth Cox has written extensively about women in rural resettlement schemes instituted by the PNG government to organise agricultural production. In these projects, a "male-dominated bureaucracy controls the delivery of necessary services". Cox writes that the consequence is marginalisation of women's work, needs and interests in the day to day management of development.

Women are counted as only half a labour unit in the standard scoring system on application forms for settlement schemes. The ideal settler group is a nuclear family with a high labour count, i.e. many men. Women are disadvantaged in applying for land in their own right. Rural households are presumed to be headed by men and most if not all rural extension and social services are addressed almost exclusively to men. A strict division of labour is assumed, that men work on cash crops and women on food crops. In fact there is considerable overlap.

Logging enterprises also have implications for land availability, sustainability (as in erosion), but more for the fact that often lands being cleared were the 'traditional' areas where women collected foods and medicinal goods (for example).

In many countries, land (and agriculture) are no longer the major source of livelihood. Large government sectors (teachers, medical staff, extension workers), churches, small businesses, pensions and other sources of income have become important. This is true for 90% or more of people of the Northern Marianas, Guam, Nauru, Hawai'i, American Samoa, Niue, Norfolk, French Polynesia, New Zealand and New Caledonia. It is also true for the majority in Palau, the Marshalls, the Cocos, Easter Island and Fiji.

The recent introduction of industrial investment incentives in some countries, encouraging overseas companies to introduce factories such as the Yazaki factory in Samoa and the garment factories in Fiji, also points to alternative income generation possibilities directed mainly at women (and exploiting female labour?).



However, for the Federated States of Micronesia, Western Samoa, Tonga, Tokelau, Pitcairn, Tuvalu, and Wallis and Futuna, most of the indigenous people do live on their land and derive a significant part of their livelihood from it. For example, 70% of Samoan families are dependent on agriculture for food security as well as cash earnings. In countries such as Irian Jaya, PNG, Solomon Islands, Vanuatu and Kiribati, the majority of people rely on the land and water as the main direct sources of livelihood.

The rising incidence of women headed households, and the way these are associated with poverty, points to the need for access by women to land and associated resources. The large numbers of women involved in informal sector activities, many of which are dependent on access to land (such as market vending of produce, food stalls, handcraft production) again points to the need for access to land. While positive trends are evident in some countries, the issue of women's land rights and access to land remains critical in much of the Pacific.

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"Land Ownership" in Kiribati

by Temawa Taniera

Temawa Taniera is a research officer with the Kiribati-based Atoll Research Programme of the University of the South Pacific.

Land is valuable in Kiribati; it is the basis of subsistence life. It also has social and political significance. It indicates wealth, prestige and social security. This attitude was particularly observed in the chiefly societies of central and northern Kiribati. Land was an underlying factor in all levels of warfare prior to the arrival of the British colonial government. Fighting might be caused by one party wishing to consolidate its land-holdings, while another defended its rights.

Traditional Land Ownership

The main social group in Kiribati society was the *kaainga*, a small group of extended families (*utu*) related through a common ancestor. *Te kaainga* was originally the major land-holding group. The twenty to a hundred members of each *kaainga* shared a piece of land on which member families built their homes, forming a *kaainga* hamlet. This land was further sub-divided into lands held collectively by brothers and those held by individuals, except in

northern Kiribati where land was never individually owned.

I-Kiribati (nationals of Kiribati) held various rights to lands, *babai* pits (a variety of taro), fish traps and fishing areas by virtue of their membership in a particular *kaainga* or *utu*. Where property was distributed outside the *kaainga*, this usually involved the creation of new relationships either through marriage, adoption or as compensation for offenses.

Te utu whose land lay adjacent to the reef had exclusive rights over the resources of the area, including the right to distribute flotsam and to regulate access of others to the area. At lagoon-side, ownership rights also extended over the reef. Infringement of sea rights, like land rights, could be punished by death. *Te kaainga* no longer have legal rights over the lagoon. However, the right of the individuals or *kaainga* who build a stone fish trap on the lagoon adjacent to their land is recognised and access is confined strictly to the builders' kinsmen, who in most cases contributed labour to the trap's construction. A trap built by an individual is, after his death, jointly owned by his children.

Acquisition of Land

Both men and women could inherit land rights and from both parents. In most cases, the eldest son got the largest portion of land, but there were exceptions such as neglect of his parents in their old age by the eldest son. In this case, the best land and the family home would go to a junior member of the family. When a person died without children, his nearest kin would inherit his lands.

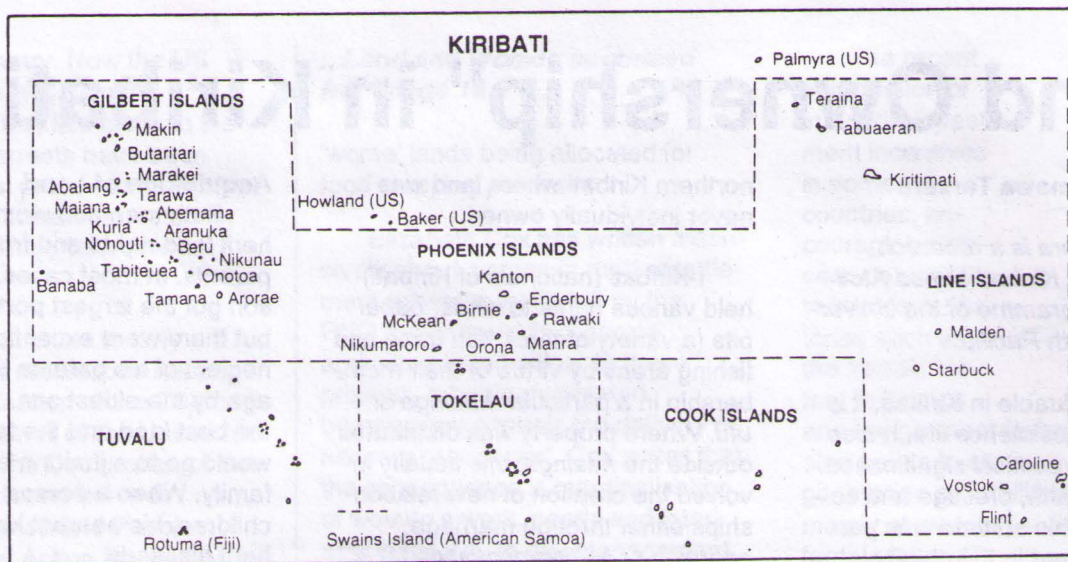
People could also acquire land by other means, for example as gifts in appreciation of personal favours, for adoption or care-taking, or as compensation. Such land transfers included:

- *Te aba n tinaba* - land transferred to a woman in appreciation of sexual favour to her father-in-law or in-laws. Other gestures involved anointment of a husband's uncle or garlanding in the presence of other old men or at a public gathering outside the *maneaba* (traditional meeting house). This was a high honour and in return the man would immediately offer the woman a piece of land.
- *Te aba ni kuakua* - land transferred in appreciation of a personal favour, as a reward given by old men and women to someone, apart from their own children, who looked after them while they were ill or during their old age. Land could also be used to "pay" for special skills, especially traditional healing practices.
- *Te aba n tibu* (adopted grandchild's land) or *aba n nati* (adopted son's land) - land given to an adoptive child from its adoptive parents as confirmation of the adoption. The real parents of the child could give the adoptive parents the land for the child.



photo by Rick Gillie

Village of Nikutoru on Buariki Island, Kiribati.



Te aba nenebo - land given as compensation for personal damage and loss. To prevent the transfer of land from the property of the *kaainga* or *utu*, the culprit could consent to have himself killed by the party who had suffered the loss.

Land Disputes

Land disputes were prevalent prior to the British government. There were two main categories:

- 1) Disputes between *utu* or *kaainga* - This occurred when one *kaainga* or *utu* challenged the right of another, usually in warfare. It could occur between neighbouring owners, particularly over a disputed boundary.
- 2) Disputes within *utu* or *kaainga* - These were usually between kinsmen who were not satisfied with land distribution. Problems could also occur over the land of a childless person where the closeness of relationships to the deceased could be disputed.

