RECONCILING CUSTOMARY OWNERSHIP AND DEVELOPMENT

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Absentee landowners in the Cook Islands: consequences of change to tradition

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A snapshot

Absentee landowners in the Cook Islands: consequences of change to tradition

About 90 per cent of Cook Islanders do not live in the Cook Islands. Yet many of these people retain rights over land even though some of these absentee landowners were born overseas and have never set foot in the Cook Islands. This is due to changes to customary practice, under which rights to land were largely contingent upon the person being resident on the land and a participant in the community. The change occurred when customary land was converted and registered as native freehold and when a legal ruling gave all children the right to inherit equally. This has also resulted in other difficulties associated with both fragmented ownership of land and substantial cross-ownership.

The experiences of Cook Islanders provide some important lessons about land tenure, including the need for:

- regular reviews of land tenure laws to ensure they meet the current and expected needs of the people
- » legislation and regulations to help protect the rights of resident landowners
- careful design of land registration systems to prevent fragmentation of ownership
- » effective mechanisms to allow landowners to consolidate their landholdings
- mechanisms to make available low-cost residential land in commercial centres
- » sufficient administrative capacity to support registration.

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Introduction

Cook Islanders are confronting a problem common to many countries in the Pacific—their land tenure arrangements are not evolving quickly enough to meet the rapidly changing nature of their societies.

The tenure systems of the Cook Islands and most other Pacific island countries evolved to meet the needs of societies in which:

- » population numbers were relatively stable
- » people depended on land for most subsistence
- » most people spent most of their lives in one location
- » land was not monetised or traded.

The social and economic context in which these tenure systems operate has changed radically, but few systems have adapted to adequately provide for the current or future needs of the people. This is particularly so in the smaller nations and territories, including the Federated States of Micronesia, French Polynesia, the Marshall Islands, Palau, Niue, Samoa, Tonga and Tuvalu, where people migrate to take advantage of opportunities abroad.

The Cook Islands provides a classic example of social and economic conditions changing faster than its tenure systems. There are an estimated 130 000 Cook Islanders, the vast majority of whom retain traditional rights to their customary lands. The problem is that about 90 per cent live or reside in other countries. Of those who continue to live in the island group, many do not live on islands where they have inherited rights.

Of those who live outside the country but retain rights to ancestral land in it:

- 65 000 live in New Zealand, most migrating since 1945
- y 40 000 live in Australia, most migrating during or after the 1980s
- y 9000 live in Tahiti, most being ancestors of people who migrated in the late 1800s, the early 1900s or the 1940s
- » others are scattered, mostly in Europe, Asia and the Americas.

The rights of these absentee landholders are causing social and economic problems for the Cook Islanders who live in their country. The problems are exacerbated by the fragmentation of title, under which hundreds of people have rights to blocks of land no bigger than an average house block.

From some of these problems can be drawn lessons for other Pacific island countries facing similar issues. The main focus of this case study is Rarotonga, the largest island in the Cook Islands. It has an area of 67 square kilometres, 28 per cent of the island group's total land mass, and generates probably well over 90 per cent of the country's formal economic output. The main industries—tourism, international finance and government—are based there.

Background to the changing land tenure systems

The traditional tenure systems of the Cook Islands were underpinned by three factors:

- Most landholders lived on or near the land for which they had rights and were likely to use it for building, gardening, hunting, gathering and other activities.
- » A landholder's right was primarily not to the land, but to membership of a descent group. This descent group held the main rights to the land and allocated the rights among its members.
- Decisions about land were a matter for senior men of the relevant level in the family, clan or tribe. These senior men were responsible for caring for the rights and needs of all members, including women.

In 1823 the first mission arrived in the Cook Islands. In 1892 a centralised government formed under a British protectorate. The events that led to major changes in land systems began in 1901 when Britain handed the administration of the Cook Islands to New Zealand; it attached several conditions, two of which are relevant to this study.

- 1 There would be no sale of land because Britain was dissatisfied with the New Zealand Government's handling of Maori land. This is why all Cook Islanders, including those living abroad, have land rights.
- 2 All Cook Islanders must automatically become New Zealand citizens. This is why so many Cook Islanders live in New Zealand, where incomes are higher and where modern facilities are available. In 1906 an agreement between Australia and New Zealand to allow citizens to move freely between the two countries meant Cook Islanders could live in Australia, where incomes are higher than in New Zealand.

In 1902 New Zealand set up a Land Court for the islands. The court's responsibilities were to:

- » resolve land disputes and record who owned land
- » reduce chiefly powers over land
- » increase the commercial productivity of the land available to Cook Islanders
- » identify land surplus to indigenous needs to lease to Europeans to generate income.

The last responsibility reflected the New Zealand Government's belief that the native population was dying out—in 1830 there were 7000 Rarotongans; in 1900 only 1600—and its expectation that Europeans would farm tropical produce for export to New Zealand.

The authorities adopted a policy of leasing land to Europeans while leaving ownership in the hands of Cook Islanders. Native land in the Cook Islands cannot be bought or sold, except to the government for public purposes. This is the case whether the land is registered as native freehold title or is land managed under customary practices.

In 1957 the Land Court, sitting as an Appellate Court, made a ruling that would significantly affect land tenure in the Cook Islands. It ruled that all children inherit equally in all registered native lands of all ancestors. In effect this meant that every person would inherit an equal share in all the lands of both parents, all four grandparents, all eight great-grandparents and so on. The court, conducted by visiting judges who knew neither the language nor the culture, based its decision on 'the principle of Maori custom that all children inherit equally' (Appellate Court Minute Book 3, p. 10) when no such custom ever existed in the Cook Islands. The ruling, which became binding on all Land Court decisions thereafter, legally destroyed custom on registered native lands and resulted in ever-increasing fragmentation of ownership. Many now accept this error as 'custom'.

The growth in population and the decline in the area of available land have also had an impact on land tenure. In 1902, when the Land Court was established, the population of the Cook Islands was almost half of the current resident population of about 15 000. While the population continues to grow the area of accessible land is shrinking as result of infrastructure developments such as roads, airports, ports and other public facilities, as well as commercial developments. With 90 000 tourists arriving each year, mostly in Rarotonga, tourism places major demands on available land and infrastructure.

The other major issue has been the mobility of the population, both between islands and internationally. In the early 1900s the only way to arrive or leave the Cook Islands was by ship, and sailings were few. Today, because Cook Islanders have more transport options and free entry to Australia and New Zealand, and visa-free entry to Europe, the United States and much of Asia, they are the most mobile of the Pacific islanders—as evidenced by the 90 per cent living and residing in other countries.

As a result of all these influences, there is now no consensus on what constitutes custom and how Cook Islanders should deal with land tenure issues confronting them, particularly the combined impact of absentee landowners and fragmented land rights.

The Cook Islands Act of 1915 states that Cook Islands custom shall apply in relation to land. Although the Act remains, the term 'custom' is still undefined. This is probably just as well because it varies between islands and over time. High chiefs (House of Ariki 1970, 1977) and other chiefs (Koutu Nui 1991) have attempted to define custom, but a common definition has never been adopted by the government or the Land Court.

Customary systems for handling the land rights of absentee owners

Customary systems had ways to handle the rights of absentee landowners. Several follow.

- At marriage, a woman usually left her father's village to live in her husband's village. Her rights from her family of origin were suspended but could be reactivated if she became widowed or divorced or returned to live in her family's village. A woman commonly sent one child, usually a boy, to live in her village of birth. The child would then inherit primary land rights there and did not usually activate rights where the father's family was located. The woman's other children, living in their father's village, did not normally exercise rights in their mother's family lands. Rarely did a child activate rights in the land of both parents at the same time.
- » Men absent from one island for a long time rarely returned. When a man married on another island he was unlikely to return to his birth island, although he may send one child there to maintain the blood-land connection.
- » Absentees wishing to return to their land had to seek approval from his or her descent group. It was conditional on relations being cordial and sufficient land being available. Land rights could not be exercised in absentia. A case that illustrates this dates back to pre-Christian times when Makea Te Ratu gave his wife to another chief. Her son by Makea Te Ratu was raised by the new chief. As an adult he returned to his father's land but had to fight to reclaim land from his father's clan. This case shows that even senior children in the male line did not retain automatic entitlement. Likewise, when a later Makea descendant was banished but the victors later relented and allowed him back, the victors decided his land boundaries.
- » People banished from their traditional land for serious crimes (akata'a) were not accepted back, nor were their descendants. Those banished for lesser crimes, or their descendants, could be accepted back on terms set by those accepting them, with appropriate atonement and compensation.

Other factors that were traditionally taken into account in handling the rights of absentee landowners included occupation, adoption, seniority, place of residence, effort invested in the land and whether appropriate community obligations had been met. These ways of handling land tenure have all been eroded (though not totally) in recent decades.