People had their own procedures for settling disputes. Land disputes of both types could involve bloodshed, which carried on until one party submitted to the other and acknowledged defeat. Disputes could also be resolved by a compromise negotiated or imposed by a chief or by the *unimane* of the *manøaba*.

Land disputes are now settled by the government. Landowners

often claim a larger plot of land. One has to be aware of the nature and history of the land. There are cases on South Tarawa (Kiribati's administrative centre) where rightful landowners have been forced to leave their land as records at the Department of Lands and Survey claimed it to be someone else's land. This could result from a cancellation of land record done through cheating.

Contemporary Land Issues

Some landowners have been selling one plot of land to several people. Only if there is a written record in the government is your claim valid. All agreements or payments need to be witnessed by judges or a court clerk and signed documents are essential.

The traditional practice of allowing foreigners to build their homes on your land is no longer valid. Rightful landowners who do not appreciate foreigners dwelling on their land will sell that piece of land, with no compensation paid for buildings which were constructed on the land.

Land is being sold by landowners to help them pay for their children's school fees or to acquire luxury items such as videos, motor-cycles, etc. There is no fixed price, but the government's price is AUD\$6,000/acre. Landowners sell their land at AUD\$1,000/acre or more.

The government now exercises significant authority over land. It has the power to resettle land owners for the implementation of a project. A recent example is the expansion of Bonriki International Airport. The government does not allow landowners to settle close to the water wells and tanks which supply the public with water. Likewise, the soccer fields can not be claimed.

The government now owns all the area below high water mark. Permission to remove sand, gravel, reef mud, etc., has to be obtained from the Chief Lands Officer. A fine of AUD\$250 will be imposed on anyone violating this law. The Minister has the right to approve a landowner's request to reclaim his land or to build fences or seawalls. He also has the authority to devise regulations regarding other issues regarding the foreshore.

Who really owns the land in Kiribati? No-one has the answer.

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La Terre - Coeur perdu de la nation Maohi

par Gabriel Tetiarahi

Gabriel Tetiarahi est coordinateur national de Hiti Tau, unité de liaison nationale, réseau des organisations non gouvernementales de Polynésie française et coordinateur du PIANGO, l'association des ONG des îles du Pacifique.

Protectorat en 1842, puis colonie dès 1880 et territoire d'outre-mer en 1958, Tahiti et ses îles ou encore Polynésie française mais aussi le pays Maohi ont une population pluri-ethnique de 195000 habitants, toutes ethnies confondues. Des 4000 km² de terres émergées, la nation maohi compte deux villes, Papeete et Uturoa, et des périphéries insulaires très peu peuplées.

La population autochtone, les "maohi" ou "taata tumu", constitue toujours l'ethnie majoritaire. Son poids démographique, dans l'ensemble polynésien, ne cesse de diminuer. En revanche, demis, asiatiques et surtout français accroissent vertigineusement leurs rangs.

Isolé du reste du monde du 5^{ème} siècle au 18^{ème} siècle après Jésus-Christ, sur le marae de Tapu-tapuatea à Raiatea, berceau de la nation maohi, le grand prêtre Vaita, avait un jour prédit "Je vois devant le sens de cet événement changé. Les glorieux enfants du tronc (Dieu) vont arriver et verront ces arbres ici à Tapu-tapuatea. Ils seront d'aspect différents de nous et prendront nos terres. Ce sera la fin de nos coutumes actuelles et les oiseaux sacrés de la mer et de la terre viendront se lamenter sur ce que cet arbre décapité nous enseigne."

Les "maohi" vécurent les premiers contacts avec les missionnaires de la London Missionary Society. De 1819 à 1842, le clergé protestant codifie les traditions foncières en respectant, au sens strict, les règles du système foncier traditionnel. La terre est sacrée. Elle est inaliénable et imprescriptible. La propriété est familiale (*fenua fetii*) et

lignagère. Elle ne se partage pas. Les terres immergées peuvent être l'objet d'une appropriation privée. Le *rahui* ou la gestion des terres par l'interdit de pêche, de cueillette à certaines périodes organise la vie. Les juridictions indigènes sont conservées.

Puis ce furent des européens de tout métier, des aventuriers, des commerçants, des baleiniers. C'est la chute démographique. Epidémies de toutes sortes, consommations nouvelles enlèvent à la population maohi tout dynamisme démographique.

Vol de souveraineté nationale, nouveaux pouvoirs, brutalité coloniale

En 1842, la France emporta au détriment de l'Angleterre la signature d'un acte de protectorat. Par réflexe. Pomare IV, la souveraine d'une partie des îles sauvegardait les juridictions indigènes, les affaires de terre. Et, s'abattit le temps des représailles contre ceux qui, par amour de leur terre (*fenua*) et leur patrie (*âiâ*) utiliseront les armes de pierre sans espoir de succès face à une armée employant les armes à feu. Il fallait ensuite organiser le colonat de peuplement.

En 1862, le représentant du nouvel Etat souverain, Gauthier de la Richerie déclare à la face de trois chefs indigènes "toutes les terres passeront de toute manière tôt ou tard aux mains des blancs pour quelques tonneaux de Rhum or Gin ou par quelque autre fraude égale-ment courante". Sous sa tutelle, l'administration encourage les commerçants et autres fortunés à prêter de l'argent aux maohi. Devenus créanciers, ils réclament dès lors, en remboursement, des terres.

L'occupation française, militaire et administrative, favorise l'immigration chinoise, européenne, océanienne, crée la caisse agricole. Sa mission est triple: recenser les terres à valoriser, offrir des garanties aux acquéreurs, trouver et

rétrocéder des terres aux colons. En 1866, elle possède 328 hectares et rétrocède 293 hectares à des européens. En 1884, c'est plus de 2053 ha cultivables que possèdent les européens pour un total de 203 propriétés. Les maohi conservent 4014 hectares pour 5430 parcelles. Les grands domaines ont changé de mains.

Surgit alors l'annexion et le rappel des réserves foncières sur les juridictions indigènes. Depuis, la colonisation rasait tout des institutions traditionnelles. Le peuple maohi s'accrocha à sa langue et à sa terre dans l'embrouille la plus totale.

Le maohi cède des droits d'usages au "popaa", au blanc. Celui-ci avec la complicité de l'administration coloniale transforme la cession en aliénation de la terre entière. Le législateur ne contrôle pas les transactions immobilières, ne s'assure pas de la certitude des propriétaires. Faits par des officiers publics ignorants, les actes sous seing privé suscitent la suspicion. Les écumeurs de terres s'en donnent à coeur joie.

Forts de la tradition d'accueil qu'ils observent chez les colonisés, les dignitaires au pouvoir encouragent et ferment les yeux sur les rapt foncières, les spoliations et malentendus. Le législateur colon retire aux juridictions indigènes leurs prérogatives.

Le maohi est indigène. La terre doit se vendre, se partager, s'échanger, comme une vulgaire marchandise. L'Etat français s'approprie des terres qu'il estime sans maîtres ou vacants. Les enfants légitimes obtiennent plus de droits que les enfants adoptés. Le code civil, en 1866, permet de se dessaisir (et acquérir) de sa propriété par testament, donation, donation-partage, vente ou abandon de droits indivis au profit de tiers étranger au clan, par usucapion. Il accepte les aliénations par un ayant droit et non pas la totalité des ayants droits.

Les terres indivises sont licitées en faveur de personnes étrangères à la famille. Et surtout, les usages ancestraux liés à la parenté, à l'état civil (un maohi change de nom plusieurs fois pendant sa vie) vont entraîner des difficultés dans un système foncier imposé. Les tribunaux croulent sous les procès.