Current legal and administrative arrangements for absentee owners

There are no legal provisions that determine the rights of absentee landowners, even though land tenure today is radically different and demands new rules. As already noted, few Cook Islanders live on or near the land to which they have rights. Some who live on Rarotonga do not have inherited rights there. They come from one of the 11 inhabited islands beyond Rarotonga for jobs, higher education, and medical or other services.

Almost all valuable land in the Cook Islands is registered as native freehold title, including most of Rarotonga. On some islands, where land has not been surveyed or registered, land management and ownership largely follow customary practices.

The fragmentation of native titles has opened the way for the powerful, the knowledgeable and the rich to acquire disproportionate areas of land through occupation rights, leases or other means to the disadvantage of relatives. No government since independence in 1965 has successfully addressed the issue of fragmented titles brought about by Appellate Court judgement in 1957.

Successive governments have attempted to place limitations on the power of absentee landowners, but ways are often found to circumvent them and there is also no legal definition of what constitutes residence or non-residence. For instance, the Land Facilitation of Dealings Act of 1970 requires that at least 25 per cent of those making decisions about leasing land be resident landowners. However, many absentee landowners return for the meetings about their land, affirm their rights and leave again. Many also give power of attorney or proxy voting rights to a co-landowner living overseas, who is sent as a representative to claim their land at the Land Court. This means much of the power over land remains with the absentee landowners, who cannot be blamed for following the Appellate Court's compulsory ruling. In addition, the Land Facilitation of Dealings Act allows a member of any family present (usually the most senior) to represent other members of his or her family, whether resident or absent, provided they have succeeded to the land rights of their parents (or others). This is now usual and, as some allege, is often abused.

The right to occupy land is also influenced by absentee landowners. The allocation of formally recognised occupation rights (discussed later) requires the approval of 50 per cent of landowners 'normally resident' in the Cook Islands. However, written proxy votes usually count, including those from non-residents.

Legal fragmentation of title

In October 2005 the authors surveyed two randomly selected blocks of land in Avarua, Rarotonga, to investigate the extent to which land titles had been legally fragmented. The first block contains 6 sections on an inland road. Of a total area of 11.3 hectares, about 5 hectares are steep and largely unusable, leaving an average of about 1.1 hectares of usable land per section. The six sections were allocated by the Land Court in 1908 to 38 owners—an average of about six a section. In 2005 the number of owners registered was 1019—an average of 170 a section. But the latest recorded succession in one case was in 1916 and the register is still being updated. So the number of people with current or latent rights in each section could be 1000 or more.

The second block contained 14 house sites, averaging 0.2 of a hectare each. In its original determination, the Land Court recorded 68 owners for the 14 sections—on average, fewer than five owners a site. By 2005 these 14 house sites had 636 registered owners or an average of 45 each, but the registers were not up to date and staff still had many successions to deceased owners to record, some dating back several years. Moreover, some registered owners had died but successors had not claimed their rights before the Land Court. Today, if registers were up to date and if all those entitled to succeed had made their claims, there might be 70 or more owners for each house site. Indeed, following the Appellate Court ruling that all descendants succeed equally, each house site would also have hundreds of extra latent owners who will emerge as time passes.

In practice, co-owners of any section have to evolve an internal system to allocate use, as most sections have only one or a few sites suitable for houses. This requires family meetings, which are sometimes prolonged (even over years) and difficult because of the large numbers involved and the number of family members living in other countries. Disputes or fear of disputes over title or allocation are common. In addition, rental income is paid in tiny shares to all owners, many of whom might live overseas. Therefore, the resident Cook Islanders, who have more of the power to grant leases, have a reduced incentive to do so.

These circumstances result in land being underused, with perhaps thousands of plots of land unused. Investors seeking to gain secure access to land must work against these barriers.

Cook Islanders cannot legally inherit land rights until their parents die, but parents or family can allot land through occupation rights, partition orders, vesting orders or leases at any time. This is regularly done for housing, the most common land use. Nevertheless, because the ownership of land is very fragmented, many young people face difficulties acquiring suitably sized allotments—even in families with adequate land area.

The law does allow co-owners to consolidate their interests. One owner can give up his or her rights in one or more plots in exchange for rights in other plots. But this is seldom done as it is complex and cumbersome with high legal costs and has to be done every generation. There is provision for absent co-owners who do not intend to return to give or sell their rights to co-owners who live in the Cook Islands. (In New Zealand Maori land law, this is compulsory for highly fragmented lands.) This can be done by using vesting orders, and it is legal for a co-owner to accept money in return for vesting his or her rights to another Cook Islander.

The Land Facilitation of Dealings Act allows co-owners to use a trust to hold and manage a plot of land for the benefit of all owners, but this is rarely done. Administrative costs, politicisation of small plots, and expensive audits may make this option feasible only where there are large investments involved, such as hotels, supermarkets and ports.

Land rights exercised by absentee owners

Under formal native freehold title, land rights are determined by the proportion of shares held by the relevant family members. While many family leaders give priority to resident family members in decisions about how the land is used, some absentee owners take their family to court to get legal recognition of the shares they have in the land. While some judges try to give preference to resident landowners in legal disputes, this does not always happen.

As already noted, a common way absentee owners maintain an interest in land is through occupation rights. Occupation rights allow co-owners to give a plot (usually 0.25 acre or 1000 square metres) to one of their number for growing commercial tree crops, for building a home to live in, or for operating a small business. Many who are planning to emigrate try to get an occupation right before leaving so they have a plot to return to, even though few come back to live. Although occupation rights can be granted to any Cook Islander they are overwhelmingly granted to close relatives who usually co-own the land. There is no legal bar to paying for an occupation right, although no cases of doing so were uncovered during the research for this study.

Occupation rights are perpetual and can be inherited, subject to continued occupation. In law, if the holder has not built or otherwise developed land after seven years, the original owners can claim it back. This does not happen often, however, which is why so many people who live abroad hold rights to land for long periods.

Survey work undertaken for this case study found that, of 87 occupation rights in two districts (Ruatonga and Arerenga), 53 were held by Cook Islanders living in other countries and, of 47 leases, 32 were held by people overseas. The extent of absentee owners using occupation rights can differ significantly, however, from island to island. Leasing and the granting of occupation rights generally occurred later in the district of Tikioki than in other regions, and family leaders were stricter about granting leases or rights to absent landowners. In Tikioki, of 108 occupation rights, only 20 were held by people living outside the village or in other countries. Of the 51 leases in Tikioki, only four were held by landowners living outside their village, but they were still in the Cook Islands.

Although landowning families can legally reclaim lands subject to occupation rights if the holders do not use the lands, many are too embarrassed to do so. Some holders of occupation rights allow relatives to plant on their land until they return, to dissuade others from trying to acquire it. Most want to retain the right to return or to pass their rights to their descendants. This reduces the amount of land available for development by those outside the family, but that is not considered a problem by most Cook Islanders because land is more highly valued as a source of identity and confidence. The loss of land by indigenous people in Australia, Fiji, Hawaii, New Caledonia, New Zealand and Tahiti is constantly referred to as a reason why Cook Islanders should retain land rights.

Attitudes to absentee landowners' rights

Conflicts and disputes over the rights of absentee landowners are due mainly to the fragmentation of titles. The 1996 Commission of Enquiry into Land began by stating: 'Our country is being torn apart by land disputes …' and that '… the rich and powerful [and one might add the more knowledgeable] take advantage of the less sophisticated'. Both are valid comments.

This case study found that many Cook Islanders felt that long-term absentees who hold land rights pose an enormous problem because it causes constant acrimonious and expensive family disputes over succession. Those who felt it was not a problem seemed to have well-organised extended families, with leaders who allocate land only to residents or absentees they believe will return to use the land. Some did not have an issue with people holding a lease or occupation rights emigrating as long as they arranged for relatives living in the Cook Islands to care for the land until they return. This group opposes legal restrictions on the rights of absentees, believing land tenure is the responsibility of the extended family.

Others are content that lands are tied up in legal or family issues, or held by Cook Islanders living elsewhere. They believe this keeps land from being leased to non-citizens who often have higher incomes and can bid up the prices of leases, making it more difficult for Cook Islanders to take out leases.

Some families feel that having the co-owners living in other countries is not a problem, provided they accept the customary view that land decisions lie with those at home and that if they return they will be allocated a house site only if there is sufficient land. This view probably prevails more in most outer islands where population is declining and economic growth is limited. But this is also the view held by many who live in Rarotonga, where competition and prices for land are high. This has led to a number preferring to legally constrain the rights of absentee landowners.