Au bout du compte la réussite pour la Constitution des fortunes immobilières et les échecs

Les nouveaux arrivants qui possédaient un brin de connaissances juridiques saisirent l'aubaine pour se constituer un patrimoine grandiose. Leurs certificats de transcription hypothécaire comptent très vite des dizaines de pages (Brander, Brown, Colombani, ...)

S'obstiner à éradiquer le droit coutumier a eu pour corollaire l'ancrage de l'indivision contre laquelle vont s'acharner tous les juristes ... Sans succès. La terre reste encore familiale pour les maohi et, ni les partages judiciaires, ni les sorties d'indivision ne font recette. Par contre, pour faire valoir leurs droits légitimes et faute d'avoir été recensées dans les filiations et généalogies, des souches entières écartées intentent des procès.

Les uns demandent l'annulation de testaments holographes faits au profit de popaa ou de demis et réclament l'annulation de déclarations fausses sur l'état civil ou sur la contenance des terres. Des transferts immobiliers font apparaître des mineurs ou des propriétaires déjà décédés au moment de la signature de la transaction. Enfin, des plaignants s'élèvent contre une transaction qui a englobé leurs propriétés.

Et pour conclure, les adjudications et licitations vont envahir les tribunaux. Les avocats pour le compte de créanciers, parmi lesquels les gros commerçants, font vendre à la criée la totalité des terres des débiteurs. Ils avaient une dette qui nécessitait seulement la vente d'une partie de la terre et non de la totalité.

Surtout, la prescription trentenaire est utilisée à outrance. Des

avocats vont se spécialiser dans cette branche, dépossédant de leurs propriétés des héritiers de ceux qui avaient revendiqué leurs terres en 1852 et 1887.

Vient le cadastre des années 1920 à 1960. Pour une même terre, les héritiers découvrent qu'elle a perdu 90%. Peu de légitimes propriétaires se déplaçaient. Les géomètres ne prenaient même pas la précaution de s'appuyer sur l'ancien cadastre pour procéder aux nouvelles délimitations. Des terres englobaient d'autres terres. D'anciennes bornes étaient ignorées ou volontairement déplacées.

Hoo àià ou la terre objet de toutes ces convoitises avec l'intrusion du Centre d'Expérimentations Nucléaires

L'installation du Centre d'Expérimentations Nucléaires changea la nature des problèmes fonciers. Les autorités persistent à croire que la vision communautaire de la terre est une tare, est un frein au développement économique des cultures. Aussi, convient-il de multiplier les sorties d'indivision, de mobiliser des terres et permettre à des étrangers, européens, américains et maintenant japonais d'être propriétaires.

A Tahiti et dans quelques îles à vocation touristique Bora Bora et Moorea, les héritiers des premiers popaa, la bourgeoisie demie d'aujourd'hui, se livrent à des opérations juteuses de promotion. Le littoral a atteint des valeurs foncières considérables. Le prix d'un mètre carré à Papeete est aussi élevé qu'à Paris. Alors, les demis et chinois déplacent l'investissement dans la perliculture aux Tuamotu et des blocages au déchargement de victuailles et de matériel perlicole sont perpétrés par les insulaires, réduits à fournir la main d'oeuvre des fermes.

Pour le prolétariat, il n'y a plus que le salut du lotissement social, sans grande garantie. Mille logements pour plus de cinq mille familles. Une frange importante de la population maohi vit l'amère expérience d'être étrangère chez elle.

Trente-trois pour cent des affaires jugées sont des litiges fonciers, soit 2000-3000 procès par an. La justice n'a jamais autant suscité de sentiments d'injustice. Elle demande aux usagers de fournir des actes d'état civil, des plans cadastraux anciens dont elle sait qu'ils ont disparu.

Les familles sombrent dans l'incompréhension des décisions rendues uniquement en français. Pas un maohi aujourd'hui n'échappe à un litige comme le déclare si justement le "Pomare parti". Des centaines de familles n'abandonnent pas de sitôt l'espoir de reconquérir les terres ancestrales et versent aux avocats adeptes du code civil, des sommes colossales. Elles attendront le verdict des tribunaux et lorsqu'il tombera, des revendications de tierces personnes les harçèleront dans d'autres procédures.

En 1991, une chrétienne Pamela cria au regroupement des jeunes de l'île de Moorea son angeoisie, *"Nos pères et mères, scrutez la vérité d'aujourd'hui que nos yeux fixent. Le peuple maohi est dans une profonde tristesse, parce qu'il est sans terre. Et les nouveaux arrivants s'en sont appropriés. Nous sommes comme un oiseau sans nid. C'est pourquoi, nous les jeunes, prenons de la graine pour ne pas que disparaisse notre peuple Maohi."* On ne peut qu'asquiescer.

Tout n'a pas été oublié; la terre est toujours la mère nourricière

Les maohi ont toujours conservé des liens affectifs avec leur mère nourricière. La terre et la famille (*fenua fetii*), c'est la même chose. La propriété individuelle n'est pas sa conception. La terre déléguée par les ancêtres, c'est un peu leur ventre qui est laissé en héritage (*ôpu fetii*). Ce ventre, à la grossesse d'une femme, est porteur d'enfant et le placenta (*pu fenua* = centre de la terre) lie l'enfant à la mère. Signe d'union définitive entre elle, ses ancêtres et sa progéniture, le placenta est planté dans la propriété familiale.

Quand une communauté de femmes, d'hommes se souvient que ses ancêtres appartiennent à la terre, elle communique avec sa culture, elle bâtit son avenir sur ce qu'elle peut maîtriser, elle se réconcilie avec des espaces de dignité. Mieux, elle revendique que ces réflexes culturels se transforment en des droits collectifs. Cette permanence culturelle anime aujourd'hui un grand nombre de mouvements associatifs de la société civile.

Inquiets de ne pas être associés aux discussions préalables à la construction d'un énorme projet hôtelier à Tupai, les insulaires de Raiatea, Huahine, Bora Bora fondent une ONG "Paruru ia Tupai" de défense de leurs droits de propriété. Leurs ancêtres n'ont jamais cédé leurs droits indivis et le notaire Lejeune se protège de l'usucapion pour faire valoir qu'il était propriétaire de tout l'atoll. L'occupation de l'île par 300 propriétaires bloqua définitivement l'investissement japonais.

Interdisant l'accès au fond d'une vallée (la Moaroa à Teva i Uta, au sud de Tahiti) à une entreprise de travaux hydro-électriques, le village d'Atimaono crée, "Apuru maitai te natura no a na-nahi" - 'La solidarité des ONG est acquise.' En 1991, le gouvernement Flosse abandonne son projet, les ruraux décidés à ne pas céder un pouce de leurs droits à un environnement non dégradé.

A Moorea, succombant à l'investisseur japonais Nishikawa, le gouvernement Leontieff accepte qu'un vaste domaine territorial soit l'assise d'un golf sur des centaines d'hectares. Les riverains créent immédiatement l'ONG "Paruru ia Moorea" et trouve en l'Eglise évangélique son premier partenaire, puis les syndicats et pas moins de 17 ONG. Marches de protestation forcent le gouvernement Flosse à accepter le principe d'une consultation populaire. Appelés à voter le projet, les habitants de Moorea tranchent: 1900 contre le projet et seulement 1300 pour.

A Tahiti, l'ONG "la ora o Nuuroa" occupe depuis 1992 le

domaine territorial Rivnac à Puna-uaia, banlieue proche de Papeete. Le groupe Air France et La Lyonnaise des Eaux avaient obtenu les autorisations gouvernementales pour bâtir un luxueux hôtel de la chaîne Méridien. Pour les riverains, du béton contre ce coin de verdure, de calme et de baignade publique. Leurs recours en justice échouent mais révèlent que des pots de vin avaient été versés. Les deux promoteurs du projet, financiers du Tahoe-raa Huiratira sont incarcérés. La ora o Nuuroa possédait les soutiens d'associations et de partis politiques notamment indépendantistes, Tavini Huiratira et le "Aià Api". Ce lieu a une très forte charge historique et les riverains décidèrent de dresser le "marae" Nuuroa. La Justice de la Nation des Droits de l'Homme ordonna sa destruction. Elle massacra du même coup la beauté du geste de réconciliation du peuple maohi avec son passé. Faut-il encore rappeler qu'on n'assassine pas impunément la culture d'un peuple pendant l'année internationale des droits des peuples autochtones.

En 1993, les propriétaires fonciers de l'ONG "te Puna vai no Popora" barrèrent les accès aux puits d'eau du système d'alimentation de la commune de Bora Bora, parce que celle-ci et la société Vaitehi concessionnaire n'avaient pas respecté leurs droits de propriété.

L'association "la ra o Tevaitoi" à Faaone lutte en 1994 pour récupérer une terre domaniale qui sert de terrain militaire aux garnisons de Tahiti. La terre doit être utilisée à d'autres usages, agricoles surtout.

Aujourd'hui, les ONG se battent pour la démocratisation du développement, pour le respect des droits de voisinage. Défendre coûte que coûte son avenir culturel, de vivre un développement auto-centré, de négocier des projets de modernité devient légitime. Le développement d'une île aussi petite soit-elle que Moorea, que Mataiva, Bora Bora et la modernité qu'il génère doit obéir à des principes de négociation.

La famille des ONG reconnaît la légitimité populaire des élus mais ces derniers s'éloignaient des principes démocratiques quand ils décidaient avant de débattre avec l'environnement entier du projet (associations, groupes communautaires de base, riverains...). S'entêter à réduire la démocratie à "je suis élu, j'ai donc le droit de tout faire", c'est vouloir que des oppositions systématiques se produisent là où il y a un projet de développement. Alors, à chaque fois, il faudra déplacer des escadrons de CRS de France que les ONG ne redoutent point, pour déloger des communautés locales de leurs présences économiques.

L'indépendance politique, portes ouvertes à une révision des lois foncières?

L'accent a été mis, depuis 1866, sur la nécessité de faire disparaître et les coutumes locales et la tradition foncière, tout en fermant les yeux sur les spoliations, les raptés, les vols fonciers. Au lieu de s'obstiner à du mimétisme juridique, ne vaudrait-il pas mieux déployer les efforts pour réparer les injustices du passé et rétrocéder les terres aux familles maohi dépossédées arbitrairement?

L'Etat français n'a réservé aux institutions territoriales aucune des prérogatives de justice foncière. Le statut politique du Territoire lui reconnaît seulement l'autorisation de transfert immobilier, et peut empêcher tout transfert si l'acheteur n'a pas son domicile en Polynésie, en se fiant aux déclarations des quatre notaires de la place.

Ignorerait-il que les maohi pendant plus de quinze siècles, ont façonné un régime foncier structuré et charriant beaucoup moins de litiges qu'aujourd'hui? L'accès à la souveraineté nationale serait-il précurseur d'un programme politique de résolution des problèmes fonciers. Rien n'est moins sûr! Les indépendantistes n'ont pas encore dévoilé une brouille de leur programme de gouvernement.

URBAN NIGHTMARES

Pacific town planners face increasing environmental problems

by David Robie

David Robie is a Lecturer in Journalism at the University of Papua New Guinea and a practising journalist with many years of experience in covering South Pacific stories.

At the rate Pacific urban areas are growing, many are in danger of becoming unsustainable. Some, such as ghettos like Ebeye and squatter settlements in Port Moresby and Papeete already are. But a University of the South Pacific academic warns many more towns and cities are now under threat from urban environmental degradation unless farsighted planning begins.

According to geographer, Dr. Jenny Bryant-Tokalau, population growth, environmental degradation, land distribution and tenure and unemployment are issues that need to be urgently addressed to avoid doomsday scenarios for the future. Unsafe drinking water supplies, polluted lagoons, spreading diseases and massive loss of topsoil are already realities in the Pacific.

Speaking at the week-long international Waigani Seminar in Port Moresby's University of Papua New Guinea in August 1993, Bryant described the sharp deterioration in the quality of life in many Pacific urban centres. Although many commentators and researchers have addressed some of the issues of over-crowded towns in the past, Bryant has focused on the environmental systems and human issues of urban development.

In spite of perceptions that Pacific islanders are predominantly rural societies, the region's population pattern has changed dramatically in the past decade. Now only Niue, Papua New Guinea, Solomon

Islands, Vanuatu and Western Samoa have less than a quarter of their population living in urban areas while seven countries are more than 50% urban.

In addition the Solomon Islands will have 26% of its population living in urban areas by 2006 and Papua New Guinea will be 33% urban by 2005, according to present growth rates. Some estimates say Vanuatu will also be more than 25% urbanised by the turn of the century.

The two other countries with lower urban populations, Niue and Western Samoa, have high migration rates with the majority of their populations living abroad - in urban areas. However, Bryant says: "The definition of urbanisation and the recently changing economic circumstances in Western Samoa in particular - with the establishment of factories employing large numbers of women - make the calculation of the urban population difficult as it is obviously changing rapidly." Some projections place Western Samoa's urban population at 25.5% by the year 2000.

Moreover, adds Bryant, "it is quite possible that with return migration, particularly from New Zealand which has increasing unemployment levels, particularly among Maori and Pacific Islanders, pressure on Apia will increase as return migrants seek work in the urban area."

The impact of migration such as from outer islands and from highlands to coast, includes pressure on land ownership and access, the breakdown and challenging of traditional patterns of behaviour and major political upheavals.

"These are likely to continue," says Bryant, "particularly with higher levels of education and alienation of

people from their land, overcrowding of housing, greater competition for education and health care and a deterioration in basic services.

"Urban poverty is becoming increasingly obvious and the urban areas of the South Pacific are manifesting lifestyles which were unheard of here as recently as 20 years ago."

Among major concerns are population densities in small coastal areas that comprise most Pacific towns and cities, particularly in atoll nations.

In the Marshall Islands, for example, 66% of the country's entire population now live in the urban centres of Majuro and Ebeye. The density of Ebeye is reputed to be one of the highest in the world at almost 22,956 per square km.

Says Bryant: "The pressure of life in such densities, even where the actual populations are small by world standards, have been well documented and include problems of communicable diseases, high infant mortality, increasing marginalisation of women, nutritional problems and severe unemployment."

In the Federated States of Micronesia, 87% of the drinking water supply is piped from streams and considered unsafe. Also in Kosrae, 70% of houses have poor drainage. In Pohnpei, 9% of houses have no toilets but share with others. In Tuvalu, septic tank designs are inappropriate for local conditions.

"With rising sea levels, coral atolls and limestone, islands will face a rise in the water table and thus surface flooding which will make certain methods of waste

disposal inappropriate and unhealthy," says Bryant.

All urban centres face similar problems. In Suva, for example, septic tank effluent cannot "percolate" properly because much of the ground has a layer of marl, or soapstone.

"As urbanisation increases in the Pacific, it is likely that the pollution of ground water will also increase," says Bryant. "Groundwater pollution and the contamination of shellfish by micro-organisms from excrement cause a range of health problems, including skin and eye disorders, as well as gastro-intestinal illnesses, hepatitis and cholera."

In fact, according to a recent World Bank report "only a minority of Pacific islanders have access to consistently safe water and sanitation." But while the World Bank seeks an investment of up to \$25 million or more in some countries - as much as \$40 million in Fiji - to provide reticulated sewerage it is clear that national budgets will be severely stretched by such spending.

"If a community cannot afford to construct a sewerage plant, then it is unlikely that they can afford to operate and maintain one," says Bryant. "This must surely call into question the wisdom of aid money being spent purely on the provision of such plants."

Atoll countries are vulnerable to the problems of waste disposal. Toxic and hazardous wastes are a big headache for many developing countries. In the Pacific increasing quantities of dangerous and illegal pollutants are being discharged into streams and oceans. Solid waste is also a problem in urban areas.