As part of this study, 139 Cook Islanders residing in Auckland, New Zealand, were interviewed at church and community gatherings and individually. Of those interviewed, 95 felt their land rights should never be affected by how long they stayed away. Only 14 of the 139 felt that those who are settled in other countries should be prevented from holding land rights. Seventy-two expected to return to live in the Cook Islands, 41 did not, and 26 were unsure. However, in the 1950s almost everyone who left intended to save money and return, although very few did so. This is true of migrants in many parts of the world. There are migrants who do not intend to return to live in Cooks Islands but who intend to retain land there for the family. This group rents out their land until a family member chooses to move there. Of those who have lived in New Zealand for more than 20 years, only 20 per cent said they may return to the Cook Islands to live or retire.

Of the 139 interviewed, 110 wanted to give, lease or sell their rights to relatives in the Cook Islands who will use the land. Even so, 47 per cent of these people wanted this to be a conditional, temporary arrangement. This view was more prevalent among those who had been absent 20 years or more. Nevertheless, almost all wanted to retain their basic rights as a family heritage, as security for mortgages, or for tourist accommodation.

The impact of the expatriate rental market and the Unit Titles Act

Tourism in the Cook Islands began in earnest in 1974 with the opening of the international airport. Tourist numbers climbed rapidly and the number of resident expatriates grew due to tourism, the international finance centre, and government employment. The demand for rental properties on Rarotonga and Aitutaki was met mainly by residents building on land for which they held occupation rights or leases. But by the 1990s many Cook Islanders abroad, who intended to remain abroad, were claiming lands on these islands and building houses or units to rent or lease. This has resulted in land rights acquiring more of a monetary value than a cultural value and in more people trying to activate their rights.

Another factor increasing the monetary value of land is the Unit Titles Act 2006, which allows subdivision of house sites, hotels, apartments or office blocks. Almost all lessees of the resulting buildings are foreign nationals, and this is likely to lead to more of the most valuable residential land of Rarotonga and Aitutaki being leased to non-resident non-citizens. While some non-resident landowners and some big landowning families prefer this because it benefits lessors, resident Cook Islanders often resent the way this forces up rental and lease prices, and diminishes their chances of finding affordable accommodation. It also results in more foreign ownership of property in the Cook Islands.

A generation ago outer islanders coming to Rarotonga who needed land could obtain it by lease, occupation right, or permission from landowners. Now few can afford land. For this case study, valuers estimated the average cost of the 60-year lease of a 1000 square metre house site to be between NZ\$45 000 and NZ\$75 000. The basic wage in the Cook Islands is about NZ\$10 000 a year. To help address this problem some house sites are being reduced to 500–800 square metres, which does not provide much room for a home garden. The valuers also estimated that a house site with a good view would command between NZ\$65 000 and NZ\$100 000 and a beach site NZ\$250 000.

Acquiring leases is difficult, time consuming and expensive. Businesses can afford to engage lawyers and consultants to locate and lease land and pay higher rates for it. Most Cook Islanders could not afford to do this on their own. In Rarotonga, unless land is inherited it can only be leased for a maximum of 60 years. This means that Cook Islanders who do not have blood rights to land in Rarotonga, or who have rights that are too fragmented for practical use, find it difficult and expensive to access land, either for farming or for residential purposes. Difficulties in accessing land in Rarotonga, where jobs and other opportunities are more plentiful than elsewhere in the Cook Islands, have resulted in more outer islanders migrating than Rarotongans.

Security of access to land and finance

People who have blood rights to land often prefer to obtain difficult and expensive leases rather than occupation rights because banks lend against leases but not occupation rights. Also, leased land can be held unused for 60 years but occupation rights can be cancelled after seven years if the land is not occupied or developed in some way.

Once the Land Court approves a lease (almost always for the maximum of 60 years), it is considered secure. The banks—Bank of the Cook Islands (government-owned) and ANZ and Westpac (privately owned)—lend readily for financially viable purposes. Housing is the most common reason for lending, followed by small commercial developments and current consumption.

Loans to residents who build or intend to build but who then migrate and default on repayments have been a significant problem at times, especially when the Cook Islands' economy collapsed in 1995–96 and more than half of government staff were laid off. Mortgagee sales took place, often to expatriate residents, but no numbers are available on these sales. Usually the banks try to get a relative to take over the property and the mortgage.

The experiences of other countries of the Pacific

Other countries in the Pacific region are also facing increasing problems related to the rights of absentee landowners.

In Samoa the *matai* (the person delegated chiefly authority) administers land for the extended family. If a person emigrates the matai has the authority under custom to reallocate the land for farming (but not necessarily for housing) within the family. However, as emigration and the resident population continue to increase, and as pressures on land in Samoa build due to the demands for greater infrastructure and economic development, the problems related to absentee landowners will mount.