In Kolonia, Pohnpei, there is no organised garbage collection, forcing residents to dispose of rubbish in their backyards or privately haul it to a dumping site. Problems of diarrhoea, parasites and other infections are rife.

Elsewhere in the Pacific, where garbage collections do exist in towns, they often do not include the whole urban population, leaving out fringe and squatter settlements. Squatters burn their rubbish - adding to air pollution and fire hazards - or dump it in the sea. Few recycling and waste reduction programmes exist.

In Vanuatu, a quarter of the urban population is estimated to be living in slum or squatter camps. In Fiji, 20% of urban families live in a single room. In spite of the devastating overcrowding in the Marshall Islands, the annual birth rate is 49.2 per thousand - and only nine African countries exceed this rate. Thirty percent of the urban population aged more than 15 suffers from diabetes.

"If cities cannot provide the basic needs for a growing proportion of the population and are also facing deteriorating environments, then they are clearly not 'sustainable'," says Bryant. "There is no doubt that the use of resources and the contamination of water supplies cannot continue unabated. Urban areas and therefore entire countries and the Pacific region, are about to face some extremely serious and explosive situations."

Rather than relying on legislation and central government control to provide solutions, Bryant believes communities and the local populations themselves hold the key to their future. She sees the region as being well-placed with resourceful bodies such as the South Pacific Forum, the South Pacific Regional Environment Programme and USP as able to channel expertise and

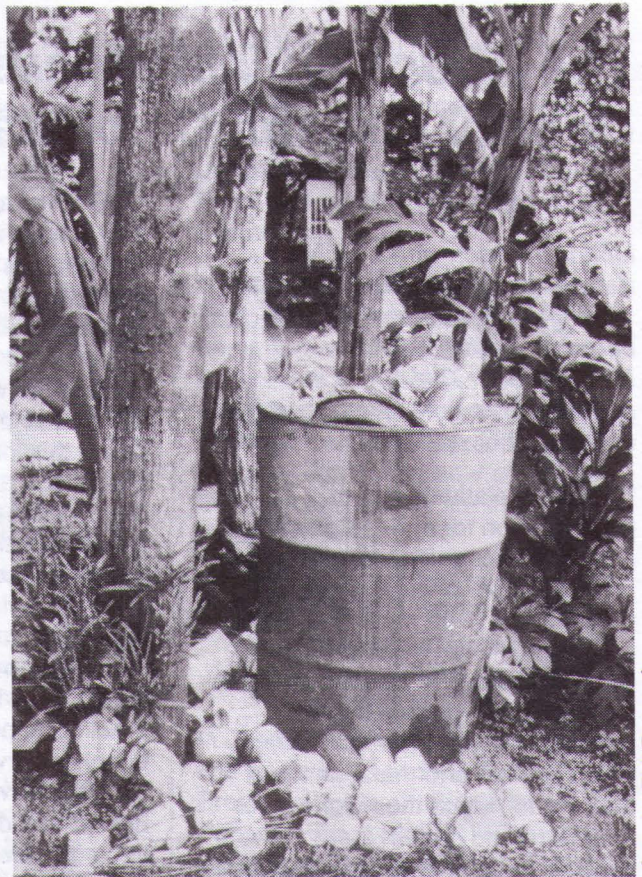


photo by Phil Esmonde

Garbage disposal is a growing problem in urban centres

funding. But in the end, she says, only the community groups - including action and education groups, church and women's organisations and business-associated service groups - will find the solution.

Pacific governments are increasingly looking towards privatisation to solve many of their economic problems. However, Bryant says: "The bottom line of the private sector is that it is difficult for it to cater adequately for the poor as there are few economic returns. Therefore environmental degradation, an increase in anti-social behaviour, the marginalisation of groups - especially women, children and youth - will continue."

She warns that if the Pacific is to avoid the chaos faced by other parts of the world then governments of the region need to make urban growth and its implications priorities on their agenda."

[Reprinted with permission of the author from a longer article in *The Review*, November 1993]

The Attack on Indigenous Intellectual Property - Control through Colonisation

by Moana Jackson

Moana Jackson works for Nga Kaiwhakamarama i Nga Ture, the Wellington Maori Legal Service, based in Wellington, Aotearoa/ New Zealand. This article is reprinted from the November issue of *CORSO Overview*.

It is a relatively recent phenomenon for non-indigenous groups to recognise the intellectual property rights of indigenous peoples and even more recent for agencies to want to protect such rights. But indigenous peoples have long sought to protect those precious things or *taonga taku iho* which explain and make sense of their world, which their world gives to nurture and protect them and which give spiritual or artistic expression to their sense of being.

Today new challenges face indigenous people seeking to protect their indigenous intellectual property. These can be placed within four contexts:

1. the process of defining intellectual property and the links to protecting it.
2. the relationship between the power to define and the colonial ethic of control
3. the consequences of a conflict between the idea of a specific cultural patrimony or uniqueness and those of a universalist common heritage of the world.
4. the dangers to intellectual property which exist within the current New Right political economy and through agencies such as GATT.

Perhaps the most fundamental right possessed by an indigenous people is the right to determine the extent and meaning of the knowledge which shapes their cultural heritage.

For centuries Maori defined their *taonga* and the expressions and symbols of knowledge worth protecting. It was a holistic body of knowledge expressed in *tikanga* that enabled Maori to describe their place in the world and to articulate their sense of being. The power to define this intellectual property was a cultural act which enabled *iwi* to decide what knowledge was important either spiritually, culturally or economically. It was performed within and mandated by the reality of political authority because it was required to be protected and maintained. As a body of knowledge had practical applications crucial to people's survival, it was necessarily interrelated with *rangatiratanga*, the right to self-determination, the ability to control the essence and meaning of being. The knowledge or intellectual property is the expression of its source.

Redefining Knowledge

Unfortunately, just as the often bloody history of colonialism has ignored or delimited the concept of *rangatiratanga*, it has sought to restrict the extent and perceived value of Maori intellectual property. To suppress the expression of Maori political authority the coloniser had to redefine the knowledge which underpinned it.

In the name of "scientific objectivity" Maori culture was redefined as "primitive" or "quaint" in accordance with the social Darwinist theories of 19th century colonisation. Missionaries tried to stamp out Maori notions, and Maori were encouraged to reject their own knowledge base and voice.

Maori "skeletal remains" became archaeological curiosities divorced from their spiritual context. Maori art was reclassified as uncultured antiquities and alienated from the *whakapapa* which gave it life. The complex Maori cosmology and

delicate interweaving of life to which humans belonged was dismissed as "myth" with no place in the scientific thinking which made sense of existence.

Maori Intellectual Property

As well as dispossession of land and resources, Maori had to accept a new intellectual order, a new set of meanings and a received wisdom. Maori wisdom with its different world view which threatened political order was repressed or relegated to exhibit status.

So for almost a century the only accepted facet of Maori intellectual property recognised was the non-threatening varieties of mythology, music and art. The aim was not to destroy Maori culture but to redefine it and confine it to a subordinate status with "acceptable bounds".

To overcome this colonisation of mind and soul which this process engenders it is necessary to reclaim the exercise of *rangatiratanga*. Then *iwi* can again define, control and protect the development and use of their intellectual property.

The history of intellectual property [rights is that of] control through colonisation. If intellectual property was ever acknowledged as vesting in indigenous peoples, it was restricted to "artifacts", assumed to be the legitimate prizes of war, conquest or scientific endeavour; part of the same process which regards "conquered" peoples as controllable by their conquerors. The concept of indigenous people's intellectual property rights was seen as a contradiction.

Recently, former colonial powers have become concerned about the trade in cultural property and sought to limit it. Indigenous peoples, excluded from this process, have noted the irony of these nations, grown wealthy on the dispossession of "natives", seeking

to ameliorate the excesses of their own conduct and defining what property is worth protection and what is "cultural property".