In Tonga, land is individualised on perpetual leases. When the government cancelled the leases of absentee landholders who took out foreign nationality this was challenged in court. Even though the Constitution states that only Tongans can hold land the court ruled that 'Tongan' is designated by ethnicity not citizenship.

Kiribati has a traditional rule that anyone absent for seven years or more can be treated as 'lost at sea' and their land reallocated to close relatives. But this has fallen into abeyance in many islands.

Niue's tenure system is similar to that of the Cook Islands. In 1973 its government introduced legislation to cancel the land rights of anyone who had been absent for more than 20 years. However, Niue people depended heavily on remittances from relatives abroad. Absent relatives eventually sent a large delegation to Niue to protest and the government's proposal was dropped. However, today Niueans no longer depend on remittances and Premier Young Vivian announced recently that the country was again exploring ways to limit the rights of long-term absentees and of those born overseas. The Premier said he would prefer to work this out through mediation than through long-term court action.

Lessons

PERIODICALLY REVIEW AND ADAPT LAND TENURE LAWS



In a situation of rapid economic and social change, laws and regulations governing land tenure should be periodically evaluated (perhaps every five years) to ensure they continue to meet the current and expected needs of all people, especially residents.

When the Land Court was established in 1902, almost all Cook Islanders lived in their country. When the Appellate Court ruled in 1957 that all children shall inherit equally, most lived in the Cook Islands. Today, about 90 per cent of Cook Islanders live in other countries and this is unlikely to change. Yet the land tenure system has not evolved to accommodate these rapidly changing circumstances.

LEGISLATE EFFECTIVELY FOR ABSENTEE LANDOWNERS



Effective legislation is required to deal with absentee landowners, especially when traditional authority has been eroded, to ensure that most of the power over decisions regarding land use (such as leasing and occupation rights) is vested in favour of residents. This should result in better decisions about how land is used.

Traditional land practices had a number of methods for dealing with absentee landowners, with favour given to resident landowners. Giving favour to resident landowners promotes better decisions about land use, because residents often have a greater interest in managing the land in a sustainable manner than do emigrants. As customary authority erodes and increasingly land becomes part of the formal economy, the power of absentee landowners needs to be controlled through formal legislation. Although the Land Facilitation of Dealings Act has mechanisms to control the power of absentee landowners, these rules have not been effective.

AVOID FRAGMENTED TITLE TO CUSTOMARY LAND

LESSON 3	Great care needs to go into designing a registration system for customary land to ensure that it does not lead to fragmentation across generations.
LESSON 4	Fragmented land titles are a risk associated with registering landownership at the individual level when the customary system manages ownership decisions at the group level.
LESSON 5	A customary land registration system must be supported by sufficient administrative capacity to maintain the records and keep them up to date.

Despite landownership being managed at a group level, the program to register customary land at the individual level, converting it to native freehold title, contributes to the fragmentation of land title in the Cook Islands. The 1957 Appellate Court ruling that all children inherit equally enshrined that fragmentation.

ESTABLISH PROCEDURES TO ADDRESS LAND FRAGMENTATION, ABSENTEE OWNERSHIP AND DEVELOPMENT



Without effective procedures to transfer land between co-owners, especially if there are absentee landowners, consolidation of ownership is prevented and there is little incentive for landowners to release land for development.

Where landownership is fragmented and owners are absent, considerable difficulties can arise in making unused land available for economic development. Although the Land Facilitation of Dealings Act has mechanisms that permit land transfers between co-owners these mechanisms are not being used. This may be due to their complexity and cost and the inherent difficulties of coordinating landowners to make decisions when most are absent. When land titles are fragmented, landowners have few incentives to release land for development because of the small income streams their land shares would produce and the potential for disputes among so many owners, often very dispersed.

ADDRESS LAND ISSUES FACING PEOPLE MOVING TO COMMERCIAL CENTRES



If there is a shortage of land in urban areas and a potential for skilled labour to emigrate, the state needs to design mechanisms to provide access to low-cost land, especially for residential purposes, for people wanting to move to the commercial centres.

In the Pacific, accessing land in commercial centres comes at considerable cost. In the Cook Islands people migrating to Rarotonga face difficulties accessing land for residential, business or farming purposes. Elsewhere in the Pacific, the difficult urban land market has resulted in informal settlements nearby; in the Cook Islands the result has been more people emigrating from the outer islands, mainly to New Zealand.

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