Definition and Control

Hence the inadequacy of the 1970 UNESCO Convention on the Means of Prohibiting and Protecting the Illicit Import, Export and Transfer of Ownership of Cultural Property; the 1972 UNESCO Convention for the Protection of the World's Cultural and National Heritage; and here in Aotearoa, the Antiquities Act 1976. While providing some protection for particular artifacts, they are placed in a conceptual framework which denies indigenous peoples their own right of definition and control.

The challenge for international agencies and domestic jurisdictions is to acknowledge indigenous perceptions as to what their *taonga* are. Currently the UN Working Group on the Rights of Indigenous Populations is attempting to meet this challenge in the draft Declaration on Indigenous Peoples' Rights.

Another major challenge facing indigenous people seeking to reclaim the right to define and control their intellectual property is the debate between proponents of "patrimony" and "universalism". Cultural patrimony maintains that because the uniqueness of peoples' intellectual property derives from its cultural heritage, a prior right of control over its use must rest with the people of that culture. Universalists argue that knowledge, like the art of music, is part of the world common heritage, and control over its use must be strictly limited and not necessarily vested in the culture from which it comes.

Exploitation for Profit

The debate has become focused in recent years with increasing interest being shown in indigenous philosophies, spirituality and scientific and medicinal knowledge. While indigenous peoples have been happy to share, there is concern at the exploitation for profit and the removal from a specific

social and political context. There is also a growth industry of study, interpretation and sale of indigenous intellectual property without informed indigenous consent. Indigenous peoples are powerless in the face of this new cultural imperialism and cannot protect what has been handed to them by their ancestors. Some justify this exploitation as part of the human right to share all cultures but the act of transmission redefines the property and reinforces the loss over it by indigenous authority. Ideas of universalism (or its subtext "academic freedom") reflect a peculiarly Western notion based on the right to exercise power over the lives and property of others and prevent the exercise of indigenous peoples' right to self-determination.

TRIPS Negotiations

In the contemporary world of New Right/neo-liberal economic hegemony, the attempts to take away indigenous peoples' rights to their indigenous property have led to economic exploitation. Through the GATT and particularly the Trade-Related Intellectual Property negotiations, Maori and other indigenous peoples are concerned to safeguard their knowledge of biodiversity, and the scientific and pharmaceutical knowledge of certain plants.

The GATT round seeks to establish new guidelines for intellectual property. The "raw material" of indigenous knowledge, for example a particular plant's medicinal properties, are to be made subject to the free market and available for experimentation. Subsequent use however is to be patentable.

Consequently, a multinational company could "discover" and then patent a seed known to indigenous people and charge them for the right to future use. Replication at a cheaper price is to be prohibited.

New Zealand has harmonised the Patents Act 1953 to fit the requirements of huge pharmaceutical corporations. In a related move aimed at indigenous peoples, the

World Intellectual Property Rights Organisation has declared that such rights vest in individuals and not collectives such as *iwi*. Maori and other peoples understand the ramifications, and moves are being made in preparation.

The successful amelioration of its consequences will ultimately depend on how effectively indigenous peoples can reclaim and make known their view of the all-inclusive nature of their intellectual property rights, and how effectively they can again exercise their self-determination.

Indigenous Peoples Proclaim Their Intellectual Property Rights

In June 1993, the Mataatua Declaration on Cultural and Intellectual Property Rights of Indigenous Peoples was passed in Whakatane (Aotearoa/New Zealand) with 150 signatories of indigenous peoples from over 60 countries. It has been tabled at the UN and declares that:

"Indigenous Peoples of the world have the right to self-determination; and in exercising that right must be recognised as the exclusive owners of their cultural and intellectual property."

"The first beneficiaries of indigenous knowledge (cultural and intellectual property rights) must be the direct indigenous descendants of such knowledge."

The Mataatua Declaration calls for a moratorium on any further commercialisation of indigenous medicinal plants and human genetic materials until indigenous communities have developed appropriate protection mechanisms.

The rights to define and control their cultural and intellectual property, including genetic material/*whakapapa*, must remain with indigenous peoples and not fall under multinational control.

[From: [Corso Overview](#), November 1993]

Barbados U.N. Conference Draws Mixed Reactions, Pacific Protest

Optimists emphasised that the April 25 to May 6 Conference on Small Island Developing States led to endorsement of a 15 chapter Action Programme with recommendations for sustainable development of small island developing states (SIDS). Considering that most of the document remained in dispute before the conference, such agreement is significant. Pessimists (realists?) noted that the Programme is more of a wish list, mostly reiterating points made previously, and that consensus was achieved through watering down the positions of island states. Of particular concern was the issue of resources. SIDS felt that a commitment of increased financial resources was key for the conference to have lasting impact. Donor countries made it clear that they wanted to see re-priorisation of current funding rather than increased commitments. While the possibility of further resources was not explicitly rejected, neither were there any commitments of new resources. Given that many donors are decreasing funding for the Pacific Islands and other small island states, status quo on funding may even be an overly optimistic scenario. The lack of attendance of government leaders from donor countries in itself said something about the priority given the conference. Perhaps the most significant legacies of the conference will come from events that occurred on the fringes. The Alliance of Small Island States (AOSIS) held its second summit and members resolved to make AOSIS a more significant power bloc within the UN system. Meanwhile, over 1,000 members of non-governmental organisations participated in an NGO Forum and identified areas and mechanisms for further collaboration. Pacific NGOs also clashed with UN officials about

opportunities for NGOs to speak at the conference. After confusion about how many slots would be allocated to Pacific NGOs and concerns about the number of slots going to non-islands NGOs, Pacific NGOs were outraged when their speaker, Oscar Temaru, was prevented from speaking by UN officials because his speech addressed issues related to decolonisation.

[From: personal reports; Pacific Islands Monthly, 64:6, Jun/94; Pacific Report, 7:9, May 16/94; Europe-Pacific Solidarity Bulletin, 2:3, May-Jun/94; Islands Business Pacific, 20:6, Jun/94; Pacific News Bulletin, 9:6, Jun/94]

Palau Compact Approaches Implementation Despite Opposition

The Palau Supreme Court has dismissed two legal challenges to the November vote approving a Compact of Free Association with the U.S. The decision paves the way for implementation of the Compact, which gives Palau a degree of self-determination within an association with the U.S. and allows U.S. military rights in Palau. However, the Court agreed to hear evidence at the end of May regarding denial of voting rights to some off-island Palauans. Compact opponents are also mounting a legal challenge alleging that the Compact should not be implemented until an environmental impact assessment has been done to examine potential impacts of the Compact. But in a further blow to Compact opponents, the UN Trusteeship Council unanimously adopted a resolution calling for implementation of the Compact and termination of Palau's trusteeship status on or about October 1.

[From: The Palau Gazette, No 15, Mar 31/94; "Palau Update" from the Nuclear Democracy Network; The Palau Gazette, No 17, May 31/94]

Henry Wins Big in Cooks Election

Sir Geoffrey Henry's Cook Islands Party was reelected with an unprecedented majority. The landslide victory saw the CIP take 20 of the 25 seats. Sir Tom Davis' Democratic Party took 3 seats; Former PM Davis came fourth in his own constituency and immediately resigned as party leader. Norman George's Alliance Party, newest of the political parties, took 2 seats. [From: Pacific Islands Monthly, 64:5, May/94; Pacific Report 7:6, Apr 4/94]

Bougainville: Continuing Conflict Amidst Calls for Peace

An upsurge in activity by the Bougainville Revolutionary Army (BRA) has led to more deaths and shows that the Bougainville conflict still simmers. Meanwhile, PNG Deputy Prime Minister and Foreign Minister, Sir Julius Chan, has proposed that a regional peacekeeping force be deployed in Bougainville as part of a process to end the conflict and an Australian parliamentary delegation was allowed to visit PNG-controlled areas of Bougainville. The Australians reported that they saw no military solution to the conflict and urged that negotiations take place. They also recommended an investigation of human rights abuses. Pleased with the visit, the PNG Government expressed a willingness to host fact finding missions from New Zealand and Solomon Islands. However, Prime Minister Wingti also announced that the Government will beef up security forces on Bougainville, with 39.7 million kina in increased funding for military equipment (including additional helicopters) and a doubling in troop strength to 2,400. Recent calls for negotiations have included those of PNG's Black Action Party leader Joseph Onguglo, PNG Opposition leaders, the Solomon Islands Government, the Catholic Bishops Conference of PNG and Solomon Islands, the Solomon Islands

Christian Association, Manus Province Premier Steven Pokawin and the Federation of Catholic Bishops Conference (some eighty bishops representing twenty-three Pacific nations).

[From: Pacific Report 7:7, Apr 18/94; 7:8, May 2/94; and 7:10, May 30/94; Asia-Pacific Network, Apr 28/94; Pacific News Bulletin, 9:4, Apr/94 and 9:5, May/94]

PNG Island Provinces Meet to Consider Secession

Around 100 political leaders from PNG's five island provinces of Manus, New Ireland, East and West New Britain and North Solomons met recently to discuss the possibility of secession from PNG. While noting that secession was not their preferred option, the leaders emphasized that the Wingti Government's proposed constitutional changes to abolish elected provincial governments could precipitate the break-up of the country.

[From: Pacific Report 7:7, Apr 18/94]

PNG Supreme Court Upholds Security Act

PNG's Supreme Court has ruled that most sections of the Wingti Government's controversial Internal Security Act are constitutionally valid. While rejecting a few provisions in the Act, the Court left intact most aspects, including the right of the Government to ban organisations and declare parts of PNG as restricted areas.

[From: Pacific Report, 7:9, May 16/94]

Papua New Guinea's 1993 Growth to Set Record

The Bank of PNG announced that 1993 growth in PNG's gross domestic product will exceed the preliminary estimate of 14.4%, a PNG record and one of the highest growth rates in the world. The GDP growth was due to strong performance in several sectors, including

the first full year of production from the Kutubu oil project. Despite the positive news, the size of government deficits was noted as a concern. Finance and Planning Minister Iangalio brought down a mini-budget in March to deal with a deterioration in the government's financial position due to falling oil prices.

[From: Pacific Report, 7:7, Apr 18/94]



PNG Logging Amendments Defeated

The "Tulapi Amendment", named for the Opposition MP who introduced it, was defeated in a March parliamentary vote. The amendment, which would have weakened current logging legislation in PNG, had been a matter of vigorous public debate and political contention since its introduction last year. Tim Neville, Minister of Forests, gave credit for the victory to the vigorous advocacy by local NGOs. Despite the victory, many concerns remain about the increased level of logging in PNG and lack of effective controls over logging companies, many of whose practices are unsustainable, detrimental to the environment and local communities, and even illegal. The PNG Government has announced that it is taking steps to increase monitoring of logging activities and enforcement of regulations.

[From: correspondence to SPPF; PNG Times, May 19/94; Post Courier, Jun 2/94]

U.N. Human Rights Commission Targets Indonesia...

The UN Commission on Human Rights passed a consensus resolution on East Timor in March that calls on Indonesia to further investigate the Dili massacre, allow free

access to Timorese prisoners by the Red Cross, and grant free access to East Timor for human rights observers, journalists and UN special rapporteurs. While moderate in wording, the resolution is similar to a resolution passed by the Commission in 1993. Indonesia, ironically a Commission member given its human rights record, rejected last year's declaration but agreed to accept this year's consensus resolution. The response can be attributed to increased international pressure on Indonesia.

[From: East Timor Update, No 31, Mar 8/94]

... but Indonesia Obtains Ban for East Timor Conference

The Philippines government has announced a ban on non-Filipino participation in an Asia-Pacific Conference on East Timor to be held at the University of the Philippines. The conference, the first of its kind in Asia, is scheduled for May 29 to June 4 and was to include many foreigners. Philippines President Ramos declared the ban in response to pressure from the Indonesian government (in some contradiction to the spirit of the UN Human Rights Commission resolution agreed to by Indonesia in March).

[From: press release; personal communications to SPPF]

Kiribati Government Falls

President Tetao Teannaki's Government lost a May non-confidence vote. An election has been set for July 21/22 (same time, different date, depending on which side of the dateline an island is on). The Government defeat was over a dispute about a proposed inquiry into Opposition allegations of ministerial misuse of travel allowances.

[From: Pacific Report, 7:10, May 30/94 and 7:11, Jun 13/94]

..News Updates continued on p 34

RESOURCES at SPPF

Books

Hawai'i: Return to Nationhood.

Editors: Ulla Hasager and Jonathan Friedman. IWGIA - Document 75. 1994. 327 pp., illustrated. "The Document covers in depth both the history of Hawai'i, the general situation of the indigenous Hawaiians today, and a number of cases documenting some of the struggles taking place. It is an invaluable source of material for anybody interested in the Pacific peoples and societies." For the most part written by indigenous Hawaiian activists and scholars.

Big Island of Hawaii Handbook.

J.D. Bisignani. Moon Publications. 1994. 349 pp., illustrated. Revised edition. Bisagnani's genuine respect for Hawai'i and Hawaiians is evident in this travel guide, another excellent book from Moon Publications.

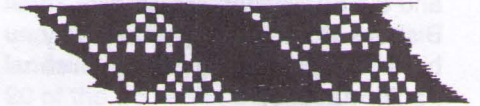
Pacific Constitutions. Vol. 1: Polynesia; Vol. 2: Melanesia and Micronesia. USP. 1991.

Land, People & Government: Public Lands Policy in the South Pacific. Editors: Peter Larmour, Ron Crocome & Anna Taungenga. USP. 1982. 188 pp.

Land Tenure in the Pacific. 3rd Edition. Editor: Ron Crocombe. USP. 1987. 420 pp.

Pacific Women: Roles and Status of Women in Pacific Societies. Editor: Taiamoni Tongamo. Institute of Pacific Studies, USP. 1988. 104 pp. Presents the viewpoints of some Pacific women with varying degrees of exposure to modern technologies and western culture.

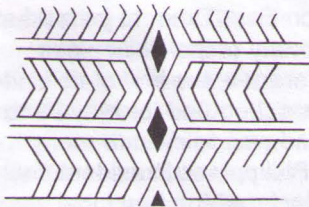
Pacific Women's Directory. A Guide to 500 Women's Organisations in the South Pacific. South Pacific Commission/Pacific Women's Resource Bureau. 1993. 198 pp.



Audio Visuals

MICRONESIA: an introduction to the U.S. territories 1994, 31 min, colour, VHS PAL or NTSC. AUS\$100 (AUS\$80 in the Pacific Islands) Produced by Pacific Community Development. Examines the waves of colonisation that swept over Micronesia. Indigenous rights, population growth, land rights and cultural loss are amongst the many issues presented.

...News Updates continued



Vanuatu Gets New President

Jean-Marie Leye, vice-president of the ruling Union of Moderate Parties, has been elected president of Vanuatu. The election came after two aborted attempts related to the political deadlock and turmoil in the country. The Opposition Vanuaaku Pati (VP) finally gave its support to the Government's candidate in return for promises from Prime Minister Korman of a VP role in government. While that agreement fell apart before it could be implemented, as with other recent agreements in Vanuatu politics, it sufficed to give the UMP the votes it needed for election of Leye.

[From: *Islands Business Pacific*, 20:4, Apr/94; *Pacific Report*, 7:5, Mar 21/94]

U.S. and France Extend Nuclear Testing Moratoriums

US President Clinton has extended the US moratorium on nuclear testing through September 1995. French President Mitterand reaffirmed that he will maintain the French moratorium until the end of his term in 1995.

[From: *Forum News*, No 12, May/94]

Australia Passes Sex Tourism Legislation

Australia passed legislation making it a crime, with up to 17 years imprisonment, for Australians to have sex with children while travelling outside Australia. While acknowledging difficulties in enforcement, the government is focusing initial efforts on education about the new law and the issue of sexual exploitation of children. Australia is also working with the United Nations on a protocol to the Convention on the Rights of the Child which would oblige countries to enact similar laws to prevent citizens of one country from sexually exploiting the children of another.

[From: *Focus*, June 1994]

...Cook Islands maintain status quo continued



Anthem: This had a very clear vote of over 80% in favour of the current anthem. Rarotonga voted by 84% to keep the anthem; the outer islands voted by 72% to do likewise.

Overseas seat: This was very close, with 43.5% against keeping the seat and 56.5% for. Both Rarotonga and the outer islands voted in favour of keeping this seat.

Name: I was not surprised that people voted to keep the current name, with 69.8% for and 30.2% against. Rarotonga voted overwhelmingly, by 74.9%, in support of keeping the name. The difference in the outer island vote was much smaller, with 59.1% voting to keep this British part of our heritage. Interestingly only Mauke and Mitiaro voted for a Maori name for the country, while the rest were quite happy with their British past.

Hail on Pitcairn

*The children said
"The sky went green."
"The thunder never stopped"
"Our chooks didn't know what to do."
"The cat went crazy, tearing round and round the house instead of going inside."
"I've never experienced any thing like it," states eighty-five year old Millie.*

Yes indeed. September 26th will long be remembered on Pitcairn as "The day the hail came". Rumour has it that there was hail in 1938, but in living memory of the present Islanders, hail has only been known to fall once before, in 1991, when a few small stones fell.

But this was hail GIGANTIC.

The lightning and thunder that had been around for the last few

days increased in intensity about 4:00 pm until there was just one continuous roar. And then it happened! The first few stones, sounding like rifle fire as they hit the roofs, heralded the deluge. It was as if the heavens had opened to pour down wrath and fury in the form of rocks of ice, spat with such ferocity that many lumps shattered on impact. Most ricocheted, bouncing several times before finally resting.

The stones were assorted shapes: four pointed stars, rough hewn blocks and round balls. The bigger ones were measured at 6cm X 5cm X 2.5cm. In many stones several smaller balls of ice could be seen.

Betty, on duty at Taro Ground, had just checked the temperature for the afternoon sched, 16 C. She rushed for shelter when the storm

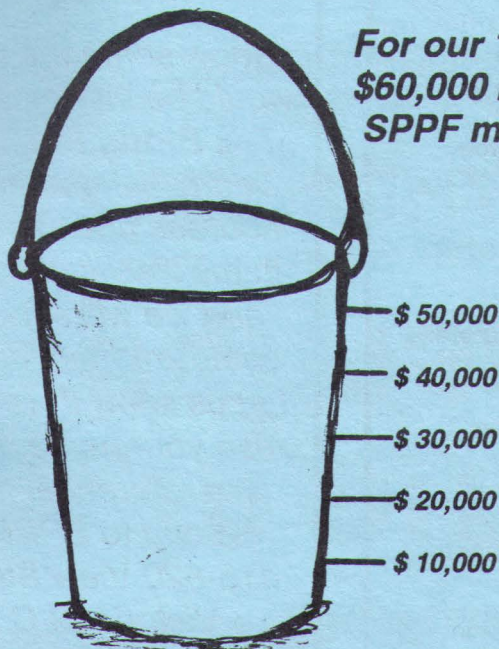
broke. In five minutes the ground was white. She admits to feeling a little uneasy.

The storm lasted about ten minutes by which time hail, up to 15 cm deep, had congregated on wells and buildings. Pitcairners found new uses for crash helmets; Shawn rescued a confused tern battered by the storm.

After the hail, torrential rain fell for a further ten minutes and then eerie silence. An hour later, apart from bedraggled livestock, shredded gardens and numerous waterfalls, there was little evidence of the extravagance. One wanders about in T shirt, shorts and sandals. Had it all been a dream? The proof is found in Islanders' freezers.

[Reprinted from The Pitcairn Miscellany, October 1993]

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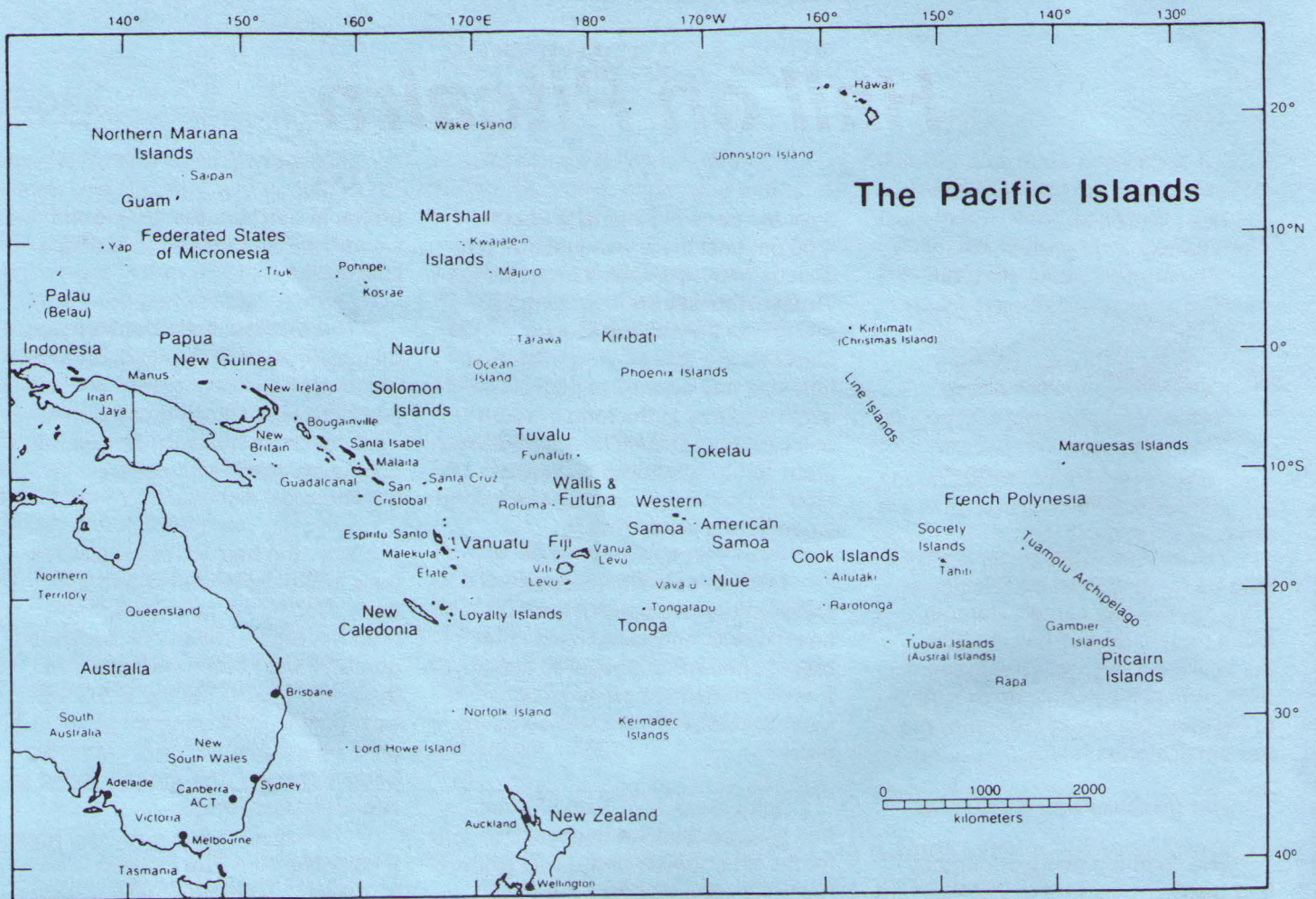
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